



Town of Hilton Head Island  
**Construction Board of Adjustments  
& Appeals Meeting**  
Tuesday, May 24, 2022 – 5:00 p.m.  
**AGENDA**

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The Construction Board of Adjustments & Appeals meeting will be held in-person at Town Hall in the Benjamin M. Racusin Council Chambers.

1. **Call to Order**
2. **FOIA Compliance** – Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.
3. **Roll Call**
4. **Approval of Agenda**
5. **Approval of Minutes**
  - a. October 26, 2021 Meeting
6. **Appearance by Citizens on Items Unrelated to Today’s Agenda**
7. **Unfinished Business – None**
8. **New Business**
  - a. **APL-000618-2022** – An appeal of the Building Official’s determination of the floodplain regulations as they pertain to 12 Park Road.
9. **Staff Report**
10. **Adjournment**

Please note that a quorum of Town Council may result if four (4) or more of their members attend this meeting.



Town of Hilton Head Island  
**Construction Board of Adjustments & Appeals  
Meeting**

Tuesday, October 26, 2021, at 5:00 pm Virtual Meeting

## **MEETING MINUTES**

**Present from the Committee:** Chairman Jay Owen, Vice Chairman Neil Gordon, Will Okey, Ling Graves, Frank Guidobono, Randy May, Joe Nix, Douglas Pine, Mark Ellis

**Absent from the Committee:** Robert Zinn (excused), Michael Lynes (excused)

**Present from Town Staff:** Chris Yates, Interim Community Development Director; Teri Lewis, Deputy Community Development Director; Teresa Haley, Senior Administrative Assistant; Vicki Pfannenschmidt, Temporary Administrative Assistant

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### **1. Call to Order**

Chairman Owen called the meeting to order at 5:00 p.m.

### **2. FOIA Compliance**

Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

### **3. Roll Call – See as noted above.**

### **4. Approval of Agenda**

Vice Chairman Gordon moved to approve the agenda as presented. Mr. Pine seconded. By way of roll call, the motion passed by a vote of 9-0-0.

### **5. Approval of Minutes – Special Meeting of March 30, 2021**

Mr. Nix moved for approval. Mr. Pine seconded. By way of roll call, the minutes of the special meeting of March 30, 2021, were approved by a vote of 9-0-0.

### **6. Appearance by Citizens**

Public comments concerning agenda items were to be submitted electronically via the Open Town Hall portal. The comments were provided to the Board for review and made part of the official record. Citizens were also provided the option to give public comment during the meeting by phone. There were no requests to give public comment by phone.

### **7. Unfinished Business – None**

### **8. New Business**

#### **a. Review and Adoption of 2022 Meeting Schedule**

Vice Chairman Gordon moved to approve. Mr. Okey seconded. By way of roll call, the motion passed by a vote of 9-0-0.

## 9. Staff Report

Chairman Owen reported that on June 15, 2021, Town Council approved appointments and reappointments to Boards and Commissions. The following Construction Board of Adjustments and Appeals members were reappointed for a term ending June 30, 2025: Neil Gordon as an Architect member; Ling Graves as a General Contractor member; and Frank Guidobono as a Building Industry Alternate member. Chairman Owen stated they each accepted the nomination.

Chris Yates reported he reached out to the newly reappointed members and scheduled individual swearing in ceremonies. On August 19, 2021, he administered the Oath of Office to each member. He thanked them for accepting re-appointment to the Board and for adjusting their schedules to complete the swearing in.

Mr. Yates also thanked all Board members for serving on the Construction Board of Adjustments and Appeals. He stated their service to the Town of Hilton Head Island is very much appreciated.

## 10. Adjournment

The meeting adjourned at 5:07 p.m.

**Submitted by:** Vicki Pfannenschmidt, Secretary

**Approved:**



Town of Hilton Head Island  
Community Development Department  
One Town Center Court  
Hilton Head Island, SC 29928  
Phone: 843-341-4757 Fax: 843-842-8908  
[www.hiltonheadislandsc.gov](http://www.hiltonheadislandsc.gov)

## FOR OFFICIAL USE ONLY

Date Received: \_\_\_\_\_  
Accepted by: \_\_\_\_\_  
App. #: APL \_\_\_\_\_  
Meeting Date: \_\_\_\_\_

Applicant/Agent Name: Eric & Tracy Sherrier Company: \_\_\_\_\_  
Mailing Address: 57 Sunset Avenue City: Glen Ellyn State: IL Zip: 60137  
Telephone: 773-677-6920 Fax: n/a E-mail: ericsherrier@gmail.com

Owner Name: Eric & Tracy Sherrier Company: \_\_\_\_\_  
Mailing Address: 57 Sunset Avenue City: Glen Ellyn State: IL Zip: 60137  
Telephone: 773-627-8777 Fax: n/a E-mail: tracysherrier@gmail.com

Street Address of Property in Question: 12 Park Rd., Hilton Head Island, SC Permit #: \_\_\_\_\_

### APPEAL (APL) SUBMITTAL REQUIREMENTS

**If you are interested in submitting your appeal electronically please call 843-341-4757 for more information.**

The following items must be attached in order for this application to be complete:

- A A detailed narrative stating the Town Official or Body who made the decision, the date of the decision being appealed, the decision being appealed, the basis for the right to appeal, the grounds of the appeal, cite any Code Section numbers relied upon; **and** a statement of the specific decision requested of the review body.
- A Any other documentation used to support the facts surrounding the decision.
- x Filing Fee - \$75.00 cash or check made payable to the Town of Hilton Head Island.

To the best of my knowledge, the information on this application and all additional documentation is true, factual, and complete. I hereby agree to abide by all conditions of any approvals granted by the Town of Hilton Head Island. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale.

Applicant/Agent Signature: Eric Sherrier Date: 3/6/2022

A. Date and additional details TBD. We are appealing the Town decision that we can longer use the back structure as residential, despite that being the manner it was used and acknowledged prior to our purchase in July 2020.

# **Sherrier Case**

Re: Notice of Violation received on January  
7, 2022, regarding their property at  
12 Park Rd  
Hilton Head Island, SC 29928

## **Introduction**

On January 7, 2022, the Town of Hilton Head served on us a Notice of Violation regarding the rear structure on our property at 12 Park Rd, Hilton Head Island. The notice states that the rear structure is in violation of LMO flood ordinance *Sec. 15-9-312(a)* (Exhibit A).

We are asking that the Board of Construction Management dismiss, revoke, or nullify the Notice of Violation for several reasons. We have been advised by legal counsel that *Sec. 15-9-312(a)*, is inapplicable to the rear structure on our property, given the intent and scope of the ordinance and due to the status of legal nonconformity. The discussion of the legal issues in this presentation have been extracted from Council's Conciliation Report which was provided to Town official some time ago noting the following:

First, as will be discussed in detail herein, *Sec. 15-9-312(a)* applies to "Residential" property, and that under South Carolina law (and as confirmed in emails between Hilton Head Town officials) the rear structure on our property is not a "residential unit"

Secondly, the rear structure has legal nonconformity status. This status, which excludes the property from the ordinance is based on two facts: The rear structure is clearly ancillary to the main house which was constructed prior to 1977, and is therefore, not subject to the ordinance: The foundation or "footprint" of the rear structure predated the flood ordinance and the structure itself had always been used as an "office/recreational/sleeping unit".

## **Background**

There are two building structures on our property at 12 Park Road (see Exhibit B, Key Engineering Inc. "Lot Grading Plan" submitted by the Sherriers for approval, permit, and construction of a pool, and Beaufort County Records).

The front building, which is the residential structure, has complete permanent living facilities which include, bedrooms, bathrooms, a fully equipped kitchen with a stove for food preparation and space for eating, recreation, and storage. It is the main house on the premises. The rear building is an ancillary

sleeping/recreational unit. It is equipped with beds and toilet facilities. Specifically, it does not have a stove or range for cooking. The rear building is entirely dependent on the main house facility for access to the rear unit and for cooking and privacy. One can only access the rear building through the main house and all cooking must be done in the main house. Both buildings are rented as a single unit to a single party. Both Buildings have been taxed as a single unit.

The rear building has been used continuously as an office, recreation space, guest house and rental dwelling for several decades (see attached statement of prior owner Mark Piper, and statements of neighbors (Exhibit C)), as well as emails to town officials.

Mark Piper took ownership of the property with its two buildings in 1985 and owned it up to our purchase of it in 2020. The rear structure was existing at that time. It is noted that he had rented the rear structure and it was equipped with electricity and running water. He also used the rear structure as a home office and recreation room. It will be shown that the “legal” definition of the rear structure as it pertains to Sec. 15-9-312(a), is that it was used for decades as a “dwelling,” and not as a “residential.” This distinction is critical to this presentation.

As seen, even absent status of prior legal nonconformity as to the rear structure, the rear structure is not subject to, or governed by the 15-9-312 (a) ordinance since it is clearly an accessory to the front residential house. To make it clear, the front structure is the main residential house; the rear structure is no more than an additional sleeping, office and/or recreational unit.

The Notice of violation does not concern the front residential structure. It will be important to note that the front and rear structures were erected before the enactment of 15-9-312 (a) ordinance, and like many other residences in the Town of Hilton Head, both were grandfathered as legally nonconforming with respect to the 15-9-312 (a) ordinance. This legal nonconformity of both the front and rear structures was recognized by the Town, however the legal nonconformity status of the rear structure has now been revoked. It will be shown that even if the ordinance were applicable, which it is not, there is no evidence or verified factual information which would permit the legal nonconformity of the rear structure on the Sherrier property to be revoked.

Over the past two years we have improved and re-modeled the property, particularly regarding the land and related land improvements. Only, cosmetic changes were made to the rear structure. A pool was also installed. Neighbors have offered testimony that before the we purchased the property it was an “eyesore,” and that their improvements have enhanced the appearance of the property and the neighborhood, thereby increasing neighborhood property values” (as noted in Exhibit C).

### **Our family**

We have three small children Sienna 9 years old, Colton 7 years of age and Avalon 5 years of age. We are both employed as professionals; as a Partner in the fifth largest international tax, audit, and consulting firm, RSM, and as a Senior Project Manager at the international law firm, Sidley Austin, LLP. It will be hopefully appreciated that our family values conform, in all respects with the Hilton Head Island Comprehensive Plan.

We believe our family’s use of 12 Park Rd. epitomizes the “residential-resort” balance Ideals for “Excellence” as outline in the “Comprehensive Plan.” We are centered around family, and in 2020 purchased 12 Park Rd. with the primary objectives of creating a family retreat where we could enjoy, spend time connecting with their children and extended family for decades to come. And with the hope of someday retiring to the property. We spent a significant portion of our time at the home between July 2020 and February 2021 working/schooling remotely. It was during this time that we were working on improving the appearance of the property. We intend to continue to use the home for our family for decades to come. We did not purchase and make improvements for investment purposes but rather to have an environment our family could retreat to for fun and relaxation; and while not our permanent residents, our goal is to strike the balance to have the full advantages of both.

In addition, consistent with the Comprehensive Plan, The Sherrier Family embodies the deep desire to be great, not merely good, as evidenced by their professional successes while prioritizing raising their children and staying centered on excellence for their family life. Their pursuit of excellence is visibly evident in their commitment to restoring the property at 12 Park Rd. The Sherrier



investment in 12 Park Rd. fits the ideals of the Comprehensive Plan's "Best-in-Class Services and Facilities" as the property now provides top notch facilities with year-round appeal. The rejuvenation of the original structures and property have offered beautification to Park Rd., and the home exudes the original character of the island which is appealing to both permanent residents and tourists alike. Consistent with the Comprehensive Plan's ideals for the people, the ranch style property is appealing to a diverse range of people, as it offers accessible accommodations ideal for young, old and everything in between. The property offers the idyllic set up for generations traveling together, or those that wish to stay for an extensive time and live/work remotely.

Furthermore, the Workforce Housing Strategic Plan suggests the Island should strive to add housing. While there was no physical net gain of housing, we added improvements to achieve best-in-class property, so that on the occasions we rent the property it will attract high quality visitors, who will hopefully bring a significant injection of capital to the Forest Beach area and Hilton Head Island as a whole. Our commitment to excellence, and preservation of the original character and footprint of the home came with a significant labor of love from our entire family, elderly parents included.

