



Rowan County Board of Adjustment

J. Newton Cohen, Sr. Rowan County Administration Building
130 W. Innes Street, Salisbury, NC 28144-4341
J. Newton Cohen, Sr. Meeting Room

MEMORANDUM

TO: Chairman Reid and Board of Adjustment members
FROM: Planning Staff
RE: BoA 2-24 Case Materials
DATE: May 17, 2024

Included are relevant files for Board of Adjustment (BoA) case, **BoA 02-24**, submitted by Mark and Stacy Webb appealing Ordinance Enforcement Officer (OEO) Ryan Mickey's determination that vehicles on their property located in the 400 block of Webb Farm Rd (private right-of-way) and further identified as Rowan County Tax Parcel 458-033 are in violation of Section 21-244 of the Rowan County Zoning Ordinance.

Files provided include:

- **Exhibit 1** – Anonymous complaint received via US Mail in the Planning Department on Feb. 13, 2024
- **Exhibit 2** – Notice of Violation sent to Webbs on Feb. 13, 2024 by OEO Mickey including a selected site photograph taken Feb. 13, 2024
- **Exhibit 3** – Determination sent to Webbs on Feb. 26, 2024 regarding Section 21-244(1)(d) by OEO Mickey including select drone photographs taken May 2, 2024
- **Exhibit 4** – Appeal application submitted on March 13, 2024 by Attorney Graham Carlton on behalf of the Webbs
- **Exhibit 5** - Section 21-244 excerpted from Rowan County Zoning Ordinance

RECEIVED

EXHIBIT 1

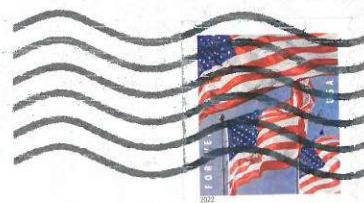
FEB 13 2024

To Whom It May Concern,

There is an unofficial junkyard /salvage yard being operated at a property just beyond 445 Webb Farm Rd. Salisbury, NC 28147. The area is visible from multiple surrounding properties/houses as well as visible from deeded right of way. This is a nuisance and devalues the surrounding properties. It's an eye sore and potentially dangerous for the environment. The area which is being used continues to be expanded. These are direct violations of Code of Ordinances of Rowan County. According to Sec. 21-244 1-a, "Junked motor vehicles shall not be stored or located within thirty feet of any adjoining property line or side street right of way; within eighty feet of a centerline of a public road or private road or fifty feet from edge of the rights of way..." Sec. 21-244 1-b states "...No motor vehicle parts are visible from adjoining properties..." Sec 21-244 1-c further indicates that "The junked motor vehicles shall be entirely concealed during all seasons of the year from public view from a public street and from adjoining properties..." The property owned by Mark Webb is clearly in violation of these ordinances. Concerned property owners would like for something to be done about this situation. Thank you.

CHARLOTTE NC 280

9 FEB 2024 PM 3 L



CODE ENFORCEMENT
ED MUIRE
402 N MAIN STREET
ROOM 204
SALISBURY, NC 28144

RECEIVED
FEB 13 2024

2014-030154

**Rowan County Planning and Development Department**

402 North Main Street • Salisbury, N.C. 28144-4341

Building Inspections: 704-216-8619

Planning: 704-216-8588

Fax: 704-216-7986

Notice Of ViolationFebruary 13th, 2024Certified and 1st Class

Mark & Stacy Webb
6845 Long Branch Rd
Salisbury, NC 28147

Re: (Tax Map 458 033)

Dear Sir/Madam

On February 13th, 2024, this office conducted an inspection of the subject property located at Tax Map 458 033. The findings of today's inspection are enclosed within.

