

**AGENDA**

**ROCKINGHAM COUNTY BOARD OF ADJUSTMENT**

**June 14, 2021 at 7:00 pm**

County Commissioners Chambers

Rockingham County Governmental Center



**I. Call to Order**

**II. Invocation**

**III. Adoption of the Agenda**

**IV. Approval of Minutes:** February 22, 2021 (Planning Board UDO Workshop)

**V. Review of Procedures for the Board of Adjustment**

**VI. Public Hearings before the Board of Adjustment**

1. Variance Request #2021-12, Wendy Cheek: The Rockingham County Unified Development Ordinance (UDO) requires a 20-foot wide driveway for two-way traffic within a Travel Trailer Park approved by Special Use Permit. The applicant requests variance from this requirement to allow a 12-foot driveway for two-way traffic. Tax PINs: 793400385264 / 793400378210, 651 Lowe Rd – New Bethel Township

**VII. Other Business:**

- a. Old Business: Consideration of Special Use Permit, Case #2021-08 for a Travel Trailer Park. This Permit was conditionally approved upon the applicant's ability to obtain the driveway variance. Approval of the variance will grant approval of the Special Use Permit, in conjunction with the other Permit conditions noted in the UDO. Denial of the variance will indicate revocation of the conditionally approved Permit. The outcome will be noted in the record. Tax PINs 793400385264 / 793400378210, 651 Lowe Rd – New Bethel Township
- b. New Business: Staff Changes  
Land Use Plan and UDO Update

**VIII. Adjourn**



## ROCKINGHAM COUNTY PLANNING BOARD

### MINUTES

#### ROCKINGHAM COUNTY PLANNING BOARD WORKSHOP – FEBRUARY 22, 2021 - 7:00 P.M.

The Rockingham County Planning Board met in regular session on February 22, 2021, 6:30 PM, Governmental Center, Commissioner's Chambers, Wentworth, North Carolina.

1. Chairman Paul Ksieniewicz called the meeting to order at 6:30 pm.
2. Invocation was given by James Harris.
3. Adoption of the Agenda. Chair Ksieniewicz motioned to adopt the agenda, Cory Scott seconded. Motion to adopt the agenda carried 6-0.
4. Attendance:  
Regular members present: Chairman Paul Ksieniewicz, Vice-Chairman Julie Talbert, James Harris, James Fink, Cory Scott, and Phillip Stone

Alternate members present: Dylan Moore

Staff and others present: Carrie Spencer- Planning Director (via call-in), John Morris – County Attorney, Roy Sawyers – A/V Technician, Ben Curry – Code Enforcement, and citizens

#### 7. **DISCUSSION OF UDO**

##### **Case #2020-33, Update the Rockingham County UDO**

Board discussion included a desire to have public and Planning Board input to major subdivisions. Eric Woolrich suggested the inclusion of an additional threshold to kick a subdivision up to a public hearing.

The Board asked staff to create a written explanation of why the zoning requirement has been removed for major subdivisions. The Board asked to be informed of cases such as major subdivisions that they do not necessarily see.

There was discussion about Restrictive Covenants and the placement of burden on the applicant and whoever they have a contract with, and that ignorance of the law/UDO is not an excuse. There was concern that the language is written such that we would not be interfering with a contract between private parties.

The Board recommended the addition of a Section 43.02.03 for PUD approval.

Chairman asked when the Board can expect the next draft of the UDO and Spencer stated that a new draft would not be available until April at the earliest. Eric Woolrich stated that the BOCC need to make a solid decision on the Land Use Plan before finalizing another draft.

**8. OTHER BUSINESS**

- a) Old Business – none
- b) New Business – none

**9. ADJOURN**

**Vice-Chairman Talbert motioned to adjourn. Philip Stone seconded. The motion to adjourn carried 6-0.**

**Planning Board adjourned at 7:50 PM.**

Minutes Read and Approved,

Respectfully submitted,

\_\_\_\_\_  
Chairperson, Planning Board      Date

  
 \_\_\_\_\_  
 Planning Staff                      Date

6/7/21



**ROCKINGHAM COUNTY BOARD OF ADJUSTMENT  
STAFF REPORT  
Case #2021-12, Variance**

<b>Request:</b>	<b>Variance from UDO Chapter 2, Article IX, 9-11, Travel Trailer Park Driveway Requirements</b>
<b>Applicant:</b>	<u>Wendy Check</u>
<b>Identification:</b>	The property is denoted by Tax PIN 8913-02-89-7924
<b>Location:</b>	651 Lowe Rd, New Bethel Township

**1. Acreage and Location of Proposal:**

+/- 27.11 acres approximately a half mile west of the intersection of Lowe Rd and Bethany Rd, about 2 miles southeast of the Madison ETJ.

