

IREDELL COUNTY ZONING BOARD OF ADJUSTMENT

The Iredell County Zoning Board of Adjustment met at a regularly scheduled meeting on Thursday, February 18, 2021 at 6:00 p.m. in the Commissioners Meeting Room of the Iredell County Government Center (Old Courthouse) at 200 S. Center Street in Statesville, NC.

MEMBERS PRESENT

Roy West, Chairman
William Dellinger, Vice-Chair
Tim Johnson
David Aman
John Allen
Bill Brater
Mac McCombs

STAFF PRESENT

Rebecca Harper
Rich Hoffman
Cindy Nicholson

Chairman West called the meeting to order.

Minutes: Mr. Brater made a motion to approve the minutes from the January 21, 2021 meeting. Mr. Aman seconded motion and all were in favor.

Chairman West declared the public hearing open. He then swore/affirmed those wishing to speak in regard to the following case.

Ms. Harper presented the following case:

BOA CASE NO. 210218-1 William and Patty Wilson (Owners) & Eric Little, Horizons Kids (Applicant)

EXPLANATION OF THE REQUEST

The applicant is requesting a Special Use Permit per Chapter 3, R27 of the Iredell County Land Development Code in order to operate a group care facility.

OWNER/APPLICANT

Owners: William and Patty Wilson
135 Atwell Farm Lane
 Mooresville, NC 28115

Applicant: Eric Little, Horizons Kids
5936 Monroe Road
Charlotte, NC 28212

PROPERTY INFORMATION

LOCATION: The property is located at 4691 Wilkesboro Highway in Statesville, NC; more specifically identified as PIN# 4821107061.

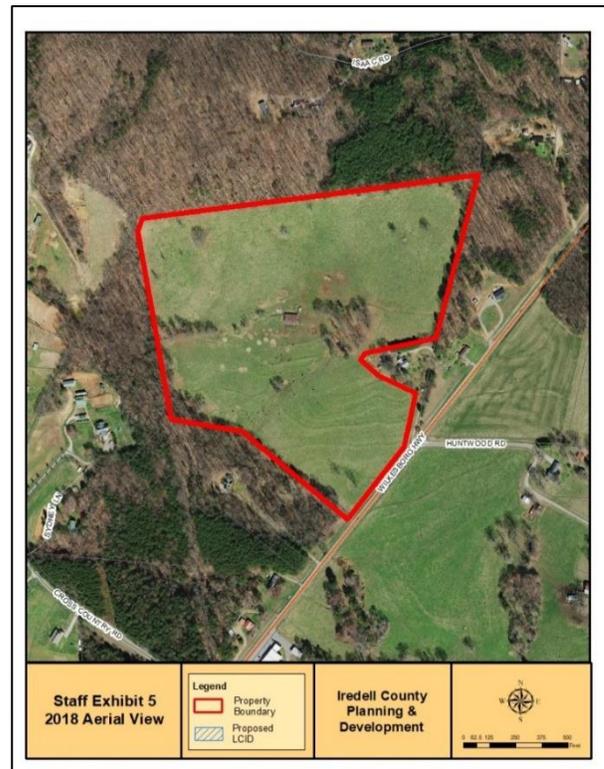
DIRECTIONS: Hwy 115 north, on the left across from Huntwood Road.

SURROUNDING LAND USE: This property is surrounded by residential and farm uses.

SIZE: The property is 38.473 acres.

EXISTING LAND USE: The property is currently vacant.

ZONING: The property is currently zoned RA (Residential Agricultural).



FINDINGS OF FACT

1. The request is for a Special Use Permit per Chapter 3, R27 of the Iredell County Land Development Code in order to operate a group care facility.
2. The property is 38.473 acres located at 4691 Wilkesboro Highway in Statesville, NC; more specifically identified as PIN# 4821107061.
3. The property is currently zoned RA (Residential Agricultural).
4. The application was filed on 1/4/21.
5. The adjoining property owners were notified on 1/25/21.
6. The property was posted on 1/25/21.

