

TOWN OF SEVEN DEVILS
BOARD OF ADJUSTMENT MEETING
Tuesday, April 27, 2021 – 5:30pm

<https://global.gotomeeting.com/join/331996005>

United States: +1 (669) 224-3412

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Access Code: 331-996-005

- 1) Call to Order
- 2) Roll Call/Quorum *4 BOA minimum*
- 3) Adopt Agenda
- 4) Old Business
 - A. Approve Minutes – Board of Adjustment – March 23, 2021
 - B. Deliberations of May Appeal
 - (i) Call for Additional Disclosure
 - (ii) Parties with Standing Comments/Email Comments
 - (iii) Discussion
 - (iv) Vote *Simple Majority rules – 3 BOA*
 - C. Decision – Affirm, Reverse or Modify
- 5) New Business
 - A. Variance Application/Presentation – Roxanne Schwebke Saltman, Petitioner
 - (i) Open Evidentiary Hearing *Motion*
 - (ii) Opening Statement – Chair
 - (iii) Witness Oath - Clerk
 - (iv) Disclosures – Chair
 - (v) Presentations of Facts/Evidence – Debbie Powers, Town Manager/Zoning
 - (vi) BOA Discussion
 - (vii) Close Evidentiary Hearing *Motion*
 - B. Board of Adjustment Future Dates
 - (i) Set Public Hearing – Monday, May 24th at 1:00pm *Motion*
 - (ii) Board of Adjustment Meeting – Tuesday, May 25th at 5:30pm
- 6) Adjourn

**Town of Seven Devils
Board of Adjustment Meeting
Tuesday - March 23, 2021
5:30pm**

The Seven Devils Board of Adjustment met on Tuesday, March 23, 2021 and the format of the meeting was dual format via Electronic – Go To Meeting #340086245 and In-Person at Town Hall.

In-Person attendance included Regular members: Bob Bridges, Faye Brock, Jack Byrnes, Bobby Hurlbrink & Frank Sell. A quorum was met. Alternate Bert Valery attended and observed. Alternate John Wells IV was absent.

Town Manager/Zoning Administrator Debbie Powers recused herself from the procedural duties of the BOA meeting. The minutes were recorded by Town Clerk Hillary Gropp.

CALL TO ORDER

Town Clerk Gropp called the meeting to order at 5:30pm.

ROLL CALL

Each member of the Board of Adjustment stated their name and announced their presence for Roll Call.

NOMINATION OF CHAIR

Town Clerk Gropp opened the floor for nominations of Chairperson. Member Hurlbrink nominated Bob Bridges; Member Byrnes seconded the motion. With no other nominations, all members agreed. The gavel and meeting were turned over to Chair Bob Bridges.

NOMINATION OF VICE CHAIR

Chair Bridges asked for nominations of a Vice Chairperson. Member Hurlbrink nominated Jack Byrnes; Member Brock seconded the motion. With no other nominations, all members agreed.

OATH OF OFFICE

Town Clerk Gropp administered the Oath of Office to the Board of Adjustment New/Reappointed/Alternate members: Faye Brock, Jack Byrnes, Frank Sell, Bob Bridges, Barbara Hurlbrink, and Bert Valery.

AMENDA AGENDA

Chair Bridges amended the agenda reversing Items 9) Witness Oath and 10) New Business – Opening Statement, deleting New Business Item C. Deliberation and adding New Business Item – D. Close Evidentiary Hearing. Member Brock made a motion to adopt the amended agenda; Member Sell seconded the motion. All members agreed.

APPROVAL OF MINUTES – Public Hearing/Board of Adjustment – May 28, 2019

Member Byrnes made a motion to approve the minutes; Member Brock seconded the motion. All members agreed.

OLD BUSINESS – None

NEW BUSINESS – Opening Statement

Chair Bridges gave the following opening statement.

"This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this board must make its decision. These rules are different from other types of land use decisions like rezoning cases.

"The board's discretion is limited. The board must base its decision upon competent, relevant, and substantial evidence in the record. A quasi-judicial decision is not a popularity contest. It is a decision constrained by the standards in the ordinance and based on the facts presented. If you will be speaking as a witness, please focus on the facts and standards, not personal preference, or opinion.

"Participation is limited. This meeting is open to the public. Everyone is welcome to watch. Parties with standing have rights to participate fully. Parties may present evidence, call witnesses, and make legal arguments. Parties are limited to the applicant, the local government, and individuals who can show they will suffer special damages. Other individuals may serve as witnesses when called by the board. General witness testimony is limited to facts, not opinions. For certain topics, this board needs to hear opinion testimony from expert witnesses. These topics include projections about impacts on property values and projections about impacts of increased traffic. Individuals providing expert opinion must be qualified as experts and provide the factual evidence upon which they base their expert opinion.

"Witnesses must swear or affirm their testimony. At this time, we will administer the oath for all individuals who intend to provide witness testimony."

WITNESS OATH

Town Clerk Gropp administered the Witness Oath to the following: Norman May, Kay May, and Debbie Powers.

Disclosures

Chair Bridges stated the following: *"The parties to this case are entitled to an impartial board. A board member may not participate in this hearing if she or he has a fixed opinion about the matter, a financial interest in the outcome of the matter, or a close relationship with an affected person. Does any board member have any partiality to disclose and recusal to offer?"*

No board member replied.

Ex Parte Communication

Chair Bridges stated the following: *"The parties to this case have rights for any ex parte communication to be disclosed. Ex parte communication is any communication about the case outside of the hearing. That may include site visits as well as conversations with parties, staff, or the general public. Does any board member have any site visits to disclose?"*

Member Hurlbrink stated she has looked at the property.

Chair Bridges stated the property is located along his walking route, and he has walked by it for several years prior to being on the Board of Adjustment.

Member Brock stated the property is located along her walking route.

Member Byrnes stated he drives by and walks by the property.

Chair Bridges asked the following: *"Does any board member have any conversations or other communications to disclose?"*

No board member replied.

Chair Bridges asked the following: *"Based on the disclosures we've heard from the board concerning partiality and ex parte communications, does any member of the board or any party to this matter have an objection to a board member's participation in this hearing?"*

No board member replied.

NEW BUSINESS

A. Presentation of Case – Zoning Administrator – Debbie Powers

Zoning Administrator Powers introduced herself, and stated she has provided attachments, included in the agenda packet for reference by the Board Members. Powers stated the Town's UDO (Unified Development Ordinance) – Article 10, page 104 provides the details for construction regulation, noting the completion within two (2) years on page 105.

Attachment D - On October 4, 2017, Powers met for the pre-construction meeting with the May's and reviewed all the required permits, including Zoning, Grading, Driveway, Tree, Water Tap Fee & Performance Bond. The Zoning Permit is included, and at the bottom includes a paragraph with verbiage the Zoning Permit will expire after six (6) months if the authorized work has not begun. Additional verbiage includes the Zoning Permit will expire on the last day of the eighteenth (18) month after issuance. This is a 2 year total. The initial verbiage of this paragraph includes, I do hereby certify and requires the owner's signature and date. The Zoning Permit was signed by Norman May on 9/25/17 and by Zoning Officer, Debbie Powers on 10/4/17.

Attachment C – Provides the history of email communication with Debbie Powers and Norman May between the dates of April 2018 to December 2020. The content includes citizen's complaints, and updates from Norman May on the scope of work.

Attachment K- Powers referred to the following from the UDO -Article 18-Section 2 – Complaints Regarding Violations - Whenever the Zoning Administrator receives a written, signed complaint alleging a violation of this Ordinance, he shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

Attached is a complaint email from Jeff Williams, with electronic signature, dated December 30, 2020.

Attachments A, B & E – Powers reviewed the **(B)** Violation Notice #0492, dated 12/30/20, Fine \$250 and **(A)** Certified Mail-Return Receipt Requested Construction Violation letter, dated December 30, 2020 to Norman May. Contents of the letter, as noted by Powers includes a Violation in the amount of \$250 for failure to comply with the Town Ordinance requiring a Certificate of Occupancy within two (2) years: required to complete your project no later than January 31, 2021, or the Town will issue a separate violation fee for each and every day that the project continues, in the amount of \$250 per day.

(E) Violation Notice #0494, dated 2/5/21, Fine \$250 per day starting 2/1/2021. Powers stated the fine to date, 51 days @ \$250 as of today's meeting date is \$12,750, and the fine continues to accrue.

Attachment G – Powers referred to the UDO–Article 10-Section 7 – Enforcement, dictates the steps to follow upon issuing a Construction Violation, and were followed in **Attachments A, B & E**.

