

TOWN OF SMITHFIELD BOARD OF ADJUSTMENT AGENDA PACKET



Chairman: Sarah Edwards
Vice-Chairman: Jeremy Pearce

Monique Austin
Thomas Bell
Greg Evans
Jason Evans

Stephen Wensman, AICP, RLA, Planning Director
Micah Woodard, CZO Planner I
Julie Edmonds, Administrative Assistant

Meeting Date: Thursday, July 31, 2025

Meeting Time: 6:00 p.m.

Meeting Place: Council Chambers, Smithfield Town Hall

**AGENDA
BOARD OF
ADJUSTMENT REGULAR
MEETING JULY 31st, 2025
MEETING TIME: 6:00 PM
TOWN HALL**

Call to Order

Approval of the minutes for June 12th, 2025

New Business

- None

Public Hearing

- **BA-25-04:** To review a variance to re-use a nonconforming pylon sign pole for a new sign. Unified Development Ordinance (UDO) Section 9.9. outlines the restrictions for nonconforming signs, and Section 10.24.2. sets the parameters for new signs. The property considered for variance is located at 924 N. Brightleaf Blvd, further identified by Johnston County Tax ID 15005033.

Old Business

- None

Training Session

- Explain rules, roles, expectations, Quasi-Judicial procedure.

Adjournment

**Town of Smithfield
Board of Adjustment Draft Minutes
Thursday, June 12th, 2025
6:00 P.M. Town Hall,
Council Chambers**

Members Present:

Jeremy Pearce, Vice Chairman
Thomas Bell
Monique Austin
Jason Evans
Greg Evans

Members Absent:

Sarah Edwards, Chairman

Staff Present:

Micah Woodard, Planner I
Julie Edmonds, Admin Support Specialist

Staff Absent:

Stephen Wensman, Planning Director

CALL TO ORDER

Approval of minutes from April 24th, 2025

Monique Austin made a motion, seconded by Tom Bell to approve the minutes as written. Unanimously approved

New Business

Jason and Greg Evans were sworn in as new Board of Adjustment members by Town Clerk, Elaine Andrews.

Open Public Hearing

Tom Bell made a motion to open the public hearing; seconded by Monique Austin. Unanimously approved.

Oath was administered by Jeremy Pearce to all individuals wishing to speak.

BA-25-03 S. Second St. Setback Variance: This case is to review a variance from the Unified Development Ordinance, Section 8.3.1. to construct a home that encroaches 5 feet over the side setback line.

Micah Woodard presented BA-25-03 stating the applicant has requested to review a variance to construct a home that encroaches 5 feet over the side setback line. Unified Development Ordinance (UDO) Section 8.3.1. sets the dimensional requirements for the R-8 zoning district. The property considered for a variance is located at 417 S. Second Street, further identified by Johnston County Tax ID 15029033. Owners Brightleaf #2004-II, LLC and Warehouse Properties, LLC had initially planned to remodel the old house that was formerly located on the property. The initial inspection of the home did not indicate the homes foundation issues. It was later decided that it would be more cost effective to demo the former house and construct a new house on the property. After the former house was demolished and a survey was done on the site it was determined that the former house was also encroaching on our current R-8 building setbacks. This is common for older homes that were built before our current code was established. When staking out the area for the new house the owners realized that if the new house is to adhere to the current setback standards the house would appear to be on a subtle slant and or crooked in comparison to the neighboring houses. This is due in-part to the slanted shape of the lot and the fact that the lot tapers in size from front to back, going from *roughly 63 feet to 55 feet. To construct the house to appear straight and square with the rest of the neighborhood they would need to encroach the side setback line by 5 feet on the left-hand side.

Micah read the four Finding of Facts for the variance. He indicated that planning staff recommends the Board of Adjustment approve the variance from the UDO to allow construction of a home that encroaches 5 feet into the side setback, based on the findings of fact for variances.

Greg Evans had a concern there were some egress issues that weren't previously there. He sees a tradeoff too; he feels the applicant is doing the best they can under the circumstances. He pointed out how close they would be to the powerline and suggested they keep that in mind.

Close Public Hearing

Tom Bell made a motion to close BA-25-03; seconded by Jason Evans. Unanimously approved.

Jeremy Pearce read the four Finding of Fact.

1. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. **By adhering to the ordinance, the argument could be made that the homes curb appeal and value would be hindered.**

All present members voted I

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. **The existing lots orientation with the street and the fact of the lots taper in size make conforming to current standards difficult and would result in the home appearing slanted/ crooked.**

All present members voted I

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. **Unfortunately, the initial inspection of the home did not indicate that the homes foundation was in disrepair. While the initial efforts of the owners were to salvage the former home; when that was no longer a feasible option building new and thereby conforming to current standards became the only option. The hardship is not self-created.**

All present members voted I

4. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved. **This variance request is relatively insignificant; considering that the former home sat in roughly the same proposed footprint building a new house over the UDO required setback line by only 5 feet this project still adheres to the general intent of the ordinance and it is consistent with the overall spirit, and purpose.**

All present members voted I

Jeremy Pearce made a motion to approve variance BA-25-03 from the Unified Development Ordinance to allow construction of a home that encroaches 5 feet into the side setback, based on the four findings of fact for variances; Tom Bell seconded the motion. Unanimously approved.

Old Business.

None

Adjournment.

Greg Evans made a motion to adjourn; seconded by Jason Evans. Unanimously approved.

Julie Edmonds



Administrative Support Specialist
Town of Smithfield
Planning Department



Request for Board of Adjustment Action

**Agenda
Item:** BA-25-04
Date: 7/31/25

Subject: Chicken Salad Chick Variance
Department: Planning
Presented by: Micah Woodard, CZO, Planner I
Presentation: Public Hearing

Issue Statement

To review a variance to re-use a nonconforming pylon sign pole for a new sign.

Financial Impact

None.

Action Needed

To hold an evidentiary hearing, review the variance request and decide whether to approve, approve with conditions, or deny.

Recommendation

Planning Staff recommends approval of the variance, Case no. BA-25-04, based on the finding of fact.

Approved: ☐ Town Manager ☐ Town Attorney

Attachments:

- Staff Report
- Finding of Fact
- Application
- Site Plan



Staff Report

Agenda Item: BA-25-04

REQUEST:

To review a variance to re-use a nonconforming pylon sign pole for a new sign. Unified Development Ordinance (UDO) Section 9.9. outlines the restrictions for nonconforming signs, and Section 10.24.2. sets the parameters for new signs. The property considered for variance is located at 924 N. Brightleaf Blvd, further identified by Johnston County Tax ID 15005033.

PROJECT LOCATION:

The property considered for variance is located at 924 N Brightleaf Blvd, Smithfield, NC 27577.

CASE DATA:

Owner:	924 Brightleaf, LLC
Applicant:	Michael Wolfe - MSW Store Rollout Services
Tax ID#:	15005033
Town/ETJ:	Town
Acreage:	1.318 acres
Present Zoning:	B-3
Existing Use:	Restaurant with drive-thru
Water Service:	Town of Smithfield
Sewer Service:	Town of Smithfield
Electrical Service:	Town of Smithfield

ADJACENT ZONING AND LAND USE:

	Zoning	Existing Use
North	B-3	Single Tenant Business
South:	R-6	Detached Single-Family
West:	B-3	Single Tenant Business
East:	B-3	Single Tenant Business

ANALYSIS:

The commercial property at 924 N Brightleaf Boulevard has been renovated for a new restaurant. The former restaurant closed and with it, the sign and sign cabinet was removed from the pole sign leaving the pole behind. The pole sign was a legal non-conforming sign and when the sign and sign cabinet were removed, the nonconforming status became null and void and regulations require only a conforming sign to be installed in its place.

The new tenant, Chicken Salad Chick, applied for a sign permit intending to use the existing pole by installing a new sign cabinet and sign on it but were informed that the existing pole sign was non-conforming and could not be used.

The new tenant, Chicken Salad Chick, inherited a site and building that was designed long before current zoning code. The site was designed long ago when poles signs were allowed and when there were no sign setbacks. There is inadequate space between the building and the right-of-way for a 6' ground mounted sign with a 10' setback as required by the current code. Consequently, the applicant has a need for the reuse of the pole for a new sign to provide for needed commercial sign.

Nonconforming Code. The intent of the nonconforming code is to protect nonconformities that were once legal, protecting the investment and rights of property owners with such structures. Although the nonconforming code protects those legal nonconforming structures, the code also recognizes that regulations change and has provided triggers for when the legal status become null and void with the intent of bringing such properties up to date with current regulations. In this case the legal status of the sign became null and void with the removal of the sign and cabinet from the pole.