As a part of the improvements we installed an engineered drainage plan to protect the property and an ongoing significant expense to insure the property in the event of flooding. We have been advised that given the fact that our property is at the lowest grade in the neighborhood, our property could not and would not contribute to flooding damage to any other property in our vicinity. Furthermore, the only FEMA claim on our property was during Hurricane Matthew (Exhibit D).

### **The controversy**

Over the Past year we have not been fully able to understand the ever continuing effort to find fault with our property. We have however discovered in reviewing the thousands of pages produced pursuant to our FOIA requests that there has been an endless campaign on the part of our neighbors to somehow have the Town sanction us. This interaction between our neighbors and certain Town official has been relentless. Indeed, our neighbors have gone as far as to

criticize the Town officials when several emails were sent to a neighbor that we were not in violation.

By way of example Diane Busch wrote to the neighbor on April 7, 2021:

“.....we are not FEMA, and we have no authority to enforce Federal guidelines or regulations. The town is authorized to enforce our ordinances an LMO, and I have shared our position with you several timers. Thank you so much for your understanding **that this issue has been thoroughly researched and considered.** *(emphasis added)* If you wish to pursue further, we have an Island full of reputable and experienced real estate lawyers **who might offer a different perspective** *(emphasis added)*....”

Teri Lewis also advised the neighbor of the fact that there was no violation. see detailed discussion below and numerous emails, as well as his email to the neighbor dated 5/7/21: “I understand that you disagree with the Town’s response....”

And the neighbors response (May 16, 2021, email) was that the Towns position was “*unacceptable*”

Wendy Conant to Diane Bush 3/29/21 “I am happy to call her and advise no violations. But she will probably go to the Town Council.”

“This woman is continuing to complain about 12 Park Road....There are no code violations at this time, but I imagine this is not going away.”

In an email from C. Yates to Colin/Lewis 2/15/22 regarding the neighbors continued complaints Mr. Yates states: “This is borderline harassment in my opinion.”

We need to add that this interaction with the neighbor has been a frightening experience. We were recently threatened with bodily harm. And throughout the time we have discovered that the neighbor has been filming our children in the pool. When we brought this to the attention of the Sharrif he indicated that “they have been a constant problem and they no longer log their complaints” he advised that we secure a restraining order.

In an email from Mira Scott to Tamara Becker/ David Ames/ Tom Lennox and Mark Orlando on 8/31/21, Ms. Scott reports: “.....has resorted to social media

to share her/our issues with this property. There have been so many calls to the sheriff's department on 12 Park Road that they no longer right reports. They now add it to an event file on the property. The Sheriff's Department told her only recourse is to pay for a civil suit. What's wrong with this picture."

It is significant to note that over all the years the neighbor has lived next door to this property there has never been a flood issue complaint, nor have they ever raised, even up to today any flood concern or the possibility of a flood ordinance violation. Indeed, the history is such that there has never been a flooding damage to anyone property which was caused or contributed by the consequence of the rear structure. Indeed, the rear structure is at the lowest point in the immediate area.

### **Why has a Notice of violation been issued?**

This is what has been most puzzling. All of the emails as between the Town officials and the Town attorneys, without exception have stated either directly or by implication, that the rear unit is not in violation of the code. Yet a Notice of violation was issued after more than a year of thoroughly researching the matter (see Diane Bush email to the neighbor cited above).

We see that in April 2021, the were communications between Town officials concerning an issue regarding "accessory structures being rented as bedrooms." This is a matter we have little knowledge of. Our rental arrangements are for a single tenant who rents both the main house and the rear structure. It appears that there have been many such rentals over the years.

### **In May 2021, a Town official wrote concerning our property:**

*"I look at 12 Park Road as an opportunity to send an unambiguous message: The Town is serious about preventing overbuilding and is strictly enforcing the letter of the law. Determinations should not become precedents. If there is any infraction of the law in this case, I urge staff to force compliance even if it means demolition, replacing of buffers, removal of plumbing, HVAC, appliances, etc. This kind or repurposing is bad for the environment, infrastructure, Island, and especially, the neighborhood. I have specific questions: did the owner violate the 50% rule? Did the owner violate any provision that wasn't then pardoned by the staff?"*

The facts will show that the 50% rule was investigated and it was found that there were no improvements which would constitute a 50% alteration. Indeed, the unit continued to be used as it was in the past with only cosmetic improvement to the rear structure. Secondly, the Town official repeatedly advised that the removal of the stove eliminated a violation. (See Exhibits E and F relative to certain correspondence from both the Town and FBOA in such regards).

Finally, as to the “letter of the law” we are in full agreement. Applying the letter of the law is required and in doing so in this case it is clear that the ordinance does not apply to the rear structure.

Why has the Town sought to “make us an example?” We did not create a condition on the premises which did not already exist for decades. We have done nothing other than expend a great deal of time and money in improving the property to create a comfortable and attractive living environment. More to the point, there was no change in the use of the rear structure, notwithstanding the fact that any change would be irrelevant since the rear structure is not, and did not become “residential property”

Frankly, as for being an example, all we have heard from our neighbors is that they are grateful we removed an “eyesore” from the neighborhood and greatly increased everyone’s property values.

## **LEGAL DISCUSSION**

### **The inapplicability of Section 15-9-312 to the rear structure**

The Notice of Violation of Sec. 15-9-312 (a), concerning the rear structure reads as follows:

***“Residential construction”*** *New construction and substantial improvement of any residential structure (including manufactured homes) must be constructed so the lowest floor, is elevated no lower than three (3) feet above the base flood elevation or thirteen (13) feet above mean sea level using NAVD88, whichever is higher.”*

It is noted that the Notice of Violation refers to the International Building Code of 2018, as authoritative. The Code includes and incorporates the International Residential Code Chapter 2 which, most significantly, provides the definition of term residential:

*“a single unit providing complete, independent living facilities for one or more persons, including permanent provision for living, sleeping, eating, cooking, and sanitation.”*

As can be seen the Code does not apply to structures which do not include “cooking” facilities. The rear structure on the Sherrier property does not contain “cooking” facilities, therefore while it is not of consequence, the reference to the Code is misplaced and is not inapplicable to matters relevant to the alleged violation.

The application of LMO section 15-9-312 (a), the Sherriers rear structure is dependent are the criteria that the rear structure “residential,” since the code applies to residential property not, as will be seen, other types of dwellings. If the rear structure is not residential, the ordinance is inapplicable to other structures, notwithstanding their use.

Under South Carolina law the statutory use of the term “residential” or “residence,” is well established. A “residential property” is a type of dwelling but is distinguishable. The key criteria distinguishing the statutory terms residential and dwelling, as found in South Carolina statutes and case law, and as defined in the International Building Code is whether the property is constructed as a structure for *“independent permanent habitation.”* More specifically, the structure must contain all the facilities for complete independent living, including permanent provisions for living such as sleeping, eating, cooking and sanitation. Of these criteria, it will be seen that the key factor under South Carolina law, in defining residential property as opposed to other dwellings, is the presence of a “stove.”

Interestingly, in 1985, the Town of Hilton Head litigated the distinction between a dwelling and a residential property. In *People vs. Town of Hilton Head* 287 S.C. 254, the distinction between residential and dwelling was central to the court ruling. The case makes it clear that there are several ways in which to define dwelling. Black’s Law dictionary confirms that this is a very flexible term. In this

case the Town of Hilton Head argued the distinction between dwelling and residential property was crucial. The Court agreed finding that:

*“From a study of the Statute, we are convinced that the legislature intended to include within the provisions of the requirement, dwelling units, other than those occupied by permanent residents.”*

*“The real issue is stated in appellants’ brief as follows: The core of the dispute between the parties is the definition of the term “dwelling” units as used in section 5-1-30 If a dwelling unit refers only to housing units that are occupied by persons as their usual place<sup>3</sup> of residence, plaintiffs are entitled to prevail. On the other hand, if dwelling unit applied to not only those houses occupied by residents.....defendants are entitled to prevail.”*

*“The terms of the statute should be given their well-recognized meaning.”*

This case tells us that in 1985 the Town of Hilton Head was fully aware of the distinction between dwelling and residential property. Indeed, the Court concluded that the Town of Hilton Head’s legislature “intended to include within the provisions of the requirement dwelling units other than those occupied by permanent residents.

Given the scope of structures used as living space, it is reasonable to conclude that when enacting Sec, 15-9-312, consideration was given to the kind of living space which would be governed by the ordinance. If the legislative body had intended to include other living spaces or structures, and there are many, they could have easily done so.

There are South Carolina statutes which deal with the significance of the terms residences, dwellings, and other living spaces as they would apply to certain governed activities and uses. In State v Jones 416 S.C. 283, the South Carolina Legislature carefully used both terms “dwelling and residence” in its immunity statute to clearly define the place where immunity would apply. The intention was presumably to broaden the scope of protected locations where immunity would apply. The South Carolina Presumption of reasonable Fear of imminent peril Code 1976 16-11-440, is further example demonstrating that the scope of a statute’s application is a predominant concern. Hence the reference to both residence and dwellings in its drafting intended the broadest application.

The South Carolina Supreme Court decision in *Grant v. City of Folly Beach* 346 S.C. 74, is most on point in that it deals with the meaning of “residential structure” as it applies to a flood ordinance. In *Grant* the Court held that the applicability of a municipal zoning/flood ordinance on “residential” property turned on meaning of the term “residential structure.” The municipality had told the owner of the property that “since less than 75% of this structure is devoted to residential use, it is classified as a non-residential structure. Accordingly, property flood proofed uses below the BBE would be allowed.”

As it turned out however, the owner installed kitchens in the lower units. The municipality determined that the construction of kitchens in the lower units converted the units to residential which made them applicable to the flood ordinance. The municipality therefore required the owner to “show a plan to remove all kitchen improvements downstairs.” While sinks and bathrooms were allowed, kitchen facilities were not. The kitchen facilities made the units residential, and the flood ordinance would apply.

Parenthetically, this is a similar fact situation involving the Sherriers. They installed a stove in the back structure creating a kitchen facility. Upon observing this, the Town building inspector advised the Sherriers to remove the stove, thereby avoiding an ordinance violation. The stove was removed.

Like the Town of Hilton Head case, *Grant* also instructs on the rules of statutory interpretation, expressing that the terms must be given their clear meaning.

*“If a statute is clear and unambiguous, and conveys a clear and definite meaning, there is no occasion for employing rules of statutory interpretation and the Court has no right to look for or impose another meaning”*

This distinction as it applied to the Sherriers, clearly troubled the Town officials and their attorneys. It can be seen in the numerous emails that they uniformly struggled with the scope and application of the flood ordinance as to the Sherriers property. Indeed, the stated position was that the ordinance was not violated since the rear structure was not the type of structure governed by the ordinance.

This history as to the scope of the statute, is evidenced in the scores of emails between involved Town officials, although it is odd that the actual controlling term “residential” is not referenced. Nevertheless, even in the use of the broader term “dwelling” the ordinance was nevertheless deemed inapplicable.

Keeping in mind the substitution of the term dwelling the inapplicability of the ordinance was clearly the Town’s view. Teri Lewis wrote on December 22, 2021:

*“The LMO defines a dwelling unit as, a building or portion of a building providing complete and independent living facilities for a family, including permanent provisions for living, sleeping, eating, cooking and sanitation. This definition is taken in part from the Building Code definition of dwelling unit. The Residential Building Code definition of dwelling unit is a unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.”*

Stating further:

*“LMO Section 16-2-103, permits staff to make interpretations of the Ordinance. Staff previously (over 20 years ago) made the determination that if a structure does not have a stove in it then it does not have permanent provisions for cooking and therefore is not considered a dwelling unit.”*

As for the Sherrier rear structure, Lewis stated:

*“The residential utility/storage room does not have a stove and therefore that structure is not considered to be a dwelling unit.”*

Further, in May 2021, Mr. Lewis wrote:

*“Another concern raised by the Forest beach POA was staff’s interpretation related to the definition of dwelling unit, specifically that the presence of a stove is the determining factor for whether a*



*structure qualifies as a dwelling unit. We have discussed both the definition of dwelling unit and associated interpretations with the Town Attorney and have determined that as long as the owner of 12 Park Road refrains from installing a stove in the secondary structure, staff will not consider that to be a second dwelling on the property.*" (emphasis added.)