Powers emphasized the following verbiage in **Attachment G**: After the offender is in receipt of the final written notice of such violation, each day that any violation continues shall constitute a separate offense for each separate violation for purposes of the penalties and remedies specified in this section.

Attachment H -UDO-Article 17 – Section 2 – Appeals

Powers stated, as a Town Manager/Zoning Administrator, she has taken an oath to protect the interests of the Town and to make the best decisions for the Town and has followed the procedures in UDO to the best of her ability.

Attachment J – This chart lists all the Building Permits issued dating back to 1/2/2009 to 1/27/2021. Since the issuance of the Building Permit to May on 10/4/2017, there have been two (2) separate permits issued on 4/1/2018 and 6/15/2018. Both of the latter constructions have been built with a Certificate of Occupancy issued in January 2020, respectively taking 22 months and 20 months, or within the two year timeframe.

In closing, Zoning Administrator Powers read the following from the *Quasi-Judicial Handbook* (Adam S. Lovelady, 2017, Page 100).

“The board of adjustment may reverse or affirm, wholly or partly, or may modify the decision appealed from and shall make any order, requirement, decision, or determination that ought to be made. The board shall have all the powers of the official who made the decision. The decision must resolve contested facts, be based on competent, material, and substantial evidence in the record, and be provided to the parties as a written decision document.

Chair Bridges asked the Board of Adjustment members the following: *“Are there any preliminary questions for the Zoning Administrator Powers?”*

No board member replied, however Chair Bridges asked two questions:

- 1) *In regard to Attachment C, is this the entire correspondence that has occurred?* Powers replied yes. *Were there any verbal discussions?* Powers replied, very little.
- 2) *Why did she allow the 2 year limit to be passed, as it was quite substantial?* Powers replied she was being lenient and using her discretion in the situation.

B. Violation Appeal – Applicant – Norman May

Norman May, Applicant/Owner introduced himself and thanked the Board of Adjustment considering his request. He acknowledged Zoning Administrator Powers has been lenient & supportive to him.

Attachment L – Application for Appeal to the Town’s Board of Adjustment. May stated that his personal experience of building three (3) previous houses in Wilmington, NC were successful, approximately 7-9 month timeframe, and nothing like the experience he has encounter with challenges here. May states he has a license, but is not a builder by trade, and his primary occupation is in the power utility industry. May stated a big setback has been the weather, especially in the first months/year of the new construction, as it prevented much progress.

In the appeal package, he has included data for rain & snow, as reported by the *Record of Climatological Observations* for Foscoe.

Total rainfall = 18 inches	Total snowfall = 8.5 inches	October – December 2017
Total rainfall = 112.70 inches	Total snowfall = 47.40 inches	January – December 2018
Total rainfall = 25.16 inches	Total snowfall = 5.70 inches	January – April 2019

During 2018, May stated the lot was cleared, and septic installed. His contractor was unreliable, and he relied on a relative to oversee the project, but without a pool of subcontractors to call on, that was a challenge/setback. May hired a new contractor to dig out for the house. Meanwhile, weather conditions created havoc for scheduling and caused additional problems with clean up after heavy rainfall.

In the early months of 2019, once again May was waiting of weather conditions to improve. In April, the footers were dug and poured. Between April – August, the foundation block was laid, as well as the leveling of the crawlspace and framing started, but stopped, due to lack of help.

In March of 2020, May hired another framing crew. In July, the plumbing was roughed-in. In August, the roof, framing and siding are completed. From August – September, the HVAC and electrical rough-in are completed. In October 2020, the framing and rough-in inspections are signed off. In November, the insulation and sealed crawlspace are completed, and on December 10th, the insulation inspection was signed off.

During the year of 2020, the Covid pandemic caused a slowdown in material availability, and often it was 3-4 weeks between subcontractor activity.

On January 1st of 2021, the drywall is started and completed in February. The trim work started in February. May stated he has been driving up to help work manually on the task, but the weekends have had reoccurring snowfall, causing a challenge.

To summarize, May stated he is very near completion, and the issue of a Certificate of Occupancy. The expected completion is by the end of April. He states this process has been very negative, much more than he could have ever expected, and he is more than ready for it to be completed. The accumulating \$250 daily fine is a financial burden. He has paid the \$250 Violation fine on February 1, 2021. He acknowledged he has gone past the two years to build, and Zoning Administrator Powers has been lenient. May asked the Board of Adjustment to consider the circumstances of weather and his challenges for his Appeal.

Chair Bridges asked the Board of Adjustment members the following: *"Are there any questions for Mr. May?"*

Member Hurlbrink asked, *"How much longer will you take?"* May replied, the Certificate of Occupancy should be issued by the end of April, or before.

Member Hurlbrink asked, *"What else has to be done?"* May replied, the cabinets, countertops are to be installed soon, connect the heat/HVAC, and complete the electrical/plumbing.

Member Hurlbrink asked, *"So all the work to be completed is inside?"* May replied, no, the concrete porch and landscape are to be done this week.

Member Hurlbrink asked, *"What about the Porta Potty?"* May replied, as soon as the Certificate of Occupancy is issued, the Porta Potty will be removed. The dumpster has already been removed, and the outdoors are cleaned up, on the side with a neighbor. There is still a small black trailer on the land.

Member Brock asked, *"You stated you have a license, what type of license?"* May replied a Residential Building license.

Chair Bridges asked, *"The weather data he provided are for what years, as the copies have a column cut off, he's uncertain what years?"* May replied, October 2017 to April 2019.

Chair Bridges asked, *"Why did he only supply this date range, and not all?"* May replied, the weather conditions affected him most at the beginning, in the first two years of the construction project, and not a problem afterwards.

Chair Bridges asked, *"You were acting as your own General Contractor?"* May replied yes.

Chair Bridges continued *"As the General Contractor, is it your responsibility to make sure all the sub-contractors are lined up, and everything is coordinated?"* *"And, as his own General Contractor, he had no one he could fire?"* May replied, yes, but he had a family member acting as the project manager.

Chair Bridges stated, *"But in essence, you were an absentee owner acting as the General Contractor, which is a tough way to do it?"* May replied, yes. He was counting on his family member/project manager to be on site more.

C. Board of Adjustment – Discussion

Chair Bridges stated to the Board of Adjustment, now is opportunity for them to discuss, but a decision will not be made today, it will be made at the next Board of Adjustment meeting, with that date to be announced at the end of today's meeting. And per the opening statement, the parties involved have the right to listen to all discussions. Chair Bridges suggested, *"let us continue on with discussion, what are the members thoughts, or additional questions to be asked?"*

Prior to the Board of Adjustment's discussion, Applicant May offered additional detail on the complaint from the neighbor about the silt fence. The sagging silt fence was fixed, but rock run off was never seen.

Chair Bridges encouraged discussion to begin.

Member Byrnes stated he wants to know why the other two (2) construction projects were completed. Those two (2) houses were being built in the same period of time, and the weather conditions would have been the same.

Chair Bridges surmised that perhaps the size of the house, or the complexity of the lot.

Member Hurlbrink stated she thinks one of the houses built is larger.

Discussion occurred that other two (2) houses likely had General Contractors.

Member Brock stated it bothers her that the Applicant's project did not have a General Contractor, as it should have made the process easier with a pool of sub-contractors. If a General Contractor had been hired, they would be on site throughout the project. Chair Bridges agreed, or the General Contractor is fired, but in this case, there isn't one to be fired.

Applicant May stated he was able to obtain some help at times using the Home Advisor website.

Member Sell commented, he is sympathetic to the Applicant, stating it was likely an impossible situation from the beginning, to try and contract out the construction from 300 miles away. Sell's biggest concern is the amount of time this has taken for Zoning Administrator Powers. He would like Applicant May to make a firm commitment to a date of the completion of this project.

Chair Bridges stated that when the Board of Adjustment makes its final decision, it could be conditional upon certain things.

Member Hurlbrink suggested the April 30th, date should be the final deadline, as the Applicant has stated he expects the project to be completed by then. Hurlbrink agrees Zoning Administrator was correct in issuing the violation/fine, however it is a large sum.

Chair Bridges agreed, even though the project has exceeded the deadline by one year, he thinks it's important to be good neighbors.

Chair Bridges encouraged any additional discussion, as once the Evidentiary Hearing is closed, they will be limited to further discussion. A future public hearing will occur and citizens with standing will be able to comment, prior to the Board of Adjustment's final decision.