Precedent. Sign ordinances are of the most scrutinized part of the development code (UDO) because commercial properties are reliant on effective advertising and branding. As with other regulations, the Town is required to follow the regulations and treat all applications and applicants equally without favor or bias. The Board of Adjustment should consider the potential precedent that this variance could create and to carefully consider the finding of fact such that the Board is not granting favor to the business that is not supported by the facts associated with the property in question and its unique configuration and limitations.

FINDING OF FACT FOR VARIANCE (STAFF FINDINGS):

To approve a variance, the Board of Adjustments shall find all of the following provisions can be met (Staff's finding are in ***bold/italic***) (the applicant's finding are in the report packet):

1. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use

can be made of the property. *Brand awareness from Brightleaf Blvd. would be hindered and may affect sales and traffic into the business if the pole sign were not allowed. This is based upon the fact of the current setback requirement and existing vehicle travel lane in front of the building will not allow a ground mounted sign of size that would be appropriate or effective.*

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. *The hardship was created years ago by the original site development by others. The site limitations appear to be somewhat unique and will not create a precedent for granting similar requests without warrant.*

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. *Property is leased and not owned by Chicken Salad Chick. The prior tenant also had a pylon sign for which the sign was removed, but not the pole. The applicant did not have any prior understanding of the limitations of the sign ordinance related to the reuse of the pole and its nonconforming status.*

4. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved. *All signage will meet current sq. ft. standards apart from this sign being a pole sign rather than a ground mounted sign. The sign will be installed by a professional sign installation company with all necessary permits.*

RECOMMENDATION:

Planning Staff recommends that the Board of Adjustment approve the variance from the Unified Development Ordinance Section 9.9. to re-use a nonconforming pylon sign pole for a new sign, based on the findings of fact for variances.:

1. Unnecessary hardship would result from the strict application of the Ordinance.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography.
3. The hardship did not result from actions taken by the applicant or the property owner.
4. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.

RECOMMENDED MOTION:

"Move to approve variance BA-25-04 granting a variance from UDO Section 9.9. to re-use a nonconforming pylon sign pole for a new sign, based on the four finding of fact."

(Vote on each finding)