In May of 2021, Lewis wrote with copies to Mark Orlando, and Shawn Colin, as follows:

*"We have discussed both the definition of dwelling and the associated interpretation with the Town Attorney and have determined that as long as the owner of 12 Park Road refrains from installing a stove in the secondary structure, staff will not consider that to be a second dwelling on the property. We do recognize that the current definition of a dwelling unit is problematic and will work to revise it during the first set of 2021 LMO amendments."* (emphasis added)

Of further interest is that in early 2021 Diane Busch Staff Attorney/Prosecutor wrote to Marc Orlando:

*"Mr. Sherrier is now compliant with the LMO. He remedied the violations by removing the mini-splits out of the buffer and removing the stove."*

*"Dwelling Unit (DU) ' building or a portion of a building providing complete and independent living facilities for a family, including permanent provisions for living, sleeping, eating, cooking and sanitation.' The definition for complete and independent living facilities includes a list of qualifiers as follows 'permanent provisions for living, sleeping, eating, cooking, and sanitation.' Provisions for eating and sleeping can easily be removed thus not 'permanent.' Sanitation, such as a shower or latrine, while permanent, are not a good measure as they show up in many limited use spaces: media rooms, offices, man caves, home gyms, and the like. Conversely, a stove is a permanent appliance and requires 220v, rather than*

*standard 110v. So, years ago, the interpretation of ‘complete and independent living facilities’ hinged on the existence of a stove.”*

*“I regret we don’t have another way mechanism to stop Mr. Sherrier from using that unit to expand his rental capabilities.”*

In March of 2021 Nicole Dixon, AICP, CFM, Development Review Administrator noted to the Sherriers:

*“Dwelling Unit (DU) – a building or a portion of a building providing complete and independent living facilities for a family, including permanent provisions for living, sleeping, eating, cooking and sanitation. Without that, we wouldn’t classify it as a separate dwelling unit.”*

On April 8, 2021, email from Tammy Becker to Marc Orlando:

*“I find it bothersome that the residents are still being told that the only way to find a solution is through a lawyer and the legal system. I thought that a more thorough search of a definition of “dwelling unit” was being undertaken by our staff attorney and Mr. Lewis our Town Official who made the determination that if no “range” for cooking existed then it is not a dwelling.”*

Looking back on the Grant decision we see conformity of understanding as to what constitutes a permanent living space and what the key determining factor is in meeting the definition of the Residential Building Code, i.e. “a kitchen.”

We also see that Town officials in considering whether the Sherriers rear structure was in violation, exchanged emails noting that there was no ordinance violation since the rear structure did not meet the legal definition of residential property. It should again be further noted that during our improvements, the rear structure was inspected by a Town building inspectors, and the Sherriers were told to remove the stove so that they would not be in violation of any ordinance;

In conclusion, given that fact that;

- a. the ordinance applies only to residential structures,
- b. the ordinance must be strictly construed and,

c. that the term residential is well settled to include dwellings with “cooking facility,”

the Notice of Violation ought to be dismissed, revoked, or rescinded.

Parenthetically, enforcing the Notice of Violation will most likely result in unintended consequences. In effect, the flood ordinance could now be potentially applicable to any space. This application of the statute could not possibly have been intended, nor could anyone reading the ordinance as written, ever anticipate such an application. And to expand the meaning of the term arbitrarily vastly “residential” it would stand in contradiction to South Carolina law, the applicable building codes for residential construction, and would be in contradiction to many of the expressed opinions of involved Town concern in an email to Jennifer Ray relating a conversation with Curtis Coltrane:

*“He and I also spoke about 12 Park Road and my interpretation related to dwelling units. He thinks the existing definition of dwelling units is problematic but worries about nonconformities that will be created if we just change it.”*

### **No new construction or substantial improvement**

To begin, the question of improvements is irrelevant as to the application of the ordinance. The Rear structure does not have a stove in it.

Notwithstanding this, the evidence is that inspections of the rear structure found that it consisted of only cosmetic changes. The record is clear to the absence of “substantial improvements.” In May 2021, Teri Lewis, Deputy Community Development Director wrote (coping Marc Orlando, Shawn Colin, Jennifer Ray, Mira Scott, Larry LA Banc and Jack daly):

*“..our Chief Building inspector reviewed changes to the secondary structure on the property and found that the interior changes were cosmetic in nature and did not require a building permit. At this point, unfortunately we cannot state with authority that the owners of 12*

*Park Road are in violation of the substantial improvement section of the Municipal Code”.*

Regarding suggestions of electrical improvements the records show that inspection in early 2021 by Tony Mulligan reported that *“there is no evidence of any electrical or plumbing taking place, everything appears to be existing.”*

The Beaufort County Assessor’s records provided to Tony Pierce, Wendy Conant, Todd McNeil, and Nicole Dixon in February 2021, disclose the existence of the rear structure on the property in 1969. It reports that the rear unit on 12 Park Road was 816 sq. ft. and that the *“second unit rented.”* It reports no improvements. (see Exhibit G)

While it is clear there were no substantial improvements to the rear property, any relevance to the flood ordinance raises an interesting question of logic. The question which arises is what difference it makes if there are substantial changes above foundation. Is not the significant question, regarding the ordinance, the grade elevation of the structures foundation.

As to this, there is no evidence of change to the elevation of the “footprint” or foundation of the rear structure. Indeed, it remains the same as reported by Beaufort County as existing in 1969 and as confirmed in the statement of witnesses. This “footprint” is the controlling factor in determining “the elevation of the lowest floor.”

It appears that the only reason to consider substantial changes would be to determine if the changes resulted in a different “use” of the property (made it residential), or to determine whether the elevation of the “footprint” has been affected. The “use” was not changed since the stove was removed, and there is no evidence of change in elevation of the “footprint” or foundation. Indeed, the antidotal evidence is that the foundation was in place prior to 1977.

**Longstanding use of the rear structure as a living space.**

On November 4, 2021, Shari Mandrick emailed Tony Pierce:

*“Based on a lengthy conversation with (complaining party) on September 27, 2021, where she stated that the former owner was a*

*plumbing contractor, and his sons used to sleep in 'that room,' I determined that the structure in question had been historically used as a bedroom."*

In October 2020 Mira Scott to Wendy Conant:

*"Personally, I know that when I moved to the hood it was a rec room for the 3 boys that lived there."*

In October 2020 Wendy Conant to Mira Scott:

*"I know the rear building has been there for a long time and has been used as a dwelling in the past."*

And in an email to Chris Yates in October 2020 she reports:

*"There is a structure behind the house that has always been a second residence."*

(see group exhibit H)

### **Approval of use**

Teri Lewis stated that "LMO Section 16-2-103, permits staff to make interpretations of the ordinance.

Throughout 2021 there were repeated opinions expressed by the involved Town officials indicating that rear structure was approved for use as a dwelling unit.

In March of 2021, the Sherrier's were advised by Nicole Dixon, AICP, CFM, Development Review Administrator by email as follows:

*"the way the town can allow you to use that building for living space would be if you remove the stove, which is considered a permanent provision for cooking."*

On May 11, 2021, Teri Lewis to Marc Orlando:

*"Where we landed for now is that as long as they don't put a stove back in they are not in violation."*

On September 1, 2021, Josh Gurber emailed Marc Orlando.

*“Photos from a site visit this afternoon at the complaint property are attached. No violations were observed”*

***Sherrier property is a structure incidental to residential structure”***

The case of *Archambault v. Sprouse 218 S. C. 500*, provides further insight as to the definition of what is considered a residential property and provides an additional reason why the Notice of Violation should be revoked. Specifically, the rear structure is incidental to the main house. In the case Sprouse the owner sought to erect a garage on his property with a second floor living space which included *a kitchen*, bathroom and two bedrooms. Such a structure was prohibited by a covenant, although such structures “incidental to the residence” were not. The Master for the County found the structure was not incidental to the front residence and therefore violated the covenant stating as follows:

*“this structure was clearly intended to be an entirely independent and self-sufficient living unit complete with all facilities and not in any way dependent on the original building at the front of the lot.”*

An incidental structure is one “dependent upon another which is termed the principal.” In this case the second floor above the garage was a “complete living unit” and “could not be said to be incidental to the use of appellant’s residence.” The unit had a kitchen.

The case of *Community Service Association, Inc. v Wells 421 S.C. 575*, also provides the definition units incidental to a main structure under South Carolina law. The case holds that “a guest suite or like facility without a kitchen may be included as a part of the main dwelling or accessory building.”

An accessory structure is a building or structure subordinate and incidental a principal building and located on the same lot. Its use is the use customarily found in association with and is incidental to that of the main building or to the use of the land, and which is not attached by any part of a common wall or roof to the principal building.

It should be noted that rentals for the Sherrier property are only for the entire premises. Both units rented at the same time to a single renter. The entire premises are fenced in and access to the rear unit can only be made through the main house. The rear unit has no cooking facilities. All cooking must be conducted in the main house. Further, the rear building allows for only limited occupancy (two beds).

It is relevant to note that the two buildings are not taxed separately. In February 2021, Wendy Conant, Code Enforcement Officer email to Nicole Dixon:

*“Attached is a page for the Beaufort County tax records that property owner was talking about. The County taxes property on 2208 sq. ft. which is the house and the ‘cottage’ combined.”*

Once the stove was removed the rear structure was considered a “detached room to the main house.” A letter to the Sherriers from Todd McNeill, Code enforcement Officer on March 3, 2021 states:

*“This letter is considered a formal Notice of Violation for the stove you have in the utility room. 12 Park Road is listed as a single family residence and the utility room is considered a detached room to the main house by adding the stove the unit becomes a building. Tony Pierce has informed me that you have unplugged the stove. Please have it removed by March 23, 2021.” (stove was removed).*

The evidence is uncontroverted that the rear structure as living space is entirely dependent on the main house. Its use meets the definition of a structure incidental to the main residence.

Teri Lewis’ letter of December 22, 2021, states:

*“The town does not define ADU’s but typically they are defined as secondary housing units on single-family residential lots.”*

### **legal non-conformity**

The rear structure was a dwelling space decades before the Sherrier's took possession. The evidence of this is uncontradicted and can be found in the numerous emails between the involved town officials, in the statements of witnesses and even as conceded by the neighbor who had been most vocal in the efforts to restrict the use of the Sherrier's property.

The use of this rear building is incidental to the main house in that cooking can only be conducted in the main house. Further, the improvements made by the Sherriers to the property which include fencing, prohibit access to the rear building except through the main house. In all respects the rear structure has been an accessory to the main house.

As to this contention of legal nonconformity it is important to reference Teri Lewis' letter to the complaining parties on December 22, 2021

*"The property is currently considered legally non-conforming because it has a structure located in the setback and buffer and this structure was constructed prior to the Town adoption of the LMO. Property owners may make changes to a property that is non-conforming as long as the footprint of a non-conformity is not increased. If changes are proposed to the footprint of a non-conforming structure, the change is required to be in conformance with the LMO and a waiver is required. The waiver necessitates the applicant bringing some portions of the site into conformance with the LMO. If no change is proposed to a structure or site feature that is considered non-conforming, then a waiver is not required. The owner of 12 Park Road has not made any changes to the footprint of the non-conforming structure and therefore a waiver is not required."*

This statement is essential to an understanding of Legal non-conformity as it applies to the Sherrier rear structure. To begin Mr. Lewis has asserted that no changes were made "to the footprint of the nonconforming structure." Essentially, Mr. Lewis is reporting that the rear structure need not meet the Sec. 15-9-312 (a) ordinance since the "footprint" of the structure was constructed prior to the enactment of the ordinance. if this were true then the only way in



which a violation could be asserted would be based on a change in the footprint from its initial construction.

