



## **Town of Beaufort, NC**

701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516  
252-728-2141 - 252-728-3982 fax - [www.beaufortnc.org](http://www.beaufortnc.org)

### **Town of Beaufort Board of Adjustment Special Meeting 6:00 PM Tuesday, February 16, 2021 - Held via Zoom due to the COVID-19 Pandemic Monthly Meeting**

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**Call to Order**

**Roll Call**

**Agenda Approval**

**Administration of Oaths**

**New Business**

[Appeal](#) of Staff's decision for 119 Willow Street.

**Public Comment**

**Commission / Board Comments**

**Staff Comments**

**Adjourn**



**Town of Beaufort, NC**

701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516  
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**Town of Beaufort Board of Adjustment Meeting  
6:00 P.M. Tuesday, February 16, 2021 – Via Zoom**

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**AGENDA CATEGORY:** New Business  
**SUBJECT:** Appeal of Staff’s decision for 119 Willow Street.

**BRIEF SUMMARY:**

- A request to appeal the Town’s decision that a Commercial Landscape Business at 119 Willow Street is operating unlawfully in an R-8 Residential Zoning District and such operation should cease immediately and the property be used as only what is a Permitted Use by right or by Special Use Permit in the R-8 Residential Zoning District.

**REQUESTED ACTION:**

For the Board of Adjustment to review the appeal and requirements of the Land Development Ordinance and make a decision as to whether to reverse or affirm (wholly or partly) the Town’s Notice of Violation.

**EXPECTED LENGTH OF PRESENTATION:**

30 Minutes (Presentation From Staff)

**SUBMITTED BY:**

Kyle Garner, AICP Planning Director

**BUDGET AMENDMENT REQUIRED:**

N/A

# Memo

**To:** Beaufort Board of Adjustment  
**From:** Kyle Garner, AICP, Planning Director  
**Date:** February 3, 2021  
**Re:** A request to appeal the Town's decision that a Commercial Landscape Business at 119 Willow Street is operating unlawfully in an R-8 Residential Zoning District and such operation should cease immediately and the property be used as only what is a Permitted Use by right or by Special Use Permit in the R-8 Residential Zoning District.

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## INTERPRETATION REQUEST

**Applicant:** Town of Beaufort

**Appellant/Property Owner:** Mr. Thomas Bullock

**Property Address:** 119 Willow Street

**PIN:** 730619615362000

**Property Zoning District:** R-8 – Residential Medium Density District

**Existing use:** Commercial Landscape Business

### **Background:**

On August 6, 2020, a "Notice of Violation" was sent via certified mail to Mr. Thomas Bullock stating that the use operating at 119 Willow Street as a Commercial Landscape Business is not permissible under the Town's Land Development Ordinance and requesting that the use be stopped, the Commercial Landscape Business operation be closed, and the property be converted to a residential use as per the Land Development Ordinance. (See Exhibit A – Notice of Violation).

Mr. Bullock appealed the Notice of Violation to the Town Manager. A hearing on this appeal was held on October 9, 2020. Present at the hearing were the Beaufort Town Manager, Mr. John Day; Town Attorney Jill Quattlebaum; Mr. Bullock and his wife; and Mr. Bullock's attorney, Mr. C.R. Wheatly III. During the hearing Mr. Wheatly submitted Exhibits 1-8 as part of record regarding the use of the property at 119 Willow Street.

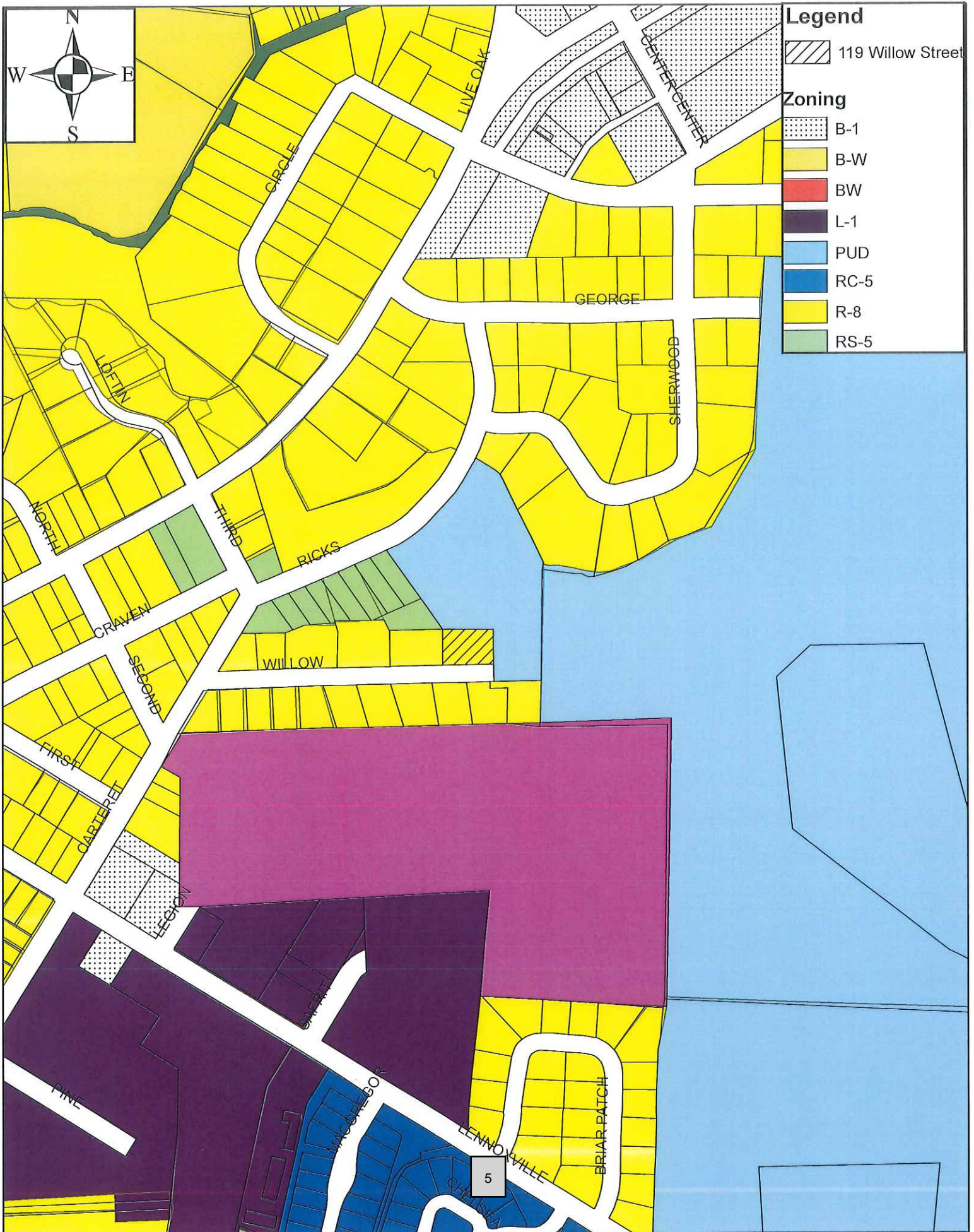
After reviewing the testimony and evidence that was submitted during the October 9, 2020 hearing, the Town Manager issued a decision on October 30, 2020, finding that the initial Notice of Violation was properly issued and that an unlawful commercial use (personal services establishment) was operating in an R-8 Residential Zoning District. (See Exhibit – B – October 30, 2020 Letter of Decision from John Day, Town Manager.)

**Request: For the Board of Adjustment to review the appeal and requirements of the Land Development Ordinance and make a decision as to whether to reverse or affirm (wholly or partly) the Town's Notice of Violation.**

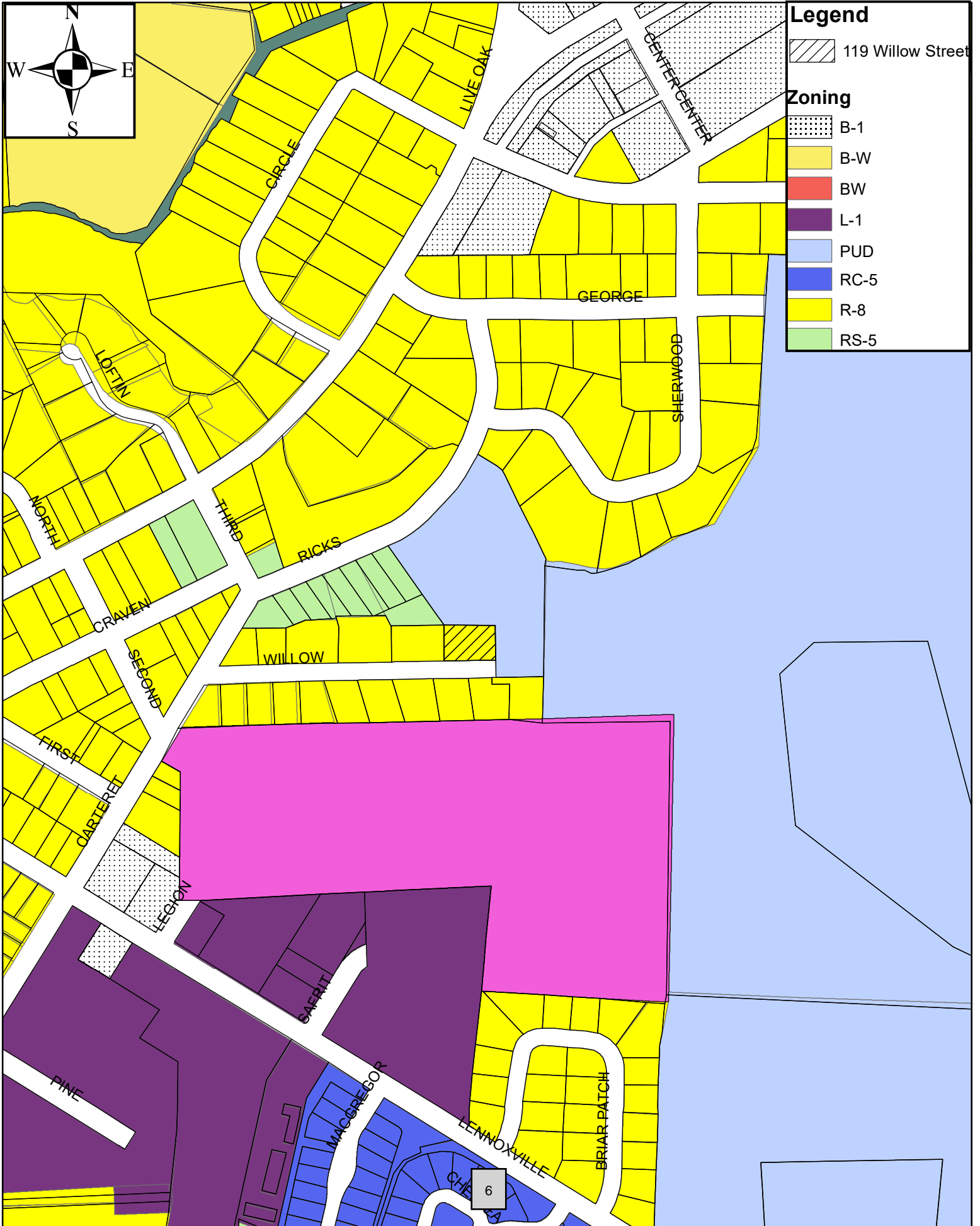
**Attachments:**

- (Exhibit A) - Initial Notice of Violation Dated August 6, 2020
- (Exhibit B) - October 30, 2020 Letter of Decision from John Day, Town Manager
- (Exhibit C, 1-9) Bullocks' Appeal Exhibits
- (Exhibit D) – Town of Beaufort file on 119 Willow Street
- (Exhibit E) – Town of Beaufort Ordinance & Map Information
- (Exhibit F) - Videos provided to Town by neighborhood residents

# Vicinity Map for 119 Willow Street



# Vicinity Map for 119 Willow Street





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[www.beaufortnc.org](http://www.beaufortnc.org)

## NOTICE of VIOLATION

August 6, 2020

Service by: Certified Mail/Return Receipt Requested: 7011 2970 0002 5197 9475

Mr. Thomas Bullock  
209 George Street  
Beaufort, NC 28516

RE: 119 Willow Street Beaufort NC 28516, PIN 730619615362000 (the "Property")

Dear Mr. Bullock:

It has come to the attention of the Town of Beaufort Staff that the property at 119 Willow Street is operating a Commercial Landscaping Business. This current use constitutes a Commercial Use (Personal Service Establishment), and in turn is not a permissible use under the Town's Land Development Ordinance for the zoning district in which the Property is located. Attached are use tables in Beaufort's Land Development Ordinance identifying the uses allowed in this zoning district.

In order to protect the public health, safety and welfare of the residents of our community, your assistance is requested in closing the Commercial Landscaping Business operation at 119 Willow Street and convert the property to a residential use as per the Land Development Ordinance.

If you fail to remedy this violation or fail to request a hearing with the Town Manager by **August 21, 2020**, the Town will issue a Violation Order and begin assessing you a civil penalty for said violation. Your civil penalty in this matter would be **\$500.00 per day per violation** and will continue until the violation is remedied. Furthermore, in the event you fail to remedy this violation, the Town also reserves the right to obtain a mandatory injunction seeking enforcement of the LDO and order of abatement requiring you to cease the unlawful use of the Property, if necessary.

If you should have any questions please contact me at (252) 728-2142 or [k.garner@beaufortnc.org](mailto:k.garner@beaufortnc.org).

Your prompt attention to this matter is greatly appreciated.

Sincerely,

Kyle Garner  
Planning & Inspections Director

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Mayor Everette S. (Rett) Newton  
Commissioner John Hagle • Commissioner Sharon Harker • Commissioner Marianna Hollinshed  
Commissioner Ann Carter • Commissioner Charles McDonald  
Town Manager John Day

A) **R-20 Residential Single-Family District.**

*Purpose:* This residential district is intended to maintain a compatible mixture of single-family residential and bona fide farm uses with a density of two families per acre in accordance with the North Carolina State Board of Health recommendations for residential areas without public water and public sewer, and to prevent the development of blight and slum conditions.

B) **R-8MH Residential Manufactured Home Park/Recreational Vehicle Park District.**

*Purpose:* This residential district is established as per N.C.G.S. 160A-383.1 (zoning regulations for manufactured homes) to provide a medium density district in which the principal use of land is for site-built, single-family dwelling units and approved manufactured home and/or recreational vehicle parks. Uses in this district which require potable water or sanitary sewer must be connected to municipal water and municipal sewer.

C) **R-8 Residential Medium Density District.**

*Purpose:* This residential district is established as a medium density district in which the principal use of the land is for single-family dwelling units. The regulations of this district are intended to provide areas of the community for those persons desiring residences in relatively medium density areas. No buildings, houses, or structures, excepting noncommercial docks or piers as specified in section 2-H of this Ordinance, will be erected on the south side of Front Street in this district. Uses in this district which require potable water or sanitary sewer must be connected to municipal water and municipal sewer.

D) **R-8A Residential Single-Family Waterfront District.**

*Purpose:* This residential district is established to provide a medium density district area in which the principal use of the land is for single-family residences together with customary accessory buildings, structures and docks in conformity with sections 2-F and 2-H of this Ordinance. This district is identified on the Town's zoning map and is confined to the existing residential portions on the south side of Front Street. Uses in this district which require potable water or sanitary sewer must be connected to municipal water and municipal sewer.

E) **RC-5 Residential Cluster Development District.**

*Purpose:* This district is established as a medium to high density district encouraging the practice of residential cluster development designed to conserve land, create useable open space, reduce building and infrastructure costs, and provide for more attractive and functional communities. The regulations of this district are designed to provide greater open space and other amenities, while relaxing minimum yard and similar regulations which would apply to a traditional district. Uses in this district which require potable water or sanitary sewer must be connected to municipal water and municipal sewer.

Land Development Ordinance for the Town of Beaufort

Table 7-20 Residential Zoning Districts Table of Uses

Land Development Ordinance Uses		R-20	R-8ME	R-8	R-8A	RC-5	RS-5
<b>Residential Uses</b>							
Group Living	Assisted Living	P					
	Dormitory						
	Group Home	P		P			
	Nursing Home	P					
Household Living	Accessory Dwelling Unit	S		S	S		S
	Dwelling, Duplex/Townhome					P	
	Dwelling, Multi-Family						
	Dwelling, Single-Family	P	P	P	P	P	P
	Manufactured Home	P	P				
	Manufactured Home Park		S				
	Recreational Vehicle Park		S				
<b>Mixed Uses</b>							
	Mixed Use						
<b>Public/Institutional Uses</b>							
Aviation	Airport/Landing Strip						
Cemeteries/Graveyards	Cemetery/Graveyard	S		S			S
Cultural Facilities	Library						
	Museum	S					
Day Care	Day Care Center	P					
	Day Care/Child Care Home	S		S	S		
Government Services	Government/Non-Profit Owned/ Operated Facilities & Services	P	P	P	P	P	P
	Public Safety Station	S	S	S	S	P	P
	Public Utility Facility	P	P	P	P	P	P
Hospitals	Hospital						
Parks and Athletic Fields, Public Use	Athletic Field, Public	P	P	S		P	
	Community Garden	P	P	P	P	P	P
	Neighborhood Recreation Center, Public	P	P	S		P	P
	Outdoor Amphitheater, Public	S	S	S	S		S
	Park, Public	P	P	P	P	P	P
	Resource Conservation Area	P	P	P	P	P	P
Religious Uses	Religious Institution	P	S	S	S	S	S
Educational Uses	Preschool	S	S	S	S	S	S
	School, K-12	S					
	School, Post-Secondary	S	S	S	S	S	S
Non-Governmental Facilities	Transportation Facility					S	S
	Utility Facility	S	S	S	S	S	
	Utility Minor	P	P	P	P	P	P
Agricultural Uses	Agritourism	P					
	Aquaculture	P					
	Farming, General	P					
	Forestry	P					
	Produce Stand/Farmers' Market	P		S			

Permitted Use

Special Use

Table 7-20 Residential Zoning Districts Table of Uses

Land Development Ordinance Uses		R-20	R-8MH	R-8	R-8A	RC-5	RS-5
<b>Industrial Uses</b>							
<b>Industrial Service Uses</b>	General Industrial Service						
<b>Manufacturing and Production Uses</b>	Manufacturing, Heavy						
	Manufacturing, Light						
	Resource Extraction						
<b>Telecommunication Facilities</b>	Antenna Co-Location on Existing Tower	P	P	P		P	P
	Concealed (Stealth) Antennae & Towers	S	S	S		S	S
	Other Building-Mounted Antennae & Towers						
	Other Freestanding Towers	S					
<b>Warehouse and Freight Movement Uses</b>	Commercial Waterfront Facility						
	Hazardous Material Storage						
	Mini-Storage						
	Outdoor Storage						
	Warehousing & Distribution Establishment						
Wholesale Establishment							
<b>Waste-Related Uses</b>	Recycling and Salvage Operation						
<b>Accessory Uses and Structures</b>							
<b>Accessory Uses</b>	Carport	P	P	P	P	P	P
	Dock	P	P	P	P	P	P
	Garage, Private Detached	P	P	P	P	P	P
	Home Occupation	P	P	P	P	P	P
	Outdoor Retail Display/Sales						
	Satellite Dish Antenna	P	S	S	S	S	S
	Shed	P	P	P	P	P	P
	Signs, Commercial Free-Standing						
	Swimming Pool (Personal Use)	P	P	P	P	P	P
	Temporary Construction Trailer	P	P	P	P	P	P
	Vehicle Charging Station	P	P	P	P	P	P

Permitted Use

Special Use

7011 2970 0002 5197 9475

U.S. Postal Service™  
**CERTIFIED MAIL™ RECEIPT**  
(Domestic Mail Only; No Insurance Coverage Provided)  
For delivery information visit our website at www.usps.com

Postage	\$ 5.50
Certified Fee	3.55
Return Receipt Fee (Endorsement Required)	2.85
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$ 6.90



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P.O. Box 390 • Beaufort, N.C. 28516  
28-2141 • 252-728-3982 fax  
[www.beaufortnc.org](http://www.beaufortnc.org)

Sent To: Mr. Thomas Bullock  
 Street, Apt. No., or PO Box No.: 209 George Street  
 City, State, ZIP+4: Beaufort, NC 28516

**NOTICE of VIOLATION**

Printed on Requested: 7011 2970 0002 5197 9475

Mr. Thomas Bullock  
209 George Street  
Beaufort, NC 28516

RE: 119 Willow Street Beaufort NC 28516, PIN 730619615362000 (the "Property")

Dear Mr. Bullock:

<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<ul style="list-style-type: none"> <li>Complete items 1, 2, and 3.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		A. Signature X <u>ET C-004</u> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee	
1. Article Addressed to: <u>Mr. Thomas Bullock</u> <u>209 George Street</u> <u>Beaufort, NC 28516</u>		B. Received by (Printed Name) <u>C-19</u> C. Date of Delivery <u>8/14/20</u>	
2. Article Number (Transfer from service label) <u>7011 2970 0002 5197 9475</u>		D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If YES, enter delivery address below:	
3. Service Type <input type="checkbox"/> Adult Signature <input type="checkbox"/> Priority Mail Express® <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail™ <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Registered Mail Restricted Delivery <input type="checkbox"/> Certified Mail Restricted Delivery <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Collect on Delivery <input type="checkbox"/> Signature Confirmation™ <input type="checkbox"/> Collect on Delivery Restricted Delivery <input type="checkbox"/> Signature Confirmation Restricted Delivery			

119 Willow Street is operating Commercial Use (Personal Service Development Ordinance for the Beaufort's Land Development

our community, your assistance 119 Willow Street and convert

n Manager by **August 21, 2020**, ty for said violation. Your civil continue until the violation is Town also reserves the right to of abatement requiring you to

garner@beaufortnc.org.

