



**CURRITUCK COUNTY  
NORTH CAROLINA**

March 9, 2017  
Minutes – Regular Meeting of the Board of Adjustment

**CALL TO ORDER**

Chairman Palmer called the meeting to order at 7:00 PM.

Attendee Name	Title	Status	Arrived
Zia Montesi	Board Member	Present	
David Palmer	Chairman	Present	
Donna McCloud	Board Member	Present	
Michael Painter	Vice Chairman	Absent	
Vivian Simpson	Board Member	Absent	
Cameron Tabor	Board Member	Present	
Nick Aisthorpe	Staff Support to Board of Adjustment	Present	
Tammy Glave	Senior Planner	Present	
Ben Woody	Planning and Community Development Director	Present	
Stacey Smith	Development Code Enforcement Officer	Present	

Ms. Glave made the roll call at the request of Chairman Palmer.

Chairman Palmer announced the quorum was met with four members present.

**A. Approval of Agenda**

Chairman Palmer asked if there were any changes to the agenda tonight. Mr. Tabor motioned to approve the agenda with no changes. Ms. McCloud seconded the motion and the motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>AYES:</b>	Zia Montesi, Board Member, David Palmer, Chairman, Donna McCloud, Board Member, Cameron Tabor, Board Member
<b>ABSENT:</b>	Michael Painter, Vice Chairman, Vivian Simpson, Board Member

**B. Election of Officers**

Chairman Palmer asked for a motion to suspend the rules for election of officers due to the absence of members and also due to members not being appointed yet.

Mr. Tabor motioned to suspend the election of officers until a future date to be determined. Ms. McCloud seconded the motion and the motion carried unanimously.

### C. Ask for Disqualifications

Chairman Palmer asked if any member of the Board of Adjustment had reasons to be disqualified from hearing the item before the board tonight.

### D. Announce Quorum Being Met

Chairman Palmer previously announced a quorum being met after roll was called.

### E. APPROVAL OF MINUTES

Chairman Palmer asked for approval of the Board of Adjustment Minutes for September 8, 2016. Mr. Tabor motioned to approve. Ms. McCloud seconded the motion and motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>AYES:</b>	Zia Montesi, Board Member, David Palmer, Chairman, Donna McCloud, Board Member, Cameron Tabor, Board Member
<b>ABSENT:</b>	Michael Painter, Vice Chairman, Vivian Simpson, Board Member

### OLD BUSINESS

Chairman Palmer asked Ms. Glave and Mr. Woody if there were any old business for discussion. Ms. Glave said she did not have any old business.

Mr. Woody introduced Nick Aisthorpe to the Board of Adjustment as the Development Technician for the Planning Department and said he is currently based at the Corolla office. He will be helping to staff the meetings for the Board of Adjustment.

### 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.

Applicants Wayne Burch and Lauren Berry appeared before the board and were sworn in.

Stacey Smith, Code Enforcement Officer, Ben Woody, Planning Director, and all other wishing to speak regarding the case were sworn in.

Ms. Smith presented the staff report.

Mr. Tabor asked about traffic.

Ms. Smith said the employees come and go daily as well as crabbers dropping off their catch and buying bait.

Ike McRee, County Attorney, asked Ms. Smith about current violations including retail sales, street classification, vehicles on the property, traffic, and outdoor display.

Ms. Smith said there is retail sale of bait and occasional crab sales from the property, the street is not a major arterial, there are at least four vehicles on the property related to the business, described the traffic again, and said there is outdoor display of equipment such as crab pots, shedder tanks, etc.

Mr. McRee asked Ms. Smith is she was aware of the appeal of the violation.

She said she was and that there was no agricultural exemption for commercial fishermen.

Mr. McRee asked Ms. Smith about General Statutes regarding aquaculture exemption.

Ms. Smith read the definition of aquaculture as “the propagation and rearing of aquatic species in controlled or selected environments, including, but not limited to, ocean ranching.”

Mr. McRee asked Ms. Smith if propagation or rearing of aquatic species was involved in the commercial fishing operation.

Mrs. Smith said no.

Mr. McRee confirmed with Ms. Smith that one of the farming exemption requirements is that the property is part of a conservation agreement. He asked Ms. Smith if the property was under a conservation agreement with the county.

Ms. Smith said no.