There is no evidence that the footprint was ever changed from its original construction. It appears that legal nonconformity was reconsidered based upon a statement from owner of the property in 1985. In that statement Ms. Jackson confirms the existence of a “footprint” at the time she possessed the property. She refers to something as a “slab.” It is not clear that she is referencing the rear living space. She could very well be referencing the separate 48 square foot utility room that’s clear in the tax records, and no longer on the property. The letter indicates in part, “ ..... During that time, there was a shed in the backyard in which we stored outdoor equipment, such as garden tools and a lawn mower.....”. This is clearly in contradiction to Mark Piper’s statement, as well as a more recent email from a neighbor which establishes that the rear structure was not only a roof with walls at that time (Exhibit I).

As for the proof requirement applicable to the Sherrier property, it has been met in the opening sentence of Mr. Lewis above statement, specifically that the original “footprint” was “constructed prior to the Town adoption of the LMO.” The only relevant consideration regarding the issue of legal non-conformity as it relates to the applicable LMO (i.e. 15-9-312) is the base (i.e. footprint). The location of other portions of the structure are irrelevant.

Again, the Beaufort County Assessor’s records provided to Tony Pierce, Wendy Conant, and Nicole Dixon in February 2021, disclose the existence of the rear structure on the property in 1969. It reports that the rear unit on 12 Park Road was 816 sq. ft. and that the second building was being rented. It reports no improvements. (see Exhibit G).

The Assessor’s office real property archive records report that in 1969 the property consisted of 2256 sq. ft. Since we know that the main house is 1392 square feet the remaining assessed square footage is 864 square feet. This remaining square footage is comprised of the rear property structure of 816 square feet and presumably the “shed” of approximately 48 square feet. This is conclusive as to the existence of the “footprint” of 816 sq. ft. as far back as 1969.

On April 7, 2021, Diane Busch Town Staff Attorney, reported after a search of the Beaufort County records:

*“The best I can tell from the BC records, the structure in on slab which established pre Town incorporation and was perhaps original to the house.”*

Further, it must be noted that the use to which the unit is put is irrelevant to the intent of the ordinance. The fact that the use of the unit may have changed from time to time is inconsequential to the purpose of the ordinance. The generalized purpose of 15-9-312 (a) can be characterized as regulation of the base or lowest point of a structure so to abate “hydrostatic flood forces.” In other words, the focus is on the potential for increase of flood levels during base flood discharge, or more specifically, to minimize the risk of “increased flood heights, create additional threats to public safety or extraordinary public expense.” (see criteria for variance sec. 15-9-412 (c). As such the essential question of whether there has been any change relates only to the structures “footprint,” as stated by Teri Lewis, and not to its use. There has been no evidence that the original “footprint” of 2256 sq. ft. has been increased after the enactment of the ordinance. (see Exhibit J)

Even the statement of Maryann Jackson evidences the presence of a “footprint” when she occupied the premises in 1983. Additionally, current residents have provided statements as to the presence of the rear structure back in time.

Ironically, the Sherrier property has been determined to be one of the lowest lots in the immediate area.

Even assuming a change of use did in fact take place, which would contradict the Assessor’s records, the case is irrelevant to the application of the ordinance since the rear unit is nevertheless “non-residential,” and as such it would not lead to application of 15-9-312 (a).

In Mr. Lewis’ words:

*“The owner of 12 Park Road has not made any changes to the footprint of the non-conforming structure and therefore a waiver is not required.”*

It is submitted that revoking the legal nonconformity state as to the rear unit of the Sherrier property, based on the record, would be unjustified and legally unsupported. Without evidence of an alteration of the structures' "footprint" subsequent to the date of enactment of the ordinance, Mr. Lewis' opinion of legal non-conformity must stand, and for this further reason the Notice of violation must be dismissed, revoked, or rescinded.

It is submitted that the rear structure on the Sherrie's property is legally nonconforming for the following reasons:

- a. That the concrete foundation of the rear structure ("footprint") was in place in the 1970s;
- b. That this rear structure was, at that time, constructed with walls and a roof and over the years was used as an office, sleeping quarters, recreation room, etc.
- c. That the rear structure is ancillary and an extension to the main house. Access to it can only be through the main house (fenced in unit) and there is no cooking facilities in the unit. Since the main house is considered to be "legally nonconforming," the rear structure as a part of the main house, would also be "legally nonconforming."
- d. The improvement to the rear unit were only cosmetic and did not structurally change the unit or alter its prior use

## **Conclusion**

We are faced with the determined actions of neighbors to limit the Sherriers use of their property, a use which the neighbors had apparently been able to accept during all the years they respectively lived there. Much interaction between the complaining neighbors and involved Town officials have taken place. The emails to Town officials are endless. Indeed, the complaining neighbor has criticized the town officials regarding the Towns inspections and diligence.

There is no secret as to the complaining neighbor's goal. It is to prohibit the use of the bedroom and recreation room on the Sherrier property, and it has been a two year campaign investigating every possible legal theory to do so. However, at no time have they brought forth any evidence as to the risk of damage or injury they might suffer due to flooding caused by the bedroom and recreation room. Indeed, the bedroom and recreation room sit below the grade of all neighboring properties. Over time only three types of complaints for 12 Park Rd. have been made as reported by Todd McNeill to Nicole Dixon and Wendy Conant in November 2021: "mini-splits installed in buffer without permit (immediately corrected); Trash cans located in buffer (no violation); noise complaint from children in the pool (no violation)."

In one sense it seems that out of frustration to satisfy the complaining parties and to bring the matter to an end the Town has issued the violation of the flood ordinance. One cannot wonder how this alleged violation had somehow escaped every ones attention for decades. And it is difficult to comprehend how a violation of this ordinance as to the lowest parcel of land in the immediate area, could have become an entangled web of complex legal, ethical, and practical concerns. Indeed, FEMA records even indicate the property is not a repetitive loss site, and there is only one recorded instance of flooding which occurred as a result of Hurricane Matthew (exhibit D).

In reality what the Sherriers have done, in the words of another neighbor, is to have removed an "eyesore" and enhanced the value of everyone's nearby property and the community as a whole. Not because of improvements to the bedroom and recreation room, but overall improvements to the property (mostly land improvements). Would it not serve the purposes of the community to encourage improvements where it is desirable? When involved individuals get to

know their family and values and see that they have been forthright and cooperative at every turn, they will be welcomed as residents in the Hilton Head Island community, much like they already have by many of the other residents of Park Rd.

On Oct 26. 2021 Wendy Conant wrote to Teri Lewis:

*“There have been no code violations since the initial violation where mini-splits were installed without a permit. The owner corrected the violation immediately... The owner has been very compliant but is now a bit upset about the continual harassment from residents.”*

It is hoped that the decision of the Town will be based only upon the application of the ordinance in this case and find that it does not apply to the rear structure at 12 Park Road. The Notice of Violation should be dismissed, revoked, or rescinded.

## Sec. 15-9-312. - Specific standards.

In all areas within zones AE, AO, Shaded X, and X, the following provisions are required:

- (a) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) must be constructed so that the lowest floor, is elevated no lower than three (3) feet above the base flood elevation or thirteen (13) feet above mean sea level using NAVD88, whichever is higher. No environmentally conditioned space shall be allowed below the lowest floor. No basements are permitted. Should solid foundation perimeter walls be used to elevate a structure, flood openings sufficient to automatically equalize hydrostatic flood forces, shall be provided in accordance with the elevated buildings requirements in section 15-9-312(f). Residential structures may not be floodproofed in lieu of elevation.
- (b) *Nonresidential construction.* New construction and substantial improvement of any nonresidential structure must be constructed so that the lowest floor is elevated no lower than two (2) feet above the base flood elevation, or eleven (11) feet above mean sea level using NAVD88, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, flood openings sufficient to automatically equalize hydrostatic flood forces, shall be provided in accordance with the elevated buildings requirements in section 15-9-312(f). Nonresidential structures may be floodproofed in lieu of elevation provided that all areas of the structure below the required elevation are designed to preclude the inundation of floodwater and withstand the hydrostatic loads associated with the base flood. A South Carolina licensed engineer or architect shall certify that the design and method of construction meet the provisions of this section. Record of certification of floodproofing shall be maintained as a public record.

EXCEPTION: Nonresidential auxiliary structures shall be elevated as follows:

- (1) In the special flood hazard area, nonresidential auxiliary structures shall be elevated to the base flood elevation plus one (1) foot; or
  - (2) Outside of the special flood hazard area, nonresidential auxiliary structures shall be elevated to no lower than the highest adjacent grade.
- (c) *Manufactured homes.* Manufactured home standards shall apply to all installations after April 1, 1987 and shall include homes placed in manufactured home parks or subdivisions, or homes not placed in such parks or subdivisions.

All new, replaced or substantially improved manufactured homes shall be elevated on a permanent foundation such that the bottom of the frame of the manufactured home is three (3) feet above the base flood elevation or elevated to thirteen (13) feet using NAVD88,



February 9, 2022

To Whom It May Concern:

I, Mark Piper, was the owner of 12 Park Rd., Hilton Head Island, SC from November 1, 1985, until I sold the property to Eric and Tracy Sherrier on July 9, 2020. When I purchased the property in 1985 there were two residential structures on the property: the main house consisting of 1,392 sq. ft. and an 816 sq. ft. building on the back half of the property which was complete with running water, and electric throughout when I purchased it. When I purchased the property back in 1985, the seller's realtor represented to me that the back building was a fully residential space, and I used the space as residential in several ways since the time of purchase. First, I used it as a home office, and later it was used as living quarters by my family, and also by renters. I rented the back building separately to tenants for approximately four years while we lived in the front house. In addition, I rented the entire property to a third party for about a year during which time both residential structures were fully utilized. Given the representations made by the realtor when I purchased 12 Park Rd., and the fact that the structure was 816 sq. ft., fully enclosed, and equipped with water and electric service, there was never a doubt in my mind about the residential nature of the building. Nor was there ever a question about the use of the structure as residential from the Town or neighbors during my ownership.

Thank you,

Mark D. Piper

*Mark D Piper*

Subscribed and sworn to before me this 28th day of February 2022

Notary Signature:

*Amy Simcox*

Notary Printed Name:

Amy Simcox

My Commission expires:

Nov 26, 2023

State: TN

Notary ID:





March 3, 2022

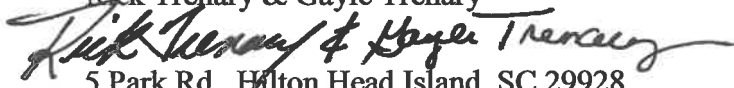
To Whom It May Concern at the Town of Hilton Head Island:

My wife, Gayle, and I have owned the house at 5 Park Rd. since 1987. We walk past 12 Park Rd. nearly every day, and are both very familiar with the property and its historical use under the previous owner, Mark Piper. We can attest that Mark Piper used the rear structure on his property as a residential space. For approximately four years prior to hurricane Matthew, Mark Piper rented the back house to a family (a couple with children). Prior to that, in the 1990's/early 2000's, Mark used the space as a home office and his boys used it as a rec room. After hurricane Matthew, at least one of Mark Piper's sons lived in the back house for a period of time, and the entire property (front and back structure) was rented to Spinnaker for about a year. We believe all of the above was widely known and observed by all permanent residents on Park Rd.

I also feel that Eric and his family have been harshly treated by certain neighbors.

Regards,

Rick Trenary & Gayle Trenary

  
5 Park Rd., Hilton Head Island, SC 29928



To Whom It May Concern at the Town of Hilton Head Island:

I have lived at 9 Park Rd., across the street from 12 Park Rd., since 2000. By way of proximity I have witnessed what has transpired throughout the years at 12 Park Rd. Since I have lived on Park Rd. I knew Mark Piper and his family to use the back house as a residential space. I know for certain that before Hurricane Matthew, Mark rented the back house to a family for about four years while they lived in the front house. After Matthew, Mark Piper rented the entire property to Spinnaker for about a year. During that time, the Spinnaker employees were using both the main and back house. One of Mark Piper's son also lived in the back house for periods of time after Hurricane Matthew as well.

Up until the Sherrier Family purchased the property in 2020 it was an eyesore to the neighborhood and in my opinion, they have enhanced the appearance of the neighborhood and increased our property values.

Yours Truly,

A handwritten signature in black ink, appearing to read "Lance Buntin", with a long horizontal flourish extending to the right.