Sincerely,  
  
Kyle Garner  
Planning & Inspections Director

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Mayor Everette S. (Ret) Newton  
Commissioner John Hagle • Commissioner Sharon Harker • Commissioner Marianna Hollinshed  
Commissioner Ann Carter • Commissioner Charles McDonald  
Town Manager John Day



## Town of Beaufort NC

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252-728-2141 • 252-728-3982 fax • www.beaufortnc.org

October 30, 2020

Service by:  
Police Officer – Hand Delivered

Mr. Thomas Bullock  
c/o C.R. Wheatly, III  
Wheatly Law Group  
710 Cedar Street  
Beaufort, NC 28516

Dear Mr. Bullock,

On October 9, 2020, a meeting was held via video conference in response to your appeal of a Notice of Violation (NOV), dated August 6, 2020. This NOV was issued in response to the commercial use of your property located at 119 Willow Street, Beaufort by Southern Landscape Services, LLC. The property is located in the R-8 zoning district, which does not permit commercial uses. The meeting was attended by you and your wife, me, your attorney, C.R-. Wheatly, and Town Attorney Jill Quattlebaum.

Based upon statements from the October 9<sup>th</sup> meeting, affidavits provided then, statements from Town employees, and government records, the following appear to be the relevant facts:

1. Michael Ricks states he constructed the building at 119 Willow Street in 1982 on property conveyed to his sister and brother-in-law. The conveyance was on November 29, 1982, and that parcel was larger than the parcel now located at 119 Willow Street.
2. Mr. Ricks used the building for woodworking, and it contained woodworking supplies and equipment.
3. Mr. Ricks' brother-in-law used the building for repairing automobiles, and the building contained related supplies and equipment.
4. The property at 119 Willow Street has been zoned R-8 since at least 1977.
5. Thomas Bullock bought the property in 1995, and leased it subsequently to a diving business (for storage), and there is no record of a zoning permit.
6. A new zoning ordinance was adopted on September 8, 1998, and the property zoning remained R-8.
7. Around 2000, Bullock leased the property to someone named "David" (for unspecified reasons) and there is no record of a zoning permit.

8. Bullock then leased the property to Mystery Tour Boats (for storage) in 2001 until 2010, and there is no record of a zoning permit.
9. Bullock next leased the property to Easton Wooten in 2010, who used it for “the storage of diesel equipment, motors, hoses, oils, fluids and tools so he could work on various diesel motors and all the associated parts involved with diesel repair.”
10. There is a document entitled “Permit Detail” identifying Lewis Electric as the contractor for “Existing service - minor repairs by Doug Lewis.”
11. Easton Wooten claims that while attempting to get electrical service to the property restored in 2010, he obtained verbal approval from town Planning and Inspections Director Kyle Garner to “stor[e] motors, parts, hydraulic hoses, hydraulic oil, motor oil, and all the necessary components necessary to operate a diesel repair business.” (Wooten affidavit, para. 3.)
12. Mr. Wooten claims Mr. Garner issued him a permit to get the electrical restored. (Wooten affidavit, para. 8)
13. Mr. Garner does not recall any conversation in which he told Easton Wooten that this was a permitted use, nor is there any record of a zoning permit.
14. Mr. Garner explained that the electrical permit was given to Doug Lewis, not Easton Wooten.
15. Mr. Wheatly acknowledged during the October 9 meeting that Easton Wooten did not have a zoning permit.
16. The effective date of the current LDO is November 4, 2013, and the zoning remained R-8.
17. The LDO allows continuation of non-conforming uses (which were lawful prior to the LDO), subject to certain conditions.
18. Bullock leased the property to Korey Bernauer in 2017, “immediately” after Easton Wooten left. (Bullock affidavit)
19. Bullock claims he has “continually leased this property to others” and that it was “never not occupied for more than a 2-3 month period and never more than 180 days.” (Bullock affidavit)
20. Bernauer leased the building in 2017 and uses it to store landscaping equipment. (Bernauer affidavit)
21. Bernauer’s hours of operation are 7:00 AM to 3:30 PM, and employees report to the site to pick up equipment in the morning and return in the afternoon to return equipment and that occasionally the employees return to eat lunch there. (Bernauer affidavit).
22. The business has four trucks, including a dump truck. (Bernauer affidavit).
23. Mr. Wheatly indicated that he is “not aware” that Bernauer obtained a zoning permit, but claims Bernauer “stepped into the shoes of the diesel guy.”
24. The Town received complaints in 2020 about the vehicular traffic and noise from Southern Landscaping’s operations, with “trucks and trailers coming and going throughout the day.” The Town has no record of prior complaints regarding the property at 119 Willow Street.
25. According to Mr. Bullock, the building is at the northeastern end of Willow Street, completely surrounded by heavy vegetation, and cannot be seen unless one is on Willow Street in close proximity.

Based on these relevant facts, I have reached the following conclusions:

1. At least four of the five lessees used the building at 119 Willow Street for commercial businesses and all appear to have constituted violations of the Town of Beaufort's zoning regulations. Additionally, no zoning permits were issued for any of the five occupancies.
2. It is unclear whether the uses of the building at 119 Willow Street by its original owner prior to Mr. Bullock purchasing the property were permitted. It was a larger parcel at the time, and accessory buildings and home occupations were permitted, but commercial businesses were still not permitted to operate in the R-8 zoning district.
3. The commercial business Southern Landscape Services operates at 119 Willow Street. Its employees report to work there at 7:00 am Monday through Friday. After reporting to work, employees gather equipment from the building, and leave with the equipment on trailers to destinations where landscaping work is performed.
4. Occasionally, Southern Landscape Services employees return to 119 Willow Street (in their trucks pulling trailers loaded with landscaping equipment) to eat lunch.
5. Employees of Southern Landscape Services return to 119 Willow Street by 3:30 pm each weekday to unload equipment and end their workday.
6. The LDO allows nonconforming uses that were lawful prior to adoption to continue, but none of the commercial uses at 119 Willow Street were lawful.
7. Even if previous commercial uses at 119 Willow Street had been lawful prior to adoption of the LDO, which is denied, the use by Southern Landscaping Services constitutes an unlawful expansion of a nonconforming use because the company's employees report to work there and end work there on a daily basis – which was not true of the other uses.
8. Even if the previous commercial use at 119 Willow Street had been lawful prior to adoption of the LDO, which is denied, the use changed, without required approval, when Mr. Bernauer leased the property, and the new use is not more in character with the uses normally permitted in the R-8 zoning district than the previous use of the property.
9. The Town was unaware of the unlawful uses, past and present, at 119 Willow Street, because none of the lessees applied for zoning permits, because the previous commercial uses were primarily for storage and included only indoor uses, and because the secluded nature of the property served to obscure the uses.
10. In June 2020 a Highland Park resident alerted the Town to the use of 119 Willow Street by a landscaping company.

Based on these conclusions, I find that the August 6, 2020 NOV was properly issued to Thomas Bullock, and that Southern Landscape Services is unlawfully operating a personal service establishment in the R-8 zoning district. Further, if one considered Southern Landscape Services' use of the building to

be “towing or vehicle storage”, or “warehouse and freight movement uses” as found in *Table 7-20 Residential Zoning Districts Table of Uses* in the LDO, then its use still remains unlawful.

Sincerely,

A handwritten signature in black ink that reads "John Day". The signature is written in a cursive style with a large initial "J" and "D".

John Day  
Town Manager

CC: Town of Beaufort Planning and Inspections Department  
Korey Bernauer



**AFFIDAVIT**

NOW COMES Thomas Bullock, being duly sworn, depose, and say:

I am a citizen and resident of the Town of Beaufort, over the age of 21, and competent to testify as to the matters hereinafter set forth:


1. I am the owner of that tract of land designated 119 Willow Street, Beaufort, North Carolina and I acquired same by Deed dated June 29, 1995, recorded in Book 758, Page 918, Carteret County Registry.
2. When I acquired said property, the concrete block building was served with electrical power and had been used by a garage and wood working shop by the previous owners and by Michael Ricks.
3. After I obtained the property, I leased same to George Barry and Craig Shrek and they were in the diving business. They stored all their diving gear and associated accessories in the building.
4. On or about 2000, I leased the property to an individual by the name of David who lived on a boat. He cleaned up the lot and removed old boats and left sometime in 2001. I do not know David's last name.
5. In 2001, I leased the property to Bill Quack and Marvie Munns who ran Mystery Tour boat on Front Street in Beaufort. They stored life jackets, chairs, anchors, rope, various other accessories in said building.
6. In January 2010, I terminated the lease with Mystery Tours and had them remove all their remaining accessories and equipment located in the building. I then made an agreement to lease the premises to Eason Wooten.
7. Eason Wooten took possession of the property in February and/or March 2010. He used said building for the storage of diesel equipment, motors, hoses, oils, fluids, and tools so he could work on various diesel motors and all the associated parts involved with diesel repair.
8. Either in September or October, 2010 I was advised that Eason Wooten went to the Town of Beaufort. He met with Kyle Garner and explained to him what he wanted to do and that the power had been turned off and that he wanted to have power restored to the building. After discussing what he would do with Kyle Garner, he was advised by Kyle Garner that he could use said building for the purposes as set forth above but had to obtain a permit or some type of inspection for the power company to turn the power on. That inspection was complete sometime in November 2010.
9. Eason Wooten terminated his lease with me in 2017 and I immediately leased same to Corey Bernauer. Corey Bernauer was in the landscaping business and had been storing his equipment and other accessories used in the landscaping business in this old building and has continued to use same through present.
10. I have never had any complaints from the Town of Beaufort or any third parties involving the use of this building until this notice of violation occurred
11. This building to my knowledge has never been used as an office. There are no signs delineating who is occupying the building. There is no water service.
12. This building is located at the northeastern end of Willow Street. The building is completely surrounded by heavy vegetation. The property cannot be observed unless you are on Willow Street in close proximity of the property. Anyone living on Ricks Avenue and or Third Street would not be able to see this property. The property is almost 600 feet as the crow flies from the intersection of Third Avenue and Ricks Avenue. Said property is also located

- approximately 700 feet from the intersection of Carteret Avenue and Willow Street.
13. There is no way that the activity at 119 Willow Street could disturb anyone living on Third Street or Ricks Avenue.
  14. During the 25 years I have owned this property, no person from the Town of Beaufort has ever advised that his property has been used illegally or improperly until this incident.
  15. During my ownership, I have continuously leased this property to others and when tenants would leave, it was never not occupied for more than a 2-3-month period and never more than 180 days.
  16. The building is designed for a shop and or storage. If the Town of Beaufort keeps me from using said building for storage, leasing same for storage, then the building is of no value and the Town of Beaufort has taken my property.

This the 8 day of October, 2020.

  
Thomas Bullock

Sworn and subscribed to before me  
this 8 day of October, 2020.

  
Notary Public

My Commission Expires:  
6/6/22



**AFFIDAVIT**

NOW COMES Eason Wooten, being duly sworn, depose, and say:

I currently live in the Town of Beaufort, I am over the age of 21, and competent to testify as to the matters hereinafter set forth:

1. I run a diesel repair business in Morehead City, NC. Prior to moving to Morehead City, I leased 119 Willow Street from Thomas Bullock. I took possession of the property from Thomas Bullock on or about February or March 2010. After taking possession and moving all my equipment, the electrical service was disconnected.
2. I went to the Town of Beaufort and spoke with Kyle Garner whom I understood was in charge of zoning issues to see what I needed from the Town to have electrical service restored to the property.
3. Mr. Garner asked me what I was going to be doing at 119 Willow Street and I explained to him that I was a diesel mechanic and I worked on diesel motors. I told him that I was going to be storing motors, parts, hydraulic hoses, hydraulic oil, motor oil, and all the necessary components necessary to operate a diesel repair business
4. Mr. Garner advised me that that use was permissible and he arranged for an inspector to inspect my building. After making various minor corrections, I had the power company to restore the power.
5. Mr. Garner gave me a document to give to the power company and I gave the document to the power company so I could operate my business.
6. I operated my business from 2010 to 2017. I still had equipment in the building when Thomas Bullock leased the property to Southern Landscape Services, LLC, run by Korey Bernauer.
7. During the approximate 7 years I operated the business, there were never any complaints from the Town concerning my operation.
8. I am sure that had the use that I was going to make at 119 Willow Street had not been within the Town codes and ordinances, Mr. Garner would not have issued me the permit that I needed to have the power reconnected.

THAT FURTHER THE AFFIANT SAYETH NOT.

This the 7<sup>th</sup> day of October, 2020.

*Eason Wooten*

Eason Wooten

Sworn and subscribed to before me  
this 7<sup>th</sup> day of October, 2020.

*Christine L. Foreman*

Notary Public

My Commission Expires: 6/6/22





Permit No Prop/Parcel Property Loc Owner Name Owner Phone Owner Email  
7306.19.61.5362000 119 Willow Street Thomas Bullock

EL10-085 7306.19.61.5362000 119 Willow Street, Beaufort, NC 28516

General:  
Application Id Update App Date Issue Date Status Date Use Type Construct Type Work Type User Code  
1385 0 11/03/10 Completed 11/03/10 R-3  
P-ZZCVT Conversion Customer

Description of Work  
Conditions

Description:  
Conditions:

Permitting Codes:  
Building Code Contractor Id Name Description of Work  
ELECTRICAL P-D00101 DOUG LEWIS ELECTRIC

Fees:  
Status Building Code Service Id Description Total Paid  
WAITED: 11/03/10 ELECTRICAL Z-EI Electrical 45.00 0.00

Activities:  
Building Code Activity Type Inspector Date Start Time End Time Status  
ELECTRICAL FINAL MIKE MOR 11/16/10 PASS  
Comment: Existing service - minor repairs by Doug Lewis. [M]

Notes:  
Created Modified Note  
05/29/15 05/29/15 Expiration Date: 05/15/11

Fee Totals:  
Service Id Description Total  
Z-EI Electrical 45.00  
Grand Total: 45.00



## AFFIDAVIT

NOW COMES Michael K. Ricks, being duly sworn, depose, and say:

I am a citizen and resident of the Town of Beaufort, over the age of 21, and competent to testify as to the matters hereinafter set forth:

1. I am 75 years old and grew up in the vicinity of Third Street and Ricks Avenue. I currently live at 112 Willow Street in Beaufort. I have lived there since 1974. I am familiar with the property owned by Thomas Bullock, known as 119 Willow Street, in Beaufort. In 1982, an area that encompassed 119 Willow Street, was conveyed by John T. Ricks and wife, Elizabeth Ricks, to my sister, Debra Ricks Ballard and her husband, Robert Allen Ballard. In 1982, I built the structure which is currently located at 119 Willow Street.
2. I constructed said building with a building permit. After said building was constructed, my brother in law, Robert Allen Ballard, used same to work on automobiles of various types and stored automobile parts and other items associated with the auto repair business. I also used the building to make furniture and stored equipment and various wood materials in the building until the property was sold to Thomas Bullock.
3. In June 1995, my sister and her husband conveyed the property to Thomas M. Bullock, Sr. and wife, Jane Bullock. The Bullocks cleaned up the property and began leasing same.
4. It was my observation that the building was never vacant for more than 2-3 months at that time and certainly never as long as six months or 180 days.
5. The property was used by other folks. I observed their comings and goings through the years. On or about February or March 2010, Eason Wooten occupied the structure and ran a diesel repair business and stored various diesel motor parts, hydraulic fluids, and various other materials used in the diesel repair business.
6. That in approximately 2017, Eason Wooten left and the landscaping business people began leasing the property.
7. I observed their use, their comings and goings, ever since they have been there to present.
8. Generally, their use was to store various items of equipment in the building for their landscaping business.
9. I observed that at approximately 7:30 mornings, the employees would come to the structure and get their equipment and leave. Sometimes around noon time, two or three of them will return. Generally, by 3:30pm, everyone is gone.
10. From what I observe, the traffic caused by the landscaping company is negligible and causes no problem
11. As this property is across the street from my house and basically in my front yard, I have observed their use and have had no problems or complaints with any use that has been made of the building.
12. I have never seen any of the employees drive vehicles in a manner I thought was hazardous or improper or did not have proper mufflers so that the engine sounds were bothersome to me.

THAT FURTHER THE AFFIANT SAYETH NOT.

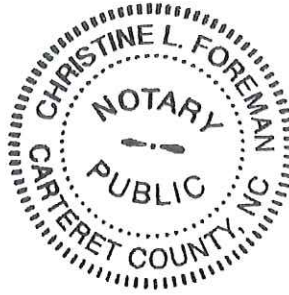
This the 8 day of October, 2020.

Michael K. Ricks  
Michael K. Ricks

Sworn and subscribed to before me  
this 8<sup>th</sup> day of October, 2020.

Christine L. Foreman  
Notary Public

My Commission Expires:  
6/6/22





**AFFIDAVIT**

NOW COMES Korey Bernauer, being duly sworn, depose, and say:

I am a citizen and reside at 104 Olga Road, I am over the age of 21, and I am competent to testify as to the matters hereinafter set forth:

1. I am the owner of Southern Landscape Services, LLC, and have been in the landscaping business for approximately twenty years.
2. A few years ago, I spoke with Thomas Bullock. He advised me that 119 Willow Street was soon going to be available as its current tenant, Eason Wooten, was going to vacate.
3. I advised Thomas Bullock that I wanted to rent the property as soon as Eason Wooten vacated the property which was approximately in April and May, 2017.
4. Thomas Bullock agreed to lease me the property and Eason Wooten vacated the property in July, 2017. I moved in immediately and I have been storing my landscaping equipment there.
5. The building has electrical service; however, there is no water and cannot be used as an office. There are no signs showing that my landscaping business is in any way connected with the property.
6. I went to the Town of Beaufort and had them deliver garbage cans to my property which were issued in the name of my company, Southern Landscape Services, LLC.
7. My hours of operations are 7:00am to 3:30pm. We do not work on Sundays. Very seldom do we work past 3:30pm. We work on Saturdays approximately 4-5 times per year.
8. I have had no problems while I have been using the storage unit.
9. My office is located in my house at 104 Olga Road.
10. There are no deliveries made to my business at 119 Willow Street. All deliveries are made to my home. My office is in my house and I do not use 119 Willow Street as an office, or to meet clients, or for any other reason other than to store my landscaping equipment.
11. My company has 4 vehicles. One vehicle is my personal truck and another vehicle is a dump truck which is very seldom located at the site.
12. Occasionally, employees may go back to eat lunch at 119 Willow Street, two of which ride together and one takes his own vehicle. The equipment is returned each day at 3:30pm in the afternoon and the employees leave.
13. I have read the emails that were supplied by John Day concerning the allegations that we had numerous trucks on Sunday, September 20, 2020, which is not true.
14. I have also looked at the video that was provided which only showed a vehicle belonging to my company. The other vehicle shown was a town truck pulling a lawnmower.
15. 90% of the work I perform is for Beau Coast which is located to the east of this property. When traveling to and from Beau Coast, we do not use Third Street.
16. We do not operate any heavy equipment at 119 Willow Street and there is nothing but normal vehicle noises.
17. Our vehicles very seldom travel on Third Street.
18. When I first realized there were complaints from a certain family, I directed my employees not to even drive on Third Street when traveling to and from work. I have made every effort to not do anything that would aggravate the neighbors complaining.
19. Approximately 30-40 various landscaping contractors operate in the Town of Beaufort. We are not the only company pulling landscaping equipment. However, for the number of trips alleged in these emails, they would have to be other companies involved, as it is physically impossible for us to have done what is being claimed in those emails.