**2. Character and Land Uses of Neighborhood and Surrounding Community:**

The neighborhood is predominantly characterized by large lot residential use, undeveloped land, and agricultural uses.

**3. Relevant Unified Development Ordinance Section:**

*Chapter 2, Article IX Special Use Permits, Section 9-11(x), pp. 139-140.*

**4. Staff Findings:**

After reviewing the application, Staff concludes that the applicant has submitted a complete application for Case #2021-12.

The applicant has received conditional approval for a Special Use Permit to use this property as a Travel Trailer Park. The condition requires that the applicant obtain a variance from the Travel Trailer Park Special Use Permit driveway requirements. The standards for this use require a minimum driveway lane width of 20' for two-way traffic. The applicant is asking for a variance from this requirement to reduce the lane width to 12'.

**5. Approval Process:**

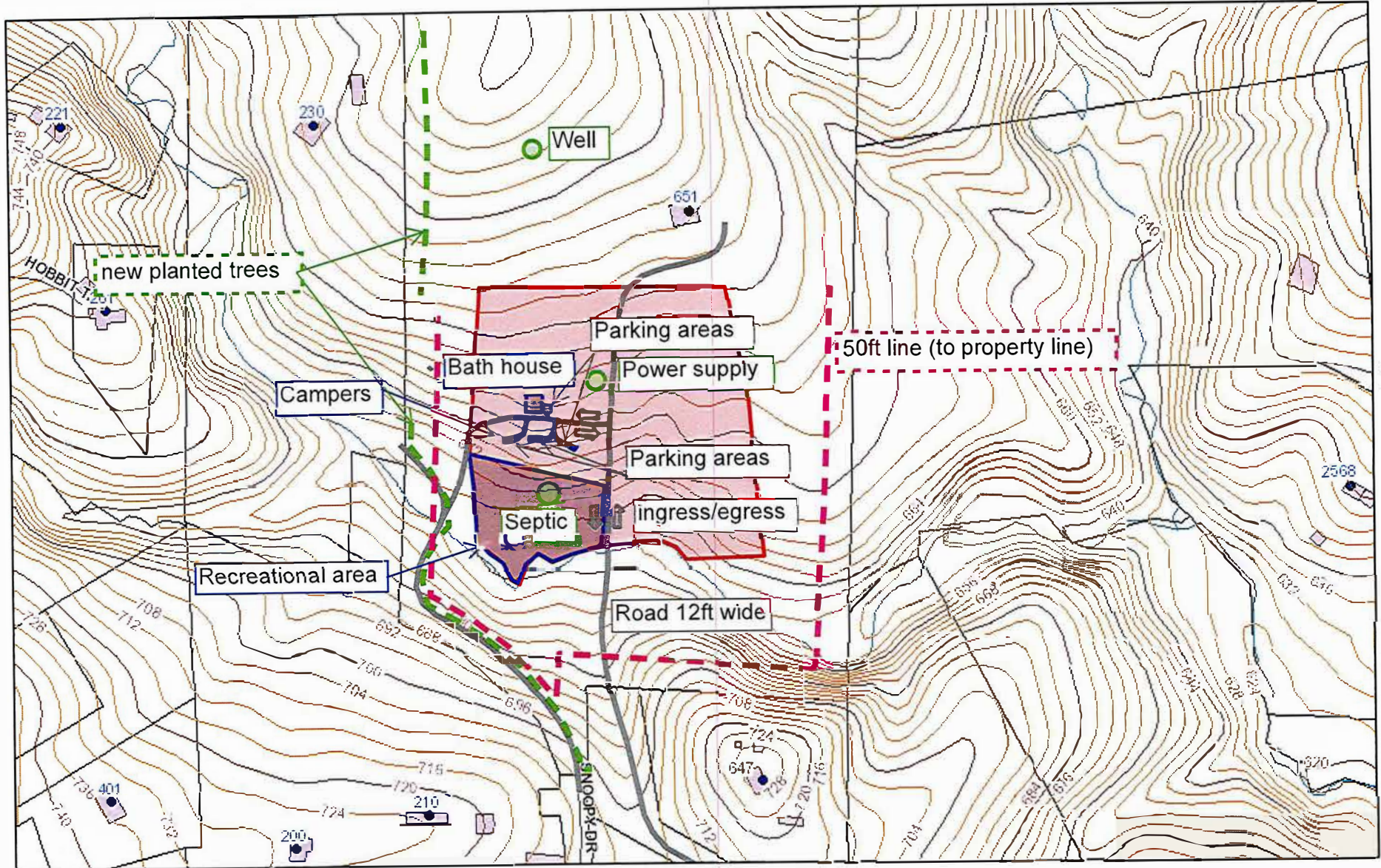
Variances are granted through a quasi-judicial proceeding with a concurring vote of four-fifths of the board. A variance may be granted if evidence presented to the Board persuades it to reach all of the following conclusions:

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, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance;
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 the granting of a variance shall not be regarded as a self-created hardship; and
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.

Additionally, the Board shall determine that the proposed variance will not:

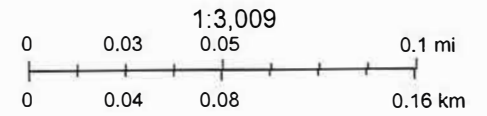
1. extend in area or expand a non-conforming use of land;
  2. change the district boundaries shown on the zoning map;
  3. impair any adequate supply of light and air to adjacent property;
  4. materially increase the public danger of fire;
  5. materially diminish or impair established property values within the surrounding area; or
  6. in any other respect impair the public health, safety, morals, and general welfare.
- 6. Staff's analysis concludes that the applicant has submitted sufficient information for the Board to make a decision for Case #2021-12, a request for a variance to the minimum lane requirements for a Travel Trailer Park.**

# 2021-12 Cheek Variance Site Map One

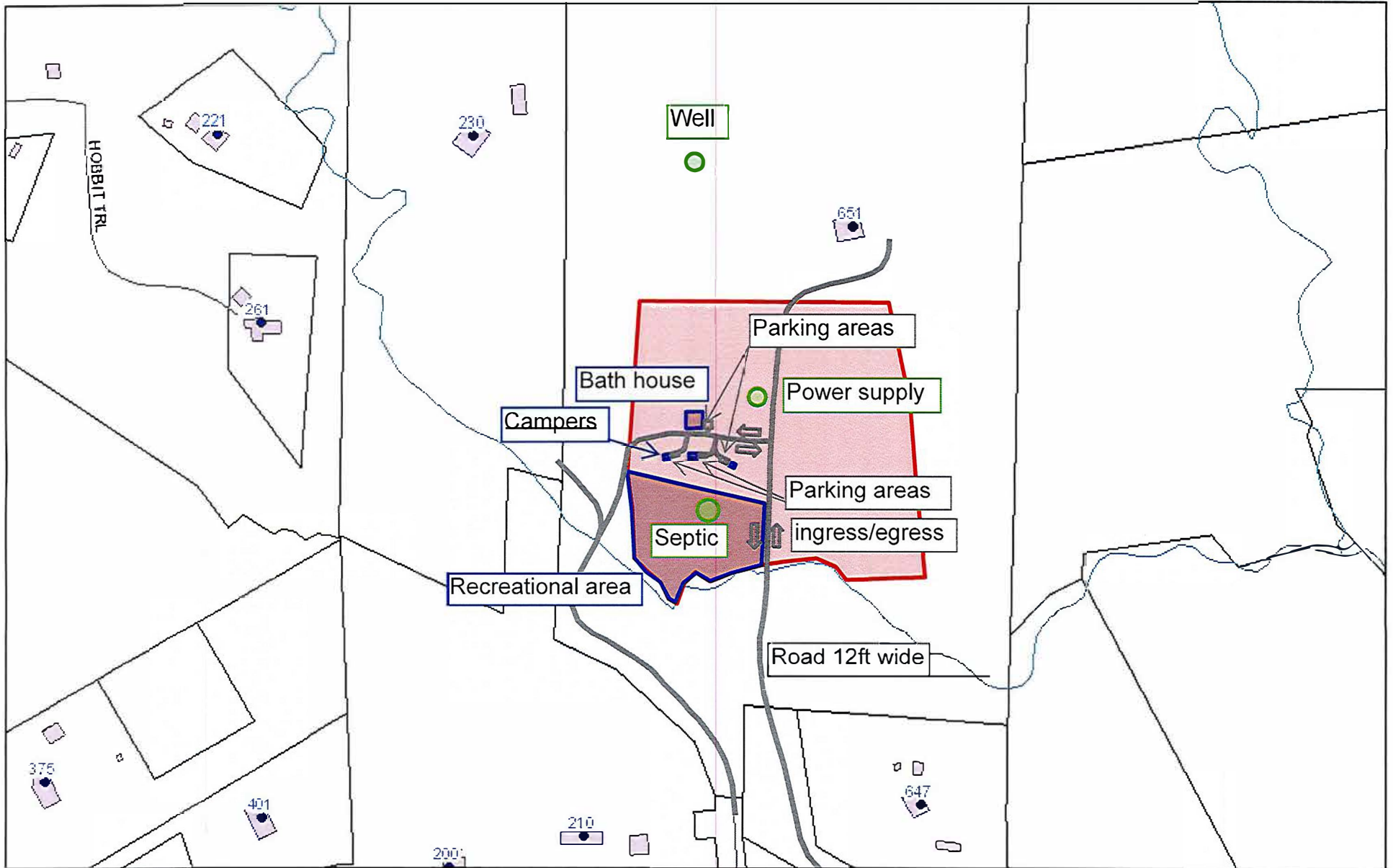


April 15, 2021

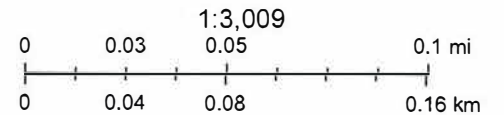
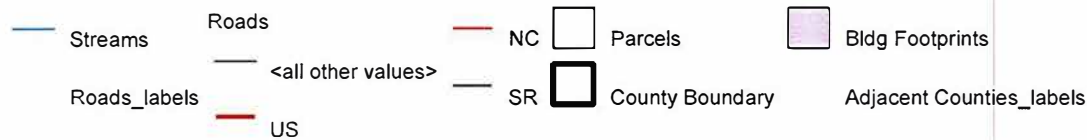
- Streams
- Roads
- Roads\_labels
- US
- <all other values>
- US
- NC
- SR
- Parcels
- County Boundary
- Contour labels
- Contours (4ft)
- 4