BA-25-04 Chicken Salad Chick

File Number:
BA-25-04

Project Name:
Chicken Salad Chick

Location:
924 N Brightleaf Blvd,
Smithfield, NC 27577

Tax ID#:
15005033

Existing Zoning:
B-3

Property Owner:
924 BRIGHTLEAF, LLC

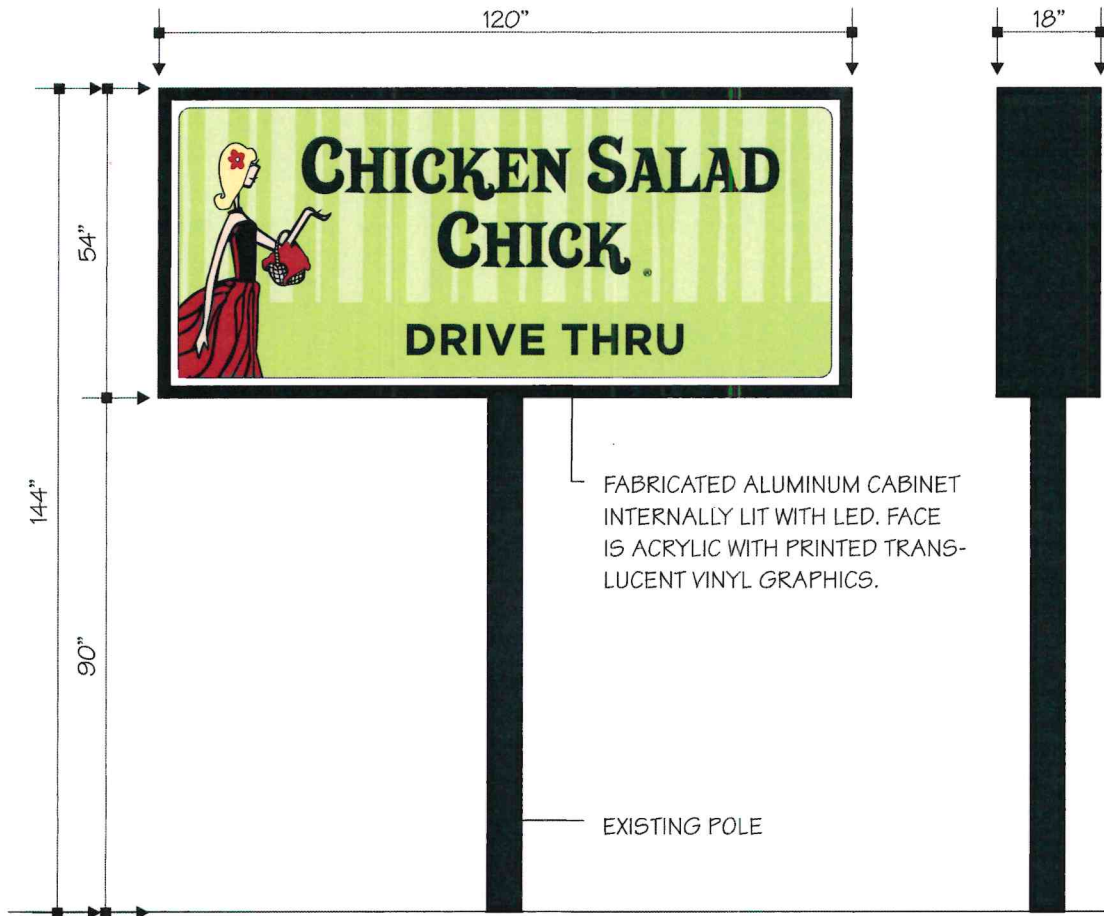
Applicant:
Michael Wolfe - MSW
Store Rollout Services



45 S/F

ELEVATION

END VIEW



Existing Sign (removed)

Existing pole furring removed



COLORS:

BLACK WHITE PMS 374 PMS 1805 PMS 602 PMS 7507

TYPE FACE:

FONTS:



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CLIENT: CSC
SALESPERSON: RICHIE ROSEBUSH
DESIGNER: NEIL TANNER

APPROVED BY:
DATE: 5/30/25

FILE: ARTWORK / SALES ART
CHICKEN SALAD CHICK 924 N BRIGHTLEAF BLVD, SMITHFIELD, NC4
SCALE: 3/8"=1'



Town of Smithfield
Planning Department
350 E. Market St. Smithfield, NC 27577
P.O. Box 761, Smithfield, NC 27577
Phone: 919-934-2116
Fax: 919-934-1134

VARIANCE APPLICATION

Pursuant to Article 4, of the Town of Smithfield Unified Development Ordinance, an owner of land within the jurisdiction of the Town (or a duly authorized agent) may petition the Board of Adjustment for relief from a requirement of the Unified Development Ordinance and to permit construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

In granting variances, the Board of Adjustment may impose such reasonable conditions as will insure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

Variance applications must be accompanied by (3) sets of the complete application, (3) sets of required plans, an Owner's Consent Form (attached) and the application fee.

SITE INFORMATION:

Name of Project: Chicken Salad Chick Acreage of property: _____
Parcel ID Number: 15005033 Tax ID: 15005033
Deed Book: 4648 Deed Page(s): 965
Address: 924 Brightleaf Blvd, Smithfield NC 27577
Location: _____

Existing Use: Business B-3 Proposed Use: Business B-3
Existing Zoning District: B-3
Requested Zoning District: B-3
Is project within a Planned Development: Yes No
Planned Development District (if applicable): _____

Variance Request (List Unified Development Code sections and paragraph numbers)

1. Re-use of Existing Pylon sign pole with New sign

FOR OFFICE USE ONLY

File Number: _____ Date Received: _____ Amount Paid: _____

OWNER INFORMATION:

Name: Heather Harmon

Mailing Address: 4124 Redington Dr. Raleigh NC 27609

Phone Number: 919-539-3150

Fax:

Email Address: hgibson33@gmail.com

APPLICANT INFORMATION:

Applicant: MSW

Mailing Address: 5828 Zarley Street New Albany OH 43054

Phone Number: 614-980-1772

Fax:

Contact Person: Michael Wolfe

Email Address: michael@mswstorerolloutservices.com

REQUIRED PLANS AND SUPPLEMENTAL INFORMATION

The following items must accompany a variance application. This information is required to be present on all plans, except where otherwise noted:

All required plans (please see the plan requirements checklist).