Lance Buntin

Owner of 9 Park Road

March 8, 2022

RE: North Forest Beach and Property at 12 Park Rd, Hilton Head Island, SC 29928

To: Town of Hilton Head

My name is Tiffany Marshall and I own and live at 4 Park Rd, Hilton Head Island, SC 29928 as my primary residence since 2017. Prior to residing at 4 Park Rd, I resided at my condo 125 Cordillo Pkwy #91, Hilton Head Island until I had my daughter who has just turned 5 years old ... which is now a rental property that I personally manage.

I love Hilton Head Island. I love my neighborhood of North Forest Beach. I have always taken great pride in my property and home. I take great care of my home and yard, and greatly care about my surroundings. I am always happy to see that my neighbors start doing improvements as well, and that their "projects" get done. We know all too well that there are many properties, especially in the older neighborhoods like North Forest Beach, where homeowners neglect their homes and yards, or start projects that never get completed, only to create a real eye-sore for those of us who want our property values to remain strong. I try to continually upgrade and improve my property for myself, AND with the neighboring owners and residents in mind as they too benefit from my and other neighboring properties' improvements.

I am also a Realtor for the past 27 years. I am currently licensed still in my home state of Minnesota as well as in South Carolina since 2014. I have been pleased to see in the past several years, that many of the neglected properties in the area have been sold and new owners have come in and given beautiful facelifts to these neglected properties. This indeed helps all of our property values, AND has beautified these neighborhoods once again. Trees are trimmed, landscaping has been added where there was barely dirt yards prior, homes have been painted, roofs and fences have been redone, just to name a few of the improvements that are obvious as one drives through these older North Forest Beach streets. All of these things have been a necessary change to this area and I 100% welcome it!!

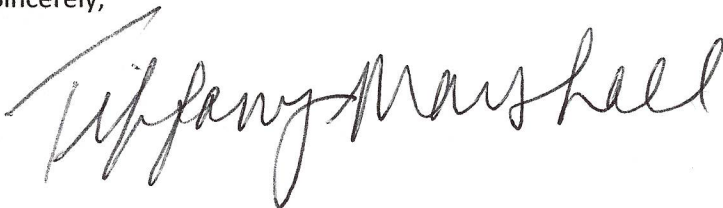
Last year, as I walked my dogs and my daughter down Park Rd, I met some new homeowners who had purchased 12 Park Rd ... Eric and Tracy Sherrier. I was thrilled to see happy people excited about their new home and working hard in their yard and house to get it renovated to give the home a much needed makeover. Prior to their purchase, the condition of that home seemed poor, and it was filled with a large amount of local renters living in the 2 homes situated on the property. There were lots of vehicles with a constant flow of new faces coming and going which made me feel unsafe. There was also a Coligny golf cart transport business being run at this property where golf carts were stored in the front dirt/yard of the home. I saw the prior "owner" of the property here and there, but it was a plethora of chaos over there to say the least. So, meeting the Sherriers and having them as the new property owners at 12 Park Rd was and is a complete welcome.

Shortly after the Sherriers' purchase, and as their work at the property began, there seemed to be a cloud of trouble that ensued, seemingly caused by a group of neighbors who have never so much as waived to me or my daughter in the street for 5 years. This is a group of miserable people who seem to resent any change, despite it improving their property. The Sherriers have helped this neighborhood...not hurt it. They have been nothing but friendly and a wonderful addition to the area. They are using that home both for themselves and their family, and also renting it out when they are not able to use it which is their right. Both homes on the property have been lived in since I have been a resident in the neighborhood. No one had created a problem for the previous owner, but now I am hearing of the harassment to the Sherriers both by these so-called "neighbors" as well as officials of Hilton Head. It sickens me. It needs to stop.

There are always going to be crabby neighbors, especially the ones who do zero to improve or maintain their own properties, who will complain and fight any change, even if they are positive changes. I am tired of these people thinking they can stomp on others' property rights. ESPECIALLY the changes which are only bringing up the neighboring property values.

Hilton Head Island has been a tourist destination for many decades. That is the very reason most ALL of us are even residents of Hilton Head. But now, these very property owners are fighting the tourism. Along with that, these complainers are also trying to dictate who can rent their properties and how...whether it be to long-term renters or short-term renters or at all. They need to move away from this tourist destination as far as I am concerned.

Sincerely,

A handwritten signature in black ink that reads "Tiffany Marshall". The signature is written in a cursive, flowing style.

Tiffany Marshall



4 Park Rd, Hilton Head Island, SC 29928

NATIONAL FLOOD INSURANCE PROGRAM PROPERTY LOSS HISTORY

07-195038

CURRENT COMPANY/POLICY NUMBER: BANKERS INSURANCE GROUP, DBA: FI/6820331801  
 CURRENT PROPERTY ADDRESS:  
 12 PARK RD  
 HILTON HEAD ISLAND, SC 29928-

THE INFORMATION PROVIDED BELOW IS THE FLOOD INSURANCE LOSS PAYMENT HISTORY FOR CLAIMS PAID BY THE NATIONAL FLOOD INSURANCE PROGRAM SINCE 1978 FOR THE ABOVE PROPERTY ADDRESS. LOSSES OCCURING WITHIN 180 DAYS PRIOR TO THIS LOSS HISTORY MAY NOT BE INCLUDED IN THIS REPORT. IF YOU HAVE ANY QUESTIONS ABOUT THIS INFORMATION PLEASE CONTACT THE NFIP AT 866-395-7496.

DATE OF LOSS -----	BUILDING PAYMENTS -----	CONTENTS PAYMENTS -----	TOTAL PAYMENTS -----
10/8/2016	47459.94	2890.81	50350.75

THE FLOOD MITIGATION ASSISTANCE (FMA) PROGRAM WAS AUTHORIZED BY THE NATIONAL FLOOD INSURANCE REFORM ACT OF 1994 AND AMENDED BY THE BIGGERT-WATERS FLOOD INSURANCE REFORM ACT OF 2012. THE FMA PROGRAM PROVIDES FUNDS ON AN ANNUAL BASIS TO STATES AND LOCAL COMMUNITIES FOR PROJECTS THAT EITHER REDUCE OR ELIMINATE THE LONG-TERM RISK OF FLOOD DAMAGE TO BUILDINGS, HOMES, AS WELL AS OTHER STRUCTURES THAT ARE INSURED UNDER THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP). THE FMA PROGRAM PROVIDES FEDERAL GRANT FUNDS FOR ELIGIBLE MITIGATION ACTIVITIES, SUCH AS ELEVATING AN NFIP-INSURED STRUCTURE. MITIGATED PROPERTIES MAY ALSO QUALIFY FOR REDUCED FLOOD INSURANCE RATES. AS AN INDIVIDUAL, YOU MAY NOT APPLY FOR AN FMA GRANT ON YOUR OWN, BUT YOUR LOCAL COMMUNITY OR COUNTY MAY APPLY FOR A GRANT ON YOUR BEHALF. TO OBTAIN ADDITIONAL INFORMATION ON THE FMA PROGRAM AND OTHER MITIGATION GRANT PROGRAMS, PLEASE CONTACT YOUR LOCAL FLOODPLAIN MANAGER OR STATE HAZARD MITIGATION OFFICER, OR GO TO THE FEMA HAZARD MITIGATION ASSISTANCE WEBPAGE AT [www.fema.gov/hazard-mitigation-assistance](http://www.fema.gov/hazard-mitigation-assistance).

## Sherrier, Eric

---

**From:** ericsherrier@gmail.com  
**Sent:** Wednesday, November 10, 2021 8:52 PM  
**To:** Sherrier, Eric; Tracy Sherrier  
**Subject:** EXT: Fwd:

Sent from my iPhone

Begin forwarded message:

**From:** ericsherrier@gmail.com  
**Date:** March 8, 2021 at 9:46:22 AM CST  
**To:** Dixon Nicole <nicoled@hiltonheadislandsc.gov>  
**Cc:** Pierce Tony <tonyp@hiltonheadislandsc.gov>, Conant Wendy <>wendyc@hiltonheadislandsc.gov>, "McNeill, Todd" <toddm@hiltonheadislandsc.gov>  
**Subject:** Re:

Thanks, Nicole.

Sent from my iPhone

On Mar 8, 2021, at 8:01 AM, Dixon Nicole <nicoled@hiltonheadislandsc.gov> wrote:

Eric,

Sorry for the delay in getting back to you, I ended up having to be out last week. Your property is zoned RS-5, and per LMO Section 16-3-104.C allows up to 5 dwelling units per net acre. According to Town GIS your property is .25 acres. You would need to have .40 in order to have two dwelling units on your property. Since you do not have .40 acres, that back building cannot be used as a dwelling unit. The LMO defines dwelling unit as follows:

- **Dwelling Unit (DU)** - A **building** or a portion of a **building** providing complete and independent living facilities for a **family**, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

The way the Town can allow you to use that building for living space would be if you removed the stove, which is considered a permanent provision for cooking. Without that, we wouldn't classify it as a separate dwelling unit.

Let me know if you have any questions, thanks

Nicole Dixon, AICP, CFM  
Development Review Administrator  
Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
O: 843-341-4686

F: 843-842-8908  
[nicoled@hiltonheadislandsc.gov](mailto:nicoled@hiltonheadislandsc.gov)  
[www.hiltonheadislandsc.gov](http://www.hiltonheadislandsc.gov)

<image001.jpg>

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**FOREST BEACH OWNERS' ASSOCIATION, INC.**

P O Box 6442

Hilton Head Island, SC 29938-6442



February 26

, 2021

Mr. & Mrs. Eric & Tracy Sherrier    By Email  
57 Sunset AV  
Glen Ellyn, IL 60137

Re: 12 Park RD - New Pool / Fencing  
(Lot 184 – HHBS#1A)  
Permit 2021-022601

Dear: Mr & Mrs. Sherrier:

Thank you for your submission for architectural review for a planned new pool, spa and decking at the above location. We have reviewed your request for construction at the above location. This review and approval is based upon the following:

- 1) Our review is based upon the documents and drawings submitted to us. Application dated, February 26, 2021 and drawings dated June 12, 2020.
- 2) Building setbacks from property lines are to be 10' from the side and rear property lines, and 20' from the front property line parallel to Park Road.
- 3) Tree removal based upon the site plan is approved, subject to any required approval and mitigation by the Town of Hilton Head Island.
- 4) No construction, vertical, subterranean or otherwise, may be placed within any building setback or buffer. This includes, but is not limited to, the following: Service yards, HVAC equipment, pools, spas, hot tubs, pool equipment and decking, above ground LPG storage tanks, storage yards, refuse receptacles, satellite dish/antenna, vehicle parking, decking or patios, hardscape materials or material of a non-pervious nature (e.g. cement walkway or driveway).
- 5) Fencing is approved as shown hand drawn and specified on the site plan. No fencing may be placed within a setback or buffer except to connect perpendicular from the fence line on the property line to a structure. Fence height is restricted based on the current Forest Beach Neighborhood Character Overlay District guidelines of the Land Management Ordinance of the Town of Hilton Head Island.
- 6) No exterior lighting, other than that shown on the submitted plans, is approved. Exterior floodlights, if any, are to be on motion sensors.
- 7) No "lock-out" or "multi-family" units are allowed or approved. This lot is restricted to a single family residence.
- 8) All HVAC, pool and spa equipment, electrical and service equipment and any service yards and equipment must be screened from view by either vegetative or constructed screening.



Any changes/additions/modifications to the submitted and approved plans will be required to be submitted to the FBOA ARB for review and approval before construction of the change/addition/modification is begun. Failure to do so may result in a covenant violation. Items not shown on the submitted plans are not reviewed or approved and must be submitted with the final plans to be reviewed for approval.

Please make a note of any additional items that we require above. Failure to submit the requested documents for review prior to the start of construction may result in a covenant violation.

We must be notified, in writing, upon completion of the project advising us to whom and where the compliance deposit should be returned. Assuming no discrepancies between the approved work and the inspected, finished project, we will conduct a final inspection and close our files on this project and return your compliance deposit.

We have sent your ARB Building Permit to your contractor and included a copy for your records. We request that the permit be posted at the site during construction alongside the Town of Hilton Head Island Building Permit.

Thank you for your submission, and, please do not hesitate contact us with any questions.