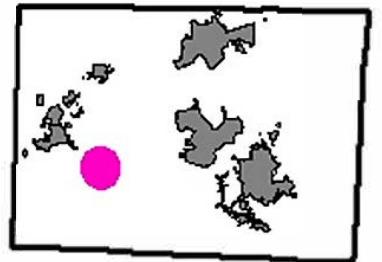
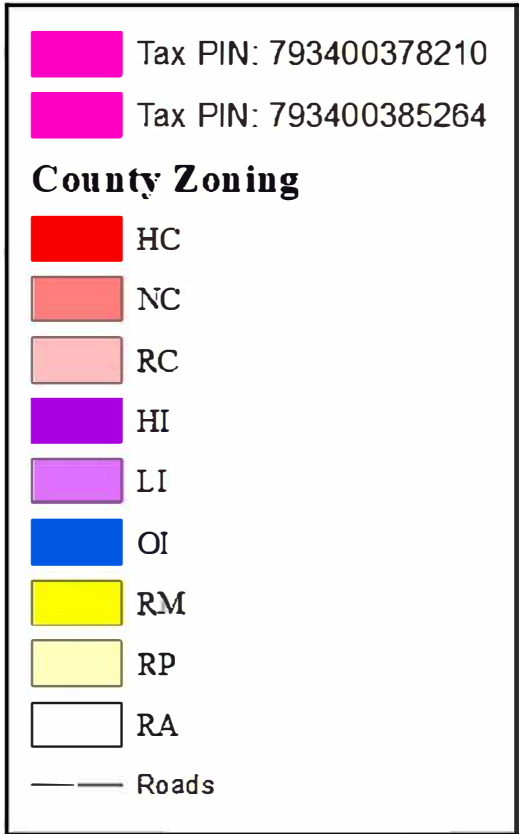
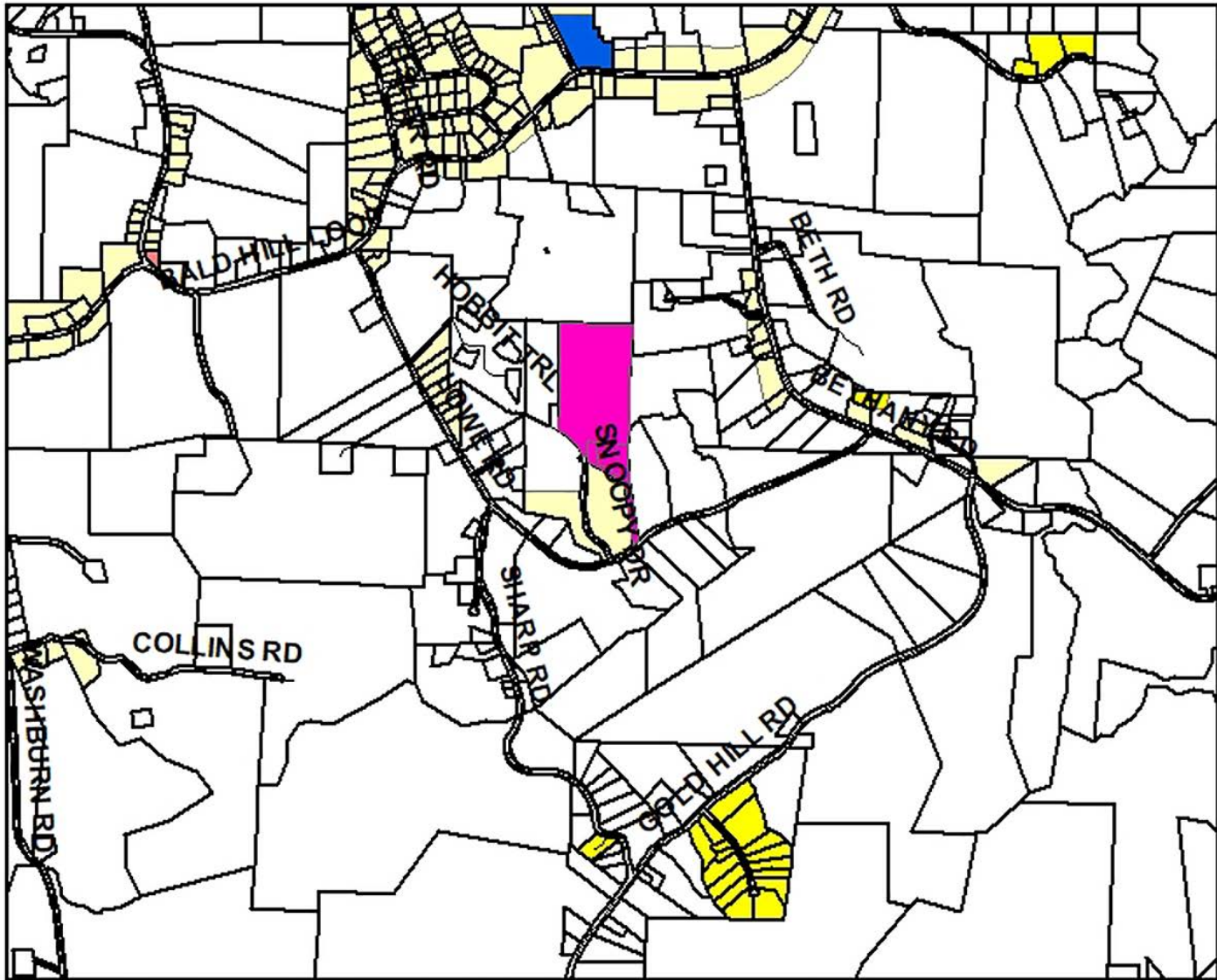