Member Sell questioned Chair Bridges, "What exactly does he mean by "final decision?"

Chair Bridges stated the Board of Adjustment's options for final decision include:

- Approve the Appeal and the \$250 daily fine is cleared.
- Deny the Appeal and the \$250 daily fine stays effective.
- Condition the Appeal, and the fine is adjusted/cleared if the conditions are met.

Applicant May said he had paid the first \$250.00 fine, but the \$12,750 is large, but offered he could forfeit the \$2500 Performance Bond Fee.

Chair Bridges explained the purpose of the \$2500 Performance Bond, and the Applicant is not expecting to get it back.

Member Brock asked if every new construction pays a Performance Bond, and Bridges replied yes.

Bert Valery, Board of Adjustment, as Alternate, was observing from the audience and requested the opportunity to ask questions. Chair Bridges replied, no he could not.

D. Close Evidentiary Hearing

Member Sell made a motion to close the Evidentiary Hearing; Member Byrnes seconded the motion. All members agreed.

****Clerk's Note – All labeled attachments submitted with the agenda or referenced in this Board of Adjustment proceeding are included at the conclusion of these minutes.***

E. Board of Adjustment – Future Dates

(i) Public Hearing

Member Brock made a motion to set the Public Hearing date on Monday, April 26, 2021 at 1:00pm;
Member Byrnes seconded the motion. All members agreed.

(ii) Board of Adjustment Meeting – Tuesday, April 27, 2021 at 5:30pm

ADJOURN

Member Byrnes made a motion to adjourn; Member Hurlbrink seconded the motion. All members agreed.
The meeting adjourned at 6:26pm.

Bob Bridges, Chairperson

Hillary Gropp, Town Clerk

Article 17—Figure 1—Application for Appeal Page 1

Application for Appeal to the Town of Seven Devils Board of Adjustment

Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
Phone: (828) 963-5343

Description of Property

Location of Property: Lot 25 ALPINE MEADOWS
Size of Property 0.49 County WATAUGA PIN# 1978496788000
Current Zoning District _____
Current General Use of Property RESIDENCE

Applicant Information

Name: NORMAN W. MAY
Title: OWNER
Address: 1336 John's Creek Rd
Wilmington, NC 28409
Phone # (s): 910-512-1035 C
910-799-6238 H
E-mail: NMAYCP1@AOL.Com

Property Owner Information

Name: NORMAN W. MAY Keyes Mitchell-MAY
Title: OWNERS
Address: 1336 John's Creek Rd
Wilmington, NC 28409
Phone # (s): 910-512-1035 C
910-799-6238 H
E-mail: NMAYCP1@AOL.Com
KM DESIGNS 25 @ AOL.Com

In order for this application to be complete, the applicant must submit the following:

- Two (2) copies of this completed form (both pages), typed or filled out in black ink.
- Two (2) copies of the scaled site plan for the property in question.
- Two (2) copies of current zoning map with location of property indicated.
- Two (2) copies of any additional information the applicant intends to present at the public hearing.
- A list of names and addresses of the owners of property within 100 feet of the property in question.
- \$250.00 Personal or Certified Check in the amount determined by the current Fee Schedule for each application for an appeal to cover the necessary administrative costs.

To be placed on the agenda, completed applications, fees, and all accompanying materials must be presented no less than thirty (30) calendar days before the next scheduled meeting of the Board of Adjustment.

Article 17—Figure 1—Application for Appeal Page 2

To the Town of Seven Devils Board of Adjustment:

I, NORMAN MAY hereby appeal to the Board of Adjustment from the following adverse decision by an agent of the Town of Seven Devils.

Who rendered the decision? Debbie Powers

Briefly describe what the decision prevents you from doing?

COMPLETING PROJECT
WITHOUT FINES.

Date of the decision: 12/30/2020

Date you received the decision: JAN. 3 2021

How do you think the ordinance or guidelines should be interpreted?

"THE HARSHNESS IS NOT THE RESULT OF THE APPLICANT'S OWN ACTIONS"

What section(s) of the ordinance or guidelines support your interpretation?

ARTICLE 17 SECTION 3,1,C

Why do you think your interpretation is correct? CONTROL OF WEATHER AND PEOPLES
SCHEDULES ARE IMPOSSIBLE.

Why do you think that the agent of the Town's interpretation is wrong? NOT KNOWING COMPLETE
RAIN, SNOW TOTALS AT BEGINNING OF PROJECT. 2017, 2018

Other comments/information that you would like to have considered: RAIN AND SNOW DATA;
CONTRACTORS SCHEDULES BACKING UP BECAUSE OF WEATHER PRESENTING
THEM TO COMPLETE MY WORK. COVID HAS DELAYED MATERIAL

I certify that the information presented in this application and attachments is accurate to the best of my knowledge, information, and belief.

Norman W. May
Signature of Applicant

2/1/2021
Date

Amount Paid \$250.00 Received by: D. Powers
CK # 2003

Date: 2/3/2021 @ 5:00pm

NORMAN W MAY
KAYE MITCHELL-MAY
1336 JOHNS CREEK RD
WILMINGTON, NC 28409-4801

2003
66-19/530 NC
58548

2/1/2021
Date

Pay To The Order Of TOWN OF SEVEN DEVILS \$ 250.00

Two Hundred Fifty & 00/100

Dollars



BANK OF AMERICA

ACH R/T 063000198

For APPEAL FEE

0531

W. May

CONSTRUCTION TIME LINE

2017

10-4-2017 RECEIVED PERMIT FROM SEVEN DEVILS

11-3-2017 RECEIVED PERMIT FROM WATAUGA COUNTY

REVIEW RAIN AND SNOW DATA,

2018

JANUARY TO APRIL WAITING ON CONTRACTOR TO CLEAR LOT

MAY TO JULY LOT CLEARED AND SEPTIC INSTALLED

**OCTOBER TO NOVEMBER 4—HIRED ANOTHER CONTRACTOR TO
DIG OUT FOR HOUSE**

REVIEW RAIN AND SNOW DATA

2019

JANUARY TO MARCH -WAITING ON WEATHER

APRIL- FOOTERS ARE DUG AND POURED

APRIL TO AUGUST -FOUNDATION BLOCK ARE LAIDED

AUGUST- LEVELING CRAWL SPACE AND FRAMING STARTS

REVIEW RAIN AND SNOW DATA

2020

MARCH- HIRE ANOTHER FRAMING CREW

JULY- PLUMBING ROUGH-IN

AUGUST- ROOF, FRAMING, SIDING ARE COMPLETE

AUGUST TO SEPTEMBER- HVAC AND ELECTRICAL ROUGH-IN

**OCTOBER- FRAMING AND ROUGH-IN INSPECTIONS ARE SIGNED
OFF**

NOVEMBER- INSULATION AND SEALED CRAWL SPACE COMPLETE

DECEMBER 10- INSULATION INSPECTION SIGNED OFF

2021

JANUARY 1- DRYWALL STARTS

FEBRUARY - DRYWALL COMPLETE

FEBRUARY-TRIM WORK STARTS.

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

[illegible]

Value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard imperial units.

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

or blank, calls indicate that a data observation was not reported

1=Grass; 2=Fallow; 3=Bare Ground; 4=Brome grass; 5=Sod; 6=Straw mulch; 7=Grass mulch; 8=Bare mulch; 0=Unknown

***At Obs.* = Temperature at time of observation**

kms in the Precipitation or Snow category above indicate a "trace" value was recorded.

values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

Value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard Imperial units.

Month	Day	Temperature (F)		Precipitation				Evaporation		Soil Temperature (F)							
		24 Hrs. Ending at Observation Time		24 Hour Amounts Ending at Observation Time				24 Hour Wind Movement (mi)	Amount of Evap. (in)	4 In. Depth		8 In. Depth					
		Max.	Min.	At Obs.	Rain, Melted Snow, Etc. (in)	F i a g	Snow, Ice Pellets, Hail (in)			F i a g	At Obs. Time	Ground Cover (see *)	Max.	Min.	Ground Cover (see *)	Max.	Min.
01	01				0.10		2.8										
01	02				T		T										
01	03				0.00		0.0										
01	04				T		T										
01	05				T		T										
01	06				0.00		0.0										
01	07				0.00		0.0										
01	08				0.00		0.0										
01	09				0.07		T										
01	10				0.00		0.0										
01	11				0.47		0.0										
01	12				4.86		0.0										
01	13				1.42		0.1										
01	14				0.02		0.2										
01	15				0.00		0.0										
01	16				0.00		0.0										
01	17				0.12		1.5										
01	18				0.09		2.2										
01	19				0.00		0.0										
01	20				0.00		0.0										
01	21				0.00		0.0										
01	22																
01	23				0.45		0.0										
01	24				0.00		0.0										
01	25				0.00		0.0										
01	26																
01	27				0.00		0.0										
01	28				0.22		0.0										
01	29				0.38		0.0										
01	30				0.16		2.7										
01	31				0.02		1.0										
						8.39		10.5									
						Summary											

or blank, cells indicate that a data observation was not reported.
 and Cover: 1=Grass; 2=Fallow; 3=Bare Ground; 4=Brome grass; 5=Sod; 6=Straw mulch; 7=Grass mulch; 8=Bare mulch; 9=Unknown
 his data value failed one of NCDC's quality control tests. "At Obs." = Temperature at time of observation
 plus in the Precipitation or Snow category above indicate a "trace" value was recorded.
 plus in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.
 value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard Imperial units.