Sincerely,

*John D. Snodgrass*

John D. Snodgrass,  
Executive Director

JDS:me

Encl.

Cc: Town of Hilton Head Island, PIC - Email  
Camp Pool Builder – Email  
Russell P. Patterson, Esq. - Email

Date : 02/26/2021 3:20:22 PM  
 From : tonyp@hiltonheadislandsc.gov  
 To : wendyc@hiltonheadislandsc.gov, toddm@hiltonheadislandsc.gov  
 Cc : nicole@hiltonheadislandsc.gov  
 Subject : FW: 12 Park Road - 1392 + 816 = 2,208  
 Attachment : image001.png;image004.png;image003.jpg;image002.jpg;  
 This e-mail is from the owner.

Tony Pierce, MCP, CBO  
 Chief Building Inspector  
 Town of Hilton Head Island  
 One Town Center Court  
 Hilton Head Island, SC 29928  
 O: (843) 341-4675  
 C: (843) 247-2856  
[tonyp@hiltonheadislandsc.gov](mailto:tonyp@hiltonheadislandsc.gov)  
[www.hiltonheadislandsc.gov](http://www.hiltonheadislandsc.gov)



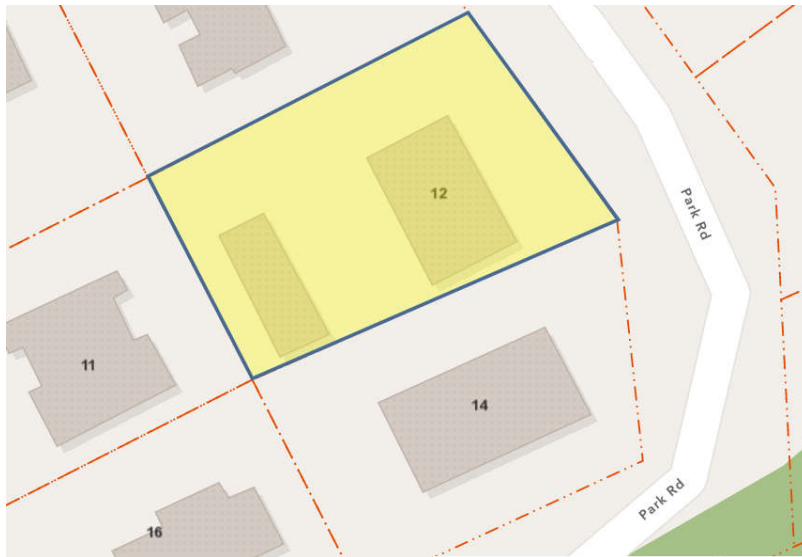
From: Sherrier, Eric [mailto:Eric.Sherrier@rsmus.com]  
 Sent: Friday, February 26, 2021 10:18 AM  
 To: Pierce Tony <tonyp@hiltonheadislandsc.gov>  
 Subject: FW: 12 Park Road - 1392 + 816 = 2,208

THIS MESSAGE ORIGINATED OUTSIDE YOUR ORGANIZATION

From: Sherrier, Eric  
 Sent: Thursday, February 25, 2021 7:42 PM  
 To: 'Eric Sherrier' <ericsherrier@gmail.com>  
 Cc: 'Tracy Sherrier' <tracysherrier@gmail.com>  
 Subject: 12 Park Road - 1392 + 816 = 2,208

Beaufort County Records:

<https://gis.beaufortcountysc.gov/publicmapping/?research=R550%20015%2000A%200397%200000&slayer=0&expnum=0&showdatagrid=false>



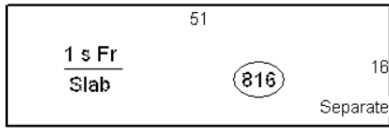
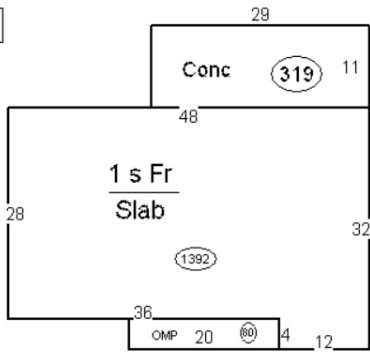
<http://sc-beaufort-county.govemmax.com/svc/default.asp?sid=339BED2180B746B69235A29EB475B07E>

Improvements							Owner Name 1 of 1	
Property ID (PIN)	Alternate ID (AIN)	Parcel Address	Data refreshed as of	Assess Year	Pay Year			
R550 015 00A 0397 0000	00407964	12 PARK RD, Hilton Head Island	2/19/2021	2020	2020			
Improvements								
View	Type	Use Code Description	Building	ID No.	Constructed Year	Square Footage	Improvement Size	
View Details / Print View	DWELL UTILROOM		R01 R01	D 01	1969 1969	2,208	48	

When you click into the details you see the following:

Enlarged Picture and 1392 + 816 = 2,208

01



Separate building being rented out

Date : 11/04/2021 5:32:35 PM

From : "Mendrick, Shari"

To : "Pierce Tony"

Subject : RE: 12 Park Road

Attachment : image001.png;image002.png;image003.png;image004.png;image005.png;

Hi Tony,

Beaufort County entered the National Flood Insurance Program on September 30, 1977. Any structures permitted prior to this date are considered pre-FIRM and were not subject to any elevation requirements as a Flood Damage Controls Ordinance did not exist.

According to the tax records, both structures were built in 1969 so that they are considered pre-FIRM and were not required to be elevated. As the original permit records are not available, I have no idea what was allowed to be constructed in the "Residential Utility/Stg Room." Based on investigation conducted by Chris Yates, who was the Building Official at that time, the work conducted was cosmetic in nature and did not require a permit.

Based on a lengthy discussion I had with Ms. Silbaugh on September 27, 2021, where she stated that the former owner was a plumbing contractor and his sons used to sleep in "that room," I determined that the structure in question had been historically used as a bedroom. Other than the information in the building permit records and the information from Chris's investigation, I cannot attest that the current owner has violated the "50% rule."

I hope this helps and please let me know if you have any questions.



**Shari Mendrick, P.G., CFM**

FLOODPLAIN ADMINISTRATOR

Office: (843) 341-4687

Mobile: (843) 301-0255

Website: [hiltonheadislandsc.gov](http://hiltonheadislandsc.gov)

Address: Town of Hilton Head Island  
1 Town Center Court  
Hilton Head Island, SC 29928

---

**From:** Dixon Nicole <[nicoled@hiltonheadislandsc.gov](mailto:nicoled@hiltonheadislandsc.gov)>

**Sent:** Thursday, November 04, 2021 12:08 PM

**To:** Pierce Tony <[tonyp@hiltonheadislandsc.gov](mailto:tonyp@hiltonheadislandsc.gov)>; Conant Wendy <[wendyc@hiltonheadislandsc.gov](mailto:wendyc@hiltonheadislandsc.gov)>; McNeill, Todd <[toddm@hiltonheadislandsc.gov](mailto:toddm@hiltonheadislandsc.gov)>; Adams Wayne <[WayneA@hiltonheadislandsc.gov](mailto:WayneA@hiltonheadislandsc.gov)>

**Cc:** Yates Chris <[chrisdy@hiltonheadislandsc.gov](mailto:chrisdy@hiltonheadislandsc.gov)>; Mendrick, Shari <[sharim@hiltonheadislandsc.gov](mailto:sharim@hiltonheadislandsc.gov)>

**Subject:** RE: 12 Park Road

Tony, Please go through all of what you sent me and make sure that everything was done to the book/code. Basically I need you to reinvestigate it and make sure you would come up with the same outcome and provide me any notes on your findings. thanks



**Nicole Dixon, AICP, CFM**

DEVELOPMENT REVIEW ADMINISTRATOR

Office: (843) 341-4686

Website: [hiltonheadislandsc.gov](http://hiltonheadislandsc.gov)

Address: Town of Hilton Head Island  
1 Town Center Court  
Hilton Head Island, SC 29928

---

**From:** Pierce Tony <[tonyp@hiltonheadislandsc.gov](mailto:tonyp@hiltonheadislandsc.gov)>

**Sent:** Thursday, November 4, 2021 10:51 AM

**To:** Dixon Nicole <[nicoled@hiltonheadislandsc.gov](mailto:nicoled@hiltonheadislandsc.gov)>; Conant Wendy <[wendyc@hiltonheadislandsc.gov](mailto:wendyc@hiltonheadislandsc.gov)>; McNeill, Todd <[toddm@hiltonheadislandsc.gov](mailto:toddm@hiltonheadislandsc.gov)>; Adams Wayne <[WayneA@hiltonheadislandsc.gov](mailto:WayneA@hiltonheadislandsc.gov)>

**Cc:** Yates Chris <[chrisdy@hiltonheadislandsc.gov](mailto:chrisdy@hiltonheadislandsc.gov)>; Mendrick, Shari <[sharim@hiltonheadislandsc.gov](mailto:sharim@hiltonheadislandsc.gov)>

**Subject:** RE: 12 Park Road

Yes. I attached reports from three request, three code cases, one building permit, one electrical permit, pictures of the Interior of the building showing the stove removal and the mini split pictures .

All request, code cases and permits have been closed out. I have e-mailed Shari Mendrick to see if she has any flood information on this property.

Please let me know if you need anything else.



**Tony Pierce, MCP, CBO**

INTERIM BUILDING OFFICIAL

Office: (843) 341-4675

Mobile: (843) 247-2856

Website: [hiltonheadislandsc.gov](http://hiltonheadislandsc.gov)

Address: Town of Hilton Head Island  
1 Town Center Court  
Hilton Head Island, SC 29928

Date : 10/07/2020 3:22:55 AM  
From : wendyc@hiltonheadislandsc.gov  
To : chrisdy@hiltonheadislandsc.gov  
Subject : Fwd: 12 Park Rd - Octopus Oasis | North Forest Beach Vacation Rental | Hilton Head Island, SC  
Interesting additional information about 12 Park Road.

Wendy

Sent from my iPhone

Begin forwarded message:

**From:** Mira Scott [REDACTED]  
**Date:** October 6, 2020 at 6:05:33 PM EDT  
**To:** Conant Wendy <wendyc@hiltonheadislandsc.gov>  
**Subject:** Re: 12 Park Rd - Octopus Oasis | North Forest Beach Vacation Rental | Hilton Head Island, SC

**THIS MESSAGE ORIGINATED OUTSIDE YOUR ORGANIZATION**

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Thank you Wendy, much appreciated! There have been a lot of service vehicles in and out of there for weeks. Electricians, plumbers, construction contractors. Personally I know that when I moved to the hood it was a rec room for the 3 boys that lived there. The rental listing photos show 2 queen size beds in that building now and advertised as a rental.

On Oct 6, 2020, at 3:36 PM, Conant Wendy <[wendyc@hiltonheadislandsc.gov](mailto:wendyc@hiltonheadislandsc.gov)> wrote:

Hi Mira,

I have forwarded to the Building Department for them to make a site visit which they are doing tomorrow. I know the rear building has been there for a long time and has been used as a dwelling in the past (not a shed even though that is what tax records show). Building inspector will check to make sure no electrical or plumbing work done during renovation and will check second building to see if a planned dwelling. Hopefully they will let Beaufort County know if the building information is wrong in the tax records. I had spoken to new owner when they first started working on site and advised her she would need a permit and ARB approval to add a pool. I also mentioned to John Snodgrass today so it is on his radar.

Thanks,

Wendy

---

**From:** Mira Scott [REDACTED]  
**Sent:** Monday, October 5, 2020 12:11 PM  
**To:** Conant Wendy <[wendyc@hiltonheadislandsc.gov](mailto:wendyc@hiltonheadislandsc.gov)>  
**Subject:** 12 Park Rd - Octopus Oasis | North Forest Beach Vacation Rental | Hilton Head Island, SC

**THIS MESSAGE ORIGINATED OUTSIDE YOUR ORGANIZATION**

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Hi Wendy,

A neighbor sent me this link concerned that they are renovating a shed and putting it on the rental market. Really not sure what to do with this or who to send it to if in fact there is a problem. Please advise. Thank you

<https://www.beachsidegetaway.com/vacation/all/detailpage/211/12-park-rd-octopus-oasis>

[Owner Login](#) [Guest Login](#)

<image001.png>

866-443-5922

Toggle navigation Menu

## Sherrier, Eric

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**From:** Rick Trenary [REDACTED]  
**Sent:** Thursday, May 5, 2022 10:37 AM  
**To:** Sherrier, Eric  
**Subject:** EXT: RE: Eric and Tracy Sherrier - 12 Park Road

Eric, Do what you need to. I'm totally fine with all that you are doing. I'll backup anything you say.

