



Board of Adjustment Special Meeting Agenda

Town of Swansboro

Thursday, November 30, 2023

I. Call to Order

II. Minutes

- a. April 19, 2023 Special Meeting Minutes

III. Business

- a. **Appeal of Administrative Decision**
Presenter: Andrea Correll, Planner-AICP

William Sherman and Dorothy V. Brooks, owners of 177 Deer Island Road, submitted an application for the appeal of an administrative decision that the recreational vehicle on the property was in violation of the Unified Development Ordinance.

Recommended Action: Section 152.045 Appeals. (F): The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal is taken.

IV. Chairman/Board Thoughts/Staff Comments

V. Adjournment

**Town of Swansboro
Board Of Adjustments
Special Meeting Minutes
April 19, 2023**

Call to Order

The meeting was called to order at 5:34 pm. Board members in attendance Elaine Justice, Ralph Kohlmann, Wayne Mixon, Thomas Pieratti, and Tom Cariker. Two vacancies one Town, and one ETJ.

Election of Chair and Vice Chair

On a motion by Mr. Mixon, seconded by Mr. Pieratti a nomination was made for Ralph Kohlmann as chair. All members were in favor.

On a motion by Mr. Kohlmann, seconded by Mr. Pieratti a nomination was made for Tom Cariker as vice chair. All members were in favor.

Minutes

On a motion by Mr. Kohlmann, seconded by Mr. Cariker, the minutes for the April 15, 2021, Special Meeting were approved unanimously.

Business

Quasi-Judicial Development Decisions

Planner Correll reviewed 160D-406 and Presented Quasi-Judicial Development Decisions training power point attached herein.

In response to inquiries from the board the following was clarified by Planner Correll.

- Currently there are no alternates on the board.
- The Board of Adjustments will be handling all minor special use.

Adjournment

On a motion by Mr. Mixon, seconded by Mr. Pieratti, the meeting adjourned at 6:51 pm



Board of Adjustment Meeting Agenda Item Submittal

Item To Be Considered: **Appeal of Administrative Decision**

Board Meeting Date: **November 30, 2023**

Prepared By: **Andrea Correll, Planner-AICP**

Overview: William Sherman and Dorothy V. Brooks, owners of 177 Deer Island Road, submitted an application for the appeal of an administrative decision that the recreational vehicle on the property was in violation of the Unified Development Ordinance.

The appeal is from a notice of violation and citation that a relative is currently living in the recreational vehicle (“RV”) on the property. The property is in violation of Section 152.180 (G) (1) and (R) note 18 of the Town of Swansboro Unified Development Ordinance. The referenced sections are attached for your review.

Background Attachment(s):

1. Violation Notice including aerial imagery from 2022
2. Section 152.180 (G) (1) and (R) note 18 of the Unified Development Ordinance
3. Section 154.045 Appeals

Recommended Action: Section 152.045 Appeals. (F): The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal is taken.

Action: _____



• Friendly City by the Sea •
Established 1783

www.swansboro-nc.org

NOTICE OF CONTINUING VIOLATION AND CITATION

October 13, 2023

VIA CERTIFIED MAIL, RECEIPT REQUESTED

William Sherman
177 Deer Island Road
Swansboro, NC 28584

Dorothy V. Brooks
177 Deer Island Road
Swansboro, NC 28584

Board of Commissioners

John Davis
Mayor

Frank Tursi
Mayor Pro Tem

Patricia Turner
Commissioner

Harry Pugliese
Commissioner

Larry Philpott
Commissioner

Jeffrey Conaway
Commissioner

**RE: NOTICE OF VIOLATION AND CITATION – TOWN OF SWANSBORO
UNIFIED DEVELOPMENT ORDINANCE – 177 DEER ISLAND ROAD,
SWANSBORO, NC 28584 (PIN 536409263115)**

Dear Mr. William and Ms. Brooks,

This Notice of Violation and Citation is being sent to you regarding the property located at 177 Deer Island Road (Onslow County Tax Parcel ID 536409263115) (the "Property"). We are aware that a relative is currently living in the recreational vehicle ("RV") located on the Property. We understand the RV is connected to the water and sewer utilities serving the residence on the Property and has electrical service by means of an extension cord connected to the residence. The Property is therefore in violation of the following Articles of the Town of Swansboro Unified Development Ordinance ("UDO"):

§ 152.180 NOTES TO THE TABLE OF PERMITTED/SPECIAL USES.