THAT FURTHER THE AFFIANT SAYETH NOT.

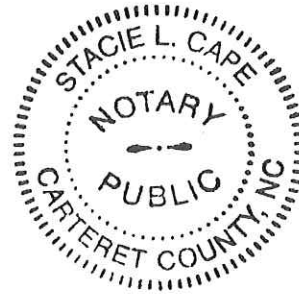
This the 6<sup>th</sup> day of October, 2020.

  
Korey Bernauer

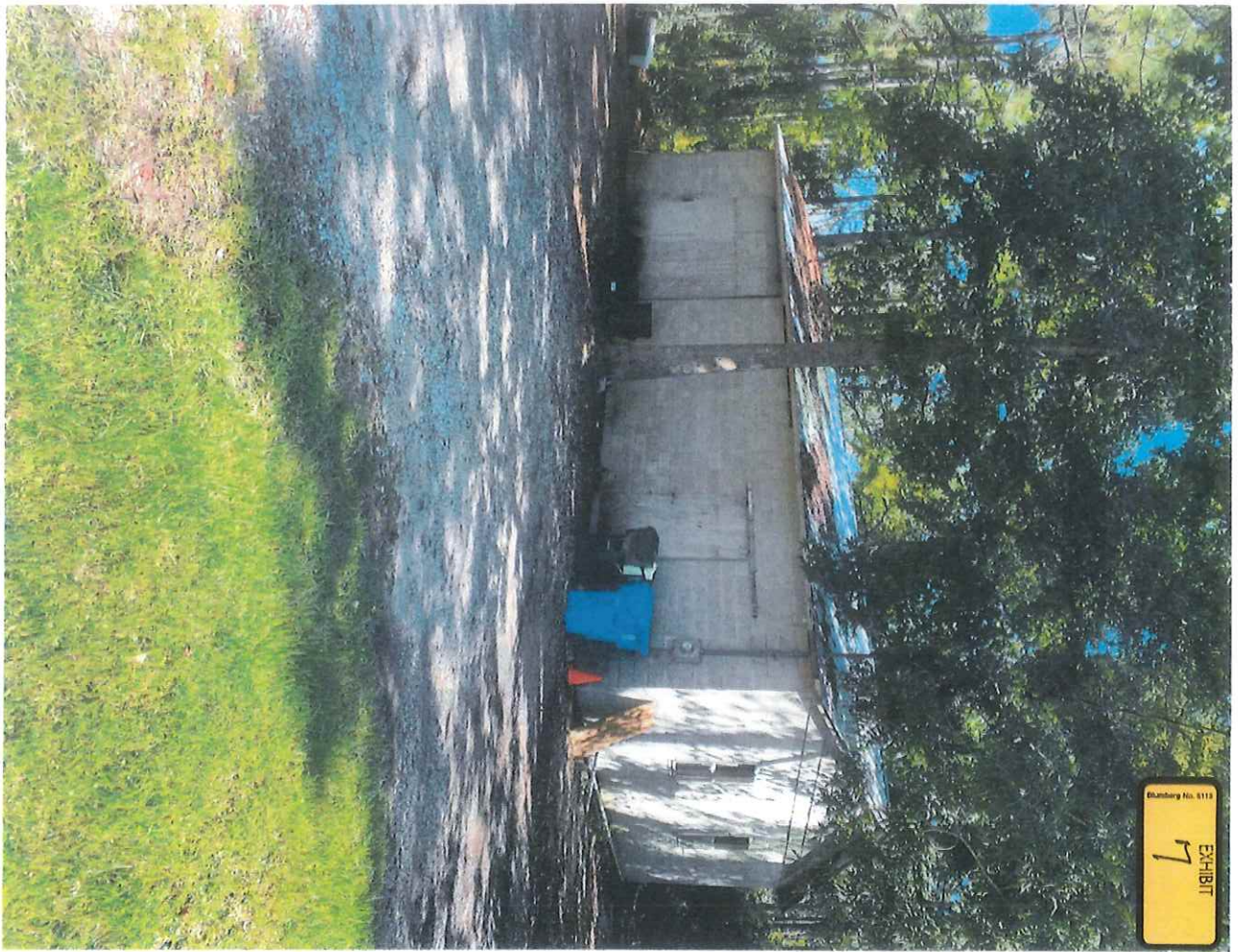
Sworn and subscribed to before me  
this 6<sup>th</sup> day of October, 2020.

  
Notary Public

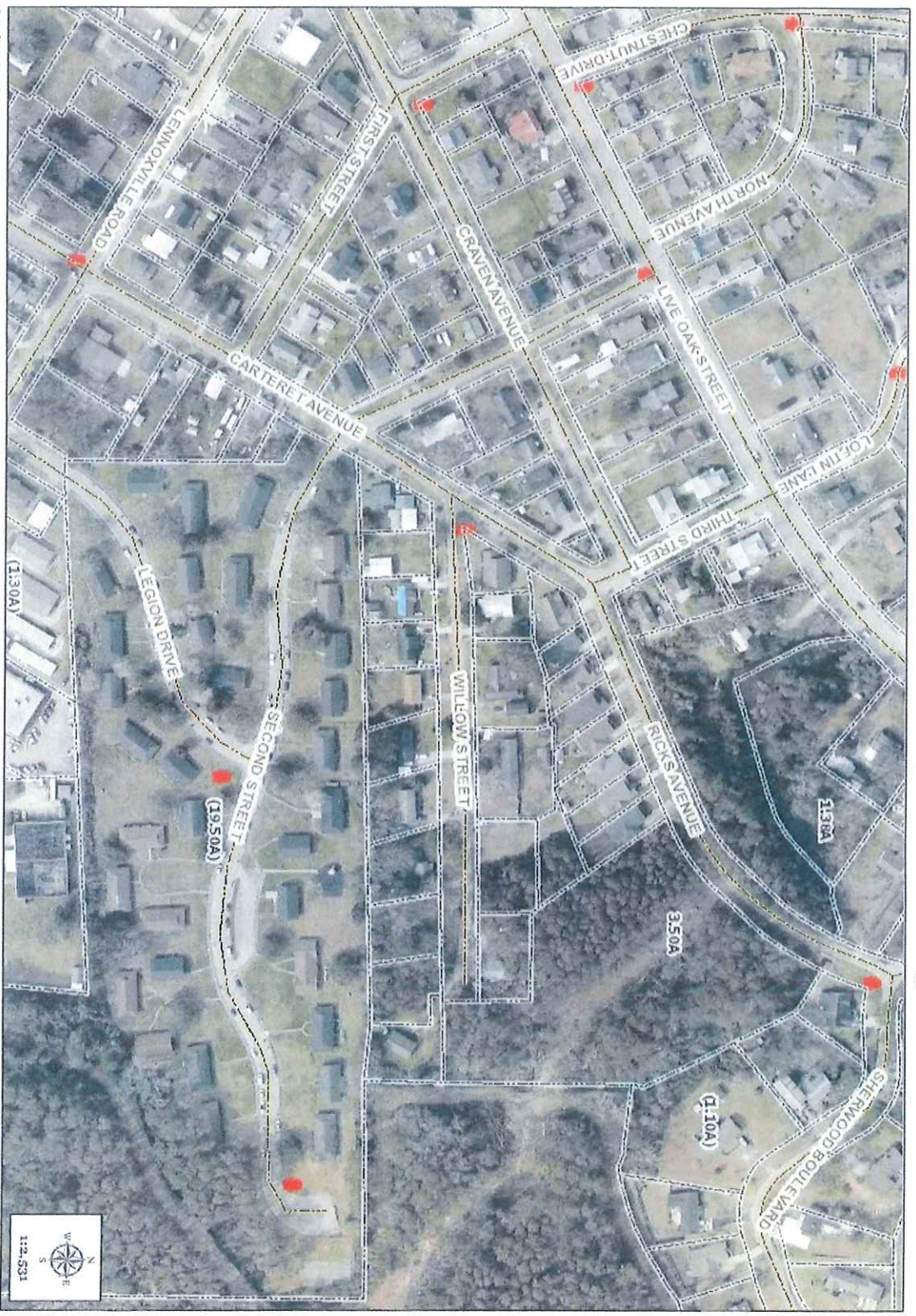
My Commission Expires:  
June 6, 2022







Carteret County, N.C.



October 6, 2020

The information displayed by this website is prepared for the inventory of real property found within this jurisdiction and is compiled from recorded deeds, plats, and other public records and data. Users of this information are hereby notified that the aforementioned public primary information is not to be relied on for verification of the information contained on this site. Carteret County assumes no legal responsibility for the information contained on this site. Carteret County does not guarantee that the data and map services will be available to users without interruption or error. Furthermore, Carteret County may modify or remove map services and data services at will.





**Rob Wheatly**

**From:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Sent:** Wednesday, September 30, 2020 12:35 PM  
**To:** Rob Wheatly  
**Subject:** RE: 119 Willow Street, Notice of Violation

Good afternoon Rob,

Regarding your request to reschedule the October 5 hearing, we proposed the October 5 date and two other alternate dates for consideration, and received your response only after the October 5 hearing was scheduled. Also, this matter has been pending for quite some time. Nevertheless, the Town Manager has agreed to reschedule the hearing for Friday, October 9 at either 10 AM or 2 PM, in order to give you and your client the requested additional time to prepare. *If you have a preference as to the time, please let me know by close of business today.*

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I look forward to hearing from you regarding your client's preference for a hearing time.

Best regards,

Jill

NOTE OUR NEW PHONE NUMBER OF  
252-565-7194, EFFECTIVE  
IMMEDIATELY

Jill R. Quattlebaum | Attorney



Grady | Quattlebaum  
244-A Craven Street, New Bern, NC 28560 | (252) 565-7194  
[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

---

**From:** Rob Wheatly <rob@wheatlylaw.com>  
**Sent:** Wednesday, September 30, 2020 9:22 AM  
**To:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Jill-any word on changing hearing date to next fri.

C.R. Wheatly, III



710 Cedar Street, PO Box 360, Beaufort, NC 28516

Telephone: 252.728.3158

Facsimile: 252.728.5282

<http://www.carteretcountyattorney.com>

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---

**From:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>

**Sent:** Tuesday, September 29, 2020 9:19 AM

**To:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>

**Subject:** FW: 119 Willow Street, Notice of Violation

Good morning Rob,

I am writing to follow up on the attached letter. Can we confirm 1:00 PM on October 5 for the appeal hearing on the NOV?

Thanks,

Jill

NOTE OUR NEW PHONE NUMBER OF  
252-565-7194, EFFECTIVE  
IMMEDIATELY

Jill R. Quattlebaum | Attorney

---

Grady | Quattlebaum

244-A Craven Street, New Bern, NC 28560 | (252) 565-7194

[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)

[enclawyers.com](http://enclawyers.com)

---

**From:** Carrie Frazier

**Sent:** Thursday, September 24, 2020 11:39 AM

**To:** [Rob@wheatlylaw.com](mailto:Rob@wheatlylaw.com)

**Cc:** John Day <J.Day@beaufortnc.org>; k.garner@beaufortnc.org; Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** 119 Willow Street; Notice of Violation

Mr. Wheatly,

I hope your day is going well. Please see the attached correspondence in connection with the above-captioned matter. Please call with any questions.

Thank you,

Carrie

NOTE OUR NEW PHONE NUMBER OF  
252-565-7194, EFFECTIVE  
IMMEDIATELY

Carrie Padilla Frazier | Paralegal

---



Grady | Quattlebaum  
244-A Craven Street, New Bern, NC 28560  
(252) 565-7194 ext. 225  
[cpfrazier@enclawyers.com](mailto:cpfrazier@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

## Rob Wheatly

---

**From:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Sent:** Thursday, October 1, 2020 1:27 PM  
**To:** Rob Wheatly  
**Subject:** RE: 119 Willow Street, Notice of Violation

Good afternoon Rob,

As indicated below, it is our contention that Section 28 of the LDO applies to this hearing. See also Section 21(H) of the LDO regarding further appeals.

There are no formal procedural rules for this hearing, and also no associated discovery rights. Accordingly, since your client has appealed the NOV, and this matter is disputed, I would appreciate you directing all further communication regarding this matter directly to me.

Thanks,

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**From:** Rob Wheatly <rob@wheatlylaw.com>  
**Sent:** Wednesday, September 30, 2020 2:42 PM  
**To:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Jill-10AM would be good-thanks-I looked on line for the rules for the hearing and didn't find any-if there any what section of the code would they be in-also in looking at the code it appeared that sec. 10.99 would apply -has that sec been amended-thanks again

C.R. Wheatly, III



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**Sent:** Wednesday, September 30, 2020 12:35 PM  
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[jqattlebaum@enclawyers.com](mailto:jrqattlebaum@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

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**Subject:** RE: 119 Willow Street, Notice of Violation

Jill-any word on changing hearing date to next fri.

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---

**From:** Jill Quattlebaum <[jqattlebaum@enclawyers.com](mailto:jrqattlebaum@enclawyers.com)>  
**Sent:** Tuesday, September 29, 2020 9:19 AM  
**To:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>  
**Subject:** FW: 119 Willow Street, Notice of Violation

Good morning Rob,

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Thanks,

Jill

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[cpfrazier@enclawyers.com](mailto:cpfrazier@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

## Rob Wheatly

---

**From:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Sent:** Friday, October 2, 2020 8:51 AM  
**To:** Rob Wheatly  
**Subject:** RE: 119 Willow Street, Notice of Violation

Rob,

No, I'm not. If you have general questions about zoning, or questions about a specific zoning regulation, you may direct them to Mr. Garner or Kate Allen of the Planning Department, and I am confident that either will respond, as their schedules allow, just as they would to any resident of the Town of Beaufort.

Your request was "Jill-would you have a problem with me contacting kyle garner to get him to help me go through all the zoning regs. that might be an issue in this matter." To clarify my response, I don't think Mr. Garner is under any duty to meet with you to discuss the Town's position regarding the zoning regulations and the applicability of same to this particular matter, especially since this matter is disputed. That was the basis of my request that you route any specific information request about this particular matter, or the Town's position on same, to me.

Thanks, and please let me know if you have any questions.

Jill

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Jill R. Quattlebaum | Attorney

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[enclawyers.com](http://enclawyers.com)

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**From:** Rob Wheatly <rob@wheatlylaw.com>  
**Sent:** Thursday, October 1, 2020 2:28 PM  
**To:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Are you saying that I cannot speak to Kyle garner, the zoning officer for the town-

**C.R. Wheatly, III**



710 Cedar Street, PO Box 360, Beaufort, NC 28516

Telephone: 252.728.3158

Facsimile: 252.728.5282

<http://www.carteretcountyattorney.com>

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Jill

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Jill R. Quattlebaum | Attorney

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---

**From:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Sent:** Tuesday, September 29, 2020 9:19 AM  
**To:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>  
**Subject:** FW: 119 Willow Street, Notice of Violation

Good morning Rob,

I am writing to follow up on the attached letter. Can we confirm 1:00 PM on October 5 for the appeal hearing on the NOV?

Thanks,

Jill

NOTE OUR NEW PHONE NUMBER OF  
252-565-7194, EFFECTIVE  
IMMEDIATELY

Jill R. Quattlebaum | Attorney

---



Grady | Quattlebaum  
244-A Craven Street, New Bern, NC 28560 | (252) 565-7194  
[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

---

**From:** Carrie Frazier

**Sent:** Thursday, September 24, 2020 11:39 AM

**To:** [Rob@wheatlylaw.com](mailto:Rob@wheatlylaw.com)

**Cc:** John Day <[J.Day@beaufortnc.org](mailto:J.Day@beaufortnc.org)>; [k.garner@beaufortnc.org](mailto:k.garner@beaufortnc.org); Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>

**Subject:** 119 Willow Street, Notice of Violation

Mr. Wheatly,

I hope your day is going well. Please see the attached correspondence in connection with the above-captioned matter. Please call with any questions.

Thank you,

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252-565-7194, EFFECTIVE  
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Carrie Padilla Frazier | Paralegal

---



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244-A Craven Street, New Bern, NC 28560  
(252) 565-7194 ext. 225  
[cpfrazier@enclawyers.com](mailto:cpfrazier@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

## Rob Wheatly

---

**From:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Sent:** Sunday, October 4, 2020 11:47 AM  
**To:** Rob Wheatly  
**Subject:** RE: 119 Willow Street, Notice of Violation

Rob,

Regarding this email and your email Friday to Kyle Garner, I would refer you back to my previous emails regarding the Town's position on these matters. I would also refer you my letter of August 27 regarding your public records request.

Please let me know if I can be of assistance in facilitating a records review.

Jill

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252-565-7194, EFFECTIVE  
IMMEDIATELY

Jill R. Quattlebaum | Attorney

---



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[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

---

**From:** Rob Wheatly <rob@wheatlylaw.com>  
**Sent:** Friday, October 2, 2020 9:18 AM  
**To:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Jill-I will call kyle garner to get the information concerning the adoption of the various ordinances. I would also ask him about what information he may have concerning this site. With regard to any other information he may have, I would hope that he would volunteer it as I think the Town has a duty to be transparent in all of its dealings with the citizens of our Town. Not knowing how far this matter may go, I want to have a record so that if we have any superior court actions I will be able to show the interactions that have taken place with the Town.

C.R. Wheatly, III



710 Cedar Street, PO Box 360, Beaufort, NC 28516

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**From:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Sent:** Friday, October 2, 2020 8:51 AM  
**To:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Rob,

No, I'm not. If you have general questions about zoning, or questions about a specific zoning regulation, you may direct them to Mr. Garner or Kate Allen of the Planning Department, and I am confident that either will respond, as their schedules allow, just as they would to any resident of the Town of Beaufort.

Your request was "Jill-would you have a problem with me contacting kyle garner to get him to help me go through all the zoning regs. that might be an issue in this matter." To clarify my response, I don't think Mr. Garner is under any duty to meet with you to discuss the Town's position regarding the zoning regulations and the applicability of same to this particular matter, especially since this matter is disputed. That was the basis of my request that you route any specific information request about this particular matter, or the Town's position on same, to me.

Thanks, and please let me know if you have any questions.

Jill

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Jill R. Quattlebaum | Attorney

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**From:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>  
**Sent:** Thursday, October 1, 2020 2:28 PM  
**To:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Are you saying that I cannot speak to Kyle garner, the zoning officer for the town-

C.R. Wheatly, III



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**From:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Sent:** Thursday, October 1, 2020 1:27 PM  
**To:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Good afternoon Rob,

As indicated below, it is our contention that Section 28 of the LDO applies to this hearing. See also Section 21(H) of the LDO regarding further appeals.

There are no formal procedural rules for this hearing, and also no associated discovery rights. Accordingly, since your client has appealed the NOV, and this matter is disputed, I would appreciate you directing all further communication regarding this matter directly to me.

