

**NC Department of Insurance  
Office of State Fire Marshal, Engineering Division**

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RE:    Appeal of the August 2, 2016                    )  
      Stop Work Order issued by                    )                    NCDOI DECISION  
      Surry County.                                    )

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In accordance with GS 153A-361, John and Jessica Jonczak have appealed the Surry County decision regarding the occupancy classification for The Barn at Heritage Farm Event Building located at 245 Heritage Farm Lane, Dobson, NC 27017.

GS 153A-361 allows appeals of stop work orders involving alleged violations of the State Building Code to the NC Department of Insurance, Office of State Fire Marshal, Engineering Division.

**PARTIES**

Appellants:    John and Jessica Jonczak  
                  245 Heritage Farm Lane  
                  Dobson, NC 27017

Appellee:       Surry County Inspections Department  
                  122 Hamby Road  
                  Dobson, NC 27017-0588

**BACKGROUND**

The Barn at Heritage Farm Event Building (the building) was issued a stop work order by Surry County Inspections Department after it determined the occupancy was a Group A-2 Assembly occupancy open to the public and not a farm building. The Jonczaks are appealing the stop work order, arguing that the building remains classified as a farm building despite its public use.

**ISSUE RAISED IN APPEAL**

The following issue is raised in Appellants' appeal:

Where it appears that the primary use of a farm building is for public or private events, does it lose its status as a farm building?

## FINDINGS

Based on information submitted by both the appellants and the appellee, the following findings are made:

1. The property would meet the common understanding for what is considered a farm.
2. In the history provided by the Jonczaks in their August 1, 2016 email, they stated:
  - In August 2015 plans were made to build a large barn to hold farm equipment to replace five old and outdated farm buildings.
  - A permit for a single septic tank was issued and construction began in September 2015.
  - By March 6, 2016, the roof was complete and farm equipment was being stored in the building.
  - After the building was under roof, the appellants began talking about expanding the farm to teach and share with others.
  - A couple of months after that, Mrs. Jonczak's father was approached about using the building for a wedding.
  - It was after this, on May 20, 2016 that a new septic permit was issued for a larger septic system to accommodate groups visiting the farm.
  - That the building has been used solely for storage of farm equipment since mid-March and will continue to be used to store, process and sell farm products.
  - That farm equipment will be stored in the building during times of the year that they can't leave the items outside.
3. Based on information provided by the Surry County Inspections Department from The Barn at Heritage Farm website:
  - The building was designed specifically for big events.
  - That when the building was designed it was positioned so that Pilot Mountain was visible through glass windows right behind the stage.
4. Based on information provided by the Surry County Inspections Department from a July 17, 2016 Mt. Airy News article:
  - In September 2015, Mrs. Jonczak's father floated the idea of a wedding and banquet center.
  - That once complete, the barn will be a two story wedding and banquet center which can house up to 300 attendees.

- That the barn will also be used to store crops and chicken eggs.

5. From the information submitted, it does appear that the building is used to support the operations of the farm. The Jonczaks state that when the building is not used as a public venue, it will be used to store farm equipment.

6. Surry County determined that the use of the building was not a farm building as intended by GS 143-138, but a public building not associated with a farm. Due to the increased risk to the public, Surry County classified the occupancy as a Group A-2 in accordance with Chapter 3 of the NC Building Code.

### CONCLUSIONS

Based on the forgoing findings of fact, the following conclusions are made:

1. Pursuant to G.S. 153A-361, this appeal is limited to the consideration of alleged violations of the State Building Codes.

2. Pursuant to G.S. 143-138(b4):

Building rules do not apply to (i) farm buildings that are located outside the building-rules jurisdiction of any municipality, (ii) farm buildings that are located inside the building-rules jurisdiction of any municipality if the farm buildings are greenhouses, (iii) a primitive camp, or (iv) a primitive farm building.

3. While the statute does not provide a definition for “farm building,” a farm building would commonly be considered a structure to support the operations of the farm; and is not typically understood to accommodate public events and activities. Subsequently, the construction to address the risks associated with public venues are not included in the traditional construction of a farm building.

4. However, G.S. 143-138(b4)(1a) states:

A "farm building" shall not lose its status as a farm building because it is used for public or private events, including, but not limited to, weddings, receptions, meetings, demonstrations of farm activities, meals, and other events that are taking place on the farm because of its farm or rural setting.

5. G.S. 143-138 does not limit how often a farm building can be used for public or private events before the structure is no longer considered a farm building.

6. G.S. 143-138 extends only the “building rules”, but does not extend to overall safety of the occupancy. Imminent life safety hazards can be identified and cited in accordance with G.S. 153A-365 due to the public nature of the venue.

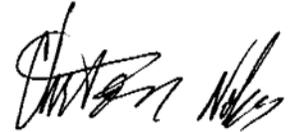
**APPEAL DECISION**

Based on the above findings and conclusions:

- The Stop Work Order is reversed for the construction of the building,
- The building with respect to public events is subject to inspection by the Surry County Fire inspectors to cite imminent life safety hazards in accordance with GS 153A-365.

This 16<sup>th</sup> day of August, 2016.

North Carolina Department of Insurance

A handwritten signature in black ink, appearing to be "John W. Hester", is written over the typed name of the North Carolina Department of Insurance.

**FURTHER APPEAL RIGHTS**

You have the right to appeal this decision to the NC Building Code Council. Please refer to GS 153A-361 and the NC Administrative Code and Policies, Section 202.9.2 for further appeal rights. You have 30 days in which to appeal this decision.

Cc:  
Brandon Hawks, Building Codes Administrator, Surry County