Ms. McCloud asked if this meant that you couldn't keep crab pots in your yard.

Mr. Woody explained that you can keep crab pots for personal use, but a home occupation does not allow outdoor storage (crab pots).

Ms. Berry asked Ms. Smith the definition of retail sales.

Ms. Smith said the UDO definition of retail sales is a “Commercial enterprises that provide goods and/or services directly to the consumer, where such goods are available for immediate purchase and removal from the premises by the purchaser.”

Ms. Berry asked Ms. Smith where she got the information from that Mr. Burch received his crab shedding license in 2014 and commercial fishing license in 2001.

Ms. Smith said the Department of Marine Fisheries.

Ms. Berry said the information was wrong.

Ms. Berry asked Ms. Smith for a quantitative basis for defining traffic as heavy.

Ms. Smith said any traffic not customary to a single-family dwelling.

It was clarified that the definition of home occupation regarding traffic does not use the word heavy.

Mr. Berry asked Ms. Smith if they requested a permit once they received the violation.

Ms. Smith said yes, but the permit was denied because the business they are running is not allowed in the Single-family Mainland zoning district.

Mr. McRee asked Ms. Smith if the applicant had appealed the denial of the permit.

Ms. Smith said no.

Ms. Berry described the commercial fishing operation at 115 Alex Lane. Employees come and go from the site, crabbers visit the site to drop off their catch, and crabbers visit the site to purchase bait. They have an occasional visitor who purchases crabs. She said all the vehicles in the photo were not associated with the business.

David Summerral said he Photo-Shopped the company name on one of the vehicles in the photo when making the webpage.

Ms. Berry gave out numerous handouts during her presentation. All have been incorporated as attachments to these minutes. She said neighbors had expressed a concern for the amount of traffic using the road for the business and the safety of children and animals.

Mike LaBounty said he uses the road and has no concern for the safety of children in the neighborhood.

Ms. Berry said there are no retail sales on site as the business wholesales an agricultural product. She said only one vehicle was related to the commercial fishing business and that there are three businesses operating from the site, so each business got a vehicle. She explained that crab shedding is a 24 hour/7 days per week in season. She said they do not display crabs outside because they are perishable and would spoil. She said the equipment stored outside is necessary for the operation of the business. She said Mr. Burch had violation issues, but no other commercial fishermen had received a violation. She said the "Goodness Grows" program exempts commercial fisherman from regulations. She said the BOC and state officials support commercial fishermen.

Ms. Montessi asked Ms. Berry if she and Mr. Burch were business partners.

Ms. Berry said yes, for all three businesses.

Ms. Montessi asked if there was outdoor storage on all three parcels that are being used jointly.

Ms. Berry said yes.

Ms. Montessi asked the hours of operation.

Ms. Berry said crab shedding is around the clock, but normal operations include crabbers dropping of their crabs from approximately 2:00-6:00 p.m. Most purchase bait at that time too, but some come in the mornings to purchase bait.

Ms. McCloud said she has been around crabbing and docks all her life and that bait trucks are seasonal and she has never seen heavy traffic related to commercial fishing.

Mr. Woody clarified that the UDO does not say heavy traffic, but rather regular/ongoing traffic.

Ms. Berry said some of the employees live in the neighborhood, so they'd be coming home anyway during the peak time.

Mr. Palmer asked Ms. Berry to explain the three separate businesses.

Ms. Berry said they run a seafood boat, seafood distribution, and a marine construction business.

Mr. Palmer asked if all of the businesses operated on the lot in question.

Ms. Berry said the three lots are used interchangeably.

The board took a 10 minute recess.

Donnie Burch, the applicant's brother, appeared before the board. Mr. Burch said his brother has been crabbing since he was a kid and that their mom lived on one side of the subject property. He said most crabbers pick up their bait the night before when they drop off their crabs so it has time to thaw. He said when they moved into the neighborhood in 1984, it was just vacation homes. Now there are 9 or 10 houses and that people move in and then complain about what is around them.

Mr. Twifford said he had concern for his family's commercial fishing operation. He said there are a lot of commercial fishermen in the county and this ruling would set precedence. He also thought the Goodness Grows campaign exempted commercial fishermen from the UDO.