Thanks,

Jill

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Jill R. Quattlebaum | Attorney



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[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

**From:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>  
**Sent:** Wednesday, September 30, 2020 2:42 PM  
**To:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Jill-10AM would be good-thanks-I looked on line for the rules for the hearing and didn't find any-if there any what section of the code would they be in-also in looking at the code it appeared that sec. 10.99 would apply -has that sec been amended-thanks again

C.R. Wheatly, III



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**From:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Sent:** Wednesday, September 30, 2020 12:35 PM  
**To:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Good afternoon Rob,

Regarding your request to reschedule the October 5 hearing, we proposed the October 5 date and two other alternate dates for consideration, and received your response only after the October 5 hearing was scheduled. Also, this matter has been pending for quite some time. Nevertheless, the Town Manager has agreed to reschedule the hearing for Friday, October 9 at either 10 AM or 2 PM, in order to give you and your client the requested additional time to prepare. *If you have a preference as to the time, please let me know by close of business today.*

Regarding your mention of witnesses, procedurally, please note that no witnesses other than the developer, owner, tenant or occupant (and counsel) will be allowed to participate or give testimony, as contemplated by Section 28 of the Town of Beaufort Land Development Ordinance ("LDO"). Similarly, Town Staff will not be present to argue or present witnesses in support of the NOV. Notwithstanding, the Town Manager has agreed to consider any affidavits (from individuals you may have otherwise called as witnesses) which you may want to present during the hearing. Under the LDO, your client has a right to appeal the Town Manager's decision to the Board of Adjustment. Should this be the case, your client (and the Town) will have an opportunity to call witnesses during the BOA appeal.

I look forward to hearing from you regarding your client's preference for a hearing time.

Best regards,

Jill

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IMMEDIATELY

Jill R. Quattlebaum | Attorney

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[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

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**From:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>  
**Sent:** Wednesday, September 30, 2020 9:22 AM  
**To:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Jill-any word on changing hearing date to next fri.

C.R. Wheatly, III



---

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Good morning Rob,

I am writing to follow up on the attached letter. Can we confirm 1:00 PM on October 5 for the appeal hearing on the NOV?

Thanks,

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Jill R. Quattlebaum | Attorney

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[enclawyers.com](http://enclawyers.com)

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**From:** Carrie Frazier

**Sent:** Thursday, September 24, 2020 11:39 AM

**To:** [Rob@wheatlylaw.com](mailto:Rob@wheatlylaw.com)

**Cc:** John Day <[J.Day@beaufortnc.org](mailto:J.Day@beaufortnc.org)>; [k.garner@beaufortnc.org](mailto:k.garner@beaufortnc.org); Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>

**Subject:** 119 Willow Street, Notice of Violation

Mr. Wheatly,

I hope your day is going well. Please see the attached correspondence in connection with the above-captioned matter. Please call with any questions.

Thank you,

Carrie

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Carrie Padilla Frazier | Paralegal

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[cpfrazier@enclawyers.com](mailto:cpfrazier@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

## Rob Wheatly

---

**From:** Rob Wheatly  
**Sent:** Wednesday, September 30, 2020 3:37 PM  
**To:** 'Jill Quattlebaum'

Jill-would you have a problem with me contacting kyle garner to get him to help me go through all the zoning regs. that might be an issue in this matter

C.R. Wheatly, III



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## Rob Wheatly

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**Subject:** RE: 119 Willow Street, Notice of Violation

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**Subject:** RE: 119 Willow Street, Notice of Violation

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C.R. Wheatly, III



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Jill R. Quattlebaum | Attorney

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[enclawyers.com](http://enclawyers.com)

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**To:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Jill-10AM would be good-thanks-I looked on line for the rules for the hearing and didn't find any-if there any what section of the code would they be in-also in looking at the code it appeared that sec. 10.99 would apply -has that sec been amended-thanks again

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I look forward to hearing from you regarding your client's preference for a hearing time.

Best regards,

Jill

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**Sent:** Wednesday, September 30, 2020 9:22 AM  
**To:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Jill-any word on changing hearing date to next fri.

**C.R. Wheatly, III**

# WHEATLY LAW GROUP

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**From:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>

**Sent:** Tuesday, September 29, 2020 9:19 AM

**To:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>

**Subject:** FW: 119 Willow Street, Notice of Violation

Good morning Rob,

I am writing to follow up on the attached letter. Can we confirm 1:00 PM on October 5 for the appeal hearing on the NOV?

Thanks,

Jill

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Jill R. Quattlebaum | Attorney



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[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)

[enclawyers.com](http://enclawyers.com)

**From:** Carrie Frazier

**Sent:** Thursday, September 24, 2020 11:39 AM

**To:** [Rob@wheatlylaw.com](mailto:Rob@wheatlylaw.com)

**Cc:** John Day <[J.Day@beaufortnc.org](mailto:J.Day@beaufortnc.org)>; [k.garner@beaufortnc.org](mailto:k.garner@beaufortnc.org); Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>

**Subject:** 119 Willow Street, Notice of Violation

Mr. Wheatly,

I hope your day is going well. Please see the attached correspondence in connection with the above-captioned matter. Please call with any questions.

Thank you,

Carrie

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Carrie Padilla-Frazier | Paralegal

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[cpfrazier@enclawyers.com](mailto:cpfrazier@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

## Rob Wheatly

---

**From:** Kyle Garner <k.garner@beaufortnc.org>  
**Sent:** Monday, October 5, 2020 10:10 AM  
**To:** Rob Wheatly; Jill Quattlebaum  
**Subject:** RE: 119 Willow Street, Notice of Violation

Mr. Wheatly,

Having considered the advice of counsel, I am opting not to meet with you to discuss the Notice of Violation for 119 Willow, as this matter has been disputed and is currently under appeal. The Town's file on this matter has already been provided.

Please forward any specific questions regarding the existing zoning regulations to me via email. I will respond as fully as I am able. As communicated to you previously, the Town Planning Department remains willing to arrange for you to review Town records relative to any requested historical information regarding zoning and/or annexation which is not currently organized or already compiled. Please let me know if you would like to arrange a time this week to review these records. Any time other than Tuesday morning would work.

Thanks, and please call me with any questions.

Kyle Garner

---

**From:** Rob Wheatly [mailto:rob@wheatlylaw.com]  
**Sent:** Monday, October 05, 2020 8:32 AM  
**To:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Cc:** Kyle Garner <k.garner@beaufortnc.org>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Thanks—will you get kyle to call me or e-mail me as to when I can go him this morning

C.R. Wheatly, III



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**From:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Sent:** Sunday, October 4, 2020 11:47 AM  
**To:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Rob,

Regarding this email and your email Friday to Kyle Garner, I would refer you back to my previous emails regarding the Town's position on these matters. I would also refer you my letter of August 27 regarding your public records request.

Please let me know if I can be of assistance in facilitating a records review.

Jill

NOTE OUR NEW PHONE NUMBER OF  
252-565-7194, EFFECTIVE  
IMMEDIATELY

Jill R. Quattlebaum | Attorney



Grady | Quattlebaum  
244-A Craven Street, New Bern, NC 28560 | (252) 565-7194  
[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

**From:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>  
**Sent:** Friday, October 2, 2020 9:18 AM  
**To:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow Street, Notice of Violation

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C.R. Wheatly, III



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Are you saying that I cannot speak to Kyle garner, the zoning officer for the town-

**C.R. Wheatly, III**



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[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)

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Jill-10AM would be good-thanks-I looked on line for the rules for the hearing and didn't find any-if there any what section of the code would they be in-also in looking at the code it appeared that sec. 10.99 would apply -has that sec been amended-thanks again

C.R. Wheatly, III



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**Sent:** Wednesday, September 30, 2020 12:35 PM  
**To:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>  
**Subject:** RE: 119 Willow Street, Notice of Violation

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I look forward to hearing from you regarding your client's preference for a hearing time.

Best regards,

Jill

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Jill R. Quattlebaum | Attorney

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**To:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Jill-any word on changing hearing date to next fri.

C.R. Wheatly, III



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**To:** Rob Wheatly <[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)>  
**Subject:** FW: 119 Willow Street, Notice of Violation

Good morning Rob,

I am writing to follow up on the attached letter. Can we confirm 1:00 PM on October 5 for the appeal hearing on the NOV?

Thanks,

Jill

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[enclawyers.com](http://enclawyers.com)

---

**From:** Carrie Frazier

**Sent:** Thursday, September 24, 2020 11:39 AM

**To:** [Rob@wheatlylaw.com](mailto:Rob@wheatlylaw.com)

**Cc:** John Day <[J.Day@beaufortnc.org](mailto:J.Day@beaufortnc.org)>; [k.garner@beaufortnc.org](mailto:k.garner@beaufortnc.org); Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>

**Subject:** 119 Willow Street; Notice of Violation

Mr. Wheatly,

I hope your day is going well. Please see the attached correspondence in connection with the above-captioned matter. Please call with any questions.

Thank you,

Carrie

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Carrie Padilla Frazier | Paralegal

---



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244-A Craven Street, New Bern, NC 28560  
(252) 565-7194 ext. 225  
[cpfrazier@enclawyers.com](mailto:cpfrazier@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

**Rob Wheatly**

---

**From:** Rob Wheatly  
**Sent:** Monday, October 5, 2020 10:38 AM  
**To:** 'Kyle Garner'; Jill Quattlebaum  
**Subject:** RE: 119 Willow Street, Notice of Violation

Kyle- I realize that the town is not going to give me any information-I want it in writing for obvious reasons-this is my first time in all the time I have been in these type of matters that a town would not give all in the information requested- if you would please advise as to whether or not sec.10.99 is still valid- also what information did you give Eason wooton when he rented 119 willow St. from bullock-what documents did you give him to get the power in his name-thanks

C.R. Wheatly, III



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**From:** Kyle Garner <k.garner@beaufortnc.org>  
**Sent:** Monday, October 5, 2020 10:10 AM  
**To:** Rob Wheatly <rob@wheatlylaw.com>; Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Mr. Wheatly,

Having considered the advice of counsel, I am opting not to meet with you to discuss the Notice of Violation for 119 Willow, as this matter has been disputed and is currently under appeal. The Town's file on this matter has already been provided.

Please forward any specific questions regarding the existing zoning regulations to me via email. I will respond as fully as I am able. As communicated to you previously, the Town Planning Department remains willing to arrange for you to review Town records relative to any requested historical information regarding zoning and/or annexation which is not currently organized or already compiled. Please let me know if you would like to arrange a time this week to review these records. Any time other than Tuesday morning would work.

Thanks, and please call me with any questions.

Kyle Garner

**From:** Rob Wheatly [mailto:rob@wheatlylaw.com]  
**Sent:** Monday, October 05, 2020 8:32 AM  
**To:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Cc:** Kyle Garner <k.garner@beaufortnc.org>  
**Subject:** RE: 119 Willow Street, Notice of Violation

Thanks—will you get kyle to call me or e-mail me as to when I can go him this morning

C.R. Wheatly, III



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**To:** Rob Wheatly <rob@wheatlylaw.com>  
**Subject:** RE: 119 Willow Street, Notice of Violation

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**To:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow Street, Notice of Violation

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**Subject:** RE: 119 Willow Street, Notice of Violation

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**Sent:** Tuesday, September 29, 2020 9:19 AM

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[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)

[enclawyers.com](http://enclawyers.com)

**From:** Carrie Frazier

**Sent:** Thursday, September 24, 2020 11:39 AM

**To:** [Rob@wheatlylaw.com](mailto:Rob@wheatlylaw.com)

**Cc:** John Day <[J.Day@beaufortnc.org](mailto:J.Day@beaufortnc.org)>; [k.garner@beaufortnc.org](mailto:k.garner@beaufortnc.org); Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>

**Subject:** 119 Willow Street, Notice of Violation

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Carrie

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Carrie Padilla Frazier | Paralegal

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[cpfrazier@enclawyers.com](mailto:cpfrazier@enclawyers.com)  
[enclawyers.com](http://enclawyers.com)

## Rob Wheatly

---

**From:** Rob Wheatly  
**Sent:** Monday, October 5, 2020 11:02 AM  
**To:** 'Kyle Garner'; Jill Quattlebaum  
**Subject:** FW: 119 Willow Street, Notice of Violation  
**Attachments:** Willow Street.pdf

Kyle-you stated that you have sent me the entire file for 119 willow st.- the attachment is what was sent to me-is this the entire file-if not please advise

C.R. Wheatly, III



710 Cedar Street, PO Box 360, Beaufort, NC 28516

Telephone: 252.728.3158

Facsimile: 252.728.5282

<http://www.carteretcountyattorney.com>

CONFIDENTIALITY NOTICE: The information contained in this email message is privileged information and is intended only for use of the designated recipient. If you have received this email in error, please delete the original email and notify the sender immediately by email or by telephone at 252-728-3158. Recipient is not authorized to access, read, or otherwise make any use of metadata or other embedded information that may be attached or otherwise accessible.

---

**From:** Carrie Frazier <cpfrazier@enclawyers.com>  
**Sent:** Thursday, September 24, 2020 11:39 AM  
**To:** Rob Wheatly <rob@wheatlylaw.com>  
**Cc:** John Day <J.Day@beaufortnc.org>; k.garner@beaufortnc.org; Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** 119 Willow Street, Notice of Violation

Mr. Wheatly,

I hope your day is going well. Please see the attached correspondence in connection with the above-captioned matter. Please call with any questions.

Thank you,

Carrie

NOTE OUR NEW PHONE NUMBER OF  
252-565-7194, EFFECTIVE  
IMMEDIATELY

Carrie Padilla Frazier | Paralegal

---



Grady | Quattlebaum

244-A Craven Street, New Bern, NC 28560

(252) 565-7194 ext. 225

[cpfrazier@enclawyers.com](mailto:cpfrazier@enclawyers.com)

[enclawyers.com](http://enclawyers.com)

## Jill Quattlebaum

---

**From:** Kyle Garner <k.garner@beaufortnc.org>  
**Sent:** Friday, October 9, 2020 2:54 PM  
**To:** John Day  
**Cc:** Jill Quattlebaum  
**Subject:** RE: Emailing: Correspondence.pdf, Maps.pdf, Affidavits.pdf

John,

The zoning was R-8 in 2010, just as it is now . And the old zoning maps and text (ordinance) show it was R-8 for a long time. Going back to the 1980's.

Also, the electrical permit was issued to Doug Lewis not Mr. Eason and we fax in electrical slips to the electric companies not the owners. It has to come from us and our inspectors can vouch for that.

Hope this info helps.

Kyle

-----Original Message-----

**From:** John Day  
**Sent:** Friday, October 09, 2020 12:43 PM  
**To:** Kyle Garner <k.garner@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: Emailing: Correspondence.pdf, Maps.pdf, Affidavits.pdf

Kyle, was the zoning different there in 2010 than it is now? It would have been subject to the previous zoning ordinance.

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
www.beaufortnc.org

-----Original Message-----

**From:** Kyle Garner  
**Sent:** Friday, October 9, 2020 11:16 AM  
**To:** John Day <j.day@beaufortnc.org>  
**Subject:** RE: Emailing: Correspondence.pdf, Maps.pdf, Affidavits.pdf

N sir I do not. Nor do I have anything in writing.

Kyle

-----Original Message-----

**From:** John Day  
**Sent:** Friday, October 09, 2020 11:09 AM  
**To:** Kyle Garner <k.garner@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>

Subject: FW: Emailing: Correspondence.pdf, Maps.pdf, Affidavits.pdf

Hey Kyle,

This morning I held the appeal hearing for the 119 Willow St. NOV. In the attached document Exhibit 2 references exchanges between you and Eason Wooten with regard to him using the property for storage of parts and supplies for his diesel repair business. Mr. Wooten claims you told him that was a permitted use.

Do you recall having this conversation as described?

John

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

-----Original Message-----

From: Rob Wheatly [mailto:[rob@wheatlylaw.com](mailto:rob@wheatlylaw.com)]  
Sent: Friday, October 9, 2020 9:47 AM  
To: Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
Cc: John Day <[j.day@beaufortnc.org](mailto:j.day@beaufortnc.org)>  
Subject: Emailing: Correspondence.pdf, Maps.pdf, Affidavits.pdf

Please see the above attached Exhibits.

C.R. Wheatly, III

Telephone: 252.728.3158  
Facsimile: 252.728.5282  
<http://www.carteretcountyattorney.com>

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Your message is ready to be sent with the following file or link attachments:

Correspondence.pdf  
Maps.pdf  
Affidavits.pdf

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

## Jill Quattlebaum

---

**From:** Kyle Garner <k.garner@beaufortnc.org>  
**Sent:** Friday, October 23, 2020 9:40 AM  
**To:** John Day  
**Cc:** Jill Quattlebaum  
**Subject:** RE: 119 Willow St  
**Attachments:** IMG\_20201023\_093256.jpg; IMG\_20201023\_093254.jpg

Mr. Day & Jill,

I have attached the official zoning map from 1977 as well as listed revisions to that map on the left from 1979-1990. I will also look for the former zoning ordinance and see if I can find the list of permitted uses.

Kyle

**From:** John Day  
**Sent:** Thursday, October 22, 2020 9:44 AM  
**To:** Kyle Garner <k.garner@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** 119 Willow St

Kyle,  
Is it possible to determine the zoning on 119 Willow St. in 1982 (the year the structure was built there according to Bullock)?

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)



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DEPARTMENT OF THE ARMY  
HEADQUARTERS, WASHINGTON, D. C.  
OFFICE OF THE CHIEF OF ENGINEERS  
WASHINGTON, D. C.

## Jill Quattlebaum

---

**From:** Kyle Garner <k.garner@beaufortnc.org>  
**Sent:** Friday, October 23, 2020 1:12 PM  
**To:** John Day  
**Cc:** Jill Quattlebaum  
**Subject:** RE: 119 Willow St  
**Attachments:** 20201023130318878.pdf

Mr. Day,

Attached you will find pages from the 1977 Zoning Ordinance that was used until a new ordinance in 1992.

Included is the section on non-conformities and then the R-8 zoning district standards.

I hope this information is helpful.

Kyle

**From:** John Day  
**Sent:** Friday, October 23, 2020 10:13 AM  
**To:** Kyle Garner <k.garner@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow St

Kyle, can you also pull out the nonconforming use provisions that were in effect in 1995?

And was something like the following provisions included in 1995?

K) No Use of Land or Buildings Except in Conformity with Ordinance Provisions. 1) Subject to section 11 of this Ordinance, no person may use or occupy any land or buildings, or authorize or permit the use or occupancy of land or buildings under his/her control except in accordance with all of the applicable provisions of this Ordinance. 2) For purposes of this Ordinance, the "use" or "occupancy" of a building or land relates to anything and everything done to, done on, or done in the building or land.

L) No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions. Subject to section 11 of this Ordinance, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his/her control except in accordance with all of the applicable provisions of this Ordinance.

Thanks, Kyle!

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

**From:** Kyle Garner  
**Sent:** Friday, October 23, 2020 9:59 AM  
**To:** John Day <j.day@beaufortnc.org>

**Cc:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>

**Subject:** RE: 119 Willow St

Mr. Day,

The Map shows R-8 with L1 to the south where the Board of Education is now.

Kyle

---

**From:** John Day

**Sent:** Friday, October 23, 2020 9:43 AM

**To:** Kyle Garner <[k.garner@beaufortnc.org](mailto:k.garner@beaufortnc.org)>

**Cc:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>

**Subject:** RE: 119 Willow St

Kyle, is 119 Willow in R-8 or L1 – I can't tell?

John Day

Beaufort Town Manager

252-728-2141, office

252-528-5623, mobile

[www.beaufortnc.org](http://www.beaufortnc.org)

---

**From:** Kyle Garner

**Sent:** Friday, October 23, 2020 9:40 AM

**To:** John Day <[j.day@beaufortnc.org](mailto:j.day@beaufortnc.org)>

**Cc:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>

**Subject:** RE: 119 Willow St

Mr. Day & Jill,

I have attached the official zoning map from 1977 as well as listed revisions to that map on the left from 1979-1990. I will also look for the former zoning ordinance and see if I can find the list of permitted uses.

Kyle

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**Sent:** Thursday, October 22, 2020 9:44 AM

**To:** Kyle Garner <[k.garner@beaufortnc.org](mailto:k.garner@beaufortnc.org)>

**Cc:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>

**Subject:** 119 Willow St

Kyle,

Is it possible to determine the zoning on 119 Willow St. in 1982 (the year the structure was built there according to Bullock)?