The following provisions of the Rowan County Zoning Ordinance have been violated:

Article X. Nuisances**Section 21-244. Junked Motor Vehicles.****a. General Requirements.**

1. The junked motor vehicles shall not be stored or located within thirty (30) feet of adjoining property lines; within eighty (80) feet of a centerline of a public road or fifty (50) feet from a private road right-of-way.
2. The junked motor vehicles and motor vehicle parts are not a health or safety nuisance.
3. The junked motor vehicles shall be entirely concealed during all seasons of the year from public view from a public street and from adjoining properties. The vehicles may be concealed by an automobile cover or tarpaulin, with the covering adequately secured to prevent removal by wind. The automobile cover or tarpaulin must remain in good repair and not be allowed to deteriorate.

- 4. The junked motor vehicles shall not be in the front yard of the primary building lot.**
- 5. Only five (5) junked motor vehicles shall be permitted outside any enclosed building.**

In order to achieve compliance with the ordinance, you are hereby instructed to remove the junked vehicles and motor vehicle parts or otherwise move the vehicles/parts to comply with the ordinance. This violation must be corrected, or significant progress must be achieved within seven (7) days. Failure to achieve compliance will result in other enforcement measures as prescribed in the ordinance and there is no appeal to the Zoning Board of Adjustment.

The ordinance allows a maximum of five (5) junked motor vehicles and five (5) classic vehicles to the rear yard provided they are screened from adjacent properties with a six (6) foot high opaque fence. Additionally, the Zoning Board of Adjustment is empowered to rule on the interpretation of the zoning ordinance and to grant variances when a difficulty or hardship exists. Appeals will not be heard by the Board unless application is properly filed in the Rowan County Planning Department Office within thirty (30) days of the date on this Notice of Violation. Once the deadline has passed, your right of appeal is forfeited.

If you have any questions or need clarification in this matter, call me at (704) 680-7296.

Ryan Mickey
Ordinance Enforcement Officer





Rowan County Department of Planning & Development
402 North Main Street – Suite 204 – Salisbury, NC 28144
Phone: (704) 216-8588
www.rowancountync.gov/planning

February 26th, 2024

Delivery via First Class Mail

Mark & Stacy Webb
6845 Long Branch Rd
Salisbury, NC 28147

Re: Determination – Parcel ID 458 033

Dear Sir/Madam

On February 21st, 2024, this office received communication from Attorney Carlton requesting clarification regarding a Warning Citation issued at Rowan County Parcel ID 458 033.

The last inspection of the property conducted on February 13th, 2024, noted approximately thirty-five (35) vehicles that appear to be in violation of the Junked Motor Vehicle standards contained in Section 21-244 of the Rowan County Zoning Ordinance (excerpted below). Based on Attorney Carlton's request this office has determined that in order to achieve compliance, the vehicles must abide by the following requirements:

(1) General requirements.

- a. The junked motor vehicles shall not be stored or located within thirty (30) feet of any adjoining property line or side street right-of-way; within eighty (80) feet of a centerline of a public road or private road or fifty (50) feet from the edge of the rights-of-way existing on February 16, 1998, whichever is greater.
- b. The junked motor vehicles are not a health or safety nuisance as defined in section 21-4. No motor vehicle parts are visible from adjoining properties, nor shall the area constitute a health or safety nuisance as defined in section 21-4.
- c. The junked motor vehicles shall be entirely concealed during all seasons of the year from public view from a public street and from adjoining properties. The vehicles may be concealed by an automobile cover or tarpaulin, with the covering adequately secured to prevent removal by wind. The automobile cover or tarpaulin must remain in good repair and not be allowed to deteriorate.

d. The junked motor vehicles shall not be in the front yard of the primary building of the lot. **[Staff interpretation deemed this standard was not applicable based on Attorney Carlton's inquiry given there is no primary building on the property]**

e. Only five (5) junked motor vehicles shall be permitted outside any enclosed building unless otherwise specified by this chapter.