Rebecca Hearing said Mr. Burch is encroaching on her property with trash and crab pots and there is a lot of debris in his front yard. She said she had put up with the nuances and odor for years and didn't want to do that anymore.

Ms. Berry asked Ms. Hearing if she had to drive by the lot in question to get to her property and if they had cleaned up the lot once she had complained. She asked if Ms. Hearing had filed any noise or odor complaints with the county.

Ms. Hearing said she did not have to drive by the property to get to her own, but it was a nuisance. She had not filed a complaint with the county.

Watson Stuart said he has been a commercial fisherman in the county for the past 50 years. He said the traffic and noise from jet skis, campground, and airport flight path were more than came from a fishing operation. He said the traffic is no different than a normal house. He said it was hard work being a commercial fisherman and it goes to the heritage of the county. We are just trying to feed people.

Ayden Berry read a letter from a property owner in the neighborhood.

Mr. McRee objected to the author not being present to be cross-examined.

Mr. Palmer upheld the objection.

Pete McClintock said nobody wants to stop Mr. Burch from crabbing. He said this is a residential neighborhood and large trucks come into to pick up crabs and deliver bait along with the other aspects of the business. He sees the trucks on the highway. He said you should not be able to run a commercial business in a residential neighborhood.

Ms. Berry asked Mr. McClintock if he could tell if the trucks were coming from her business or Frog Island.

He could not.

Ms. McCloud asked where Mr. Burch purchased bait and how.

Ms. Berry explained that they buy from a distributor who delivers about twice per week.

Ms. Montessie said those moving in are aware of a crabbing operation in the neighborhood when they purchase their property and she thought the applicant was compliant in selling the product on site.

Chris Marshall said he had crabbed as a teenager each summer. He has lived in the county for 45 years. In 2003, he purchased a home in Woodard Acres and when he brought in the equipment and supplies for his crabbing operations, a neighbor filed a complaint, the county sent a violation notice, and he could not run his business there. He said neighbors should not be able to tell you that you can't have crab pots in your yard.

Dan Visser said he lives directly across the street from the business and had raised his family there since 2004. There was a house with a business on the subject property when he purchased his home, but the business has grown too big for a residential neighborhood. He said there are 8-10 vehicles in the yard each day and maybe only 6 if you do not count the trailers. He said the refrigerator units run 24/7 in the summer. He said the traffic was too much and that he'd tried to work it out, but he couldn't. He used to be friends with the applicant. He is woken up six days per week at 6:00 a.m. He had a petition from the neighbors and asked the board to please protect the residential neighborhood.

The petition could not be submitted as evidence since those who signed it were not there to be cross-examined.

Ms. Berry said a deputy came out and took noise meter readings with the refrigerator units running and there were no noise violations on the property. She asked Mr. Visser to confirm that a noisy truck muffler on their tenant's truck that lives at the subject property started this entire complaint.

Mr. Visser said he had asked the employee/renter to fix the muffler, but that was not what this complaint was about.

Ms. Berry asked why Mr. Visser complained in March and not during their heavy period.

Mr. Visser said that even in the off-season for crabbing, there is still a lot of activity with the bulkheading business.

Mr. McRee asked who lived at 115 Alex Lane.

Mr. Burch confirmed that Terry Overton, employee/renter, lives at 115 Alex Lane and that he lives with Ms. Berry.

Mike LaBounty said he lives across the street from the business and is a commercial fisherman. When he lived in Tulls Bay Colony, he had a bad neighbor who filed a complaint about his crabbing business. The county inspected the property and found no violations. He said he buys his bait from Mr. Burch in the mornings and he has heard Mr. Burch tell another crabber to be quiet as he loads his bait so he doesn't disturb the neighbors. He said there is often no one on site when he picks up his bait.

Ms. Berry asked Mr. LaBounty if the traffic was excessive and ongoing at the subject property.

Mr. LaBounty said it is no more traffic than a daily UPS truck at a single-family dwelling.

Cleveland Robinson said he is never woken up early because of the business activity. He knew what he was moving next door to when he moved into the neighborhood. He said his property value has gone up and that Mr. Burch keeps his stuff neat and there is no odor.

Mr. Palmer closed the public hearing.

Ms. Berry offered a closing statement.