John Day

Beaufort Town Manager

252-728-2141, office

252-528-5623, mobile

[www.beaufortnc.org](http://www.beaufortnc.org)

Zoning Ordinance

Town of Beaufort

North Carolina

OFFICIALLY ADOPTED AUGUST 8, 1977

PRICE PER COPY: \$ 20.<sup>00</sup>

SECTION FOUR  
NONCONFORMING LOTS, STRUCTURES, AND USES

4.1 Intent

After the effective date of this ordinance, land or structure, or the uses of land or structures which would be prohibited under the regulations for the district in which it is located and which were existing prior to the effective date of this ordinance shall be considered as nonconforming. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but no to encourage their continual use. Nonconforming structures or uses may be continued provided they conform to the provisions of this ordinance.

4.2 Continuation of Nonconforming Uses

4.2.1 Minimum Lot Requirements

4.2.1.1 Minimum Single Lot Requirements - Where the owner of a lot existing at the time of the adoption of this ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this ordinance, such lot may be used as a building site for a single-family residence in a district in which residences are permitted; provided, that the lot width and/or lot area are not more than twenty (20) percent below the minimum specified in this ordinance or other dimensional requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions.

4.2.1.2 Minimum Multi-Lot Requirements - If two or more adjoining and vacant lots on record are in a single ownership at any time after the adoption of this ordinance, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this ordinance for this district in which such lots are located.

4.2.2 Extension of Use - Nonconforming uses shall not hereafter be enlarged or extended in any way that would increase the nonconformity of the structure.

4.2.2.1 No additional structure not conforming to the requirements of this ordinance should be erected in connection with such nonconforming use of land.

4.2.3 Changes of Use - Any nonconforming use may be changed to any conforming use, or with the approval of the Board of Adjustment, to any use more in character with the uses permitted in the district. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards to preserve the character of the district.

- 4.2.4 Cessation of Use - If active operations are discontinued for a continuous period of six (6) months with respect to a nonconforming use, such nonconforming use shall thereafter be used only for a conforming use.
- 4.2.5 Repairs and Alterations - Normal maintenance, repair, and incidental alteration in a building occupied by a nonconforming use is permitted provided it does not extend the nonconforming use.
- 4.2.6 Damage or Destruction - If a building occupied by a nonconforming use or nonconforming building is destroyed by any means to an extent of more than eighty (80) percent of its replacement cost at the time of destruction such building may not be restored for any nonconforming use. The percent of destruction will be determined by the Building Inspector.

Section 7.8 R-8 Multi-family Residential

7-2.1 Purpose. The R-8 Multi-Family Residential district is established as a medium to high density district in which the principle use of the land is for single-family, two-family and multi-family residences. The regulations of this district are intended to provide areas of the community for those persons desiring small residents in relatively medium to high density. No buildings or houses or structures excepting non-commercial docks or piers will be erected on the south side of Front Street in this district.

7-2.2 Permitted Uses

A. Residential Uses

1. Single-family dwelling
2. Two family dwelling
3. Tourist home
4. Home occupations
5. Customary accessory buildings or structures
6. Public schools and private schools

7-2.3 Special Uses

1. Multi-family dwellings

7-2.4 Minimum Lot Width

1. The width of any lot shall be not less than eighty (80) feet.

7-2.5 Minimum Lot Size

The size of any lot shall be not less than 8,000 square feet in area for single-family dwellings. The minimum lot area for two residents shall be 11,000 square feet with 3,000 square feet being required for each additional residence.

7-2.6 Minimum Yard Sizes

1. Front Depth - The depth of any front yard shall be not less than twenty-five (25) feet.
2. Rear depth - The depth of any rear yard shall be not less than thirty (30) feet.
3. Side Width - The width of any side yard shall be not less than eight (8) feet.

7-2.7 Maximum Building Height

The maximum height of any building shall be thirty-five (35) feet.

7-2.8 Parking and Loading

The regulations for parking and loading in an R-8 district shall be as contained in Section 10 of this ordinance.

7-2.9 Signs

Regulations for signs in an R-8 district shall be as contained in

Section 7.8	R-8 Multi-family Residential	Section 7-3	R-10 Residential District
7-2-1	<p>Purpose. The R-8 Multi-Family Residential district is established as a medium to high density district in which the principle use of the land is for single-family, two-family and multi-family residences. The regulations of this district are intended to provide areas of the community for those persons desiring small residences in relatively medium to high density. No buildings or houses or structures excepting non-commercial docks or piers will be erected on the south side of Front Street in this district.</p>	7-3-1	<p><u>Purpose</u> The R-10 Residential District is established to provide a medium density district in which the principle use of land is for single-family residents and approved mobile home parks.</p>
7-2-2	<p><u>Permitted Uses</u></p> <p>A. <u>Residential Uses</u></p> <ol style="list-style-type: none"> <li>Single-family dwelling</li> <li>Two family dwelling</li> <li>Tourist home</li> <li>Home occupations</li> <li>Customary accessory buildings or structures</li> <li>Public schools and private schools</li> </ol>	7-3-2	<p><u>Permitted Uses</u></p> <ol style="list-style-type: none"> <li>Single-family dwellings.</li> <li>Single-family mobile home (See also Sect. 7-5.9).</li> <li>Churches and cemeteries.</li> <li>Public schools and private schools.</li> <li>Fire stations and other public buildings.</li> <li>Greenhouses and gardens which are incidental to the residential use and conducted on a nonprofit basis only.</li> <li>Grounds and facilities for recreational and community center.</li> <li>Public utility distribution lines, transformer stations, transmission lines and towers, water tanks, but not service or storage yards.</li> <li>Customary home occupations.</li> <li>Customary accessory buildings.</li> </ol>
7-2-3	<p><u>Special Uses</u></p> <ol style="list-style-type: none"> <li>Multi-family dwellings</li> </ol>	7-3-3	<p><u>Minimum Lot Width</u> The width of any lot shall not be less than eighty (80) feet.</p>
7-2-4	<p><u>Minimum Lot Width</u></p> <ol style="list-style-type: none"> <li>The width of any lot shall be not less than eighty (80) feet.</li> </ol>	7-3-4	<p><u>Minimum Lot Size</u> The size of any lot shall not be less than 10,000 square feet in area.</p>
7-2-5	<p><u>Minimum Lot Size</u></p> <p>The size of any lot shall be not less than 8,000 square feet in area for single-family dwellings. The minimum lot area for two residents shall be 11,000 square feet with 3,000 square feet being required for each additional residence.</p>	7-3-5	<p><u>Minimum Yard Sizes</u></p> <ol style="list-style-type: none"> <li>Front yard - the depth of any front yard shall not be less than twenty (20) feet.</li> <li>Rear depth - the depth of any rear yard shall not be less than thirty (30) feet.</li> <li>Side depth - the depth of any side yard shall not be less than ten (10) feet.</li> </ol>
7-2-6	<p><u>Minimum Yard Sizes</u></p> <ol style="list-style-type: none"> <li>Front Depth - The depth of any front yard shall be not less than twenty-five (25) feet.</li> <li>Rear depth - The depth of any rear yard shall be not less than thirty (30) feet.</li> <li>Side Width - The width of any side yard shall be not less than eight (8) feet.</li> </ol>	7-3-6	<p><u>Maximum Building Height</u> The maximum building height of any building shall be thirty-five (35) feet.</p>
7-2-7	<p><u>Maximum Building Height</u> The maximum height of any building shall be thirty-five (35) feet.</p>	7-3-7	<p><u>Parking and Loading</u> The regulations for parking and loading shall be as contained in Section 10 of this ordinance.</p>
7-2-8	<p><u>Parking and Loading</u> The regulations for parking and loading in an R-8 district shall be as contained in Section 10 of this ordinance.</p>	7-3-8	<p><u>Signs</u> The regulations for signs shall be as contained in Section 11 of this ordinance.</p>
7-2-9	<p><u>Signs</u> The regulations for signs in an R-8 district shall be as contained in Section 11 of this ordinance.</p>		

## Jill Quattlebaum

---

**From:** Kyle Garner <k.garner@beaufortnc.org>  
**Sent:** Friday, October 23, 2020 1:12 PM  
**To:** John Day  
**Cc:** Jill Quattlebaum  
**Subject:** RE: 119 Willow St  
**Attachments:** 20201023130318878.pdf

Mr. Day,

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L) No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions. Subject to section 11 of this Ordinance, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his/her control except in accordance with all of the applicable provisions of this Ordinance.

Thanks, Kyle!

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

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**From:** Kyle Garner  
**Sent:** Friday, October 23, 2020 9:59 AM  
**To:** John Day <j.day@beaufortnc.org>

**Cc:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow St

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**Sent:** Friday, October 23, 2020 9:43 AM  
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**Cc:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow St

Kyle, is 119 Willow in R-8 or L1 – I can't tell?

John Day  
Beaufort Town Manager  
252-728-2141, office  
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**From:** Kyle Garner  
**Sent:** Friday, October 23, 2020 9:40 AM  
**To:** John Day <[j.day@beaufortnc.org](mailto:j.day@beaufortnc.org)>  
**Cc:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow St

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**Sent:** Thursday, October 22, 2020 9:44 AM  
**To:** Kyle Garner <[k.garner@beaufortnc.org](mailto:k.garner@beaufortnc.org)>  
**Cc:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** 119 Willow St

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John Day  
Beaufort Town Manager  
252-728-2141, office  
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Zoning Ordinance

Town of Beaufort

North Carolina

OFFICIALLY ADOPTED AUGUST 8, 1977

PRICE PER COPY: \$ 20.00

SECTION FOUR  
NONCONFORMING LOTS, STRUCTURES, AND USES

4.1 Intent

After the effective date of this ordinance, land or structure, or the uses of land or structures which would be prohibited under the regulations for the district in which it is located and which were existing prior to the effective date of this ordinance shall be considered as nonconforming. It is the intent of this ordinance to permit these nonconformities to continue until they are removed, but no to encourage their continual use. Nonconforming structures or uses may be continued provided they conform to the provisions of this ordinance.

4.2 Continuation of Nonconforming Uses

4.2.1 Minimum Lot Requirements

4.2.1.1 Minimum Single Lot Requirements - Where the owner of a lot existing at the time of the adoption of this ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this ordinance, such lot may be used as a building site for a single-family residence in a district in which residences are permitted; provided, that the lot width and/or lot area are not more than twenty (20) percent below the minimum specified in this ordinance or other dimensional requirements cannot be met, the Board of Adjustment is authorized to approve as a variance such dimensions as shall conform as closely as possible to the required dimensions.

4.2.1.2 Minimum Multi-Lot Requirements - If two or more adjoining and vacant lots on record are in a single ownership at any time after the adoption of this ordinance, such lots shall be considered as a single lot or several lots which meet the minimum requirements of this ordinance for this district in which such lots are located.

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Section 7.8

R-8 Multi-family Residential

7-2.1

Purpose. The R-8 Multi-Family Residential district is established as a medium to high density district in which the principle use of the land is for single-family, two-family and multi-family residences. The regulations of this district are intended to provide areas of the community for those persons desiring small residences in relatively medium to high density. No buildings or houses or structures excepting non-commercial docks or piers will be erected on the south side of Front Street in this district.

7-2.2

Permitted Uses

A. Residential Uses

1. Single-family dwelling
2. Two family dwelling
3. Tourist home
4. Home occupations
5. Customary accessory buildings or structures
6. Public schools and private schools

7-2.3

Special Uses

1. Multi-family dwellings

7-2.4

Minimum Lot Width

1. The width of any lot shall be not less than eighty (80) feet.

7-2.5

Minimum Lot Size

The size of any lot shall be not less than 8,000 square feet in area for single-family dwellings. The minimum lot area for two residents shall be 11,000 square feet with 3,000 square feet being required for each additional residence.

7-2.6

Minimum Yard Sizes

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3. Side Width - The width of any side yard shall be not less than eight (8) feet.

7-2.7

Maximum Building Height

The maximum height of any building shall be thirty-five (35) feet.

7-2.8

Parking and Loading

The regulations for parking and loading in an R-8 district shall be as contained in Section 10 of this ordinance.

7-2.9

Signs

Regulations for signs in an R-8 district shall be as contained in

Section 7.8	R-8 Multi-family Residential	Section 7-3	R-10 Residential District
7-2.1	<p>Purpose. The R-8 Multi-Family Residential district is established as a medium to high density district in which the principle use of the land is for single-family, two-family and multi-family residences. The regulations of this district are intended to provide areas of the community for those persons desiring small residences in relatively medium to high density. No buildings or houses or structures excepting non-commercial docks or piers will be erected on the south side of Front Street in this district.</p>	7-3.1	<p><u>Purpose</u> The R-10 Residential District is established to provide a medium density district in which the principle use of land is for single-family residents and approved mobile home parks.</p>
7-2.2	<p><u>Permitted Uses</u></p> <p>A. <u>Residential Uses</u></p> <ol style="list-style-type: none"> <li>1. Single-family dwelling</li> <li>2. Two family dwelling</li> <li>3. Tourist home</li> <li>4. Home occupations</li> <li>5. Customary accessory buildings or structures</li> <li>6. Public schools and private schools</li> </ol>	7-3.2	<p><u>Permitted Uses</u></p> <ol style="list-style-type: none"> <li>A. Single-family dwellings.</li> <li>B. Single-family mobile home (See also Sect. 7-5.9).</li> <li>C. Churches and cemeteries.</li> <li>D. Public schools and private schools.</li> <li>E. Fire stations and other public buildings.</li> <li>F. Greenhouses and gardens which are incidental to the residential use and conducted on a nonprofit basis only.</li> <li>G. Grounds and facilities for recreational and community center.</li> <li>H. Public utility distribution lines, transformer stations, transmission lines and towers, water tanks, but not service or storage yards.</li> <li>I. Mission lines and towers.</li> <li>J. Customary home occupations.</li> <li>K. Customary accessory buildings.</li> </ol>
7-2.3	<p><u>Special Uses</u></p> <ol style="list-style-type: none"> <li>1. Multi-family dwellings</li> </ol>	7-3.3	<p><u>Minimum Lot Width</u> The width of any lot shall not be less than eighty (80) feet.</p>
-2.4	<p><u>Minimum Lot Width</u></p> <ol style="list-style-type: none"> <li>1. The width of any lot shall be not less than eighty (80) feet.</li> </ol>	7-3.4	<p><u>Minimum Lot Size</u> The size of any lot shall not be less than 10,000 square feet in area.</p>
7-2.5	<p><u>Minimum Lot Size</u></p> <p>The size of any lot shall be not less than 8,000 square feet in area for single-family dwellings. The minimum lot area for two residents shall be 11,000 square feet with 3,000 square feet being required for each additional residence.</p>	7-3.5	<p><u>Minimum Yard Sizes</u></p> <ol style="list-style-type: none"> <li>A. Front yard - the depth of any front yard shall not be less than twenty (20) feet.</li> <li>B. Rear depth - the depth of any rear yard shall not be less than thirty (30) feet.</li> <li>C. Side depth - the depth of any side yard shall not be less than ten (10) feet.</li> </ol>
7-2.6	<p><u>Minimum Yard Sizes</u></p> <ol style="list-style-type: none"> <li>1. Front Depth - The depth of any front yard shall be not less than twenty-five (25) feet.</li> <li>2. Rear depth - The depth of any rear yard shall be not less than thirty (30) feet.</li> <li>3. Side Width - The width of any side yard shall be not less than eight (8) feet.</li> </ol>	7-3.6	<p><u>Maximum Building Height</u> The maximum building height of any building shall be thirty-five (35) feet.</p>
7-2.7	<p><u>Maximum Building Height</u></p> <p>The maximum height of any building shall be thirty-five (35) feet.</p>	7-3.7	<p><u>Parking and Loading</u> The regulations for parking and loading shall be as contained in Section 10 of this ordinance.</p>
7-2.8	<p><u>Parking and Loading</u></p> <p>The regulations for parking and loading in an R-8 district shall be as contained in Section 10 of this ordinance.</p>	7-3.8	<p><u>Signs</u> The regulations for signs shall be as contained in Section 11 of this ordinance.</p>
7-2.9	<p><u>Signs</u></p> <p>The regulations for signs in an R-8 district shall be as contained in Section 11 of this ordinance.</p>		

## Jill Quattlebaum

---

**From:** Kyle Garner <k.garner@beaufortnc.org>  
**Sent:** Thursday, October 29, 2020 1:30 PM  
**To:** John Day  
**Cc:** Jill Quattlebaum  
**Subject:** RE: 119 Willow St  
**Attachments:** 20201029132524821.pdf; 20201029132546544.pdf

Mr. Day,

Attached is the non-conforming section from 1998 as requested. Sorry I thought the ordinance was 92 but was actually 98

Kyle

**From:** John Day  
**Sent:** Thursday, October 29, 2020 1:07 PM  
**To:** Kyle Garner <k.garner@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow St

Kyle, what about the nonconforming use section from the 1992 ordinance?

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

**From:** Kyle Garner  
**Sent:** Friday, October 23, 2020 1:12 PM  
**To:** John Day <j.day@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow St

Mr. Day,

Attached you will find pages from the 1977 Zoning Ordinance that was used until a new ordinance in 1992.

Included is the section on non-conformities and then the R-8 zoning district standards.

I hope this information is helpful.

Kyle

**From:** John Day  
**Sent:** Friday, October 23, 2020 10:13 AM  
**To:** Kyle Garner <k.garner@beaufortnc.org>

**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow St

Kyle, can you also pull out the nonconforming use provisions that were in effect in 1995?

And was something like the following provisions included in 1995?

K) No Use of Land or Buildings Except in Conformity with Ordinance Provisions. 1) Subject to section 11 of this Ordinance, no person may use or occupy any land or buildings, or authorize or permit the use or occupancy of land or buildings under his/her control except in accordance with all of the applicable provisions of this Ordinance. 2) For purposes of this Ordinance, the "use" or "occupancy" of a building or land relates to anything and everything done to, done on, or done in the building or land.

L) No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions. Subject to section 11 of this Ordinance, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his/her control except in accordance with all of the applicable provisions of this Ordinance.

Thanks, Kyle!

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

---

**From:** Kyle Garner  
**Sent:** Friday, October 23, 2020 9:59 AM  
**To:** John Day <j.day@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow St

Mr. Day,

The Map shows R-8 with LI to the south where the Board of Education is now.

Kyle

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**From:** John Day  
**Sent:** Friday, October 23, 2020 9:43 AM  
**To:** Kyle Garner <k.garner@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow St

Kyle, is 119 Willow in R-8 or L1 – I can't tell?

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

**From:** Kyle Garner  
**Sent:** Friday, October 23, 2020 9:40 AM  
**To:** John Day <j.day@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow St

Mr. Day & Jill,

I have attached the official zoning map from 1977 as well as listed revisions to that map on the left from 1979-1990. I will also look for the former zoning ordinance and see if I can find the list of permitted uses.

Kyle

**From:** John Day  
**Sent:** Thursday, October 22, 2020 9:44 AM  
**To:** Kyle Garner <k.garner@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** 119 Willow St

Kyle,  
Is it possible to determine the zoning on 119 Willow St. in 1982 (the year the structure was built there according to Bullock)?

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

## SECTION 14. NONCONFORMING SITUATIONS

### 14.1 Definitions

Unless the context clearly indicates otherwise, the terms defined below are used in this section in the following manner:

*Nonconforming Situations* -- A situation that occurs when, on the effective date of this ordinance or any amendment to it, an existing lot or structure or use of an existing lot or structure does not conform to one or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures do not satisfy maximum height or minimum floor space limitations, because the relationship between existing buildings and the land (in such matters as density and setback requirements) is not in conformity with the ordinance, or because land or buildings are used for purposes made unlawful by the ordinance.

*Nonconforming Use* -- A nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. (For example, a commercial office building in a residential district may be a nonconforming use.) The term also refers to the activity that constitutes the use made of the property. (For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.)

*Dimensional Nonconformity* -- A nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

*Nonconforming Lot* -- A lot existing at the effective date of this ordinance or any amendment to it (and not created for the purpose of evading the restrictions of this ordinance) that cannot meet the minimum area or lot width requirements of the district in which the lot is located.

