


TOWN OF CARRBORO
NORTH CAROLINA
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MEMORANDUM

TO: Land Quality Section
Division of Land Resources, NCDENR
1612 Mail Service Center
Raleigh, North Carolina 27699-1612

FROM: The Town of Carrboro, Roy M. Williford – Planning Director 

RE: Application for Mining Permit by Tony Merritt, 3200 Damascus Church Rd.,
Chapel Hill, North Carolina 27516

DATE: July 6, 2008

The Town of Carrboro has received a Notice of an Application for a Mining permit from Tony Merritt (the "Applicant") dated June 10, 2008 pursuant to N.C. Gen. Stat. 74-50(b1) of the Mining Act of 1971. The Applicant's property is located in the extraterritorial jurisdiction of the Town of Carrboro. As such, the property is subject to the Town's Zoning Ordinance and Town Code. The Town submits this Memorandum to the Land Quality Section to inform it that the Applicant's property remains in violation of certain provisions of the Town's Zoning Ordinance and Code, and these violations have not been corrected to date. The following summarizes these matters.

FACTUAL BACKGROUND

On May 6, 1998, the Applicant sought a zoning permit for a "mobile office" in connection with his mining operation. (See Attachment 1). On May 15, 1998, the Town issued a zoning permit for the "mobile office" on the property. The permit was issued to Merritt's Gravel, Inc. at 934 Damascus Church Road. (See Attachment 2).

On June 9, 2002, zoning approval was granted in connection with a commercial building permit for electrical work for the mobile office. No inspections approval was obtained in connection with the commercial building permit. (See Attachment 3).

On February 27, 2001, the Town wrote the Applicant to notify him that a stop work order was placed on the property on February 26, 2001 because a manufactured home (not a mobile office) had been placed on the property and an addition was being constructed to the home. The letter stated that the manufactured home and its addition required a zoning permit, an Orange County permit for well and septic, and a building permit. The letter stated that construction could resume once these permits were obtained. There was no compliance with the stop work order. (See Attachments 4 through 7D).

On September 7, 2001, the Orange County Health Department received an application for an inspection for a septic system to serve the manufactured home. When field staff from the

Orange County Health Department went to make the inspection on October 11, 2001, the Applicant demanded that the field staff leave the property. (See Attachment 8). Accordingly, on October 18, 2001, the Orange County Health Department issued a notice that no authorization could be issued for the septic system in light of the fact that the Applicant had not permitted the field staff to make an inspection of the septic system. The notice further provided that the application for the septic system would be considered void as of December 18, 2001 if the Applicant did not permit the Orange County Health Department's field staff to conduct an inspection. To date, no owner, agent, or occupant of the property has made it available to the Orange County Health Department's staff to inspect the septic system. (See Attachments 9A-9C).

ZONING VIOLATIONS

The Applicant's manufactured home is a Class A mobile home located in a W-R (watershed-Residential District) within the jurisdiction of the Town. A Class A mobile home in a W-R District requires a zoning permit. (See Attachment 10).

Section 15-46(a) of the Carrboro Zoning Ordinance provides that a building cannot be constructed without a zoning permit issued by the Zoning Administrator. (See Attachment 11). Section 15-47 of the ordinance provides that the issuance of a zoning permit is subject to obtaining a building permit, and no building may be occupied until all requirements imposed pursuant to the issuance of the zoning permit have been complied with. (See Attachment 12).

Section 15-238 of the Zoning Ordinance requires that every principal use be served by a sewage disposal system that complies with all applicable health regulations. That section also prohibits septic systems in a W-R zoning district that have not been approved by the Orange County Health Department. Section 15-239 of the Ordinance provides that the Orange County Health Department must certify to the Town that the proposed septic system complies with all applicable State and local health regulations. (See Attachments 13 and 14).

Section 15-112 of the Zoning Ordinance makes any occupant of any building or land or part thereof, or other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of the ordinance responsible for any violations of the ordinance. Section 15-114(a) of the Ordinance provides that any violation of the ordinance, including any violation of a stop work order, constitutes a misdemeanor, punishable as provided in N.C. Gen. Stat. 14-4. Stop work orders are authorized by Section 15-117 of the zoning ordinance. (See Attachment 15).

Based on the foregoing, the Applicant is in violation of Sections 15-46(a), 15-238, and 15-239 of the Carrboro Zoning ordinance in that he caused a Class A mobile home to be constructed on the property without having first obtained a zoning permit and without having obtained a certification from the Orange County Health Department that the sewage disposal system serving the mobile home complies with all applicable State and local health regulations. In addition, the Applicant has violated the stop work order that was issued on February 26, 2001. These matters have not been corrected to date.

CARRBORO TOWN CODE VIOLATIONS

The Minimum Housing Standards Ordinance under the Carrboro Town Code provides at Section 3 that every dwelling meet the requirements of, inter alia, Section 5 of the Ordinance. Section 5(a)(1) of the Minimum Housing Standards Ordinance provides that each dwelling unit shall be connected to an approved sewage disposal system. Section 12 of that Ordinance vests with the Building Inspector the power to enforce the minimum housing standards. Section 22 of the Ordinance provides that any violation of the ordinance constitutes a misdemeanor as provided by N.C. Gen. Stat. 14-4. (See Attachment 16).

Here, the failure to obtain proper approval for the sewage disposal system for the Class A mobile home constitutes a violation of the Town's Minimum Housing Standards Ordinance.

STATE LAW VIOLATIONS

N.C. Gen. Stat. 160A-417(a) provides that no person shall construct any building or any structure without first securing from the Inspection Department of the local jurisdiction all permits required by the State Building Code and any other State or local laws applicable to the work. N.C. Gen. Stat. 160A-421 provides that whenever any building or structure is constructed in substantial violation of any State or local building law, the appropriate inspector may order that the activity be immediately stopped. A violation of N.C. Gen. Stat. 160A-417(a) or N.C. Gen. Stat. 160A-421 is a Class I misdemeanor. (See Attachment 17).

N.C. Gen. Stat. 160A-423 provides that at the conclusion of all work done under a permit, the appropriate inspector shall make a final inspection, and if he finds that the completed work complies with all applicable State and local laws and with the terms of the permit, he shall issue a certificate of compliance. That statute further provides that no new building or part thereof may be occupied, and no addition or enlargement of an existing building may be occupied, until the inspection department has issued a certificate of compliance. A violation of this statute is a Class I misdemeanor. (See Attachment 17).

Sections 30.1, 306.3, 306.4, 3102.1, and 3401.1 of the State Building Code relate to requirements for authorized sewage disposal systems. Section 801 under Chapter 8 of the State Building Code makes a violation of the Code a Class 3 misdemeanor. (See Attachment 18).

In the case at hand, the failure to obtain a proper zoning permit and proper septic system authorization implicate violations of N.C. Gen. Stat. 160A-417(a) and N.C. Gen. Stat. 160A-423. In addition, the failure to comply with the stop work order implicates a violation under N.C. Gen. Stat. 160A-421(d). (See Attachment 18).

Should you have any questions about this Memorandum, please do not hesitate to contact me at the address or telephone number given above.