STAFF COMMENTS

The information provided has been reviewed and meets the requirements in Chapter 3, R27 and the site plan requirements. The required setbacks from property lines have been shown and it meets the minimum acreage requirement.

EXHIBITS

Staff Exhibit 1.	Special Use Application
Staff Exhibit 2.	Site Plan
Staff Exhibit 3.	Chapter 3, R27
Staff Exhibit 4.	Zoning Map
Staff Exhibit 5.	2018 Aerial Map

QUESTIONS FROM BOARD TO STAFF

Chairman West stated for clarification to the Board, he has spoken to the County Attorney, and this case does not fall under the federal mandate regarding a group care home in a residential neighborhood. That mandate was from the late 1900's by the federal government, which states they are allowed to use for this type of purpose, although, have several exceptions like no criminals, drug users, or people that are dangerous to other people. This case does not fall under that mandate.

Ms. Harper said that is correct, it does not fall under that mandate because it is not a single-family use. If you have one home on a single lot, that is being used as single-family purposes, or used as what we call a family care home as defined in the county code and state statutes, that has to be treated as a single-family dwelling with no regulations. They are permitted as a single-family dwelling and go through the standard process. In this case tonight, you have four different living quarters, school, playground, and ball fields, this is more of a group care facility based on the county code. Therefore, it does require the Special Use Permit process.

Chairman West asked if there were any questions for Ms. Harper.

Mr. McCombs clarified that this case tonight is not under the mandate from the late 1900's.

Chairman West said that is correct. The mandate from back then covers single-family dwellings in residential zoning districts.

Mr. McCombs asked staff to verify who can attend these homes.

Ms. Harper said the county code limits and does not allow residents that need treatment for contagious diseases, alcoholics, drug addicts, or psychotics.

Mr. Allen asked what type of facility would that be considered that would allow those types of people?

Ms. Harper said she imagines it would fall under some type of psychiatric hospital. There is not a specific use that pertains to that in our code.

Chairman West asked if there were any further questions for staff.

There were no further questions for staff.

At this time, Chairman West asked those wanting to speak in favor of the request to come forward.

THOSE SPEAKING FOR THE REQUEST

Mr. Eric Little, 2111 Belle Vernon Ave., Charlotte, NC said he owns an organization called Horizons Kids, LLC that is essentially a group home that houses female children ages 9-17 who have come from broken homes. Essentially, these children have experienced some type of trauma. Currently, they have three different group homes in North Carolina. As they expand due to the big need, he feels it makes sense to have a facility all in one where they can take care of all the services under one roof. He feels the 38 acres on Wilkesboro Highway provides a lot of room for them to service these children without them bothering others and others bothering them. This location is a rural area and they feel Statesville is a great location with a talent pool for manpower. With a facility at full capacity, it would need approximately 50 employees to run the facility.

Mr. Little noted there would be six bedrooms per house, and each bedroom will have two children. Each house will have twelve children total and there will be four houses. Therefore, maximum capacity will be 48 children on 38 acres.

Mr. Little said he designed the facility mostly himself. He said he went to boarding school as a child and understands how communal living works. He designed it based on how dorm rooms were set up. The female children that are taken care of are not substance abuse, or alcoholics. They come from broken homes and said that Brandi Finger will come forward and speak more about the details involved.

Mr. Little said the goal is to essentially start this project and build it in two phases where they put in two of the houses first and wait eight months to make sure the processes are in place. Then build the other two homes and the school. Other than going to doctor visits and things of that nature, the children that are being serviced should be able to sustain themselves on the 38 acres without having to travel outside. Once the school is up, they will go to school everyday.

Mr. Brater asked if the school is a charter school.

Mr. Little said the school is called Day Treatment. It is essentially school with an added layer of therapy. A therapist will be fully present to make sure the kids are behaving due to different triggers and different responses. It will be a school for only people there. It will be part of Iredell County and from his understanding, Iredell County will essentially provide them licensed teachers. These children will have the same metrics as all the other kids within the county.