(G) *Note 7. Accessory uses and structures.*

(1) Accessory uses or structures is a use or a structure on the same lot with, but of a nature customarily incidental and subordinate to the principal use or structure and which contributes to the comfort, convenience, or necessity of occupants, business or industry in the principal building or use being served. No tent, mobile home, camper, travel trailer, nor any other temporary, portable, or removable trailer, container, vehicle, or structure of any kind may be considered an accessory use or accessory structure, whether or not the wheels, axles, and/or tongue have or has been removed and whether or not that any container, structure, or vehicle as described herein has been placed on a foundation, except as hereinafter described. Provided, however, that structures such as storage sheds, garden sheds, and similar structures shall be considered accessory buildings, even though they may be capable of being lifted or

Town Manager

Paula W. Webb, MMC-NCCMC
pwebb@ci.swansboro.nc.us

Town Clerk

Alissa A. Fender, CMC
afender@ci.swansboro.nc.us

disassembled and removed from the property. Further provided, that a trailer, tent, or similar container, structure, or vehicle may be placed on property on a temporary basis for promotional or other business or charitable related purposes, but such use shall not continue for more than six months.

(R) *Note 18. Recreational vehicles.* Recreational vehicles occupied for human habitation and intended for permanent residential use must be placed in an approved manufactured home or recreational vehicle park. However, temporary residential use may occur in cases where the recreational vehicle is secondary to a primary residential use, and when construction or repair of a single family home occurs. Two general restrictions for either temporary residential use shall apply, as well as specific restrictions and limitations for each. The general restrictions and limitations are as follows: (1) R6, R6SF, R8SF, R20SF, or O-I zoning is required; (2) Location of the recreational vehicle shall be in the rear yard, unless evidence can be provided to the Administrator that size constraints or other factors prevent rear yard location. The specific restrictions and limitations are as follows: (1) When secondary to a primary residential use, the period of human habitation shall not exceed 14 days, and may not be re-established for a period of 90 days from the last day terminated; (2) When construction or repair of a single family home occurs, the homeowner and his family may occupy a recreational vehicle for a period of 180 days. An extension of 180 days may be granted by the Administrator upon presentation of evidence that construction cannot be completed within 180 days due to factors beyond their control. All recreational vehicles shall maintain an adequate disposal system and a source of potable water. Emptying of wastewater disposal systems shall be done in accordance with Section 4.1 of the Town of Swansboro Sewer Use Ordinance. Recreational vehicles which are not occupied may be stored in accordance with the provisions of this chapter, provided that such storage is not relating to manufactured home/recreational vehicle sales and further provided that such storage is not upon the right-of-way of any public street or public land.

You have thirty days from receipt of this letter to remedy this violation, or you will be assessed a civil fine of \$50.00 for your violation of Note 7, Accessory uses and structures, and a civil fine of \$50.00 for your violation of Note 18, Recreational vehicles. The total amount of fines and civil penalties currently owed is \$100.00. The penalties must be cleared with the Administrator and Town Hall within 48 hours of the issuance of the citation. Court action may be taken if the violation citation is not cleared within 48 hours after the issuance of the citation.

Further, you must immediately bring the Property into compliance with the UDO by disconnecting the RV from the residence's utilities and ceasing use of the RV as a residence.

If you bring the Property into compliance with the UDO **and** pay the fines and penalties within 48 hours after issuance of this citation, the Town will take no further action against you. If the Property is not brought into compliance with the UDO **and** the fines and penalties are not paid within 48 hours after issuance of this citation, you will be assessed additional civil penalties of \$50.00 per violation for each day the violations continue without additional notice.

If the Property has not been brought into compliance **and** all penalties paid with thirty (30) days of the date of this Notice and Citation, the Town will turn this matter over to its attorney and seek assistance from the General Court of Justice, including but not limited to asking the Court for injunctive relief, an order of abatement, a judgment for all monetary amounts that are due and owing to the City, interest at the legal rate, and attorneys' fees allowed by law.

You may answer the citation by mailing the citation and the stated penalty or penalties to 601 W. Corbett Avenue, Swansboro, North Carolina 28584, or you may pay the amount at the Town Hall, corner of W. Corbett Avenue and Church Streets, Swansboro, North Carolina.