Month	Day	Temperature (°F)		Precipitation				Evaporation		Soil Temperature (°F)			
		24 Hrs. Ending at Observation Time		24 Hour Amounts Ending at Observation Time		At Obs. Time		24 Hour Wind Movement (mi)	Amount of Evap. (in)	4 in. Depth		8 in. Depth	
		Max.	Min.	Rain, Melted Snow, Etc. (in)	F, S, G	Snow, Ice Pellets, Hail (in)	F, S, G			Ground Cover (see *)	Max.	Ground Cover (see *)	Min.
02	01			0.00		0.0							
02	02			0.09		T							
02	03			0.01		0.6							
02	04			0.29		0.3							
02	05			1.32		0.1							
02	06			0.00		0.0							
02	07			0.03		0.0							
02	08			0.83		0.0							
02	09			0.00		0.0							
02	10			0.04		0.0							
02	11			1.30		0.0							
02	12			0.32		0.0							
02	13			0.29		0.0							
02	14			T		0.0							
02	15			0.16		0.0							
02	16			0.05		0.0							
02	17			0.09		T							
02	18			0.16		0.0							
02	19			T		0.0							
02	20			T		0.0							
02	21			0.02		0.0							
02	22			0.09		0.0							
02	23			0.00		0.0							
02	24			T		0.0							
02	25			0.00		0.0							
02	26			0.25		0.0							
02	27			T		0.0							
02	28			0.00		0.0							
Summary				5.14		1.0							

* or blank, cells indicate that a data observation was not reported.
 and Cover: 1=Grass; 2=Fallow; 3=Bare Ground; 4=Brome grass; 5=Sod; 6=Straw mulch; 7=Grass mulch; 8=Bare mulch; 9=Unknown
 and data value failed one of NCDC's quality control tests. "At Obs." = Temperature at time of observation
 uses in the Precipitation or Snow category above indicate a "trace" value was recorded.
 values in the Precipitation Flag or the Snow Flag column indicate a multi-day total, accumulated since last measurement, is being used.
 this inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard Imperial units.

Record of Climatological Observations

These data are quality controlled and may not be identical to the original observations.

Observed Time Temperature: Unknown Observation Time Precipitation: Unknown

Generated on 01/26/2021

Department of Commerce
National Oceanic & Atmospheric Administration
National Environmental Satellite, Data, and Information Service
Location Elev: 3270 ft. Lat: 36.1461° N Lon: -81.7877° W
FOSSCOE 1.2 WSW, NC US US1NCWT0011

Month	Day	Temperature (F)		Precipitation				Evaporation		Soil Temperature (F)			
		24 Hrs. Ending at Observation Time		24 Hour Amounts Ending at Observation Time				24 Hour Wind Movement (mi)	Amount of Evap. (in)	4 in. Depth		8 in. Depth	
		Max.	Min.	At Obs.	Rain, Melted Snow, Etc. (in)	F	Snow, Ice Pellets, Hail (in)	F	Snow, Ice Pellets, Hail, Ice on Ground (in)	Ground Cover (see *)	Max.	Ground Cover (see *)	Min.
03	01				0.61		0.0						
03	02				0.38		T						
03	03				0.00		0.0						
03	04				0.00		0.0						
03	05				0.00		0.0						
03	06				0.09		0.0						
03	07				0.05		0.0						
03	08				0.07		0.5						
03	09				0.01		0.1						
03	10				0.00		0.0						
03	11				T		0.0						
03	12				0.61		0.7						
03	13				0.23								
03	14				0.31		6.5						
03	15				0.02		T						
03	16				0.00		0.0						
03	17				T		0.0						
03	18				0.40		0.0						
03	19				0.00		0.0						
03	20				0.30		0.0						
03	21				0.64		0.1						
03	22												
03	23				0.03				0.0				
03	24				0.02		0.3						
03	25				1.26		4.1						
03	26				0.00		0.0						
03	27				0.00		0.0						
03	28				0.00		0.0						
03	29				0.00		0.0						
03	30				0.18		0.0						
03	31				0.06		0.0						
Summary					5.27		12.3						

or blank, cells indicate that a data observation was not reported.

and Cover: 1=Grass, 2=Fallow, 3=Bare Ground, 4=Brome grass, 5=Sod, 6=Straw mulch, 7=Grass mulch, 8=Bare mulch, 0=Unknown

data value failed one of NCDC's quality control tests. "At Obs." = Temperature at time of observation

values in the Precipitation or Snow category above indicate a "trace" value was recorded.

values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

Value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard Imperial units

Record of Climatological Observations

These data are quality controlled and may not be identical to the original observations.

Generated on 01/28/2021

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

Month	Day	Temperature (F)		Precipitation				Evaporation		Soil Temperature (F)							
		24 Hrs. Ending at Observation Time		24 Hour Amounts Ending at Observation Time			At Obs. Time	24 Hour Wind Movement (mi)	Amount of Evap. (in)	4 in. Depth		8 in. Depth					
		Max.	Min.	At Obs.	Rain, Melted Snow, Etc. (in)	Falling	Snow, Ice Pellets, Hail (in)			Falling	At Obs. Time	Ground Cover (see *)	Max.	Min.	Ground Cover (see *)	Max.	Min.
04	01				0.00		0.0										
04	02				0.00		0.0										
04	03				0.00		0.0										
04	04				0.05		0.0										
04	05				0.00		0.0										
04	06				0.00		0.0										
04	07				0.56		0.0										
04	08				0.08		T										
04	09				0.01		T										
04	10				0.01		T										
04	11				0.00		0.0										
04	12				0.00		0.0										
04	13				0.00		0.0										
04	14				0.00		0.0										
04	15				0.23		0.0										
04	16				4.74		T										
04	17				0.09		0.5										
04	18				0.00		0.0										
04	18				0.00		0.0										
04	20				0.00		0.0										
04	21				0.00		0.0										
04	22				0.00		0.0										
04	23				0.09		0.0										
04	24				4.19		0.0										
04	25				1.59		0.0										
04	26				0.04		0.0										
04	27				0.39		0.0										
04	28				0.00		0.0										
04	29				0.00		0.0										
04	30				0.00		0.0										
Summary					12.07		0.5										

ly or blank, cells indicate that a data observation was not reported.

and Cover: 1=Grass; 2=Fallow; 3=Bare Ground; 4=Brome grass; 5=Sod; 6=Straw mulch; 7=Grass mulch; 8=Bare mulch; 9=Unknown

his data value failed one of NCDC's quality control tests. *At Obs. * = Temperature at time of observation

values in the Precipitation or Snow category above indicate a "trace" value was recorded

values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard Imperial units.

or blank, cells indicate that a data observation was not reported.

and Cover 1=Graass; 2=Fallow; 3=Bare Ground; 4=Bromo grass; 5=Sod; 6=Straw mulch; 7=Graass mulch; 8=Bare mulch; 0=Unknown

At Obs. = Temperature at time of observation

values in the Precipitation or Snow category above indicate a "trace" value was recorded.

days in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement). Is being used.

value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard imperial units.

Y, or blank, calls indicate that a data observation was not reported.
 and Cover: 1=Grass, 2=Fallow, 3=Bare Ground, 4=Brome grass, 5=Sod, 6=Straw mulch, 7=Grass mulch, 8=Bare mulch, 9=Unknown
 its data value failed one of NCDC's quality control tests.
 "At Obs." = Temperature at time of observation
 values in the Precipitation or Snow category above indicate a "trace" value was recorded.
 values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.
 values inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard imperial units.

inches in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

or blank, calls indicate that a data observation was not reported.