*Ordinance* -- This ordinance, including any amendments. Whenever the effective date of the ordinance is referred to, the reference includes the effective date of any amendment to it.

*Nonconforming Project* -- Any structure, development, or undertaking that is incomplete at the effective date of this ordinance and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

*Expenditure* -- A sum of money paid out in return for some benefit or to fulfill some obligation. Whenever the term is used hereafter, it also includes binding, contractual commitments to make future expenditures, as well as any other substantial changes in position.

TOWN OF BEAUFORT  
 AN ORDINANCE TO AMEND THE ZONING ORDINANCE  
 TO LIMIT ENLARGEMENT OF CERTAIN NON-CONFORMING BUILDINGS

WHEREAS, Section 14.4(g) of the Beaufort Zoning Ordinance provides for the enlargement of certain non-conforming residential structures; and.

WHEREAS, the Board of Commissioners finds it to be in the interest of the town for Section 14.4(g) to only apply in the limited circumstances provided below; and

WHEREAS, the Board of Commissioners held a public hearing on the matter after due notice.

THEREFORE BE IT ORDAINED by the Board of Commissioners of the Town of Beaufort as follows:

I.

A new sentence is added to the end of Section 14.4(g) of the Beaufort Zoning Ordinance which sentence reads as follows:

This paragraph shall only apply to single family residential dwellings in zoning districts where single family dwellings are not permitted uses.


II.

This ordinance is effective upon adoption.

Enacted on motion of Commissioner Julian Arrington, seconded by Commissioner Charles McDonald and carried on a vote of 4 in favor and 0 against.

This the 11 day of October, 2004.

TOWN OF BEAUFORT

By:   
Mayor

Attest:

  
Town Clerk

**14.2 Continuation of Nonconforming Situations and Completion of Nonconforming Projects**

Nonconforming situations that were otherwise lawful on the effective date of this ordinance may be continued, subject to the restrictions and qualifications set forth in sections 14.3 through 14.8 of this section.

Nonconforming projects may be completed only in accordance with the provisions of section 14.8.

**14.3 Nonconforming Lots**

- (a) When a nonconforming lot can be used in conformity with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, such a use may be made as of right. Otherwise, the nonconforming lot may be used only in accordance with a variance by the Board of Adjustments. The board shall issue such a permit if it finds that (1) the proposed use is one permitted by the regulations applicable to the district in which the property is located, and (2) the property can be developed as proposed without any significant negative impact on the surrounding property or the public health, safety, or welfare. In issuing the permit authorized by this paragraph, the board may allow deviations from applicable dimensional requirements (such as setback lines and yard size minimums) if it finds that no reasonable use of the property can be made without such deviations.
- (b) Whenever this ordinance creates a nonconforming lot and the owner of the nonconforming lot also owns land adjacent to it, and a portion of this other land can be combined with the nonconforming lot to create a conforming lot (without hereby creating other nonconformities), the owner of the nonconforming lot, or his successor in interest, may not take advantage of the provisions of the paragraph (a) of this section.
- (c) In the event the owner of a lot located in an R-8 or R-8A residential zone proposes to construct not more than one single-family dwelling and/or alter, remodel, reconstruct, or undertake other improvements to an existing dwelling on said lot, and the lot either does not contain the required minimum lot area of 8,000 square feet, or the lot owner cannot meet the required minimum lot width or required front, side, and/or rear setback requirements for the R-8 zone, either because the lot is of a substandard size or peculiar shape, or the lot owner desires to save or preserve natural features or landscaping, or the owner desires to place the structure in general conformity with the location of adjacent properties, then the Board of Adjustment, upon application from the lot owner, is authorized but not required to grant a variance for the use of the lot for one single-family dwelling and/or to alter, remodel, reconstruct, or undertake other improvements to the existing dwelling on the lot, and to specifically approve the location of the dwelling or proposed alteration, remodeling, reconstruction, or other improvements to the existing dwelling thereon and to vary the required lot area, minimum lot width, or required setbacks, if deemed necessary or desirable by the board.
- (d) An applicant for an R-8 or R-8A variance to construct one single-family dwelling or to alter, remodel, reconstruct, or undertake improvements on a lot located in an R-8 or R-8A zone shall submit an application in writing to the Board of Adjustment on

such forms as may be provided by the town. Said application shall be accompanied by a plat or map of the lot prepared by a registered land surveyor or engineer showing the exact dimensions of the lot, its location, natural features, significant vegetation, existing or proposed location of the dwelling and improvements, and the location of adjacent streets, structures, and adjacent residential dwellings. Said application shall specifically describe the reasons for the applicant applying for a variance and shall explain and show in detail how his lot is deficient with regard to either required lot area, minimum lot width, or required yard setbacks. If the applicant is desiring a variance for the location of the dwelling or construction improvements in closer proximity to the front, side, or rear lot lines than as required for setbacks in the R-8 or R-8A zone, then the application shall describe in detail the reasons for the request for a variance to locate the dwelling or proposed improvements in closer proximity to the front, side, or rear lot lines than as required in the R-8 or R-8A zone.

(e) The Board is authorized to grant a variance for the construction and location of the dwelling or improvements to the existing dwelling, as proposed by the lot owner, if the board finds from the evidence produced after a study of the complete record that:

- (1) The proposed dwelling or improvements to the existing dwelling will not materially endanger the public health or safety if located where proposed and if developed according to the plan as submitted and approved.
- (2) That the use will not substantially injure the value of adjacent property.
- (3) That the dwelling or proposed improvements to the existing dwelling, if developed and constructed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development for the Town of Beaufort.
- (4) With regard to applications for variances which have as its [their] purpose either the location of the single-family dwelling or improvements to the existing dwelling in closer proximity to the front, side, or rear lot lines than as required in the R-8 and R-8A zone; that the required relaxation or variance of the required setback will be either to preserve natural amenities; to take the greatest advantage of natural land, water, trees, or environmental and historical features, or to enhance the visual character of the dwelling; or to make the dwelling compatible or congruous with adjoining residential dwellings.

(f) In the event the Board of Adjustment approves a variance for a single-family dwelling or the alteration, reconstruction, remodeling, or the undertaking of improvements to the existing dwelling in the R-8 zone, the board may impose or require such additional restrictions and standards as may be necessary to protect the health or safety of residents of the community, and to protect the value and use of property in the neighborhood. Additionally, any variance granted by the Board of Adjustment shall require that the applicant carry out, construct and complete the single-family dwelling or proposed improvements exactly in accordance with the permit as issued, and the applicant is not authorized to alter, modify, or vary the construction or to add on to or modify the structure thereafter except with approval of the board.

The board is authorized to revoke any variance upon a determination that the provisions of the permit are not being complied with after giving notice to all parties concerned and granting full opportunities for a hearing.

- (g) Any variance granted shall be recorded in the Carteret County Register of Deeds and its acceptance shall be shown by the applicant's execution of the same. A minimum of ten (10) days prior to the hearing regarding the application for the variance, the zoning administrator shall forward notice of the application and date of the hearing to all adjoining property owners, as shown on the county's tax records, by both certified mail and first class mail, and the zoning administrator's certificate and statement at said hearing as to the mailing by both certified mail and first class mail to adjoining property owners shall be satisfactorily (satisfactory) evidence that all adjoining property owners have been notified as to the application and hearing

#### 14.4 Extension or Enlargement of Nonconforming Situations

- (a) Except as specifically provided in this subsection, it shall be unlawful for any person to engage in any activity that causes an increase in the extent of nonconformity of a nonconforming situation.
- (b) Subject to paragraph (d) of this subsection, a nonconforming use may be extended throughout any portion of a completed building that, when the use was made nonconforming by this ordinance, was manifestly designed or arranged to accommodate such use. However, subject to subsection 14.8 of this section (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use may not be extended to additional buildings or to land outside the original building.
- (c) Subject to section 14.8 of this ordinance (authorizing the completion of nonconforming projects in certain circumstances), a nonconforming use of open land may not be extended to cover more land than was occupied by that use when it became nonconforming, except that a use that involves the removal of natural materials from the lot may be expanded to the boundaries of the lot where the use was established at the time it became nonconforming, if ten (10) percent or more of the earth products had already been removed at the effective date of this ordinance.
- (d) The volume, intensity, or frequency of use of property where a nonconforming situation exists may be increased and the equipment or processes used at a location where a nonconforming situation exists may be changed if these or similar changes amount only to changes in the degree of activity rather than changes in kind and no violations of other paragraphs of this section occur.
- (e) Physical alteration of structures or the placement of new structures on open land are unlawful if they result in:
- An increase in the total amount of space devoted to a nonconforming use;
  - Greater nonconformity with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements; or

-- The enclosure of previously unenclosed areas, even though those areas were previously used in connection with the nonconforming activity. An area is unenclosed unless at least seventy five (75) percent of the perimeter of the area is marked by a permanently constructed wall or fence

- (f) Minor repairs to and routine maintenance of property where nonconforming situations exist are permitted and encouraged. Major renovation -- i.e., work estimated to cost more than ten (10) percent of the appraised value of the structure to be renovated (and not required by the partial or total destruction of a structure [see paragraph (h)]) may be done pursuant to a variance issued by the Board of Adjustment. The Board of Adjustment shall issue such a variance if it finds that the work will not result in a violation of any other paragraphs of this section (particularly paragraph (c) or make the property more incompatible with the surrounding neighborhood.

*Amended  
4/12* (g)

Notwithstanding paragraph (e), any structure used for single-family residential purposes and maintained as a nonconforming use may be replaced with a similar structure of a larger size, so long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard size and setback requirements. In particular, a manufactured home may be replaced with a larger manufactured home, and a "single-wide" manufactured home may be replaced with a "double-wide." This paragraph is subject to the limitations stated in section 14.6 on abandonment and discontinuance of nonconforming situations.

- (h) A structure that is nonconforming in any respect or a structure that is used in a nonconforming manner may be reconstructed or replaced if partially or totally destroyed, subject to the following restrictions:

-- The total amount of space devoted to a nonconforming use may not be increased, except that a larger, single-family residential structure may be constructed in place of a smaller one and a larger manufactured home intended for residential use may replace a smaller one;

-- The reconstructed building may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations, or density requirements, and such dimensional nonconformities must be eliminated if that can reasonably be accomplished without unduly burdening the reconstruction process or limiting the right to continue the nonconforming use of such building;

-- The reconstructed building may not enclose areas that were previously unenclosed, even though those areas were used in connection with the nonconforming activity. An area is unenclosed unless at least seventy five (75) percent or more of the perimeter of the area is marked by a permanently constructed wall or fence.

Except for single-family residential structures (including manufactured homes), if the estimated cost of the reconstruction work exceeds by ten (10) percent the appraised



Ordinance 06-\_\_\_\_\_

**AN ORDINANCE BY THE BEAUFORT TOWN COUNCIL TO AMEND SECTION 3 OF APPENDIX B ENTITLED 'WORD AND TERM DEFINITIONS' AND SECTION 14 OF APPENDIX B ENTITLED 'NONCONFORMING SITUATIONS' OF THE TOWN OF BEAUFORT CODE TO PROVIDE REGULATIONS FOR THE REPLACEMENT OF EXISTING MANUFACTURED HOMES MAINTAINED AS NONCONFORMING USES.**

**WHEREAS**, at the January 9<sup>th</sup> regular meeting the Town Council directed the town staff to work with the Planning Board to determine options for property owners with manufactured homes to upgrade and expand them because many existing manufactured homes on individual lots are considered non-conforming uses; and

**WHEREAS**, the Planning Board discussed the issue at their regular meeting on February 20<sup>th</sup>, 2006 and directed staff to further evaluate the implications the replacement of manufactured homes rather than site built homes; and

**WHEREAS**, at their regular meeting on March 20, 2006 the Planning Board reviewed the recommendation from Town Staff on proposed changes to allow the replacement of existing non-conforming manufacture homes and recommended changes based on limit the age of a structure that may replace an excising manufacture home; and

**WHEREAS**, at their regular meeting on April 18<sup>th</sup>, 2006 the Planning Board was presented with the memo from Robert Will, Town Planner, with a revised recommendation including an age limit for replacement manufactured homes; and

**WHEREAS**, at their regular meeting on April 18<sup>th</sup>, 2006 the Planning Board recommended approval of the proposed text amendment; and

**WHEREAS**, at their regular meeting on May 8<sup>th</sup>, 2006 the Beaufort Town Council held a public hearing on the proposed text amendment; and

**WHEREAS**, the Council voted to approve the proposed change to the Town Zoning Regulations with one amendment to remove the 10-year age limit on replacement manufactured homes;

**NOW THEREFORE BE IT ORDAINED** by the Board of Commissioners of the Town of Beaufort as follows:

**Section 1.**

Section 3.2 of Appendix B entitled 'Word and Term Definitions', specifically the definitions of "Single Family Manufactured Home" is amended pursuant to the following:

*"Single-family manufactured home* - A structure, transportable in one or more sections, which in the traveling mode is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 900 or more square feet; ~~was constructed no earlier than 12 years prior to the effective date of this ordinance;~~ and which is built on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein. "Manufactured home" includes any structure that meets all of the requirements of this definition except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401, et seq., and Zone II Wind Requirements.

For manufactured homes built prior to June 15, 1976, "manufactured home" means a portable manufactured housing unit designed for transportation on its own chassis and placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width. "Manufactured home" also means a double-wide manufactured home, which is two or more portable manufactured housing units designed for transportation on their own chassis that connect on site for placement on a temporary or semipermanent foundation having a measurement of over 32 feet in length and over eight feet in width."

**Section 2.**

Section 14.4(g) of Appendix B is amended pursuant to the following:

"Notwithstanding paragraph (e), any structure used for single-family residential purposes and maintained as a nonconforming use may be replaced with a similar structure of a larger size, so long as the replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard size and setback requirements. ~~In particular, a manufactured home may be replaced with a larger manufactured home, and a "single wide" manufactured home may be replaced with a "double wide."~~ This paragraph is subject to the limitations stated in section 14.6 on abandonment and discontinuance of nonconforming situations. This paragraph shall only apply to single family residential dwellings in zoning districts where single family dwellings are not permitted uses."

**Section 3.**

Add Section 14.4 (h) to read:

"A legally permitted single family manufactured home existing as and being used for a single family residence within the town limits of Beaufort or its ETJ and

maintained as a non-conforming use may be replaced with a single family manufactured home of the same size or larger subject to the following conditions:

1. The replacement home must be rated to Zone III wind speeds as defined by the US Department of Housing and Urban Development.
2. The replacement home must meet all required setbacks and other provisions of the zoning code."

**Section 4.**

Renumber the current 14.4 (h) to 14.4 (i).

**Section 5.**

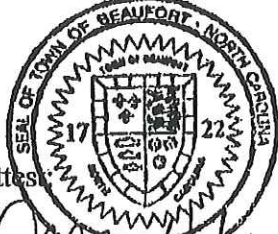
This ordinance is effective upon adoption.

**Section 6.**

If any section, subsection, clause, item, or charge or provision of this ordinance is held invalid, the remainder shall not be affected by such invalidity.

Enacted on motion of Commissioner Chaplain, seconded by Commissioner Nelson and carried on a vote of 5 in favor and 0 against.

This the 8th day of may, 2006.

Attest:  
  
[Signature]  
Town Clerk

TOWN OF BEAUFORT  
By: [Signature]  
Mayor Ann Carter

Approved as to form:  
  
\_\_\_\_\_  
Town Attorney

value of the structure, the work may be done only after issuance of a permit by the Board of Adjustment. The Board shall issue the variance if it finds that the work will be done in accordance with this paragraph and that the reconstructed building will not make the property more incompatible with the surrounding property than it was before the destruction occurred.

#### **14.5 Change in Kind of Nonconforming Use**

- (a) A nonconforming use may be changed to a conforming use. Thereafter, the property may not revert to a nonconforming use.
- (b) A nonconforming use may be changed to another nonconforming use only in accordance with a variance issued by the Board of Adjustment. The Board shall issue such a permit if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use in operation at the time the application is made for the permit. If a nonconforming use is changed to any use other than a conforming use without obtaining a variance pursuant to this paragraph, that change shall constitute a discontinuance of the nonconforming use, with consequences as stated in section 14.6.
- (c) If a nonconforming use and a conforming use, or any combination of conforming and nonconforming uses, or any combination of nonconforming uses exist on one lot, the use made of the property may be changed substantially (except to a conforming use), only in accordance with a variance issued by the Board of Adjustment. The board shall issue such a permit if it finds that the proposed use will be more compatible with the surrounding neighborhood than the use or combination of uses in operation at the time the permit is applied for.

#### **14.6 Abandonment or Discontinuance of Nonconforming Situations**

- (a) When a nonconforming use is (1) discontinued for a consecutive period of 180 days, or (2) discontinued for any period of time without a present intention to reinstate the nonconforming use, the property involved may thereafter be used only for conforming purposes, except as provided in paragraph (b) of this section.
- (b) The Board of Adjustment may issue a variance to allow a nonconforming use that has been discontinued for more than 180 consecutive days to be reinstated if it finds that (1) the nonconforming use has been discontinued for less than two years, and two (2) the discontinuance resulted from factors that, for all practical purposes, were beyond the control of the person maintaining the nonconforming use.
- (c) If the principal activity on property where a nonconforming situation other than a nonconforming use exists is (1) discontinued for a consecutive period of 180 days, or (2) discontinued for any period of time without a present intention of resuming that activity, then that property may thereafter be used only in conformity with all of the regulations applicable to the district in which the property is located, unless the Board of Adjustment issues a variance to allow the property to be used (for a conforming purpose) without correcting the nonconforming situation. The board

shall issue such a variance if it finds that (1) the nonconforming situation cannot be corrected without undue hardship or expense, and (2) the nonconforming situation is of a minor nature that does not adversely affect the surrounding property or the general public to any significant extent.

- (d) For purposes of determining whether a right to continue a nonconforming situation is lost pursuant to this section, all of the buildings, activities, and operations maintained on a lot are generally to be considered as a whole. For example, the failure to rent one apartment in a nonconforming apartment building or one space in a nonconforming manufactured home park for 180 days shall not result in a loss of the right to rent that apartment or space thereafter so long as the apartment building or manufactured home park as a whole is continuously maintained. But if a nonconforming use is maintained in conjunction with a conforming use, discontinuance of a nonconforming use for the required period shall terminate the right to maintain it thereafter. And so, if a manufactured home is used as a nonconforming use on a residential lot where a conforming residential structure also is located, removal of that manufactured home for 180 days terminates the right to replace it.
- (e) When a structure or operation made nonconforming by this ordinance is vacant or discontinued at the effective date of this ordinance, the 180-day period for purposes of this section begins to run at the effective date of this ordinance.

#### **14.7 Termination of Nonconforming Situations**

Subject to all other terms and conditions of section 14 of this ordinance, nonconforming situations shall not be subject to specific time limitations for permanent discontinuation; except for nonconforming junk yards, to include nonconforming uses and situations, which shall be completely removed within three (3) years following the effective date of this ordinance.

#### **14.8 Completion of Nonconforming Projects**

- (a) All work on any nonconforming project shall cease on the effective date of this ordinance. Thereafter, work on nonconforming projects may begin, or may be continued, only pursuant to a variance issued by the Board of Adjustment (except as provided in paragraph (b) of this section). The board shall issue such a variance if it finds that the applicant has in good faith made substantial expenditures or incurred substantial binding obligations or otherwise changed his position in some substantial way in reasonable reliance on the land use law as it existed before the effective date of this ordinance and thereby would be unreasonably prejudiced if not allowed to complete his project as proposed. In considering whether these findings may be made, the Board shall be guided by the following:

To the extent that expenditures are recoverable with a reasonable effort, a party shall not be considered prejudiced by having made those expenditures. For example, a party shall not be considered prejudiced by having made expenditure to acquire a potential development site if the property obtained is just as valuable under the new classification as it was

under the old, for the expenditure can be recovered by resale of the property.

An expenditure shall be considered substantial if it is significant both in dollar amount and in terms of (1) the total estimated cost of the proposed project, and (2) the ordinary business practices of the developer.