You may appeal this decision in writing to the Town of Swansboro Board of Adjustment within thirty (30) days of receipt of this letter pursuant to § 152.045 of the UDO. Please contact this office if you choose to file an appeal with the Board of Adjustment or if you wish to otherwise discuss the matter.

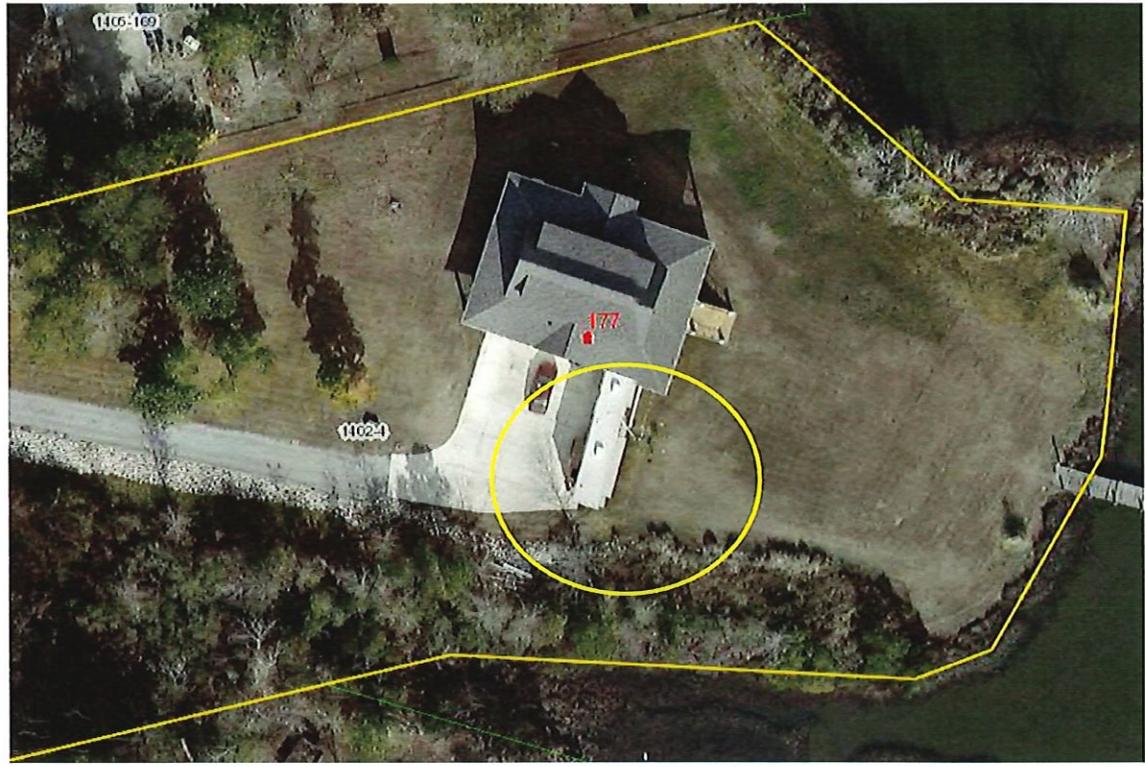
Thank you for your prompt attention to this matter.

Yours truly,

Andrea Correll

Andrea Correll, AICP, Planner

Aerial Imagery 2022



ND:4885-7105-3697, v. 2

DEPOSITED in the United State Mail, Certified Mail, Return Receipt Requested on Oct. 13, 2023.

By: Andrea Correll
(print name of person depositing Notice of Violation and Citation in the mail).

Andrea Correll
(signature of person depositing Notice of Violation and Citation in the mail).

§ 152.180 NOTES TO THE TABLE OF PERMITTED/SPECIAL USES.

(G) Note 7. Accessory uses and structures.

(1) Accessory uses or structures is a use or a structure on the same lot with, but of a nature customarily incidental and subordinate to the principal use or structure and which contributes to the comfort, convenience, or necessity of occupants, business or industry in the principal building or use being served. No tent, mobile home, camper, travel trailer, nor any other temporary, portable, or removable trailer, container, vehicle, or structure of any kind may be considered an accessory use or accessory structure, whether or not the wheels, axles, and/or tongue have or has been removed and whether or not that any container, structure, or vehicle as described herein has been placed on a foundation, except as hereinafter described. Provided, however, that structures such as storage sheds, garden sheds, and similar structures shall be considered accessory buildings, even though they may be capable of being lifted or disassembled and removed from the property. Further provided, that a trailer, tent, or similar container, structure, or vehicle may be placed on property on a temporary basis for promotional or other business or charitable related purposes, but such use shall not continue for more than six months.