# 2021-12 Cheek Variance Site Map Two



April 15, 2021



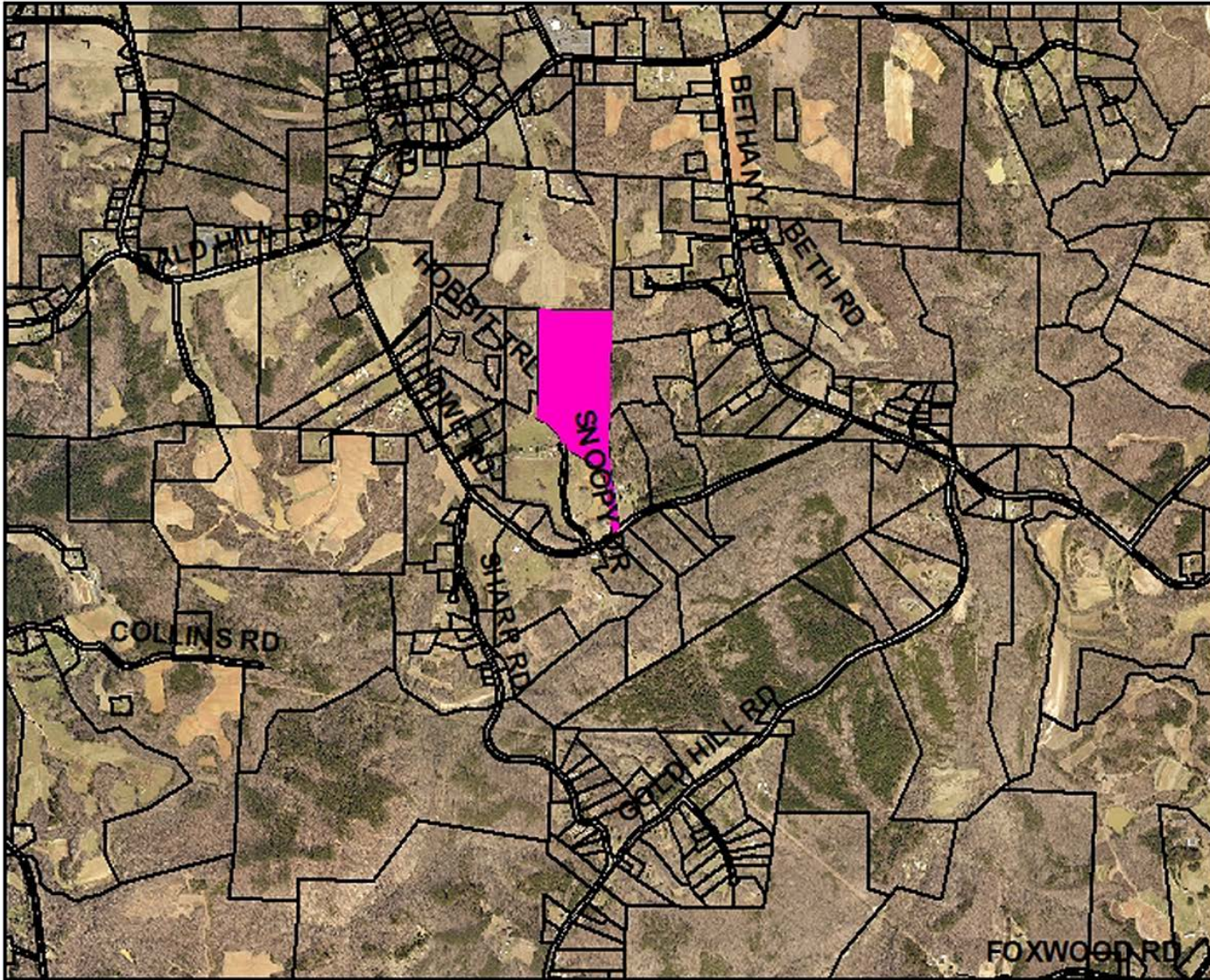


**Case #2021-12: Cheek | Variance Zoning Map**

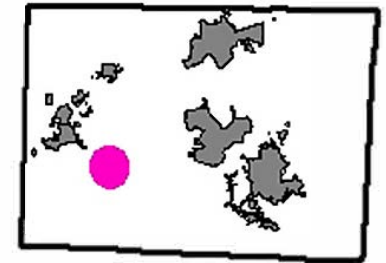
**Zoning Vicinity Map**







■ Tax PIN: 793400378210  
■ Tax PIN: 793400385264  
— Roads



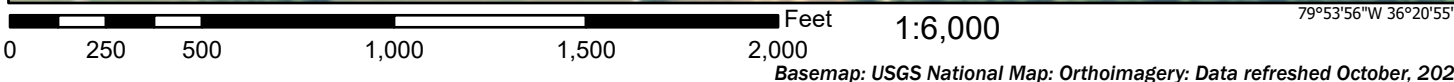
### Case #2021-12: Cheek | Variance Aerial Map