A person shall be considered to have acted in good faith if actual knowledge of a proposed change in the land use law affecting the proposed development site could not be attributed to him.

Even though a person had actual knowledge of a proposed change in the land use law affecting a development site, the Board may still find that he acted in good faith if he did not proceed with his plans in a deliberate attempt to circumvent the effects of the proposed ordinance. The Board may find that the developer did not proceed in an attempt to undermine the proposed ordinance if it determines that (1) at the time the expenditures were made, either there was considerable doubt about whether any ordinance would ultimately be passed, or it was not clear that the proposed ordinance would ultimately be passed, or it was not clear that the proposed ordinance would prohibit the intended development; and (2) the developer had legitimate business reasons for making expenditures.

- (b) The requirements of paragraph (a) of this section shall not apply to a nonconforming project if the Town Planner certifies that actual construction of that project began at least 180 days before the effective date of this ordinance and that the work is at least seventy-five (75) percent complete at the effective date of this ordinance.
- (c) The Board of Adjustment shall not consider any application for a variance authorized by paragraph (a) of this subsection that is submitted more than ninety (90) days after the effective date of this ordinance, unless it waives this requirement for good cause shown.
- (d) If the Board of Adjustment issues a variance pursuant to paragraph (a) of this section, it may attach such reasonable conditions to the variance as it finds necessary to reduce the extent to which the nonconforming project is incompatible with the surrounding neighborhood. In particular, the board may require that work on the nonconforming project be continuously maintained, if possible, and that the project be completed as expeditiously as possible.
- (e) When it appears from the developer's plans or otherwise that the nonconforming project was intended to be or reasonably could be completed in stages, segments or other discreet units, the Board of Adjustment shall not allow the nonconforming project to be constructed or completed in a fashion that is larger or more extensive than is necessary to allow the developer to recoup and obtain a reasonable rate of return on the expenditures he has made in connection with that nonconforming project.

# TOWN OF BEAUFORT, NORTH CAROLINA ZONING ORDINANCE

## SEPTEMBER, 1998

Adopted by the Beaufort Board of Commissioners  
September 8, 1998

Prepared By:

Holland Consulting Planners, Inc.  
Wilmington, North Carolina

The preparation of this document was financed in part through a grant provided by the North Carolina Coastal Management Program, through funds provided by the Coastal Zone Management Act of 1972, as amended, which is administered by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

## Jill Quattlebaum

---

**From:** John Day <j.day@beaufortnc.org>  
**Sent:** Thursday, October 29, 2020 1:37 PM  
**To:** Kyle Garner  
**Cc:** Jill Quattlebaum  
**Subject:** RE: 119 Willow St

Thanks!

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

---

**From:** Kyle Garner  
**Sent:** Thursday, October 29, 2020 1:34 PM  
**To:** John Day <j.day@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow St

Yes Sir. 20 years worth

---

**From:** John Day  
**Sent:** Thursday, October 29, 2020 1:33 PM  
**To:** Kyle Garner <k.garner@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow St

Thanks. So the 1977 ordinance was in effect until 1998 – correct?

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

---

**From:** Kyle Garner  
**Sent:** Thursday, October 29, 2020 1:30 PM  
**To:** John Day <j.day@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow St

Mr. Day,

Attached is the non-conforming section from 1998 as requested. Sorry I thought the ordinance was 92 but was actually 98

Kyle

---

**From:** John Day  
**Sent:** Thursday, October 29, 2020 1:07 PM  
**To:** Kyle Garner <k.garner@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow St

Kyle, what about the nonconforming use section from the 1992 ordinance?

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

---

**From:** Kyle Garner  
**Sent:** Friday, October 23, 2020 1:12 PM  
**To:** John Day <j.day@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow St

Mr. Day,

Attached you will find pages from the 1977 Zoning Ordinance that was used until a new ordinance in 1992.

Included is the section on non-conformities and then the R-8 zoning district standards.

I hope this information is helpful.

Kyle

---

**From:** John Day  
**Sent:** Friday, October 23, 2020 10:13 AM  
**To:** Kyle Garner <k.garner@beaufortnc.org>  
**Cc:** Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow St

Kyle, can you also pull out the nonconforming use provisions that were in effect in 1995?

And was something like the following provisions included in 1995?

K) No Use of Land or Buildings Except in Conformity with Ordinance Provisions. 1) Subject to section 11 of this Ordinance, no person may use or occupy any land or buildings, or authorize or permit the use or occupancy of land or buildings under his/her control except in accordance with all of the applicable provisions of this Ordinance. 2) For purposes of this Ordinance, the "use" or "occupancy" of a building or land relates to anything and everything done to, done on, or done in the building or land.

L) No Use or Sale of Land or Buildings Except in Conformity with Ordinance Provisions. Subject to section 11 of this Ordinance, no person may use, occupy, or sell any land or buildings or authorize or permit the use, occupancy, or sale of land or buildings under his/her control except in accordance with all of the applicable provisions of this Ordinance.

Thanks, Kyle!

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

---

**From:** Kyle Garner  
**Sent:** Friday, October 23, 2020 9:59 AM  
**To:** John Day <[j.day@beaufortnc.org](mailto:j.day@beaufortnc.org)>  
**Cc:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow St

Mr. Day,

The Map shows R-8 with LI to the south where the Board of Education is now.

Kyle

---

**From:** John Day  
**Sent:** Friday, October 23, 2020 9:43 AM  
**To:** Kyle Garner <[k.garner@beaufortnc.org](mailto:k.garner@beaufortnc.org)>  
**Cc:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow St

Kyle, is 119 Willow in R-8 or L1 – I can't tell?

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

---

**From:** Kyle Garner  
**Sent:** Friday, October 23, 2020 9:40 AM  
**To:** John Day <[j.day@beaufortnc.org](mailto:j.day@beaufortnc.org)>  
**Cc:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>  
**Subject:** RE: 119 Willow St

Mr. Day & Jill,

I have attached the official zoning map from 1977 as well as listed revisions to that map on the left from 1979-1990. I will also look for the former zoning ordinance and see if I can find the list of permitted uses.

Kyle

---

**From:** John Day  
**Sent:** Thursday, October 22, 2020 9:44 AM  
**To:** Kyle Garner <[k.garner@beaufortnc.org](mailto:k.garner@beaufortnc.org)>

**Cc:** Jill Quattlebaum <[jrquattlebaum@enclawyers.com](mailto:jrquattlebaum@enclawyers.com)>

**Subject:** 119 Willow St

Kyle,

Is it possible to determine the zoning on 119 Willow St. in 1982 (the year the structure was built there according to Bullock)?

John Day

Beaufort Town Manager

252-728-2141, office

252-528-5623, mobile

[www.beaufortnc.org](http://www.beaufortnc.org)

**Jill Quattlebaum**

---

**From:** Kyle Garner <k.garner@beaufortnc.org>  
**Sent:** Thursday, October 29, 2020 4:17 PM  
**To:** John Day; Jill Quattlebaum  
**Subject:** RE: 119 Willow Appeal Decision

Yes sir. There are not any zoning permits.

Kyle

**From:** John Day  
**Sent:** Thursday, October 29, 2020 4:09 PM  
**To:** Kyle Garner <k.garner@beaufortnc.org>; Jill Quattlebaum <jrquattlebaum@enclawyers.com>  
**Subject:** RE: 119 Willow Appeal Decision

And I was correct in saying there are no records of zoning permits for any use at 119?

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)



August 27, 2020

C.R. Wheatly, III  
Wheatly Law Group  
710 Cedar Street  
Beaufort, NC 28516

VIA E-MAIL

RE: 119 Willow Street, Notice of Violation

Dear Rob:

This letter is in response to your letter to Kyle Garner dated August 18, 2020, regarding the appeal of the NOV in the above-captioned matter. Please be advised that the following dates are available for an appeals hearing before the Town Manager: September 29<sup>th</sup> at 2:00 p.m., September 30<sup>th</sup> at either 11:00 a.m. or 2:00 p.m., or October 5<sup>th</sup> at 1:00 p.m. Please confirm your preferred date as soon as possible.

As you may be aware, there is no discovery process associated with this appeal. However, any non-privileged, written complaints or documentation regarding this particular matter are public records, to which you are entitled. Accordingly, please see attached. I will forward the referenced videos to you via e-mail. Verbal complaints were also made to both the Town Planner and the Town Manager from neighbors, primarily based on the increased traffic associated with the business.

I can also confirm that since 2006 the Town has not initiated any previous zoning enforcement actions at 119 Willow Street.

Regarding the remainder of your request for information, since there is no right of discovery, the Town will treat this as a public records request pursuant to N.C. Gen. Stat. §132-1. The information requested is not compiled in any readily available format. The relevant section of the public records statute is as follows:

Nothing in this section shall be construed to require a public agency to respond to a request for a copy of a public record by creating or compiling a record that does not exist. If a public agency, as a service to the requester, voluntarily elects to create or compile a record, it may negotiate a reasonable charge for the service with the requester. Nothing in this section shall be construed to require a public agency to put into electronic medium a record that is not kept in electronic medium.

N.C. Gen. Stat. §132-1.

Accordingly, the Town is under no duty to research or compile this information. However, you have a right to review the Town's zoning maps and any and all minutes from the meetings of the Board of Commissioners regarding your request for information regarding annexation, zoning, and zoning amendments. Please advise if you choose to make this inspection, and I will coordinate with the Town to make these records available. Generally speaking, other than Tuesday morning, any day next week would be acceptable.

I thank you for your attention to these matters, and look forward to hearing from you.

Best regards,

  
Jill R. Quattlebaum

cc: John Day, Town Manager, Town of Beaufort  
Kyle Garner, Planning & Inspections Director, Town of Beaufort



**Town of Beaufort**  
701 Front St. • P.O. Box 390 • Beaufort, N.C. 28516  
252-728-2141 • 252-728-3982 fax  
[www.beaufortnc.org](http://www.beaufortnc.org)

## NOTICE of VIOLATION

August 6, 2020

Service by: Certified Mail/Return Receipt Requested: 7011 2970 0002 5197 9475

Mr. Thomas Bullock  
209 George Street  
Beaufort, NC 28516

RE: 119 Willow Street Beaufort NC 28516, PIN 730619615362000 (the "Property")

Dear Mr. Bullock:

It has come to the attention of the Town of Beaufort Staff that the property at 119 Willow Street is operating a Commercial Landscaping Business. This current use constitutes a Commercial Use (Personal Service Establishment), and in turn is not a permissible use under the Town's Land Development Ordinance for the zoning district in which the Property is located. Attached are use tables in Beaufort's Land Development Ordinance identifying the uses allowed in this zoning district.

In order to protect the public health, safety and welfare of the residents of our community, your assistance is requested in closing the Commercial Landscaping Business operation at 119 Willow Street and convert the property to a residential use as per the Land Development Ordinance.

If you fail to remedy this violation or fail to request a hearing with the Town Manager by **August 21, 2020**, the Town will issue a Violation Order and begin assessing you a civil penalty for said violation. Your civil penalty in this matter would be **\$500.00 per day per violation** and will continue until the violation is remedied. Furthermore, in the event you fail to remedy this violation, the Town also reserves the right to obtain a mandatory injunction seeking enforcement of the LDO and order of abatement requiring you to cease the unlawful use of the Property, if necessary.

If you should have any questions please contact me at (252) 728-2142 or [k.garner@beaufortnc.org](mailto:k.garner@beaufortnc.org).

Your prompt attention to this matter is greatly appreciated.

Sincerely,

  
Kyle Garner  
Planning & Inspections Director

29\\SERVER04\lssdocs\00000078\00111495.000.DOCX

Mayor Everette S. (Rett) Newton  
Commissioner John Hagle • Commissioner Sharon Harker • Commissioner Marianna Hollinshed  
Commissioner Ann Carter • Commissioner Charles McDonald  
Town Manager John Day

## Jill Quattlebaum

---

**From:** John Day <j.day@beaufortnc.org>  
**Sent:** Wednesday, September 23, 2020 5:21 PM  
**To:** Jill Quattlebaum  
**Subject:** FW: Willow Street zoning violation  
**Attachments:** IMG\_0187.mov; IMG\_0185.mov

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
www.beaufortnc.org

**From:** Weymouth Tillett [mailto:weymouth.tillett@icloud.com]  
**Sent:** Monday, August 10, 2020 4:50 PM  
**To:** John Day <j.day@beaufortnc.org>  
**Subject:** Willow Street zoning violation

Hello John,

The comings and goings of Southern Landscapes trucks and equipment continues unabated. Actually, their traffic has increased. Over the past hour or so alone there have been 5 or 6 trips in and out of Willow Street. Trucks, trailers, equipment. All loud and mostly ignoring posted speed limit and stop signs.

Very sorry to keep bugging you about this, but this company's flagrant disregard for the zoning ordinance and for community norms in general is just wrong. I did not expect to see the good ol' boy network prevail in this case. Please, tell me the Town is addressing this violation. Below, find a couple of video clips from this afternoon's activity.

With much respect,

Weymouth

Sent from my iPhone

## Jill Quattlebaum

---

**From:** John Day <j.day@beaufortnc.org>  
**Sent:** Wednesday, September 23, 2020 5:21 PM  
**To:** Jill Quattlebaum  
**Subject:** FW: Zoning Violation — Willow

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
www.beaufortnc.org

**From:** Weymouth Tillett [mailto:weymouth.tillett@icloud.com]  
**Sent:** Monday, September 21, 2020 9:51 AM  
**To:** John Day <j.day@beaufortnc.org>  
**Subject:** Re: Zoning Violation — Willow

Good morning, John

Hope you had a nice weekend.

I know we must be teetering on becoming a real thorn in your side. And, for that, we are very sorry. But, this morning we once again feel the need to communicate the extent of the problem we are confronting in our neighborhood. Yesterday, we put together a small socially-distanced gathering of friends in our side yard. John, there were landscaping trucks with trailers and equipment in tow coming and going — up and down 3rd and in and out of Willow — the entire time. The last drive-by was well after dark around 8:00 PM. All of this on a Sunday evening for! What's more, they were back at it this morning at 6:30 AM. And, of course, it was one of several trucks in that fleet with a modified exhaust system of questionable legality that, as usual, reverberated through our walls and woke us up. So much for peace and wellbeing in a residential neighborhood.

We keep pestering you because we feel you are honestly our only hope in this matter. We know that if there is any possibility whatsoever of just and equitable enforcement of zoning regulations in this Town, it will be as a result of your involvement and as a result of your determination to stand up to a good ol' boy network that has held sway in Beaufort for generations.

Please, sir, stay on this. If these people prevail, it would be so wrong and so disheartening.

With much respect,

Weymouth and Norma

Sent from my iPad

On Sep 9, 2020, at 5:59 PM, John Day <[J.Day@beaufortnc.org](mailto:J.Day@beaufortnc.org)> wrote:

You're welcome, Weymouth. The initial issues Rob raised in the appeal are all BS. It will just take longer now.

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

**From:** Weymouth Tillett [<mailto:weymouth.tillett@icloud.com>]  
**Sent:** Wednesday, September 9, 2020 5:46 PM  
**To:** John Day <[j.day@beaufortnc.org](mailto:j.day@beaufortnc.org)>  
**Subject:** Re: Zoning Violation — Willow

Hi John,

Hope you enjoyed your staycation. Good on you.

Well, this is pretty much where I figured this was headed. For a while there, that crowd was avoiding 3rd Street and making at least some attempt to hold down the noise. I suppose since they're appealing the notice and since they're confident they'll prevail — as the good 'ol boy network always has in this town — they're thinking "screw those people." Anyway, they're most definitely back to tormenting the entire neighborhood as before, and it is simply wrong. Needless to say, we're hopeful the Town will prevail. Why, for heavens sake, would it not?

Please know we very much appreciate your assistance in this matter.

Kind regards,

Weymouth and Norma

Sent from my iPad

On Sep 9, 2020, at 3:20 PM, John Day <[J.Day@beaufortnc.org](mailto:J.Day@beaufortnc.org)> wrote:

Hey Weymouth,  
Sorry for the delay in responding- I've been on staycation.

Looks like this matter is going to drag on for awhile- the company has hired Rob Wheatley to appeal the Notice of Violation.

The hearing hasn't been scheduled yet, but hopefully will be by this time next week.

John

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.Beaufortnc.org](http://www.Beaufortnc.org)

On Aug 31, 2020, at 8:59 AM, Weymouth Tillett  
<[weymouth.tillett@icloud.com](mailto:weymouth.tillett@icloud.com)> wrote:

Good morning, John

Landscaping business operations continue unabated at the end of Willow. Norma took this video at 7:25 this morning. As you can see, four vehicles already on the scene. Employees were all inside (for their morning meeting I presume). There were also two large trailers staged ready to roll (out of view behind the white truck). A short time latter workers departed with the trailers in tow, headed east towards Beau Coast. And this is just the start of a typical day. There will be trucks and trailers coming and going through the day, and it will not let up until dark.

Sent from my iPhone

Begin forwarded message:

**From:** Norma Tillett <[norma.tillett@icloud.com](mailto:norma.tillett@icloud.com)>  
**Date:** August 31, 2020 at 8:04:43 AM EDT  
**To:** Weymouth Tillett  
<[weymouth.tillett@icloud.com](mailto:weymouth.tillett@icloud.com)>  
**Subject:** **Zoning Violation — Willow**

[Download Attachment](#)  
Available until Sep 30, 2020

Click to Download IMG_2499.MOV 0 bytes
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Sent from my iPhone

## Jill Quattlebaum

---

**From:** John Day <j.day@beaufortnc.org>  
**Sent:** Wednesday, September 23, 2020 5:21 PM  
**To:** Jill Quattlebaum  
**Subject:** FW: Zoning Violation — Willow  
**Attachments:** cid6D50C52A-60CD-4DAB-9D50-D7759460B588.pdf; cid202B5C7D-B0FE-4736-AD3A-35CB0A0D50A2.pdf

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
www.beaufortnc.org

**From:** Weymouth Tillett [mailto:weymouth.tillett@icloud.com]  
**Sent:** Thursday, September 10, 2020 10:13 AM  
**To:** John Day <j.day@beaufortnc.org>  
**Subject:** Re: Zoning Violation — Willow

Good morning, John

I was reflecting back on our original zoom meeting, and it occurred to me there was something we talked about in that meeting that is, in my way of thinking, pertinent in this case. Please recall the parcel in question is "vacant" on the tax data card. Very strange??? See below...



Sent from my iPad

On Sep 9, 2020, at 5:59 PM, John Day <J.Day@beaufortnc.org> wrote:

You're welcome, Weymouth. The initial issues Rob raised in the appeal are all BS. It will just take longer now.

John Day  
Beaufort Town Manager  
252-728-2141, office

252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

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John

John Day  
Beaufort Town Manager  
252-728-2141, office  
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Sent from my iPhone

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**Date:** August 31, 2020 at 8:04:43 AM EDT  
**To:** Weymouth Tillett  
<[weymouth.tillett@icloud.com](mailto:weymouth.tillett@icloud.com)>  
**Subject:** Zoning Violation — Willow

[Download Attachment](#)  
[Available until Sep 30, 2020](#)

Click to Download IMG_2499.MOV 0 bytes
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Sent from my iPhone

193,208 MKT BULLOCK, THOMAS M ETUX JANE 2020  
 PID R 7306.19.61.5362000 CARD 001 139,539 PY Val  
 USE 193,208 LAND 001

209 GEORGE ST  
 DEF BLDG 000  
 LISTER 10/16/2007 REF BEAUFORT NC 28516  
 .353 ACRES XFOB 000

TWP BEAUFORT CITY BEAUFORT FIRE RESCUE  
 BEAUFORT RESCUE OTHER

LOT BLK PL BK/PG 31 339 PLAT

ADDRESS 0000119 WILLOW ST BEAUFORT 28516

NBHD 59001600 USE 000800 VACANT DEED 758 918 AICUZ

PRINTED 6/05/2020 BY ALLENW

LEGAL: TRACT 3B BULLOCK PROPERTY

LAND

Seq	Zone	Code	Use	Description	UT	UTPrice	Adj1	Adj2	Adj3	Adj4	Fadj
Front	Depth	Back	FT	#Units	Value						
Dadj	Nbhd	Adj	Eff	Rate							
1		591601		RESIDENTIAL LOT							
.82	155	100	151	60	154.000	1,800.000	1.00	1.00	1.00	1.00	.85
		1.000		1,254.597	193,208						

## Carteret County

### Property Data

Parcel Number: 730619615362000

Inquiry Date: 8/8/2020

DISCLAIMER: For confirmation of the number of buildings on each parcel, please contact the Carteret County Tax Office.

