



**Board of Adjustment
Agenda Packet**

March 9, 2017

Call to Order

- A) Approval of Agenda
- B) Ask for Disqualifications
- C) Announce Quorum Being Met

Approval of Minutes

Board of Adjustment Minutes September 8, 2016

Old Business**New Business**

- A) **BOA 16-03 Wayne J. Burch Appeal:** Wayne J. Burch is appealing the administrator's decision and notice of violation that the commercial crabbing operation is in violation of the home occupation standards, located at 115 Alex Lane, Tax Map 039A, Parcel 14, Section A Crawford Township.

Announcements**Adjournment**



Currituck County Agenda Item Summary Sheet

Agenda ID Number – (ID # 1820)

Agenda Item Title

BOA 16-03 Wayne J. Burch Appeal:

Brief Description of Agenda Item:

Wayne J. Burch is appealing the administrator's decision and notice of violation that the commercial crabbing operation is in violation of the home occupation standards, located at 115 Alex Lane, Tax Map 039A, Parcel 14, Section A Crawford Township.

Board Action Requested

Action

Person Submitting Agenda Item

Cheri Elliott, Assistant

Presenter of Agenda Item

Stacey Smith



Currituck County

Planning and Community Development Department
 Planning and Zoning Division
 153 Courthouse Road, Suite 110
 Currituck, North Carolina 27929
 252-232-3055 FAX 252-232-3026

MEMORANDUM

To: Board of Adjustment
From: Planning Staff
Date: March 1, 2017
Re: BOA 16-03 Wayne J. Burch Appeal

Wayne J. Burch is appealing the administrator's notice of violation V16-344 regarding a commercial crabbing operation being in violation of the home occupation standards.

Background

Mr. Burch operates a commercial fishing operation at 115 Alex Lane. Mr. Burch has held a commercial fishing license with the NC Marine Fisheries since 2001 at that location. In 2014, he received a crab shedding permit and Lauren Berry received a dealer's license from the NC Marine Fisheries.

The property is zoned Single-Family Residential Mainland (SFM) which allows a home occupation subject to certain standards. Crabshedding is allowed in the AG, MXR, LI, and HI districts with a zoning compliance permit.

Following initial neighbor complaints and the issuance of a notice of violation, on June 10, 2016 county staff, nine neighbors, and the owner of 115 Alex Lane met on site in an attempt to resolve the complaints. A primary concern expressed during this meeting was the heavy traffic volume associated with the commercial crabbing operation. No resolution came from the meeting.

On August 9, 2016 a text amendment was filed by Lauren Berry that proposed to modify the crabshedding regulations and establish commercial fishing as an accessory use. The text amendment if approved will expand the home occupation standards that typically apply to commercial fishermen operating in a residential area. This text amendment is scheduled to be heard at the March 6, 2017 Board of Commissioners meeting.

Violation

In March 2016 the county began receiving complaints regarding the operation of a commercial business out of a residence at 115 Alex Lane. Staff determined that the commercial fishing operation exceeded the home occupation standards and a notice of violation was sent to Mr. Burch on April 19, 2016. The notice of violation requested compliance by ceasing retail sales on the property, maintaining no more than one vehicle in connection with the home occupation (which must be less than 8' x 32' in size), and removing all outdoor storage of goods and

equipment from the property. Compliance was required by May 25, 2016; Mr. Burch subsequently appealed the notice of violation on May 19, 2016.

Unified Development Ordinance

Per the Currituck County Unified Development Ordinance (UDO) section 4.3.3.K Home Occupations shall be subject to the following standards:

1. The business or service is located within the dwelling or an associated accessory building, and does not exceed 25 percent of the heated floor area of the principal structure or 1,000 square feet, whichever is less.
2. The principal person or persons providing the business or service resides in the dwelling on the premises.
3. The home occupation employs no more than one person on the premises who do not reside on the premises.
4. The home occupation causes no change to the external appearance of the existing dwelling and structures on the property.
5. **Retail sales of products produced on site shall be limited to lots with street frontage on a major arterial street.**
6. **All vehicles used in connection with the home occupation are of a size, and located on the premises in such a manner, so as to not disrupt the quiet nature and visual quality of the neighborhood, and there are no more than one vehicle per home occupation. In no instance shall any vehicle be larger than eight feet by 32 feet be parked, stored, or otherwise maintained at the site of a home occupation.**
7. **Home occupations shall not result in regular and on-going vehicular traffic to the home where located.**
8. There is sufficient off-street parking for patrons of the home occupation, with the number of off-street parking required for a dwelling itself.
9. Up to one advertising sign shall be allowed, provided the sign does not exceed six feet in area per side, or more than four feet in height. No signage shall be illuminated or moving.
10. **The property contains no outdoor display or storage of goods, equipment, or services that are associated with the home occupation.**
11. The home occupation does not create traffic or parking congestion, noise, vibration, odor, glare, fumes, or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception.