(2) *Exceptions for junked motor vehicles.*

- a. In addition to the five (5) junked motor vehicles allowed outside any enclosed building in subsection (1)e, five (5) additional classic motor vehicles which meet the definition of a junked motor vehicle, shall be allowed in the RA district. Storage of these vehicles shall meet all other requirements of this chapter.
- b. The repair of no more than one (1) motor vehicle per household for personal use is exempt from the location, screening, concealment and setback requirements of this chapter. The vehicle shall not constitute a health or safety nuisance as defined in section 21-4.

As noted previously, this decision may be appealed to the Rowan County Board of Adjustment in accordance with section 21-331 of the Zoning Ordinance by filing written notice and \$200 application fee within thirty (30) days receipt of the Warning Citation, i.e. Notice of Violation. Applications for filing an appeal may be found at the following link: <https://www.rowancountync.gov/DocumentCenter/View/3291/Appeal-PDF>. Otherwise, enforcement will proceed as outlined in Section 21-14 of the Rowan County Zoning Ordinance.

Please feel free to contact this office with any questions or concerns you may have regarding this matter.

Ryan T. Mickey, CZO
Ordinance Enforcement Officer
(704) 680-7296

cc via email: Graham M. Carlton
Jay Dees, Rowan County Attorney
Ed Muire, Planning Director









Rowan County Department of
Planning & Development
402 N. Main Street Ste 204
Salisbury, NC 28144
Phone (704) 216-8588
Fax (704) 638-3130
www.rowancountync.gov

Case # ZBA
Date Filed 3/13/24
Received By DE
Amount Paid 000⁰⁰
Office Use Only

APPEAL APPLICATION

APPLICANT INFORMATION:

Name: Mark Webb
Signature: _____
Phone: _____ Email: _____
Address: 6845 Long Branch Rd, Salisbury, NC 28147

AGENT INFORMATION:

Name: Graham M. Carlton
Signature: Graham M. Carlton
Phone: 704-633-7383 Email: carltonlaw@att.net
Address: 109 W Council St, Salisbury, NC 28144

Date filed within thirty (30) days of the Notice of Violation to cease alleged illegal activity?

Yes No N/A

TO THE ROWAN COUNTY ZONING BOARD OF ADJUSTMENT:

I Mark Webb, hereby appeal to the Zoning Board of Adjustment to reverse the decision of the Administrator as stated in:
Notice of Violation dated February 13, 2024

(Attach copies of Notice of Violation, or state decision being appealed)

**STATE WHAT FACTS OR EVIDENCE YOU ARE PREPARED TO PROVE TO THE
ZONING BOARD OF ADJUSTMENT THAT SHOULD LEAD THE BOARD TO
CONCLUDE THAT THE DECISION OF THE ADMINISTRATOR IS ERRONEOUS:**

See attachment.

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

I certify that all the information presented by
knowledge, information and belief.

03/12/2024
Date

OFFICIAL USE ONLY

1. Signature of Coordinator: _____ 2. Notifications Mailed: ____ / ____ / ____
3. Property Posted ____ / ____ / ____ 4. ZBA Meeting: ____ / ____ / ____ 5. Action: Approved ____
Denied ____ 6. Applicant Notified: ____ / ____ / ____ 7. CMO Notified: ____ / ____ / ____

GRAHAM M. CARLTON
ATTORNEY AT LAW
109 WEST COUNCIL STREET
SALISBURY, NORTH CAROLINA 28144

TELEPHONE (704) 633-7383

EMAIL: CARLTONLAW@ATT.NET

FAX (704) 633-7386

March 13, 2024

Rowan County Department of Planning & Development
402 N Main St, STE 204
Salisbury, NC 28144

Re: Appeal Application for Notice of Violation
Date of Notice: February 13, 2024
Ordinance Enforcement Officer: Ryan T. Mickey
Rowan County Parcel ID No. 458 033

Dear Sir or Madam:

I have been asked by Mark and Stacey Webb to assist them in this matter. In addition, I have been in contact with Ryan T. Mickey, the Ordinance Enforcement Officer who issued the Notice.