**Rick Trenary**  
Account Executive | Landscape & Grounds Products  
Phone [REDACTED]  
Mobile [REDACTED]



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---

**From:** Sherrier, Eric <Eric.Sherrier@rsmus.com>  
**Sent:** Thursday, May 05, 2022 11:14 AM  
**To:** Rick Trenary [REDACTED]  
**Subject:** RE: Eric and Tracy Sherrier - 12 Park Road

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sending email address and know the content is safe.

Hi Rick –

I know that we talked about you putting what you have indicated below into a letter form, but I'd like to get this over to the Town in response to Debbie's assertions soon.

And because I know that you're busy, would it be okay if I simply forward this email, but first striking out your email address and work contact info? You can trust me that I'll take out the aforementioned contact info before I send. I am a man of my word.

Best,

Eric

---

**From:** Rick Trenary [REDACTED]  
**Sent:** Sunday, May 1, 2022 10:00 AM  
**To:** Sherrier, Eric <[Eric.Sherrier@rsmus.com](mailto:Eric.Sherrier@rsmus.com)>  
**Subject:** EXT: RE: Eric and Tracy Sherrier - 12 Park Road

Eric,

Not sure where the info came from in the letter below. It is truly false. My family bought and moved into our house at 5 Park Rd. in July of 87. We had already meet the Pipers since we had been renting around the corner at 10 Heron St. since July of 1979. Any assertion that the back structure was a roof and no walls since 1980 is false. I know the owner then had an office or something in the back structure. Our son was the same age as the Piper's sons and they played regularly all over the neighborhood including playing in the structure of question. If I remember,

correctly, that one side was a bedroom or office and the other side was a playroom. I remember a pool table inside. I know this was all through the 90s. I also know that their son Alex lived in the structure for several years after he finished college and that around 2012 the structure was rented to a family with 3 school age children for several years. This was all well known by the residences living on Park Rd.

Respectfully,  
Rick Trenary

**Rick Trenary**

Account Executive | Landscape & Grounds Products

Phone [REDACTED]

Mobile [REDACTED]



[Share your experience! Leave a review →](#)



---

**From:** Sherrier, Eric <[Eric.Sherrier@rsmus.com](mailto:Eric.Sherrier@rsmus.com)>

**Sent:** Wednesday, April 27, 2022 11:08 PM

**To:** Rick Trenary [REDACTED]

**Subject:** Eric and Tracy Sherrier - 12 Park Road

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sending email address and know the content is safe.

Hi Rick –

I really need some further help on our part. As I mentioned to you one of the last times we spoke, Debbie Urato went on record with the town on February 22, 2022, yeah, just two months ago, indicating that the back structure on our property was only a roof with, No walls before 2017.

As I'm sure you can imagine, the constant lying got old a long time ago. The following is the email we have that she sent to the town in such regards that we obtained through a Freedom of Information Act (FOIA) request. What she does not add in all her lies is that she and her husband under the radar, and without permits, illegally built out under the rear of their home and have rented it out for the last 5-ish years, which is widely known to all on Park Rd.

Date : 02/24/2022 8:44:15 PM

From [REDACTED]

To : "Yates Chris" chrisdy@hiltonheadislandsc.gov

Cc : "Orlando, Marc" marco@hiltonheadislandsc.gov, "Colin Shawn" shawnc@hiltonheadislandsc.gov, "Becker, Tamara" tamarab@hiltonheadislandsc.gov, "Gruber, Josh" joshg@hiltonheadislandsc.gov, "[REDACTED]"

Subject : Re: 12 Park Road

THIS MESSAGE ORIGINATED OUTSIDE YOUR ORGANIZATION

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Mr. Yates,

I would like to state categorically that the shed in the back (the second dwelling) was only a slab and a roof, NO WALLS before 2017. I am a very good friend to this day of Mrs. Perri, and I spent many hours at her house during the time that she owned it. While Mr. Piper owned it, the shed remained in its original state until after Hurricane Matthew. I know this because I was also a guest at his house for neighborhood get togethers. The shed was not habitable before the Sherriers bought the property. The main house flooded during Hurricane Matthew and was rendered uninhabitable; it was condemned by the town. After a year of fighting with his insurance company, Mr. Piper slowly and under the radar added plumbing and walls to the shed, while he was rebuilding the main house. Anything else is fabrication. If Mr. Piper says anything different than this or signs any affidavit to the contrary, he is lying.

As we've discussed, we know these are lies. You yourself said that the rear structure on my property existed when you lived on Heron St. in 1980. The structure undoubtedly had a roof, and walls.

And, please see attached for the signed letter that we received from Mark and Jay Piper to this effect. In the appraisal report that we got pre-close on the property in July 2020, Mark is also quoted that the rear structure existed when he purchased the property in 1985. Per such inspection report dated June 17, 2020, before we purchased the property about a month later, and I quote, "According to the owner the structure was present when the property was last acquired in Nov. 1985".

The problem is that the Town will not give any credence to Debbie and Vickie's lies. We received a response from the Town yesterday indicating that it's effectively a he-said, she-said. I'm not sure how the Town can give any credence to anything that Vickie has to say about 1985 since she didn't purchase her property as I understand it until 1999. And, Debbie has already established that she's not being truthful in that her assertions are in direct contradiction to the letters we receive from you and Lance (and Mark and Jay Piper). You told me that you remember the kids that lived back there pre-Matthew being picked up by the bus on the street. What kind of person makes up these lies? I don't expect you to answer that question.

However, can you please confirm that our rear structure did in fact have a roof and walls since the days that you lived on Heron, as early as 1980?

I don't mean to bother you with this, but I need others to know the truth, and I'm at a loss at current without your help.

Thank you!

Eric

---

**From:** Rick Trenary [REDACTED]  
**Sent:** Saturday, March 12, 2022 7:21 AM  
**To:** Sherrier, Eric <[Eric.Sherrier@rsmus.com](mailto:Eric.Sherrier@rsmus.com)>  
**Subject:** EXT: FW: Message from KM\_C3351

Good Morning,

Here is the signed document. Hope this helps your suit. If there is anything else that you think Gayle or I can help with please let us know.

Sincerely,



**Rick Trenary**

Account Executive | Landscape & Grounds Products

Phone **843.757.2333**

Mobile **843.247.2832**



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**From:** [REDACTED]

**Sent:** Saturday, March 12, 2022 8:14 AM

**To:** Rick Trenary [REDACTED]

**Subject:** Message from KM\_C3351

Impr Type Code

Actual Description

[New Search](#)



The Beaufort County Assessor's office makes every effort to produce the most accurate information possible. No warranties, expressed or implied are provided for the data herein, its use or interpretation. All data is subject to change.

PIN#: R550 015 00A 0397 0000

KEY#: 00407964

**Owner Info**

PIPER MARK D  
 12 PARK RD  
 HILTON HEAD ISL, SC 29928  
**Location:** 12 PARK ROAD

**Land Data**

Year: **2009** Map No:  
 Neighborhood Code: **L005** Acres: **0.00**  
 Agriculture Use: **0** Income Value: **0**  
 PCS: **11** PCA: **4115**

**Legal Info**

LOT 184 H H BCH 1A

**Historic**

Year	Land	Building	Features	Market*	Assessed	Taxes	Payment
2008	\$200,000	\$103,300	\$0	\$303,300	\$12,132	\$1,255.00	\$0.00
2007	\$200,000	\$103,300	\$0	\$303,300	\$12,132	\$1,185.11	\$1,185.11
2006	\$200,000	\$103,300	\$0	\$303,300	\$12,132	\$1,888.57	\$1,888.57
2005	\$200,000	\$103,300	\$0	\$303,300	\$12,132	\$1,746.63	\$1,746.63
2004	\$200,000	\$103,300	\$0	\$303,300	\$12,132	\$1,742.23	\$1,742.23
2003	\$68,000	\$82,500	\$0	\$150,500	\$6,020	\$1,094.13	\$1,094.13
2002	\$68,000	\$82,500	\$0	\$150,500	\$6,020	\$1,062.82	\$1,062.82
2001	\$68,000	\$82,500	\$0	\$150,500	\$6,020	\$1,024.89	\$1,024.89
2000	\$68,000	\$82,500	\$0	\$150,500	\$6,020	\$995.10	\$995.10
1999	\$68,000	\$82,500	\$0	\$150,500	\$6,020	\$927.67	\$927.67
1998	\$68,000	\$82,500	\$0	\$150,500	\$6,020	\$830.76	\$830.76
1997	\$28,400	\$72,000	\$0	\$100,400	\$4,016	\$596.73	\$596.73
1996	\$28,400	\$72,000	\$0	\$100,400	\$4,016	\$540.52	\$540.52

**Sales**

Owner	Book	Page	Date	Inst.	Qualif	Vacant/Impr	SalePrice
PIPER MARK D	1348	25	20001012	<a href="#">QC</a>	<a href="#">L</a>	I	\$10.00
PIPER MARK D LISA M JTROS	436	795	19851101	<a href="#">GW</a>	<a href="#">Q</a>	I	\$105,000.00
PERRI JAMES F MARY ANN	370	645	19830501	<a href="#">GW</a>	<a href="#">Q</a>	I	\$99,500.00
JENNESS THOMAS M LORRAINE P	301	1032	19800501	<a href="#">GW</a>	<a href="#">U</a>	I	\$0.00

**Building Characteristics**

Number	Improvement Type	Year Built	Stories	Rooms	SQFT	LivingArea
1	<a href="#">RRS10WMA</a>	1969	1.0	5	2256	1392

**Building Area**

Number	Description	SQFT	Exemptions
			Year Amount

\*Market: This is either the assessor's market value as of the last countywide reappraisal, value effective 12/31/2002 or the Assessable Transfer of Interest (ATI) market value as per SC Code section 12-37-3150, value effective 12/31/2007.



# TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court | Hilton Head Island, SC 29928 | 843-341-4757 | FAX 843-842-8908

## STAFF REPORT APPEAL

Case #:	Public Hearing Date:
APL-000618-2022	May 24, 2022

Parcel or Location Data:	Property Owner	Applicant
<u>Address:</u> 12 Park Road  <u>Parcel:</u> R550 015 00A 0397 0000	Eric and Tracy Sherrier 57 Sunset Avenue Glen Ellyn, IL 60137	Eric and Tracy Sherrier 57 Sunset Avenue Glen Ellyn, IL 60137

**Application Summary:**

Mr. and Mrs. Eric Sherrier are requesting dismissal or nullification of the Notice of Violation received on January 7, 2022 regarding their property located at 12 Park Road, Hilton Head Island.

**Staff Recommendation:**

Town staff recommends that the Construction Board of Adjustments and Appeals (CBAA) concur with the Building Official's determination that the Illegal Non-Conforming structure located at 12 Park Road, Hilton Head Island is an unpermitted structure that is being unlawfully used for habitation in violation of the Code.

**Background:**

October 5, 2020 – Staff received a complaint stating the shed behind the main residence at 12 Park Road was being renovated and turned into a rental property and suspected work was being done on the structure without the proper permits. A Building Inspector inspected the site and did not find any active construction. Staff did note the rear storage building had a stove and was therefore considered a dwelling unit pursuant to the International Building Code and the Town's Land Management Ordinance. The property owner was informed that the property did not have the density for a second dwelling unit and the property owner removed the stove from the building.

February 18, 2021 – Staff received a complaint stating the property owner of 12 Park Road was doing work to the rear storage building, including plumbing and electrical lines, and installation of two new mini-split systems without a permit. A Building Inspector visited the site and received permission from Mr. Sherrier to enter the building. At that time, there was no evidence of new plumbing or electrical construction taking place. Another Building Inspector reinspected the shed on February 23, 2021 and documented the unit did not contain a stove.