#### Property Info

PARCEL NUMBER: 730619615362000  
OWNER: BULLOCK, THOMAS M ETUX JANE  
PHYSICAL ADDRESS: 119 WILLOW ST  
BEAUFORT  
MAILING ADDRESS: 209 GEORGE ST  
BEAUFORT NC 28516  
LEGAL DESCRIPTION: TRACT 3B BULLOCK PROPERTY  
DEED REF: 758-918  
PLAT REFERENCE: 31-339  
NEIGHBORHOOD: 590016  
SALE DATE:  
SALE PRICE: \$0  
ACREAGE: 0.353  
LAND VALUE: \$193,208  
EXTRA FEATURE VALUE: \$0

#### Building Info

BATHS:  
BEDROOMS:  
CONDITION:  
EXTERIOR WALLS:  
FLOOR FINISH:  
FOUNDATION:  
HEAT:  
ROOF COVER:  
ROOF STRUCTURE:  
SQUARE FOOTAGE:  
YEAR BUILT:  
BUILDING VALUE: \$0  
PARCEL VALUE: \$193,208

#### Sketches

#### Photos

## Jill Quattlebaum

---

**From:** John Day <j.day@beaufortnc.org>  
**Sent:** Wednesday, September 23, 2020 5:21 PM  
**To:** Jill Quattlebaum  
**Subject:** FW: Willow Street zoning violation

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

**From:** Weymouth Tillett [mailto:weymouth.tillett@icloud.com]  
**Sent:** Tuesday, August 11, 2020 3:22 PM  
**To:** John Day <j.day@beaufortnc.org>  
**Subject:** Re: Willow Street zoning violation

Beaufort is so very fortunate to have you, John. Who says we can't have fair and impartial reading and application of laws and regulations around here! You continue to prove we most certainly can. From the bottom of our hearts, thank you!

Weymouth & Norma

Sent from my iPhone

On Aug 11, 2020, at 12:26 PM, John Day <[J.Day@beaufortnc.org](mailto:J.Day@beaufortnc.org)> wrote:

I apologize, Weymouth. The violator was given a couple of weeks to comply, but he failed to do so. A Notice of Violation was supposed to go out on July 15 if the violations continued, but didn't – I checked after your last email. The NOV was finally sent certified mail and the return receipt was received today. The violator has 10 days to comply or face a \$500/day fine.

I am truly sorry that you have to endure the noise and disruption longer than necessary because of our lack of timeliness. I have directed that from now on NOV's are to be issued immediately following confirmation of violations in hopes of avoiding this type of situation from happening again.

John

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

**From:** Weymouth Tillett [mailto:[weymouth.tillett@icloud.com](mailto:weymouth.tillett@icloud.com)]  
**Sent:** Monday, August 10, 2020 4:50 PM  
**To:** John Day <[j.day@beaufortnc.org](mailto:j.day@beaufortnc.org)>  
**Subject:** Willow Street zoning violation

Hello John,

The comings and goings of Southern Landscapes trucks and equipment continues unabated. Actually, their traffic has increased. Over the past hour or so alone there have been 5 or 6 trips in and out of Willow Street. Trucks, trailers, equipment. All loud and mostly ignoring posted speed limit and stop signs.

Very sorry to keep bugging you about this, but this company's flagrant disregard for the zoning ordinance and for community norms in general is just wrong. I did not expect to see the good ol' boy network prevail in this case. Please, tell me the Town is addressing this violation. Below, find a couple of video clips from this afternoon's activity.

With much respect,

Weymouth

Sent from my iPhone

## Jill Quattlebaum

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**To:** Jill Quattlebaum  
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John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
www.beaufortnc.org

**From:** Weymouth Tillett [mailto:weymouth.tillett@icloud.com]  
**Sent:** Monday, August 31, 2020 8:59 AM  
**To:** John Day <j.day@beaufortnc.org>  
**Subject:** Fwd: Zoning Violation — Willow

Good morning, John

Landscaping business operations continue unabated at the end of Willow. Norma took this video at 7:25 this morning. As you can see, four vehicles already on the scene. Employees were all inside (for their morning meeting I presume). There were also two large trailers staged ready to roll (out of view behind the white truck). A short time latter workers departed with the trailers in tow, headed east towards Beau Coast. And this is just the start of a typical day. There will be trucks and trailers coming and going through the day, and it will not let up until dark.

Sent from my iPhone

Begin forwarded message:

**From:** Norma Tillett <[norma.tillett@icloud.com](mailto:norma.tillett@icloud.com)>  
**Date:** August 31, 2020 at 8:04:43 AM EDT  
**To:** Weymouth Tillett <[weymouth.tillett@icloud.com](mailto:weymouth.tillett@icloud.com)>  
**Subject:** Zoning Violation — Willow

[Download Attachment](#)  
Available until Sep 30, 2020

Click to Download

IMG\_2499.MOV  
0 bytes

Sent from my iPhone

## Jill Quattlebaum

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Sent from my iPhone

## Jill Quattlebaum

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Sent from my iPhone

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**Date:** August 31, 2020 at 8:04:43 AM EDT  
**To:** Weymouth Tillett <weymouth.tillett@icloud.com>  
**Subject:** Zoning Violation — Willow

[Download Attachment](#)  
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**To:** Jill Quattlebaum  
**Subject:** FW: Zoning Violation — Willow

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
www.beaufortnc.org

**From:** Weymouth Tillett [mailto:weymouth.tillett@icloud.com]  
**Sent:** Wednesday, September 9, 2020 5:46 PM  
**To:** John Day <j.day@beaufortnc.org>  
**Subject:** Re: Zoning Violation — Willow

Hi John,

Hope you enjoyed your staycation. Good on you.

Well, this is pretty much where I figured this was headed. For a while there, that crowd was avoiding 3rd Street and making at least some attempt to hold down the noise. I suppose since they're appealing the notice and since they're confident they'll prevail — as the good 'ol boy network always has in this town — they're thinking "screw those people." Anyway, they're most definitely back to tormenting the entire neighborhood as before, and it is simply wrong. Needless to say, we're hopeful the Town will prevail. Why, for heavens sake, would it not?

Please know we very much appreciate your assistance in this matter.

Kind regards,

Weymouth and Norma

Sent from my iPad

On Sep 9, 2020, at 3:20 PM, John Day <[J.Day@beaufortnc.org](mailto:J.Day@beaufortnc.org)> wrote:

Hey Weymouth,  
Sorry for the delay in responding- I've been on staycation.

Looks like this matter is going to drag on for awhile- the company has hired Rob Wheatley to appeal the Notice of Violation.

The hearing hasn't been scheduled yet, but hopefully will be by this time next week.

John

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.Beaufortnc.org](http://www.Beaufortnc.org)

On Aug 31, 2020, at 8:59 AM, Weymouth Tillett  
<[weymouth.tillett@icloud.com](mailto:weymouth.tillett@icloud.com)> wrote:

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Sent from my iPhone

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**Subject:** Zoning Violation — Willow

[Download Attachment](#)  
Available until Sep 30, 2020

Click to Download

IMG\_2499.MOV  
0 bytes

Sent from my iPhone

## Jill Quattlebaum

---

**From:** John Day <j.day@beaufortnc.org>  
**Sent:** Wednesday, September 23, 2020 5:16 PM  
**To:** Jill Quattlebaum  
**Subject:** FW: Zoning Violation on Willow

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

**From:** Weymouth Tillett [<mailto:weymouth.tillett@icloud.com>]  
**Sent:** Wednesday, July 22, 2020 9:58 AM  
**To:** John Day <j.day@beaufortnc.org>  
**Subject:** Re: Zoning Violation on Willow

Thank you, sir

Sent from my iPhone

On Jul 22, 2020, at 8:25 AM, John Day <[J.Day@beaufortnc.org](mailto:J.Day@beaufortnc.org)> wrote:

Looking into it

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

**From:** Weymouth Tillett [<mailto:weymouth.tillett@icloud.com>]  
**Sent:** Tuesday, July 21, 2020 1:33 PM  
**To:** John Day <j.day@beaufortnc.org>  
**Subject:** Re: Zoning Violation on Willow

Hi John,

I was hopeful it would not be necessary to bug you again on this, hopeful that the landscaping company would follow through on their commitment to be gone in 2-3 weeks. Unfortunately, nothing much has changed. Trucks with trailers and equipment are still coming and going, and employees are still using the Willow Street location as their base of operations. As a matter of fact, just a short while ago four different vehicles passed by our place (I presume returning from lunch) and headed on down Willow.

Since it has been almost five weeks and the violation still has not been corrected, do you suppose your code enforcement officer could "nudge them" a little. Would love to see this situation settled without having to resort to a formal notice of violation.

Warm regards,

Weymouth

Sent from my iPad

On Jun 20, 2020, at 4:31 PM, John Day <[J.Day@beaufortnc.org](mailto:J.Day@beaufortnc.org)> wrote:

Weymouth,

The landscape company is relocating and indicates they will be gone in 2-3 weeks. In cases where we issue a formal notice of violation (which apparently wasn't necessary in this case) the person has 30 days to correct the violation.

Our code enforcement officer will monitor the situation to ensure there is compliance.

I hope you and Norma are having a good weekend!

John

John Day  
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## Jill Quattlebaum

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John Day  
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252-728-2141, office  
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[www.beaufortnc.org](http://www.beaufortnc.org)

## Jill Quattlebaum

---

**From:** John Day <j.day@beaufortnc.org>  
**Sent:** Wednesday, September 23, 2020 5:15 PM  
**To:** Jill Quattlebaum  
**Subject:** FW: Zoning Violation on Willow

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
[www.beaufortnc.org](http://www.beaufortnc.org)

**From:** Weymouth Tillett [mailto:weymouth.tillett@icloud.com]  
**Sent:** Saturday, June 20, 2020 7:09 PM  
**To:** John Day <j.day@beaufortnc.org>  
**Subject:** Re: Zoning Violation on Willow

This makes a good weekend even better! We are truly grateful, John. — Weymouth

Sent from my iPad

On Jun 20, 2020, at 4:31 PM, John Day <[J.Day@beaufortnc.org](mailto:J.Day@beaufortnc.org)> wrote:

Weymouth,

The landscape company is relocating and indicates they will be gone in 2-3 weeks. In cases where we issue a formal notice of violation (which apparently wasn't necessary in this case) the person has 30 days to correct the violation.

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I hope you and Norma are having a good weekend!

John

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252-728-2141, office  
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[www.beaufortnc.org](http://www.beaufortnc.org)

## Jill Quattlebaum

---

**From:** John Day <j.day@beaufortnc.org>  
**Sent:** Wednesday, September 23, 2020 5:15 PM  
**To:** Jill Quattlebaum  
**Subject:** FW: Highland Park  
**Attachments:** Carteret County.pdf; BULLOCK, THOMAS M ETUX JANE.pdf; Land Development Ordinance for the Town of Beaufort.pdf; Scanned Documents.pdf; 237 PM Mon Jun 8.pdf

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
www.beaufortnc.org

**From:** Weymouth Tillett [mailto:weymouth.tillett@icloud.com]  
**Sent:** Tuesday, June 16, 2020 4:57 PM  
**To:** John Day <j.day@beaufortnc.org>  
**Subject:** Highland Park

Hi john,

So as not to blindside you, I wanted to go ahead and provide you with some of the information I've put together pertaining to our discussion tomorrow.

The narrow Carteret/Ricks connector has long been an unsafe juxtaposition of pedestrian, bike, and speeding cut-through motor traffic. That sidewalks are finally coming in is exciting and very welcome news. But, I am of the belief the speeding and cut-through traffic problems along this stretch will persist without further traffic calming measures.

I also want to focus on a specific problem, something that has just recently cropped up in our neighborhood that is contributing to the traffic problem and impacting the quality of life in our neighborhood. Over the past few months, a landscaping business has ramped up operations out of a parcel zoned R-8 at the end of Willow Street. Loud vehicles (as is the craze), many towing large trailers, come and go all day. Speeding and running stop signs seems to be the rule. My reading of the Land Development Ordinance leads me to believe what's going on there is in no way a Permitted Use.

The other thing I wanted to discuss with you tomorrow is the idea of raised crosswalks where the new sidewalks are coming in on Carteret. If the new crosswalk at Carteret and 2nd and the new crosswalk at Carteret and 3rd were to be raised crosswalks, two long-standing problems along this connector would be to some degree mitigated — speed and cut-through volume (folks will be more likely to stay on Live Oak to avoid the slow-down).

Nuff, for now. I look forward to discussing tomorrow.

Kind regards,

Weymouth

Sent from my iPad





**C) R-8 Residential Medium Density District.**

This residential district is established as a medium density district in which the principle use of the land is for single-family dwelling units. The regulations of this district are intended to provide areas of the community for those persons desiring residences in relatively medium density areas. No buildings, houses, or structures, excepting noncommercial docks or piers as specified in section 2-H of this Ordinance, will be erected on the south side of Front Street in this district. Uses in this district which require potable water or sanitary sewer must be connected to both municipal water and municipal sewer.

1) Minimum Lot Size.

All lots in the R-8 district shall be a minimum of eight thousand square feet (8,000 ft<sup>2</sup>).

2) Minimum Lot Width.

All lots in the R-8 district shall have a minimum lot width of sixty feet (60') at the minimum building line.

3) Building Setback and Building Height Requirements and Limitations.

Subject to the exceptions allowed in this Ordinance, each structure on a lot in this zoning district shall be set back from the boundary lines of the lot at least the distances provided in the tables set forth in this section. The building height limitation in this district is provided in the tables set forth in this section.

**Table 7-9 Interior Lot Requirements**

District	Front Setback (Right-of-Way)	Rear Setback	Side Setback	Building Height Limitation
R-8	25 feet	25 feet	8 feet	35 feet

**Table 7-10 Corner Lot Requirements**

District	Designated Front (Right-of-Way) Setback	Designated Side (Right-of-Way) Setback	Rear Setback	Side Setback	Building Height Limitation
R-8	25 feet	20 feet	25 feet	8 feet	35 feet

**Table 7-11 Double Frontage Lot Requirements**

District	Designated Front (Right-of-Way) Setback	Designated Rear (Right-of-Way) Setback	Side Setback	Building Height Limitation
R-8	25 feet	15 feet	8 feet	35 feet

Where a lot extends across Front Street, the above setbacks shall apply to the portion of the lot north of Front Street. The docks or piers permitted on the south side of Front Street will be subject to an eight feet (8') side setback, or any more restrictive setback required by CAMA, or the regulations promulgated thereunder.

4) Accessory Building Setback Requirements.

All accessory buildings must comply with the setback requirements as set forth in section 2-F of this Ordinance, section 6 of this Ordinance, section 15 of this Ordinance, and all sections of this Ordinance.

5) Permitted Uses.

Antenna Co-Location on Existing Tower	Neighborhood Recreation Center, Indoor/Outdoor, Private
Athletic Field, Public	Neighborhood Recreation Center, Public
Carport	Park, Public
Community Garden	Public Utility Facility
Dock	Resource Conservation Area
Dwelling, Single-Family	Shed
Garage, Private Detached	Swimming Pool (Personal Use)
Government/Non-Profit Owned/Operated Facilities & Services	Temporary Construction Trailer
Group Home	Utility Minor
Home Occupation	Vehicle Charging Station

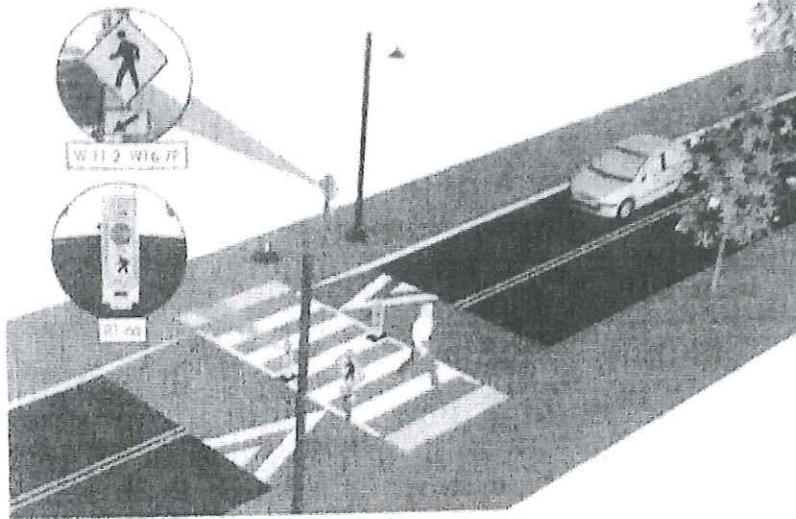
6) Special Uses (*Special Uses* text may be found in section 20 of this Ordinance).

Accessory Dwelling Unit	Marina
Athletic Field, Private	Outdoor Amphitheater, Public
Bed & Breakfast	Preschool
Cemetery/Graveyard	Produce Stand/Farmers' Market
Club, Lodge, or Hall	Public Safety Station
Concealed (Stealth) Antennae & Towers	Religious Institution
Day Care/Child Care Home	Satellite Dish Antenna
Golf Course, Privately-Owned	School, Post-Secondary
Golf Driving Range	Utility Facility

# Raised Crosswalk

SAFE TRANSPORTATION FOR EVERY PEDESTRIAN


COUNTERMEASURE TECH SHEET




Raised crosswalks are ramped speed tables spanning the entire width of the roadway, often placed at midblock crossing locations. The crosswalk is demarcated with paint and/or special paving materials. These crosswalks act as traffic-calming measures that allow the pedestrian to cross at grade with the sidewalk.

In addition to their use on local and collector streets, raised crosswalks can be installed in campus settings, shopping centers, and pick-up/drop-off zones (e.g., airports, schools, transit centers).

Raised crosswalks are flush with the height of the sidewalk. The crosswalk table is typically at least 10 feet wide and designed to allow the front and rear wheels of a passenger vehicle to be on top of the table at the same time. Detectable warnings (truncated domes) and curb ramps are installed at the street edge for pedestrians with impaired vision.

 Local and collector roads with high speeds pose a significant challenge for pedestrians crossing the roadway.

 A raised crosswalk can reduce vehicle speeds and enhance the pedestrian crossing environment.

Raised crosswalks can reduce pedestrian crashes by

**45%**



### FEATURES:

- Elevated crossing makes the pedestrian more prominent in the driver's field of vision, and allows pedestrians to cross at grade with the sidewalk
- Approach ramps may reduce vehicle speeds and improve motorist yielding

### OFTEN USED WITH:

- Crosswalk visibility enhancements



June 2018, Updated | FHWA-SA-18-063

## Jill Quattlebaum

---

**From:** John Day <j.day@beaufortnc.org>  
**Sent:** Wednesday, September 23, 2020 5:15 PM  
**To:** Jill Quattlebaum  
**Subject:** FW: Willow Street (R-8)

John Day  
Beaufort Town Manager  
252-728-2141, office  
252-528-5623, mobile  
www.beaufortnc.org

-----Original Message-----

From: Weymouth Tillett [mailto:weymouth.tillett@icloud.com]  
Sent: Friday, June 19, 2020 4:02 PM  
To: John Day <j.day@beaufortnc.org>  
Subject: Willow Street (R-8)

Hi John,

Very interesting development. The nuisance vehicles, all of them, have been avoiding 3rd Street today like the plague. They are making their way to and from their place of business on Willow Street via either 2nd Street or Lennoxville Road/Carteret Avenue. Obviously someone has tipped them off and advised them to stay the hell away from 3rd Street. Hmm. A little scary. Anyway, thought you would like to know.

Thanks again for taking the time to look into the situation. I know you have a lot on your plate to be dealing with stuff like this. But, please know Norma and I so very much appreciate your good work. Have a great weekend.

Weymouth

Sent from my iPad