Owner Consent form

A Statement of Justification.

Required Finding of Fact.

Other Applicable Documentation: _____

STATEMENT OF JUSTIFICATION

Please provide detailed information concerning all requests. Attach additional sheets if necessary.

The previous tenant (Smithfield Chicken and Barbecue) removed the branded rectangular sign from the Pylon sign pole, which triggered a variance for the installation of a new Chicken Salad Chick sign. The current sign code does not allow a Pylon mounted sign and requires a 10'-0" setback from the right-of-way, which would put the (current requirement of a ground mounted type) sign well within the existing travel lane in front the building making it impossible for vehicles. Since it's unreasonable to move the existing building to allow for vehicle travel, we propose keeping the pylon sign pole and seek an approval through this variance process to install a new rectangular sign on the existing pole.

We have reviewed with this request with staff (Mr. Stephen Wensman) and he shown support of this variance.

REQUIRED FINDINGS OF FACT

Article 4, Section 4.10.2.2 of the Town of Smithfield Unified Development Ordinance requires applications for a variance to address the following findings. The burden of proof is on the applicant and failure to

adequately address the findings may result in denial of the application. Please attach additional pages if necessary.

4.10.2.2.1 Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

Brand awareness from Brightleaf blvd would be hindered and may affect sales and traffic into the business. This is based upon the fact of the current setback requirement and existing vehicle travel lane in front of the building will not allow a ground mounted sign of size that would be appropriate.

4.10.2.2.2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

This variance will have no affect or ramifications to the general public of any neighboring communities.

4.10.2.2.3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

n/a. Property is leased and not owned by Chicken Salad Chick. The prior tenant also had a Pylon sign for which the sign was removed, but not the pole.

4.10.2.2.4. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.

All signage will meet current sizing standards and will be installed by a professional sign installation company with all necessary permits.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Board of Adjustment of the Town of Smithfield to approve the subject Variance request. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Smithfield, North Carolina, and will not be returned.

Michael Wolfe

Print Name



Signature of Applicant

5-3-25

Date



Town of Smithfield
Planning Department
350 E. Market St Smithfield, NC 27577
P.O. Box 761, Smithfield, NC 27577
Phone: 919-934-2116
Fax: 919-934-1134

OWNER'S CONSENT FORM

Name of Project: Chicken Salad Chick

Submittal Date: 6-3-25

OWNERS AUTHORIZATION

I hereby give CONSENT to MSW (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge the property I have an ownership interest in the subject of this application. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application. I further consent to the Town of Smithfield to publish, copy or reproduce any copyrighted document submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

[Signature]
Signature of Owner

Brightleaf 924, LLC
Luther Stalling, Mgr
Print Name

6-3-25
Date

CERTIFICATION OF APPLICANT AND/OR PROPERTY OWNER

I hereby certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Smithfield, North Carolina, and will not be returned.

Michael D Wolfe
Signature of Owner/Applicant

Michael Wolfe
Print Name

6-3-25
Date

FOR OFFICE USE ONLY

File Number:

Date Received:

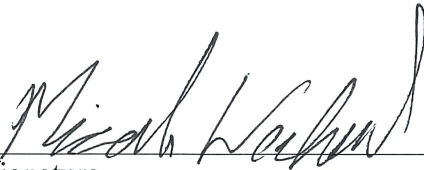
Parcel ID Number:



PLANNING DEPARTMENT
Stephen Wensman, Planning Director

ADJOINING PROPERTY OWNERS CERTIFICATION

I, Micah Woodard, hereby certify that the property owner and adjacent property owners of the following petition, BA-25-04, were notified by First Class Mail on 7/17/25 of the Public Hearing on July 31st, 2025.