Enclosed is Mr. and Mrs. Webb's Appeal Application, along with a check in the amount of \$200.00 representing the application fee.

In response to the Notice of Violation, I would like to lay out the following errors, facts and evidence to prove that the decisions of the administrator were erroneous. These are also included in an attachment on the Appeal Application:

1. The current enforcement policy of the planning department in which nuisance complaints are investigated from just a single anonymous individual could result in unequal enforcement of your ordinances.
2. There are many examples around the county of indiscriminate enforcement of the nuisance ordinance, specifically for junked motor vehicles.
3. In the Notice of Violation, ordinance enforcement officer Ryan Mickey simply sets out the "Junked Motor Vehicles" Section 21-244 under Article X. Nuisances, and states those provisions and requirements have been violated. That statement is overbroad and not true.

The enforcement officer's conclusions are erroneous as set out below:

1. "*The junked motor vehicles shall not be stored or located within thirty (30) feet of adjoining property lines; within eighty (80) feet of a centerline of a public road or fifty (50) feet from a private road right-of-way.*"

No junked vehicles are being stored or located within thirty (30) feet of adjoining property lines, eighty (80) feet of a centerline of a public road, nor fifty (50) feet from a private road right-of-way.

2. *"The junked motor vehicles and motor vehicle parts are not a health or safety nuisance."*

No junked motor vehicle or motor vehicle parts located on the property are a health or safety nuisance.

3. *"The junked motor vehicles shall be entirely concealed during all seasons of the year from public view from a public street and from adjoining properties. The vehicles may be concealed by an automobile cover or tarpaulin, with the covering adequately secured to prevent removal by wind. The automobile cover or tarpaulin must remain in good repair and not be allowed to deteriorate."*

All junked motor vehicles on the property are sufficiently concealed from public view.

4. *"The junked motor vehicles shall not be in the front yard of the primary building lot."*

There are no front yard or primary building lot designations that apply to this property in its current use.

5. *"Only five (5) junked motor vehicles shall be permitted outside any enclosed building."*

This alleged violation is ambiguous, confusing, inapplicable, and erroneous in that there is no enclosed building on the property.

If you have any questions or concerns, please have a representative contact me. Significant progress has been and will be made by the land owners to comply with any specific upheld violations the enforcement officer alleged in the Notice of Violations. The land owners may be willing to apply for a Special Use Permit if such an action is required, in addition to any requests to comply made by the Board of Adjustment.

Mr. and Mrs. Webb look forward to working with the Board of Adjustment and your department to comply with any zoning ordinances that apply in this situation. Thank you.

Very truly yours,

Graham M. Carlton
GMC/jn/Encl.

Appeal Application Attachment

Rowan County Parcel ID No. 458 033

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Sec. 21-244. Junked motor vehicles.

Unless otherwise provided, junked motor vehicles in the RA, RR, and RS districts on private property not associated with a business, shall conform to the following requirements as of the effective date of this chapter.

(1) General requirements.

- a. The junked motor vehicles shall not be stored or located within thirty (30) feet of any adjoining property line or side street right-of-way; within eighty (80) feet of a centerline of a public road or private road of fifty (50) feet from the edge of the rights-of-way existing on February 16, 1998, whichever is greater.
- b. The junked motor vehicles are not a health or safety nuisance as defined in section 21-4. No motor vehicle parts are visible from adjoining properties, nor shall the area constitute a health or safety nuisance as defined in section 21-4.
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- d. The junked motor vehicles shall not be in the front yard of the primary building of the lot.
- e. Only five (5) junked motor vehicles shall be permitted outside any enclosed building unless otherwise specified by this chapter.

(2) Exceptions for junked motor vehicles.

- a. In addition to the five (5) junked motor vehicles allowed outside any enclosed building in subsection (1)e, five (5) additional classic motor vehicles which meet the definition of a junked motor vehicle, shall be allowed in the RA district. Storage of these vehicles shall meet all other requirements of this chapter.
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