Mr. McRee offered a closing statement. He said the county does not want to shut down commercial fishing. The UDO allows certain uses in certain zoning districts and allows an exception to a business operating in a residential district through the home occupation standards. The applicant is in violation of 6 of the 11 home occupation standards. First, to have a home occupation, you must live in the single-family dwelling. The applicant has testified that he does not live at the subject property, 115 Alex Lane. Alex Lane is not a major arterial. Witnesses have repeated traffic concerns of the comings and goings of different types of vehicles. There is outdoor display of crab pots and equipment and multiple vehicles related to the business parked at the site. The allowance for a home occupation requires that no one in the neighborhood should be able to tell there is a business operating at the location. A home occupation is allowed on the subject property, but it has to meet the standards in the UDO. The notion that the business is exempt from zoning because of the Goodness Grows program is not correct. The products sold by the business are not produced on the property.

The board deliberated on each of the violations separately before taking a vote:

- The home occupation employs no more than one person on the premises who do not reside on the premises.
  - Ms. Berry said that she is an employee and referred to herself as the "dock mom" and the tenant at 115 Alex Lane is an employee. Mr. Palmer mentioned Mr. Burch and the other employees.
- Retail sales of products produced on site shall be limited to lots with street frontage on a major arterial street.
  - Mr. Tabor said Alex Lane is not a major arterial street. Ms. McCloud said there are no retail sales, but rather wholesale sales and that they are selling a

- product produced on site. Mr. Palmer mentioned the sale of bait as an example of retail sales.
- Mr. Gallop read the common definitions of produced.
  - 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 is 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.
    - The board agreed that there is more than one vehicle related to the home occupation parked on the property.
  - Home occupations shall not result in regular and on-going vehicular traffic to the home where located.
    - Mr. Tabor said there has been testimony by neighbors of the regular and on-going traffic to the business. Ms. Montessi said more neighbors said traffic was not an issue than said there was an issue. Ms. McCloud said the traffic is not regular and on-going because commercial fishing is seasonal and not a year round operation.
  - The property contains no outdoor display or storage of goods, equipment, or services that are associated with the home occupation.
    - The board agreed that the crab pots constituted outdoor display.
  - 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.
    - Mr. Palmer said the board had heard testimony of noise and odor being detected by normal senses off the premises. Ms. McCloud said it had not interfered with reception.

### **Motion**

Mr. Palmer motioned to reverse the following administrator's decisions based on the findings of fact in the staff report:

- The home occupation employs more than one person on the premises who do not reside on the premises.
- Retail sales of products not produced on site are occurring on a lot without street frontage on a major arterial street.
- The home occupation results in regular and on-going vehicular traffic to the home where located.
- The home occupation creates 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.

And to affirm the following administrator's decisions:

- There is more than one vehicle per home occupation.
- The property contains outdoor display or storage of goods, equipment, or services that are associated with the home occupation.

Ms. Montessi seconded the motion and the motion passed unanimously.

The board directed Mr. McRee to draft the order regarding the hearing.

<b>RESULT:</b>	<b>MODIFY STAFF'S DECISION [UNANIMOUS]</b>
<b>AYES:</b>	Zia Montesi, Board Member, David Palmer, Chairman, Donna McCloud, Board Member, Cameron Tabor, Board Member
<b>ABSENT:</b>	Michael Painter, Vice Chairman, Vivian Simpson, Board Member

**ANNOUNCEMENTS**

No announcements

**ADJOURNMENT**

The meeting adjourned at 10:10 PM.



## 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.

UDO 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

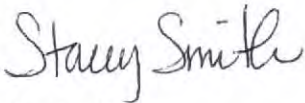
Attachment: Notice of Violation Att3 (1820 : BOA 16-03 WAYNE J. BURCH)

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)



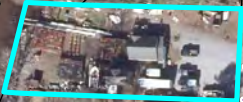
Attachment: alex in pic 2\_24 att4 (1820 : BOA 16-03 WAYNE J. BURCH)

3.A.g

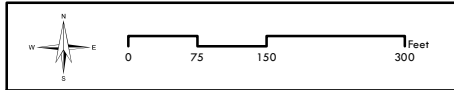
Attachment: Base Map Att5 (1820 :

Tulls Bay Dr

Alex Ln



BOA 16-03 Wayne J. Burch  
Appeal



Currituck County  
Development  
Packet Pg. 20