1=Grass, 2=Fallow, 3=Bare Ground; 4=Brome grass; 5=Sod; 6=Straw mulch; 7=Grass mulch; 8=Bare mulch; 0=Unknown

^aAI Obs.^a = Temperature at time of observation

Values in the Precipitation or Snow category above indicate a "trace" value was recorded.

values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

^a value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard imperial units.

Observations

These data are quality controlled and may not be identical to the original observations.

Generated on 01/28/2021

or blank, cells indicate that a data observation was not reported.

and Cover: 1=Grass; 2=Fallow; 3=Bare Ground; 4=Brome grass; 5=Sod; 6=Straw mulch; 7=Grass mulch; 8=Bare mulch; 9=Unknown

¹² data values failed one of NCDC's quality control tests.

*At Obs. = Temperature at time of observation

ues in the Precipitation or Snow category above indicate a "trace" value was recorded.

ues in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

thus inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard Imperial units

Department of Commerce
National Oceanic & Atmospheric Administration
National Environmental Satellite, Data, and Information Service
15151 Location: Elev: 3270 ft. Lat: 36.1461° N Long: -81.7877° W
FSCOE 4.2 WSW, NC US US1NCW70011

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

Month	Day	Temperature (F)		Precipitation					Evaporation		Soil Temperature (F)				
		24 Hrs. Ending at Observation Time		24 Hour Amounts Ending at Observation Time			At 03a. Time	24 Hour Wind Movement (in)	Amount of Evap. (in)	4 in. Depth		8 in. Depth			
		Max.	Min.	At Obs.	Rain, Melted Snow, Etc. (in)	Fall, Ice Pellets, etc. (in)	Snow, Ice Pellets, etc. (in)	Fall, Ice Pellets, etc. (in)	Snow, Ice Pellets, etc. (in)	Ground Cover (see *)	Max.	Min.	Ground Cover (see *)	Max.	Min.
09	01				0.50	0.0	0.0	0.0							
09	02				0.56	0.0	0.0	0.0							
09	03				0.47	0.0	0.0	0.0							
09	04				T	0.0	0.0	0.0							
09	05				0.00	0.0	0.0	0.0							
09	06				0.10	0.0	0.0	0.0							
09	07				0.00	0.0	0.0	0.0							
09	08				0.03	0.0	0.0	0.0							
09	09				0.08	0.0	0.0	0.0							
09	10				0.55	0.0	0.0	0.0							
09	11				0.18	0.0	0.0	0.0							
09	12				1.04	0.0	0.0	0.0							
09	13				0.14	0.0	0.0	0.0							
09	14				0.00	0.0	0.0	0.0							
09	15				0.02	0.0	0.0	0.0							
09	16				0.79	0.0	0.0	0.0							
09	17				4.77	0.0	0.0	0.0							
09	18				0.42	0.0	0.0	0.0							
09	19				0.00	0.0	0.0	0.0							
09	20				0.00	0.0	0.0	0.0							
09	21				0.02	0.0	0.0	0.0							
09	22				0.00	0.0	0.0	0.0							
09	23				0.04	0.0	0.0	0.0							
09	24				0.54	0.0	0.0	0.0							
09	25				0.24	0.0	0.0	0.0							
09	26				0.05	0.0	0.0	0.0							
09	27				0.05	0.0	0.0	0.0							
09	28				0.34	0.0	0.0	0.0							
09	29				0.00	0.0	0.0	0.0							
09	30				0.37	0.0	0.0	0.0							
Summary					11.28	0.0	0.0								

or blank, cells indicate that a data observation was not reported.

*At Obs. = Temperature at time of observation
is (data value field) one of NCDC's quality control tests.

"At Obs." = Temperature at time of observation

values in the Precipitation or Snow category above indicate a "trace" value was recorded.

values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

due inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard Imperial units.

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

any or blank, calls indicate that a data observation was not reported.
 Ground Cover: 1=Grass, 2=Fallow, 3=Bare Ground, 4=Brome grass, 5=Sod, 6=Straw mulch, 7=Grass mulch, 8=Bare mulch, 0=Unknown
 The data value failed one of NCDC's quality control tests.
 "AI Obs." = Temperature at time of observation
 Values in the Precipitation or Snow category above indicates a "trace" value was recorded.
 Values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.
 Value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard Imperial units.

Record of Climatological Observations

These data are quality controlled and may not be identical to the original observations.

Generated on 01/26/2021

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

Station Location: Elev: 3270 ft. Lat: 36.1461° N Lon: -81.7877° W
 FOSCOE 1.2 WSW, NC US US1NCWT0011

Month	Day	Temperature (F)		Precipitation				Evaporation		Soil Temperature (F)			
		24 Hrs. Ending at Observation Time		24 Hour Amounts Ending at Observation Time				24 Hour Wind Movement (mi)	Amount of Evap. (in)	4 In. Depth		8 In. Depth	
		Max.	Min.	At Obs.	Rain, Melted Snow, Etc. (in)	F	Snow, Ice Pellets, Hail (in)	F	Snow, Ice Pellets, Hail, Ice on Ground (in)	Ground Cover (see *)	Max.	Ground Cover (see *)	Min.
11	01				0.00		0.0		0.0				
11	02				0.53		0.0		0.0				
11	03				0.42		T		0.0				
11	04				0.00		0.0		0.0				
11	05				0.12		0.0		0.0				
11	06				0.21		0.0		0.0				
11	07				0.05		0.0		0.0				
11	08				0.00		0.0		0.0				
11	09				0.01		0.0		0.0				
11	10				0.17		0.0		0.0				
11	11				0.00		0.0		0.0				
11	12				0.00		0.0		0.0				
11	13				1.33		T		0.0				
11	14				0.02		0.0		0.0				
11	15				1.07		0.4		0.5				
11	16				0.57		T		T				
11	17				0.00		0.0		0.0				
11	18				0.00		0.0		0.0				
11	19				0.00		0.0		0.0				
11	20				0.02		0.0		0.0				
11	21				0.00		0.0		0.0				
11	22				0.00		0.0		0.0				
11	23				0.00		0.0		0.0				
11	24				1.54		0.1		T				
11	25				0.08		0.0		0.0				
11	26				T		0.0		0.0				
11	27				0.01		0.1		0.1				
11	28				0.08		1.4		1.5				
11	29				T		0.3		1.0				
11	30				0.27		0.0		0.0				
Summary					6.50		2.3						

or blank, calls indicate that a data observation was not reported.

Ground Cover: 1=Grass; 2=Bare Ground; 3=Bare Ground; 4=Brome grass; 5=Sod; 6=Straw mulch; 7=Grass mulch; 8=Bare mulch; 9=Unknown

data value failed one of NCDC's quality control tests. "At Obs." = Temperature at time of observation

values in the Precipitation or Snow category above indicate a "trace" value was recorded.

values in the Precipitation Flag or the Snow Flag column indicate a midday total, accumulated since last measurement, is being used.

value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard imperial units.

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

or blank, cells indicate that a data observation was not reported.

Ground Cover 1=Grass; 2=Fallow; 3=Bare Ground; 4=Brome grass; 5=Sod; 6=Straw mulch; 7=Grass mulch; 8=Bare mulch; 0=Unknown

"At Obs." = Temperature at time of observation.

values in the Precipitation or Snow category above indicate a "trace" value was recorded.

values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

also inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard imperial units.

Observation Time Temperature: Unknown Observation Time Precipitation: Unknown

any or blank, calls indicate that a data observation was not reported.

Legend: 1=Grass; 2=Fallow; 3=Bare Ground; 4=Broma grass; 5=Sod; 6=Straw mulch; 7=Grass mulch; 8=Bare mulch; 0=Unknown

***AI Obs.* - Temperature at time of observation**

in the Precipitation or Snow category above indicate a "trace" value was recorded.

values in the Precipitation Flag or the Snow Flag column indicate a multiday total, accumulated since last measurement, is being used.

value inconsistency may be present due to rounding calculations during the conversion process from SI metric units to standard imperial units.