(R) Note 18. Recreational vehicles. Recreational vehicles occupied for human habitation and intended for permanent residential use must be placed in an approved manufactured home or recreational vehicle park. However, temporary residential use may occur in cases where the recreational vehicle is secondary to a primary residential use, and when construction or repair of a single family home occurs. Two general restrictions for either temporary residential use shall apply, as well as specific restrictions and limitations for each. The general restrictions and limitations are as follows: (1) R6, R6SF, R8SF, R20SF, or O-I zoning is required; (2) Location of the recreational vehicle shall be in the rear yard, unless evidence can be provided to the Administrator that size constraints or other factors prevent rear yard location. The specific restrictions and limitations are as follows: (1) When secondary to a primary residential use, the period of human habitation shall not exceed 14 days, and may not be re-established for a period of 90 days from the last day terminated; (2) When construction or repair of a single family home occurs, the homeowner and his family may occupy a recreational vehicle for a period of 180 days. An extension of 180 days may be granted by the Administrator upon presentation of evidence that construction cannot be completed within 180 days due to factors beyond their control. All recreational vehicles shall maintain an adequate disposal system and a source of potable water. Emptying of wastewater disposal systems shall be done in accordance with Section 4.1 of the Town of Swansboro Sewer Use Ordinance. Recreational vehicles which are not occupied may be stored in accordance with the provisions of this chapter, provided that such storage is not relating to manufactured home/recreational vehicle sales and further provided that such storage is not upon the right-of-way of any public street or public land.

§ 152.045 APPEALS.

(A) This subchapter does not apply to §§152.400 through 152.462, Flood Damage Prevention.

(B) Appeals from the enforcement and interpretation of this chapter, may be taken to the Board of Adjustment by any person aggrieved. An appeal is taken by filing with the administrator and the Board of Adjustment a written notice of appeal specifying the grounds therefor. A notice of appeal shall be filed with the Town Clerk or Town Deputy Clerk. The notice of appeal must state the grounds for the appeal and the date and time of filing.

(C) An appeal must be taken within 30 days after the interested party or parties receive written notice of an order, requirement, decision, or determination .

(D) Whenever an appeal is filed, the administrator shall forthwith transmit to the Board of Adjustment all the papers constituting the record relating to the action appealed from. A copy of the record shall also be provided to the appellant and to the owner of the property that is subject to the appeal if the appellant is not the owner .

(E) After receipt of notice of appeal, the Chairman of the Board of Adjustment shall fix a reasonable time, not to exceed 60 days, for the hearing of the appeal. All applications must be accompanied by an application fee as set by Town staff to help defray costs in advertising and administration.

(F) An appeal stays all actions by the administrator seeking enforcement of or compliance with the order or decision appealed from, unless the administrator certifies to the Board of Adjustment that (because of facts stated in the certificate) a stay would, in his opinion, cause imminent peril to life or property or because the violation is transitory in nature, a stay would seriously interfere with enforcement of the ordinance. In that case, proceedings shall not be stayed except by a restraining order which may be granted by a court. If enforcement proceedings are not stayed, the appellant may file with the official a request for an expedited hearing of the appeal, and the Board of Adjustment shall meet to hear the appeal within 15 days after such a request is filed. All appeals to the Superior Court and all applications to the Superior Court for a stay shall be made within 30 days of a party's receipt of notice of the decision of the Board of Adjustment . The official who made the decision being appealed shall be present at the hearing as a witness. The Board of Adjustment may reverse or affirm (wholly or partly) or may modify the order, requirement, decision, or determination appealed from and shall make any order, requirement, decision, or determination that in its opinion ought to be made in the case before it. To this end, the board shall have all the powers of the officer from whom the appeal is taken.

(Ord. 2005-O3, passed 3-15-2005; Am. Ord. passed 6-16-2009; Am. Ord. passed 1-21-2014; Am. Ord. 2021-O3, passed 5-24-2021)