Signature

Johnston County, North Carolina

I, Julianne Edmonds, Notary Public for Johnston County and State of North Carolina do hereby certify that Micah Woodard personally appeared before me on this day and acknowledged the due execution of the foregoing instrument. Witness my hand and official seal, this the

17th day of July, 2025



Notary Public Signature

Julianne Edmonds

Notary Public Name

My Commission expires on 1-15-2028



Name1	Name2	Address1	Address2	CityStateZip
924 BRIGHTLEAF LLC			PO BOX 979	CARY, NC 27512
SUN AUTO WASH LLC			PO BOX 447	SMITHFIELD, NC 27577-0000
TOP NOTCH PET SPA, LLC		2341 TIMBER DR		GARNER, NC 27529-2586
927 NORTH BRIGHTLEAF, LLC		7201 CREEDMOOR RD STE 120		RALEIGH, NC 27613-8000
SESSOMS, MORRIS TIMOTHY	SESSOMS, BRITNEY LYNN	8120 HARRELL STORE RD		KENLY, NC 27542-8938
WHITLEY, CAROLYN	EDWARDS, J P JR		P O BOX 2307	SMITHFIELD, NC 27577-0000
SPECTRUM REALTY, LLC		100 MARIAH DR		FOUR OAKS, NC 27524-8432
EDWARDS, JAMES P JR	WHITLEY, CAROLYN EDWARDS AND OTHERS		P O BOX 2307	SMITHFIELD, NC 27577-0000
DUFF, ALEXANDER	DUFF, LYNDA	4 ROOSEVELT AVE		CLAYTON, NC 27520-6522
WHITLEY, CAROLYN	EDWARDS, J P JR		P O BOX 2307	SMITHFIELD, NC 27577-0000
910 BERKSHIRE ROAD LLC		910 BERKSHIRE RD		SMITHFIELD, NC 27577-4751
JOHNSTON COUNTY INDUSTRIES INC		1100 EAST PRESTON ST		SELMA, NC 27576-0000
MOHAMED & SONS INC			PO BOX 1236	SMITHFIELD, NC 27577-1236
LER COMMERCIAL PROPERTIES LLC			PO BOX 1230	CORNELIUS, NC 28031-1230
SUN AUTO WASH LLC			PO BOX 447	SMITHFIELD, NC 27577-0000
MASSENGILL, LARRY EUGENE		41 DAIL ST		SMITHFIELD, NC 27577-4703
REYES, MARTHA C		1013 CHERRY STREET		SMITHFIELD, NC 27577-0000
COCKRELL, MARSHALL EARL	COCKRELL, KATHLEEN EDGERTON	205 BLACKWATER DR		WINTERVILLE, NC 28590-9904
HICO PROPERTIES LLC		228 SPRING BRANCH DRIVE		FOUR OAKS, NC 27524-0000
ROSADO, MELISSA	ROSADO, JAIMESON BLAINE	101 COUNTRY DAY CIR		SELMA, NC 27576-5629
MASSENGILL, W C	MASSENGILL, AMELIA GRACE		PO BOX 208	FOUR OAKS, NC 27524-0208
JOHNSON, BILLY E	JOHNSON, PAULA	58 E DAIL ST		SMITHFIELD, NC 27577-0000
MASSENGILL, W C	MASSENGILL, GRACE S		PO BOX 208	FOUR OAKS, NC 27524-0208
DAUGHTRY, JAMES R JR		106 MAPLE DRIVE		SMITHFIELD, NC 27577-0000
ATKINSON, OTIS B.		1006 CHERRY ST		SMITHFIELD, NC 27577-4735
SMITHFIELD HOUSING AUTHORITY		801 S 5TH ST		SMITHFIELD, NC 27577-0000
MASSENGILL, W C	MASSENGILL, GRACE S		PO BOX 208	FOUR OAKS, NC 27524-0208
SMITHFIELD HOUSING AUTHORITY		801 S 5TH ST		SMITHFIELD, NC 27577-0000
WAS VENTURES II, LLC		PO BOX 17046		RALEIGH, NC 27619-7046
MEDLIN, LU LONG		303 HEDRICK ST		BEAUFORT, NC 28516-2084
938 BRIGHTLEAF BOULEVARD LLC		120 WIND CHIME CT		RALEIGH, NC 27615-6433
STARLING, LINWOOD C JR		40 DAIL ST	PO BOX 2605	SMITHFIELD, NC 27577-2605
CAROLINA TELEPHONE & TELEGRAPH		1411 CAPITAL BOULEVARD		WAKE FOREST, NC 27587-5900
JOHNSTON COMMUNITY COLLEGE FOUNDATION, INC.			PO BOX 2350	SMITHFIELD, NC 27577-2350