Article 17—Figure 3—Requirements for Public Hearing—Appeal or Variance
Order to Grant/Deny A Variance for Property in the Town of Seven Devils, North Carolina

Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
Phone: (828) 963-5343

The Board of Adjustment for the Town of Seven Devils, having held a public hearing on _____ to consider the Variance application submitted by _____ for the property located at _____, in a matter not permissible under the literal terms of the Unified Development Ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following Findings of Fact and draws the following **Conclusions**:

1. It is the Board of Adjustment's conclusion that there are/are not practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, specifically section(s) _____. This conclusion is based on the following Findings of Fact: _____
2. It is the Board of Adjustment's conclusion that the variance is/is not in harmony with the general purposes and intent of the Unified Development Ordinance, Vision Statement, and the Comprehensive Land Use Plan, and preserves their spirit. This conclusion is based on the following Findings of Fact: _____
3. It is the Board of Adjustment's conclusion that in the granting of the variance, the public safety and welfare has/has not been assured and substantial justice has/has not been done. This conclusion is based on the following Findings of Fact: _____

Therefore, based upon the foregoing, it is ordered that the application for a VARIANCE be GRANTED/DENIED, subject to the following conditions: _____

Ordered this ____ day of _____, 20____

Chairman, Board of Adjustment

Town Clerk

NOTE: An aggrieved party may appeal every decision of the Board of Adjustment to the Watauga or Avery County Superior Court. Such appeal shall be in the nature of certiorari and must be filed within thirty (30) calendar days of the filing of the decision by the Town Clerk or the delivery of the notice required in Article 17, Section 4(d), whichever is later.

Article 17—Figure 2—Application for Variance Page 1

Application for a Variance for Property In the Town of Seven Devils

Town of Seven Devils
1356 Seven Devils Road
Seven Devils, NC 28604
Phone: (828) 963-5343
Fax: (828) 963-7418

To The Town of Seven Devils Board of Adjustment:

Roxann Schwebk Saltman hereby petition the Board of Adjustment for a Variance from the literal provisions of the Seven Devils Unified Development Ordinance because, under the interpretation given to me by the Zoning Administrator, I am prohibited from using the parcel of land in a manner shown by the Scaled Site Plan attached to this application. I request a variance from the following provisions of the Unified Development Ordinance: See attached

I request the variance so that the aforementioned property can be used in a manner indicated by the Scale Site Plan attached to this application or, if the Scaled Site Plan does not adequately reveal the nature of the variance, as more fully described herein (if variance is requested for a limited time only, specify duration of request): See attached

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

A Variance from the regulations of this Ordinance may be granted by the Board of Adjustment if it finds that strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the Variance, and that, by granting the Variance, the intent of this Ordinance, the Vision Statement, and the Comprehensive Land Use Plan will be observed, public safety and welfare secured, and substantial justice done as prescribed by the North Carolina Municipal Zoning Enabling Act, Chapter 160A, Article 19. The burden of proving that these conditions exist is on the applicant.

In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to assist the Board of Adjustment in determining their findings:

Article 17—Figure 2—Application for Variance Page 2

1. **There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance.**

Specifically, in reaching their conclusion under this finding, the Board of Adjustment must determine that all of the following are true:

- a. **Strict compliance with the regulations allows no reasonable return from, or no reasonable use of, the applicant's property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)**

see attached

- b. **The hardship results from the application of the ordinance. (The Board of Adjustment must limit itself to evidence of hardship resulting from the application of the ordinance to the property involved.)** see attached
-
-

- c. **The hardship is suffered by the applicant's property rather than personal circumstances. (The hardship must be one that affects the applicant's property directly. The public's hardship is irrelevant. Also, unique personal or family hardships are irrelevant because a variance, if granted runs with the land not with the current landowner's present circumstances.)** see attached
-
-

- d. **The hardship is not the result of the applicant's own actions. (The applicant may not show hardship that he inflicted on himself or that the applicant could have avoided.)** see attached
-
-

- e. **The hardship is peculiar to the applicant's property. (If the hardship results from the conditions that are neighborhood-wide, relief becomes a matter for the Town Council to amend the ordinance.)** see attached
-
-

Article 17—Figure 2—Application for Variance Page 3

2. **The variance is in harmony with the general purposes and intent of the Unified Development Ordinance, Vision Statement, and the Comprehensive Land Use Plan, and preserves their spirit.**
State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood. see attached

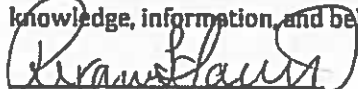
3. **In the granting of the variance, the public safety and welfare has been assured and substantial justice has been done.**
State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.
see attached

In order for this application to be complete, the applicant must submit the following:

- Two (2) copies of this completed form, typed or filled out in black ink.
- Two (2) copies of the scaled site plan for the property in question.
- Two (2) copies of any additional information the applicant intends to present at the public hearing.
- List of names and addresses of affected property owners
- Personal or Certified Check for the application fee as specified in the latest Fee Schedule. Application fee shall be paid to the Town of Seven Devils, NC for each application for a Variance in order to cover the necessary administrative costs.
- Names and addresses of owners of property within 100 feet of the property in question (see Figure 17.3).

To be placed on the agenda, completed applications, fees, and all accompanying materials must be presented no less than thirty (30) calendar days before the next scheduled meeting of the Board of Adjustment.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information, and belief.


Signature of Applicant

3/16/2021
Date

Amount Paid \$ 250⁰⁰ Received by: D Powers Date: 3/24/2021
CK # 8510

**Answers to Article 17- Figure 2 -
Application for a Variance at The Shoppes of Tynecastle, an annexed property into
The Town of Seven Devils**

Paragraph 1, page 169

I request a variance from the following provisions of the Unified Development Ordinance for placement of an Airstream to be located at the Shoppes of Tynecastle to promote my business. New business to be located in the tower building @ The Shoppes of Tynecastle.

Paragraph 2, page 169

I request the variance so that the aforementioned property can be used in a manner indicated by the Scale Site Plan attaches to this application of if the Scaled Site Plan does not adequately reveal the nature of the variance, as more fully described herein (if a variance is requested for a limited time only, specify duration of request). Location of the airstream to be in the vicinity of the parking lot between the State Employment Union Cash Points and the tower building as shown in the highlighted area of the attached copy of an older survey of the property.

Page 170

- A. Ordinance will not allow the placement of the airstream to promote the business during upfitting of the space or for future use of this airstream as a mobile extension of the business to travel to remote functions and locations.
- B. The ordinance does not allow for this airstream to be parked at The Shoppes of Tynecastle even though the difficulties related to why the ordinance was written do not apply in this capacity for the following reasons
1. The Shoppes of Tynecastle is not technically in the "Town Limits" of Seven Devils
 2. The size, width and grade does not pertain to the roads at the Shoppes of Tynecastle parking lot.
 3. It will not be left on a public street, park, square, avenue, alley, or public way in the city, or parked on any vacant lot, or parked in any private yard or driveway.
- C. The ordinance does not allow for this airstream to be used for our proposed use. We feel that the ordinance is applicable for residential RVs and campers, and not for commercial use in a business capacity.
- D. The ordinance as written does not apply in this capacity, asking for a Variance based on commercial use proposed.