In this case, Mr. Burch is in violation of standards 5, 6, 7, and 10 listed above.

Appeal Review Standards

1. The Board of Adjustment is limited to the following determinations in considering the appeal, which shall be based on clear and substantial evidence in the record:
 - a. The decision-maker did not make an error or correctly applied the standards of this Ordinance in making the decision or interpretation;
 - b. The decision-maker made an error in determining whether a standard was met. The record must indicate that an error in judgment occurred or facts, plans, or regulations were misread in determining whether the particular standard was or was not met;
 - c. The decision-maker made the decision based on a standard not contained in this Ordinance or other appropriate county ordinances, regulations, or state law, or that a standard more strict or broad than the standard established in this Ordinance was applied; or
 - d. The decision-maker made an error in applying a standard or measuring a standard.

2. Where conflicting evidence exists, the appeal is limited to determining what evidence or testimony bears the greatest credibility in terms of documentation and qualifications of those making the determination.
3. The Board of Adjustment shall not hear any evidence or make any decision based on hardships or special conditions. (Such matters may only be considered in the context of an application for a variance or use permit.)

Attachments

The county submits the following attachments for the Board's consideration:

- Attachment 1: Appeal application submitted May 19, 2016
- Attachment 2: Written complaint
- Attachment 3: Notice of violation dated April 19, 2016
- Attachment 4: Photographs of the violation
- Attachment 5: Subject property map



Appeal Application

OFFICIAL USE ONLY:
 Case Number: 16-03
 Date Filed: 5/19
 Gate Keeper: _____
 Amount Paid: 150.00

Contact Information

APPLICANT:

Name: Lauren Berry
 Address: 117 Alex Lane
Moyock NC 27958
 Telephone: 252-722-2494
 E-Mail Address: Same

PROPERTY OWNER:

Name: Wayne Burch
 Address: 115 Alex Lane
Moyock, NC 27958
 Telephone: 252-339-3846
 E-Mail Address: ZenLane@outlook.com

LEGAL RELATIONSHIP OF APPLICANT TO PROPERTY OWNER: Business Partner

Property Information

Physical Street Address: 115 Alex Lane, Moyock, NC 27958
 Location: Tulls Creek Rd to Copeland,
 Parcel Identification Number(s): 039A-000-0014-000A

Statement of Error, or Improper Decision or Interpretation

I wish to appeal a: Decision or Interpretation Notice of Violation

The determination being dated / / .

Grounds for appeal

State the facts you are prepared to prove to the Board of Adjustment that should lead the board to conclude that the decision of the administrator was made in error.

WDO classifies zoning SF, as Single Family RM 3.4.2
The Distric Purpose clearly states in sentence 2 that
the intent will not interfere with agricultural activities
The USDA classifies waterman as agriculture
Other facts and will also be exhibited.

Please include all related support materials with the application.

I, the undersigned, do certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief. All information submitted and required as part of this application process shall become public record.

Lauren Berry 5-19-16
 Appellant/Applicant Date

Owner Verification

If the person who is requesting the Board of Adjustment to take action on a particular piece of property is not the owner of the property, or under contract to purchase, then the actual owner of the land must complete this section. If the owner is the appellant/application please do not complete this section.

Dear Sir or Madame:

I am the owner of the property located at 115 Alex Lane, Moyock, Nc 27958

I hereby authorize Lauren Berry to appear with my consent before the Board of Adjustment in order to request an appeal or interpretation at the above location. I authorize you to advertise and present this matter in my name as the owner of the property.

Further, I hereby authorize county officials to enter my property for purposes of determining zoning compliance. with notice.

If you have any questions, you may contact me at the following at the address, phone number, or email address listed on this application.

Respectfully yours,

Wayne Bunn 5/19/16
Owner Date

Sworn to and subscribed before me, this the 19 day of May, 2016.

Emily Castelow
Notary Public
My commission expires: 10-21-2019

Emily Castelow
Notary Public
Currituck Co., NC
My commission expires:
October 21, 2019

Attachment: Burch Appeal Application Att1 (1820 : BOA 16-03 WAYNE J. BURCH)



Currituck County

Planning and Community Development
Code Enforcement
153 Courthouse Road, Suite 110
Currituck, North Carolina 27929
252-232-6027
FAX 252-232-3026

CITIZEN COMPLAINT FORM FOR UDO VIOLATION

Date: 3-7-16

Complainants Name: Danny Visser

Complainants Address: 116 Alex Ln

Contact Phone Number: (757) 635-7044

Contact Email: DIVISSER@COX.NET

Location of Violation (address):
115 Alex Ln

Directions to the Site:
Tulls Creek Rd to Copeland, L on Alex Ln

Nature of Violation:
RUNNING COMMERCIAL BUSINESS OUT OF A RESIDENCE

115 ALEX LANE ALOT OF COMMERCIAL TRAFFIC,

OUTSIDE REFER UNITS NOISY. FISH + COMMERCIAL VEHICLES

STARTING AT 6AM IN AND OUT OF THE NEIGHBORHOOD

ALL DAY + NIGHT. VERY NOISY VERY LOUD. HAVE SPOKEN

WITH OWNER ALREADY AND WAS TOLD HE DIDNT CARE.