# National Flood Hazard Layer FIRMMette



79°54'34"W 36°21'24"N



## Legend 10 of 17

SEE FIS REPORT FOR DETAILED LEGEND AND INDEX MAP FOR FIRM PANEL LAYOUT

SPECIAL FLOOD HAZARD AREAS		Without Base Flood Elevation (BFE) <i>Zone A, V, A99</i>
		With BFE or Depth <i>Zone AE, AO, AH, VE, AR</i>
		Regulatory Floodway
OTHER AREAS OF FLOOD HAZARD		0.2% Annual Chance Flood Hazard, Areas of 1% annual chance flood with average depth less than one foot or with drainage areas of less than one square mile <i>Zone X</i>
		Future Conditions 1% Annual Chance Flood Hazard <i>Zone X</i>
		Area with Reduced Flood Risk due to Levee. See Notes. <i>Zone X</i>
		Area with Flood Risk due to Levee <i>Zone D</i>
OTHER AREAS		NO SCREEN Area of Minimal Flood Hazard <i>Zone X</i>
		Effective LOMRs
GENERAL STRUCTURES		Area of Undetermined Flood Hazard <i>Zone D</i>
		Channel, Culvert, or Storm Sewer
		Levee, Dike, or Floodwall
OTHER FEATURES		Cross Sections with 1% Annual Chance Water Surface Elevation
		Coastal Transect
		Base Flood Elevation Line (BFE)
		Limit of Study
		Jurisdiction Boundary
		Coastal Transect Baseline
MAP PANELS		Profile Baseline
		Hydrographic Feature
		Digital Data Available
		No Digital Data Available
		Unmapped

The pin displayed on the map is an approximate point selected by the user and does not represent an authoritative property location.

This map complies with FEMA's standards for the use of digital flood maps if it is not void as described below. The basemap shown complies with FEMA's basemap accuracy standards

The flood hazard information is derived directly from the authoritative NFHL web services provided by FEMA. This map was exported on **6/7/2021 at 10:02 AM** and does not reflect changes or amendments subsequent to this date and time. The NFHL and effective information may change or become superseded by new data over time.

This map image is void if the one or more of the following map elements do not appear: basemap imagery, flood zone labels, legend, scale bar, map creation date, community identifiers, FIRM panel number, and FIRM effective date. Map images for unmapped and unmodernized areas cannot be used for regulatory purposes.



# 2021-12 Cheek VAR Wetlands Map



June 7, 2021

### Wetlands

- |   |                                |   |                                   |   |          |
|---|--------------------------------|---|-----------------------------------|---|----------|
|  | Estuarine and Marine Deepwater |  | Freshwater Emergent Wetland       |  | Lake     |
|  | Estuarine and Marine Wetland   |  | Freshwater Forested/Shrub Wetland |  | Other    |
|   |                                |  | Freshwater Pond                   |  | Riverine |

This map is for general reference only. The US Fish and Wildlife Service is not responsible for the accuracy or currentness of the base data shown on this map. All wetlands related data should be used in accordance with the layer metadata found on the Wetlands Mapper web site.

**APPLICATION FOR VARIANCE**

Property Address: 651 Lowe Road

Parcel No / Tax Pins(s): 891302897924

Article and Section of UDO requested for Variance: Article IX 9-11

**Owner:** Wendy Cheek

Mailing Address: 651 Lowe road, Madison, NC 27025

Telephone: 336-207-0227 email: wendycheek651@gmail.com

**Applicant:** Wendy Cheek

Mailing address: 651 Lowe road, Madison, NC 27025

Telephone: 336-207-0227 email: wendycheek651@gmail.com

The Board of Adjustment must determine that the variance will not:

- a. extend in area or expand a non-conforming use of land;
- b. change the district boundaries shown on the zoning map;
- c. impair any adequate supply of light and air to adjacent property;
- d. materially increase the public danger of fire;
- e. materially diminish or impair established property values within the surrounding area; or
- f. in any other respect impair the public health, safety, morals, and general welfare.

The Board is also required to reach the four conclusions listed below before they can approve a variance. In the space below each conclusion, indicate the EVIDENCE that you will present and the ARGUMENTS that are made to convince the Board that it can properly reach these four required conclusions.

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);

The request for the variance is to continue having a two- waydrive at 12ft+ instead of 20ft two-way drive requested by the permit. The rural guest establishment of 3 Vintage campers will only be 3 extra cars coming down my drive. My drive has plenty of pull off areas that are already used if anyone meets someone coming in and out of property. It would be a large undertaking to make a 3/4 mile drive 20 ft wide when it is unneccassry.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a *variance*;

The property at 651 is a farm. Its topography and location is hayfields, large hills, and a creek. To make this a 20 ft wide road would create a water shed issue that I have worked hard over the years to control with grading and a new 13 ft x 25ft bridge. Getting rid of more of the grassy areas will definitely create more run off and flooding issues that I have got undercontrol with all the grading . The road now keeps the farm appeal and keeps the topography very natural.

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 the granting of a *variance* shall not be regarded as a self-created hardship; and

The origianl permit for this project was for rural guest establishment. Under this permit my drive was sufficient. Becasue of a lawsuit brought on by my neighbor Mr. Plott the same Airbnb project had to be requested under a different permit heading. Nothing has changed about this project to use 3 vintage campers as Airbnb rentals. This guest establishment will only be allowing regular vehicles coming into my property. No one will be pulling a camper or bringing an RV.