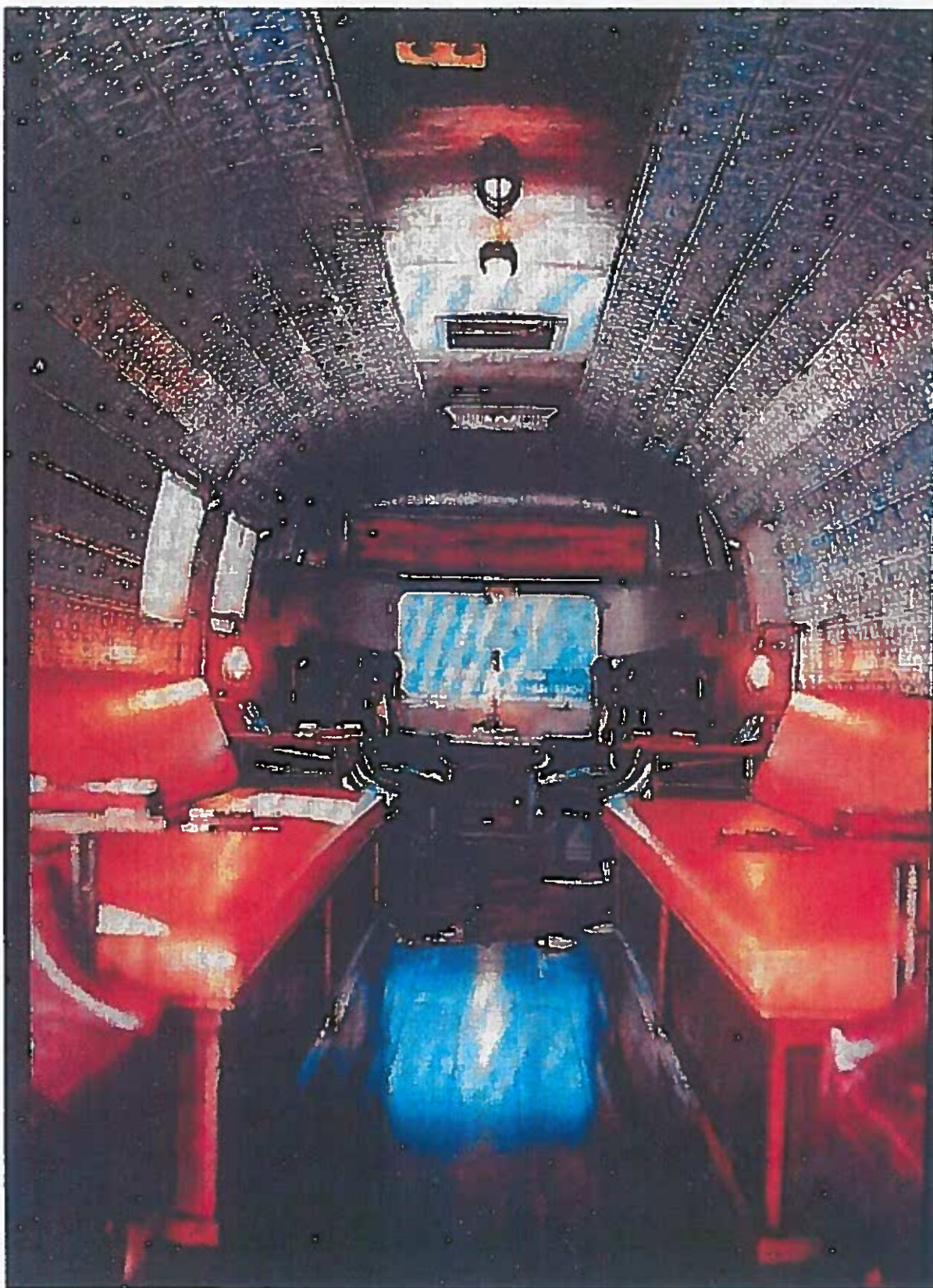
E. The hardship is that this use is unrelated to "neighborhood wide use" as the airstream will be located at The Shoppes of Tynecastle and will be for commercial use only.

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2. Since The Shoppes of Tynecastle is annexed into Seven Devils and not technically in the "town limits" we do not feel that there is no "character of the neighborhood" to detract from.

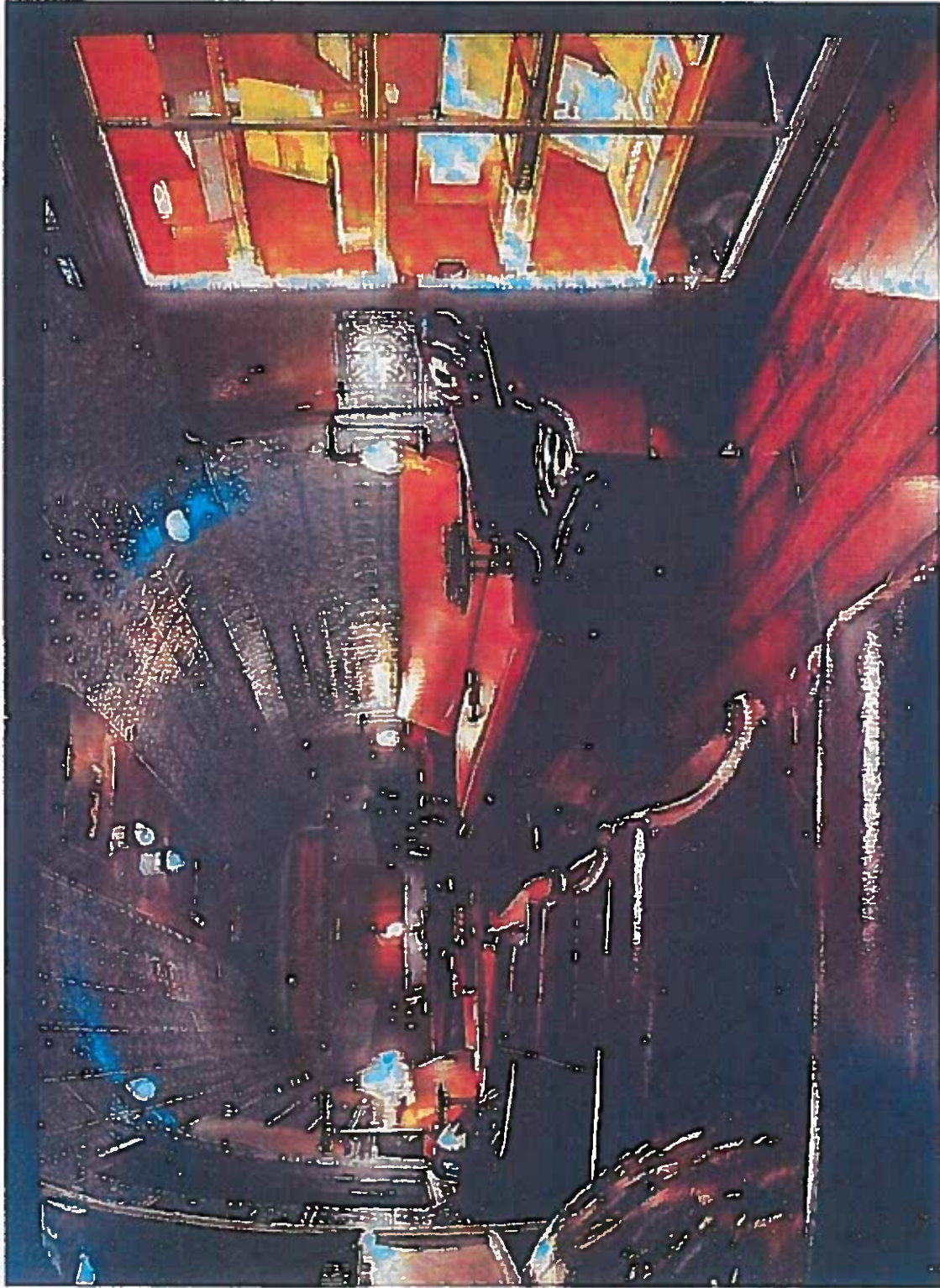
3. As The Shoppes of Tynecastle is a commercial property and this is for business purposes as a new business in the area, we feel any new business is a benefit for residents and visitors alike.