February 25, 2021 – The Chief Building Inspector and Code Compliance Officers visited the site to evaluate the location of the two new mini-splits that were installed without a permit. At that time, they observed the stove was back in the storage building.

February 26, 2021 – The Chief Building Inspector, Code Compliance Officers and the Development Review and Zoning Administrator meet with Mr. Sherrier to discuss the mini-splits that were installed in the buffer without a permit and to address the stove. Code Compliance issued two citations to Mr. Sherrier for installing the mini-splits in the buffer without a permit. Mr. Sherrier unplugged the stove and moved it away from the counter. The stove was removed from the building on March 17, 2021.

March 3, 2021 – Code Compliance sent a follow up letter to Mr. Sherrier outlining the steps to be taken to rectify the violation, which included obtaining a permit for installing the mini-splits outside of the buffer. An electrical permit was issued for installation of the two mini-split systems on March 16, 2021 and a permit to move the mini-split systems out of the buffer was issued on March 24, 2021. Both permits had final inspections and were closed out on March 24, 2021. Also, on March 24, 2021, Mr. Sherrier went to court, pled guilty and because he had come into compliance, his fines were reduced.

April 1, 2021 – Staff received an email from Ms. Silbaugh of 14 Park Road alleging that Mr. Sherrier had converted the rear shed to living space in 2020. The email stated that she and other neighbors can attest to the illegal conversion to habitable space after 1983. Town staff replied and stated that based on the information that was currently available, the Town considered the shed legally non-conforming.

Between April 2021 and October 2021, the Town received several inquiries from adjacent property owners regarding the Town's permitting procedures and Land Management Ordinance interpretations. During this time, the Town met with the Mr. and Mrs. Sherrier and adjacent property owners and conducted extensive research on the property for each of their concerns.

October 26, 2021 – Staff received a detailed document from property owners in the vicinity of 12 Park Road outlining their concerns and providing a plethora of documentation demonstrating the shed at 12 Park Road was being used as a habitable structure. Staff meticulously evaluated the document and based on the information provided, determined that the shed has been converted to a habitable structure without a permit sometime after 1985.

Approximately December 17, 2021 – Staff received a signed and notarized affidavit from a previous owner of 12 Park Road stating that the structure at the rear of the property was previously a concrete slab with a roof but no walls. (Attachment 1)

January 7, 2022 – Staff posted the structure with a Notice of Violation and a copy of the Notice of Violation Letter was mailed certified delivery to the property owner of 12 Park Road. The notice gave Mr. Sherrier 30 days to apply for a building permit to change the occupancy of the building. (Attachment 2).

March 6, 2022 – Mr. and Mrs. Eric Sherrier filed an appeal with the Construction Board of Adjustments and Appeals. The appeal was based on the Building Official’s decision and notice of violation for the illegal occupancy of an illegal non-conforming structure.

**Summary of Facts:**

The structure located at 12 Park Road is a structure unlawfully being used for habitation in violation of the building code.

1. No building permits have been issued to change the use of a structure from a shed to habitable space. The structure was converted to habitable space after 1985.
2. The structure is located in flood zone AE with a base flood elevation of 9’. The structure is slab on grade and does not meet the lowest floor requirements of the Town’s Flood Damage Controls Ordinance and can only be used for parking or storage.

**PREPARED BY:**

SM  
\_\_\_\_\_  
Shari Mendrick, P.G., CFM  
Floodplain Administrator

May 9, 2022  
\_\_\_\_\_  
DATE

**REVIEWED BY:**

CY  
\_\_\_\_\_  
Chris Yates, CBO, CFM  
Building Official

May 9, 2022  
\_\_\_\_\_  
DATE

**ATTACHMENTS:**

- 1) Affidavit from MaryAnn Perri Jackson
- 2) Notice of Violation Letter

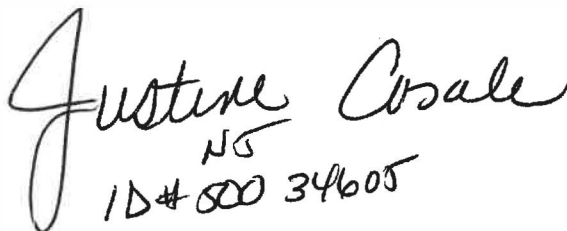
ATTACHMENT 1

To Whom It May Concern:

I, MaryAnn Perri Jackson, was owner along with my former husband, of the property at 12 Park Road from May 1, 1983 until November 1, 1985. During that time, there was a shed in the backyard in which we stored outdoor equipment, such as garden tools and a lawn mower. It was not a garage and we never parked our cars there. It was on a concrete slab; it had a roof but no walls, and was supported by posts. It remained in that state for as long as we owned the property. In 1985 we sold the property to Mark Piper.

Thank you,

MaryAnn Perri Jackson

A handwritten signature in cursive script that reads "Mary Ann Jackson".A handwritten signature in cursive script that reads "Justine Cosale". Below the signature, the text "NS" is written above "ID# 000 34605".

**TOWN OF HILTON HEAD ISLAND**

One Town Center Court, Hilton Head Island, S.C. 29928

(843) 341-4600 Fax (843) 842-7728

www.hiltonheadislandsc.gov

John J. McCann  
Mayor**SENT VIA CERTIFIED MAIL**William D. Harkins  
Mayor Pro Tem

January 7, 2022

\_\_\_\_\_  
Council MembersThomas W. Lennox  
David Ames  
Tamara Becker  
Glenn Stanford  
Alexander Brown, Jr.Mr. and Mrs. Sherrier  
57 Sunset Avenue  
Glen Ellyn, IL 60137RE: **Notice of Violation** related to the Structure located at 12 Park Road,  
Tax District R550-015-00A-0397-0000, 12 Park Road Hilton Head Island, SC  
29928\_\_\_\_\_  
Marc Orlando  
Town Manager

Dear Mr. and Mrs. Sherrier:

A search of the Beaufort County tax records indicates that you are the current owner of the above referenced property. Pursuant to section 114.1 of the International Building Code, 2018 edition, this letter shall serve as notice that the use of the residential utility/storage room building has changed. A building permit to change the use has not been submitted to the Town, there have been no building plans drawn and submitted by a South Carolina licensed Design Professional for review and approval by the Town, a flood elevation certificate has not been provided to the Town, and all required inspections by the Town of Hilton Head Island have not been conducted; therefore, this is considered by the Town to be an illegal use and unlawful occupancy.

A Town of Hilton Head Island Building Inspector, the Chief Building Inspector and a Code Enforcement Officer inspected the site and observed that the structure is being used as a habitable space. It has been determined that the conversion to habitable space was completed after September 30, 1977, which is when Beaufort County entered the National Flood Insurance Program. All new construction or substantial improvement completed after September 30, 1977, is required to be elevated to the Specific Standards of Section 15-9-312 (a) of Town Municipal Code Title 15 Chapter 9, Flood Damage Controls,

**Pursuant to Section 114.2 of the International Building Code, 2018 edition, you are hereby ordered to immediately discontinue the unlawful occupancy of the above referenced structure.**

You have 30 days from the date of this letter to apply for a building permit to change the occupancy of the building. If a building permit is applied for and provided, a Certificate of Occupancy may be issued at such time that all noted violations have been corrected, construction is completed and properly inspected

## ATTACHMENT 2

by Town Building Inspectors.

Should you disagree with this determination you may file an appeal to the Town's Construction Board of Adjustments and Appeals (application attached).

Furthermore, work such as replacing or adding windows, new plumbing and electrical all require a building permit. The Town has evidence that suggests that work that required a permit was done without the required permit. In addition to requiring an after the fact permit and a double permit fee, the Town may also issue you a citation for this violation.

If you have any questions, I may be reached at 843-341-4675 or [tonyp@hiltonheadislandsc.gov](mailto:tonyp@hiltonheadislandsc.gov).

Sincerely,



Tony Pierce  
Interim Building Official

cc: Chris Yates, Interim Community Development Director  
Shawn Colin, Senior Advisor to the Town Manager  
Josh Gruber, Deputy Town Manager  
Shari Mendrick, Floodplain Administrator  
Diane Busch, Staff Attorney



## ATTACHMENT 2

**[A] 114.1 Unlawful acts.** It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, *repair*, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

**[A] 114.2 Notice of violation.** The *building official* is authorized to serve a notice of violation or order on the person responsible for the erection, construction, *alteration*, extension, *repair*, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a *permit* or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

### **Sec. 15-9-312. - Specific standards.**

In all areas within zones AE, AO, Shaded X, and X, the following provisions are required:

(a) *Residential construction.* New construction and substantial improvement of any residential structure (including manufactured homes) must be constructed so that the lowest floor, is elevated no lower than three (3) feet above the base flood elevation or thirteen (13) feet above mean sea level using NAVD88, whichever is higher. No environmentally conditioned space shall be allowed below the lowest floor. No basements are permitted. Should solid foundation perimeter walls be used to elevate a structure, flood openings sufficient to automatically equalize hydrostatic flood forces, shall be provided in accordance with the elevated buildings requirements in [section 15-9-312\(f\)](#). Residential structures may not be floodproofed in lieu of elevation.



Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928

UNITED STATES POSTAL SERVICE® **CERTIFIED MAIL®**



9489 0090 0027 6279 6420 91

Label 890-PB, Oct. 2015  
Pitney Bowes



US POSTAGE™ PITNEY BOWES

ZIP 29928 \$ 004.28<sup>0</sup>  
02 4W  
0000365586 JAN 07 2022

Mr. and Mrs. Sherrier  
57 Sunset Avenue  
Glen Ellyn, IL 60137

Confirmation Services	Package ID: 9489009000276279642091	Electronic Certified
	Destination ZIP Code: 60137	First Class Letter
	Customer Reference:	
	Recipient: <u>Mr + Mrs. Sherrier</u>	PBP Account #: 33914797
	Address: <u>57 Sunset Avenue</u>	Serial #: 0365586
	<u>Glen Ellyn, IL 60137</u>	JAN 07 2022 3:06 PM

ATTACHMENT 2



FAQs >

Track Another Package +

Tracking Number: 9489009000276279642091

Remove X

Your item was picked up at the post office at 8:38 am on January 19, 2022 in GLEN ELLYN, IL 60137.

USPS Tracking Plus™ Available ∨

### ✓ Delivered, Individual Picked Up at Post Office

January 19, 2022 at 8:38 am  
GLEN ELLYN, IL 60137

Feedback

Get Updates ∨

Text & Email Updates ∨

Tracking History ^

January 19, 2022, 8:38 am

Delivered, Individual Picked Up at Post Office  
GLEN ELLYN, IL 60137

Your item was picked up at the post office at 8:38 am on January 19, 2022 in GLEN ELLYN, IL 60137.

Reminder to Schedule Redelivery of your item

January 14, 2022, 1:04 pm

Notice Left (No Authorized Recipient Available)

GLEN ELLYN, IL 60137

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**January 14, 2022, 6:10 am**

Out for Delivery

GLEN ELLYN, IL 60137

---

**January 13, 2022, 6:28 pm**

Arrived at Post Office

GLEN ELLYN, IL 60137

---

**January 13, 2022, 1:44 am**

Departed USPS Regional Destination Facility

CAROL STREAM IL DISTRIBUTION CENTER

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**January 12, 2022, 10:17 am**

Arrived at USPS Regional Destination Facility

CAROL STREAM IL DISTRIBUTION CENTER

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**January 11, 2022**

In Transit to Next Facility

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**January 10, 2022, 10:29 pm**

Departed USPS Regional Origin Facility

CHARLESTON SC PROCESSING CENTER

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**January 10, 2022, 10:06 pm**

Arrived at USPS Regional Origin Facility

CHARLESTON SC PROCESSING CENTER

---

**January 10, 2022, 8:51 pm**

Accepted at USPS Origin Facility

HILTON HEAD ISLAND, SC 29928

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**January 7, 2022**

Pre-Shipment Info Sent to USPS, USPS Awaiting Item

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Feedback

**USPS Tracking Plus™**



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**Product Information**



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**See Less** ^

## Can't find what you're looking for?

Go to our FAQs section to find answers to your tracking questions.

**FAQs**

Feedback