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.

Allowing this variance will keep the farm at its original appeal to have guest for Airbnb. This variance will not create any safety issue due to low number of actual cars. This drive is already used by other neighbors as a two -way traffic and there has never been an issue due to ability to pull to the side as you meet someone. The intent here is to create a quiet place for guest to come to that holds the farm and country appeal.

Wendy Cheek

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Signature of Owner

**(Office Use Only)**

<ul style="list-style-type: none"> <li><input type="radio"/> all owner signatures</li> <li><input type="radio"/> fees</li> <li><input type="radio"/> site plan(s)</li> </ul>	<p>Case Number: <u>2021-12</u></p> <p>Date of Board of Adjustment Hearing: <u>June 14, 2021</u></p> <p>Board of Adjustment Decision: Approve ( ) Deny ( ) Vote: _____</p>
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## **APPROVAL OF REQUEST FOR A VARIANCE**

\*You must find **all the listed factors exist** to grant the variance.

“Based on the evidence presented, I move to **GRANT** the request and specifically find that:

1. A variance from the terms of the Ordinance will not be contrary to the public interest BECAUSE:
  - a. The proposed variance will not allow the establishment of a use not otherwise permitted in a district by the Ordinance;
  - b. The proposed variance will not extend in area or expand a non-conforming use of land;
  - c. The proposed variance will not change the district boundaries shown on the zoning map;
  - d. The proposed variance will not impair any adequate supply of light and air to adjacent property;
  - e. The proposed variance will not materially increase the public danger of fire;
  - f. The proposed variance will not materially diminish or impair established property values within the surrounding area; AND
  - g. The proposed variance will not in any other respect impair the public health, safety, morals, and general welfare [\*the proposed variance will not create a nuisance or violate any laws; the harm to the neighbors from granting the variance will not outweigh the harm to the applicant from denying the variance].

2. Special circumstances attach to the property that do not generally apply to other properties affected by the Ordinance provision at issue;

BECAUSE . . . \_\_\_\_\_  
**(Identify the evidence that supports this factor.)**

**AND**

3. Due to these special circumstances (noted in number 2 above), a literal enforcement of the terms of the Ordinance will result in undue hardship to the applicant. An undue hardship will result BECAUSE:

- a. There can be no reasonable use of the property without a variance.

BECAUSE . . . \_\_\_\_\_  
**(Identify the evidence that supports this factor.)**

**AND**

- b. The hardship is not self-created.

BECAUSE . . . \_\_\_\_\_  
**(Identify the evidence that supports this factor.)**

**IN ADDITION**, I recommend that the conditions recommended by the Planning Staff be placed on the variance.

## **DENIAL OF REQUEST FOR A VARIANCE**

\*You must find **that only one of the listed factors does not exist** to deny the variance.

“Based on the evidence presented, I move to **DENY** the request and specifically find that:

1. A variance from the terms of the Ordinance will be contrary to the public interest BECAUSE:
  - a. The proposed variance will allow the establishment of a use not otherwise permitted in a district by the Ordinance;
  - b. The proposed variance will extend in area or expand a non-conforming use of land;
  - c. The proposed variance will change the district boundaries shown on the zoning map;
  - d. The proposed variance will impair any adequate supply of light and air to adjacent property;
  - e. The proposed variance will materially increase the public danger of fire;
  - f. The proposed variance will materially diminish or impair established property values within the surrounding area;  
**OR**
  - g. The proposed variance will impair the public health, safety, morals, and general welfare [\*the proposed variance will create a nuisance or violate any laws; the harm to the neighbors from granting the variance will outweigh the harm to the applicant from denying the variance].



**OR**

2. Special circumstances attach to the property that generally apply to other properties affected by the Ordinance provision at issue;

BECAUSE . . . \_\_\_\_\_  
**(Identify the evidence that supports this factor.)**

**OR**

3. Due to these special circumstances (noted in number 2 above), a literal enforcement of the terms of the Ordinance will not result in undue hardship to the applicant. An undue hardship will not result BECAUSE:

- a. There can be reasonable use of the property without a variance.

BECAUSE . . . \_\_\_\_\_  
**(Identify the evidence that supports this factor.)**

**OR**

- b. The hardship is self-created.

BECAUSE . . . \_\_\_\_\_  
**(Identify the evidence that supports this factor.)**