WOULD LIKE COMMERCIAL TRAFFIC + NOISE MOVED OR STOPPED.

MANY CHILDREN + ANIMALS IN NEIGHBORHOOD WOULD LIKE EXCESS TRAFFIC STOPPED

Complainants Signature: [Signature] Date: 3-7-16

Please return the completed complaint form to Stacey Smith, Code Enforcement Officer in Room 108 of the Old Historical Courthouse. You may also mail your completed form to 153 Courthouse Road, Suite 110 Currituck, NC 27929, or fax to 252-232-3026.

232-2829 HOME
757-641-5830 CELL
112 ALEX LANE
LARRY STRINGHAM

Attachment: Citizen Complaint Att2 (1820 : BOA 16-03 WAYNE J. BURCH)



Currituck County

Planning and Community Development Department
Code Enforcement Program
153 Courthouse Road, Suite G106
Currituck, North Carolina 27929
252-232-6027

April 19, 2016

Wayne J. Burch
115 Alex Lane
Moyock, NC 27958

Notice of Violation V16-344

RE: 115 Alex Lane; Parcel # 039A-000-0014-000A

Dear Mr. Burch,

It has been brought to the county's attention that a crabbing and a bulkhead contractors business is being conducted on the property at 115 Alex Lane. A home occupation may be permitted as accessory to any principal dwelling unit, provided that the accessory use will not change the character of the residential neighborhood in terms of appearance, noise, odors, traffic, or other impacts. Per the Currituck County Unified Development Ordinance (UDO) section 4.3.3.K Home Occupations shall be subject to the below 11 standards:

1. The business or service is located within the dwelling or an associated accessory building, and does not exceed 25 percent of the heated floor area of the principal structure or 1,000 square feet, whichever is less.
2. The principal person or persons providing the business or service resides in the dwelling on the premises.
3. **The home occupation employs no more than one person on the premises who do not reside on the premises.**
4. The home occupation causes no change in the external appearance of the existing dwelling and structures on the property.
5. **Retail sales of products produced on site shall be limited to lots with street frontage on a major arterial street.**
6. **All vehicles used in connection with the home occupation are of a size, and located on the premises in such a manner, so as to not disrupt the quiet nature and visual quality of the neighborhood, and there are no more than one vehicle per home occupation. In no instance shall any vehicle larger than eight feet by 32 feet be parked, stored, or otherwise maintained at the site of a home occupation.**
7. **Home occupations shall not result in regular and on-going vehicular traffic to the home where located.**
8. There is sufficient off-street parking for patrons of the home occupation, with the number of off-street parking spaces required for the home occupation to be provided and maintained in addition to the space or spaces required for the dwelling itself.
9. Up to one advertising sign shall be allowed, provided the sign does not exceed six square feet in area per side, or more than four feet in height. No signage shall be illuminated or moving.
10. **The property contains no outdoor display or storage of goods, equipment, or services that are associated with the home occupation.**
11. **The home occupation does not create traffic or parking congestion, noise, vibration, odor, glare, fumes, or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception.**

In this case, you are in violation of standards 3, 5, 6, 7, 10, and 11 listed above.

Currituck County seeks your cooperation and community spirit in correcting the above mentioned violations by May 25, 2016. To correct the violation you must do the following:

- No more than one person who does not reside on the premises may be employed
- No retail sales may be conducted on the property
- Only 1 vehicle smaller than 8x32 feet may be parked on the property, the others must be removed from the property
- Must remove ALL outdoor storage of goods and equipment from the property

Attachment: Notice of Violation Att3 (1820 : BOA 16-03 WAYNE J. BURCH)

These actions must be taken in order to avoid civil penalties from the County in the amount of up to five hundred dollars (\$500.00) per day for each day that the violation exists. **Your immediate attention in this matter is requested.**

You have thirty (30) days from the receipt of this notice in which to appeal to the Board of Adjustments or this decision shall be final. Applications can be obtained in the Planning Department.

Thanking you in advance for your cooperation. If you have any questions regarding this matter please contact me at (252)232-6027.

Sincerely,



Stacey Smith
Code Enforcement Officer



Attachment: Pictures from website att4 (1820 : BOA 16-03 WAYNE J. BURCH)



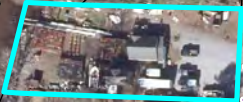
Attachment: alex in pic 2_24 att4 (1820 : BOA 16-03 WAYNE J. BURCH)

3.A.g

Attachment: Base Map Att5 (1820 :

Tulls Bay Dr

Alex Ln



BOA 16-03 Wayne J. Burch
Appeal