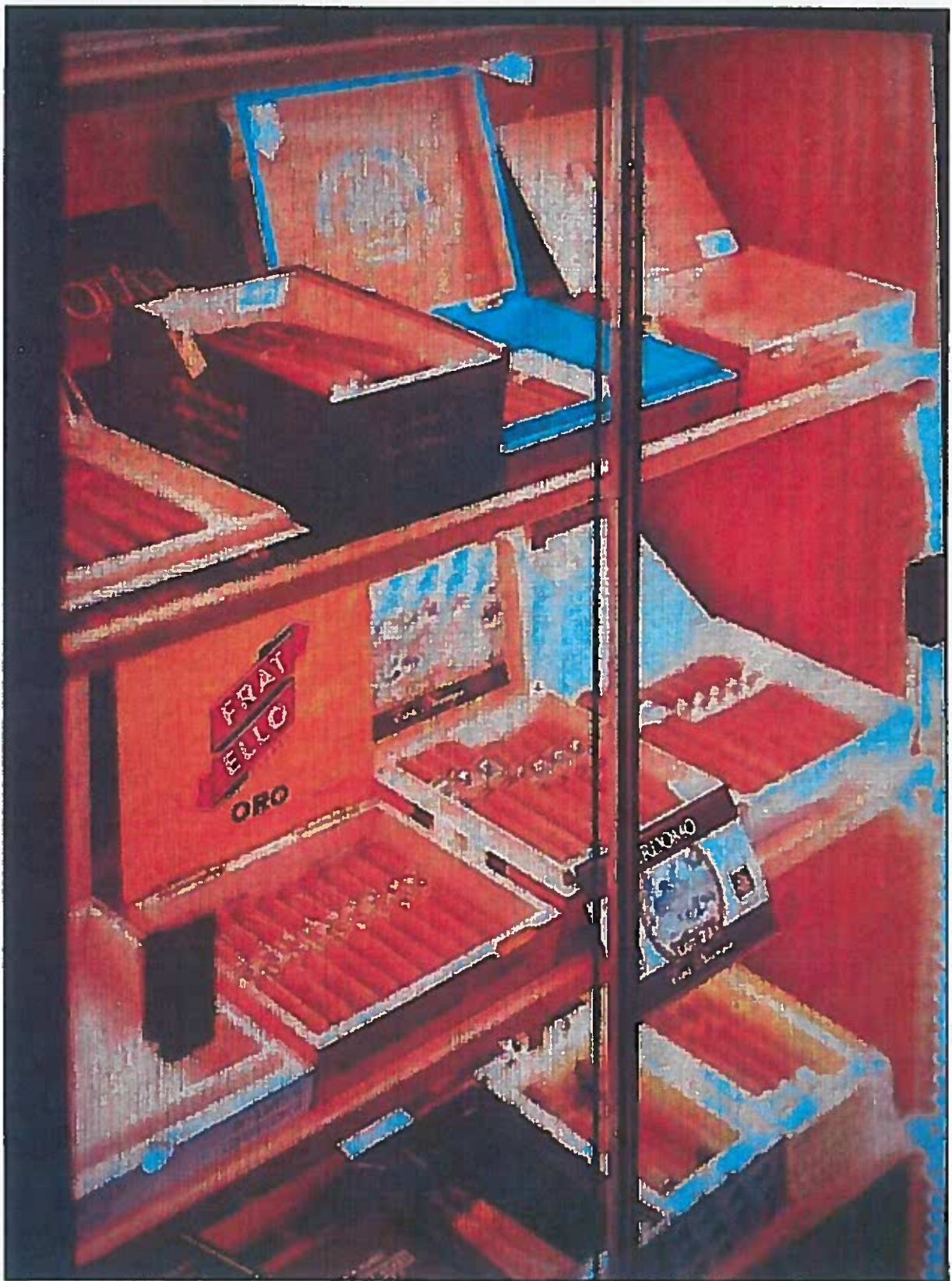




Gmail - (no subject)

<https://mail.google.com/mail/u/0?ik=35028d0a62&view=pt&search=all&permthid=thread...>





Property Owner:

**Judith Schwebke
50 Tynecastle Drive
Banner Elk, NC 28604**

• File an Annual Report/Amend an Annual Report • Upload a PDF Filing • Order a Document Online • Add Entity to My Email Notification List • View Filings • Print a Pre-Populated Annual Report form • Print an Amended a Annual Report form

Limited Liability Company

Legal Name

THE SHOPPES OF TYNECASTLE, L.L.C.

Information

SosId: 0396317

Status: Current-Active ⓘ

Date Formed: 5/16/1996

Citizenship: Domestic

Annual Report Due Date: April 15th

Current Annual Report Status:

Registered Agent: Wotell, Samantha

Addresses

Reg Office

4501 Tynecastle Highway #7
Banner Elk, NC 28604

Reg Mailing

4501 Tynecastle Highway #7
Banner Elk, NC 28604

Mailing

4501 Tynecastle Highway Box #7
Banner Elk, NC 28604

Principal Office

4501 Tynecastle Highway Box #7
Banner Elk, NC 28604

Company Officials

All LLCs are managed by their managers pursuant to N.C.G.S. 57D-3-20.

Manager

Judith Schwebke
50 Tynecastle Drive
Banner Elk NC 28604

Manager

Samantha Wotell
4501 Tynecastle Highway Box #7
Banner Elk NC 28604

Debbie Powers

From: Debbie Powers
Sent: Friday, March 19, 2021 9:13 AM
To: roxanne@skybest.com
Subject: Variance Application - Seven Devils
Attachments: SHOPPES OF TYNECASTLE LLC.pdf

Roxanne – I have reviewed your Variance Application; I will need a letter from one of the Shoppes of Tynecastle LLC Company Officials, either Judith Schwebke or Samantha Wotell, to indicate their knowledge and approval of your request as it applies to their property. You can email that document back to me & I will attach it to your application. Once I receive that letter, I will add your Application to the next Board of Adjustment meeting.

Regards,

Debbie Powers

**Town Manager
Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
828-963-5343
www.sevendevils.net**

***Shoppes of Tynecastle, LLC
4501 Tynecastle Highway, Unit #7
Banner Elk, NC 28604
828-898-6246 Phone
828-898-6256 Fax***

March 22, 2021

***Debbie Powers
Town Manager
Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604***

RE: Tower Building Tenant/Roxanne Saltman

Dear Debbie,

Please use this letter as acknowledgment of the variance request made by Roxanne Saltman with regards to the placement of the mobile Air Stream Cigar Lounge to be placed in the parking lot at The Shoppes of Tynecastle. We are aware of and have agreed to the intended use of this mobile unit to help get their name out to the public and to stir anticipation for the opening of the business sometime in early to mid 2022.

If you have any other questions please do not hesitate to contact me.

Regards,

A handwritten signature in black ink, appearing to read 'Samantha Wotell', with a long horizontal flourish extending to the right.

***Samantha Wotell
Shoppes of Tynecastle, LLC***

Roxanne S Saltman
Mark E Saltman
639 Mabel School Rd
Zionville, NC 28698-9451

8510

66-19 530 NC
58589

3/16/2021

Date

Pay to the
Order of

Town of Seven Devils

\$ 250⁰⁰

Two hundred fifty dollars & 00/100

Dollars



Protect
Your
Investment
Check on line

Bank of America



ACH PUT 000000000

For

Variance

Roxanne Saltman

Findings of Fact:

- The Town of Seven Devils received an Application for Variance from Ms. Roxanne Schwebke Saltman, delivered to Town Hall on March 16, 2021.
- I required Ms. Saltman to deliver a letter from the owner of the Shoppes of Tynecastle, indicating their knowledge and acceptance of her proposed businesses (attached in packet).
- The application was complete and was accompanied by the \$250 fee and all required documentation.
- The property address is Shoppes of Tynecastle LLC at 4501 Tynecastle Highway, Seven Devils, NC 28604. Parcel ID # 1867-00-14-7120. Taxes are current.
- Property is in GB (General Business) on Official Zoning Map of Town of Seven Devils.
- Ms. Saltman verbalized her intent to lease the tower portion of the Shoppes of Tynecastle on the corner for a future distillery, and to place an Airstream RV in the adjacent parking area to accommodate a cigar bar.
- The Town of Seven Devils **Nuisance Ordinance, Article 13 – Recreational Vehicles Prohibited**, was referenced when the inquiry was delivered to the Zoning Administrator. RVs are not allowed in Town limits.
- Discussions with Ms. Saltman included:
 - a. Concerns regarding the RV systems – water intake, grey & black water collection, and disposal of these fluids.
 - b. Process of obtaining ABC permits from the State to operate a distillery; requirements of Town personnel to inspect and sign off on the ABC application (Fire, Zoning, Police) and the building permitting process for the Town of Seven Devils and Watauga County Planning & inspections Department, even though the Shoppes of Tynecastle is physically in Avery County.

Debbie Powers, Town Manager/ Zoning Administrator

NUISANCE ORDINANCE



TOWN OF SEVEN DEVILS NORTH CAROLINA

ADOPTED: NOVEMBER 14, 2006

Amended: 12/14/09, 10/08/12, 7/9/19, 3/10/2020, 2/9/2021

ARTICLE 13 – RECREATIONAL VEHICLES PROHIBITED

13.1 Purpose

Due to the limited size and width and grade of the Town roads, all Recreational Vehicles are prohibited in the Town of Seven Devils town limits.

13.2 Definitions

Recreational vehicle means a motorhome, bus, semi-trailers, travel trailer, truck camper, camping trailer, boat trailer, van camper, van conversion, horse trailers, with or without motive power for recreational, emergency or other human occupancy.

13.3 Parking Prohibited

It is unlawful for a person to park or leave standing any recreational vehicle on any public street, park, square, avenue, alley or public way in the city, or parked on any vacant lot, or parked in any private yard or driveway.

13.4 Exceptions

Commercial work trailers operated by contractors, (i.e., landscapers, tree arborists, handyman, etc.) during normal work hours. Buses or RV's visiting Commercially Zoned (GB Zone) and Recreational Business (RB Zone) businesses during normal business hours.

13.5 Violations

Unless otherwise specified, all violations of this chapter shall be an infraction and such persons shall be subject to citation, towing or both. First violation shall be a \$500 fines, and each subsequent day shall be an additional \$500 fine. Violations may be issued by the Town Manager, Zoning Administrator, Police Chief, Police Officer on Duty, or Public Works Director.