Mr. Brater asked Mr. Little by him saying Iredell County, is he referring to Iredell-Statesville School System or Iredell County?

Mr. Little said at this point, he was unsure because they are in the early stages. Theoretically, the school won't be built for two years.

Chairman West asked if any of these children are special need, or are they only from broken homes? Special needs being some type of professional help that was on site.

Mr. Little said none of the children are handicapped, but a lot have experienced some kind of trauma and are under the care of DHHS. The state requires that the children undergo therapy under Horizons Kids services. Mr. Little said the three houses that are currently in operation, there are therapists dedicated to them and they see the therapists around the clock. There is structure and organization with direct-care workers that essentially do the day-to-day. They have AP's (Associate Professionals) that make sure the care workers are doing their job. There are layers of hierarchy in the day-to-day operations and Brandi Finger will speak more about that because she is involved in the day-to-day operations

Mr. Dellinger asked if each house will be autonomous with their own kitchens and laundry.

Mr. Little said yes, all four houses will be the exact same model. Each house will have six bedrooms (2 kids per bedroom), each house will have their own dormitory style bathroom and showers along with two other bathrooms for non-residents. There will be a front of the house and back of the house concept where the children will be at the back of the house and not have any visitors interacting with the children if they are not supposed to be.

Chairman West asked what type of security will there be, or is there a need for security?

Mr. Little said at full capacity, the ratio will be 4:1 meaning one full-time employee to every four children 24 hours a day. There will also be night security making sure no one walks on the property due to having all female children and having mostly hired all female staff so there is no allegations of wrong-doing. There will be up to 48 female children with up to 50 female employees.

Chairman West asked Mr. Little at the other facilities, do they ever have instances where some of the children up and leave. He said he is asking because he is sure some of the neighbors in attendance at this meeting are wondering.

Mr. Little said they have had a few instances where the children decide to leave, which they call running. He said their job is not to tackle them. They call the police and inform the police. The police pick them up and don't necessarily bring them back to their facility, but at the same time, these facilities are bringing in children who have experienced trauma and they are bound to do things they aren't supposed to do. If they were perfect children, they wouldn't need these facilities.

Chairman West said he has never heard of a facility like this and asked where do the clients come from?

Mr. Little said they are referrals from the state. They come from MCO's (Management Care Organizations). Partner Behavioral Health is one location, Via Health Services is another. Essentially, these locations get referrals from state sources and they then look at who the care providers are within their jurisdiction and place the children.

Mr. Brater clarified they are there for therapeutic reasons.

Mr. Little said that is correct. These facilities are Level 3 facilities, which the children aren't supposed to run, but at the same time, Level 4 doesn't really exist in North Carolina. There is really only one Level 4 in North Carolina. When NCDHHS or these MCO's need to place a child, the child doesn't necessarily need to be on lockdown, but shouldn't be at Level

3 they make a judgment call. The organizations decide if they want to place the child in a psychiatric resident treatment facility, or place them in a Level 3.

Chairman West asked Mr. Little if Horizons Kids is licensed, and if so by who?

Mr. Little said they are licensed by the NCDHHS. Each house has to have an individual license along with the organization has to be licensed.

Chairman West asked if NCDHHS monitors these facilities on a regular basis.

Mr. Little said these MCO's are responsible for these children and NCDHHS are responsible for these children when they are in their custody and regularly come to these facilities and check on the children.

Mr. Dellinger asked if they get any of the children directly from the local Social Services?

Mr. Little said no. The children come directly from the MCO's or NCDHHS. The local Social Services may work with NCDHHS and then to these facilities, but not directly through a Social Worker from Social Services.

Mr. Dellinger asked who pays the fees involved for each individual?

Mr. Little said the state of North Carolina.

Mr. Allen asked Mr. Little if they typically see most of the children come from this state or county, or from anywhere.

Mr. Little said typically, the MCO's need to stay in their jurisdiction. However, when there isn't enough room or supply in order to service the child, they are allowed to look outside the jurisdiction.

Mr. Allen asked the jurisdiction would be the county jurisdiction?

Mr. Little said yes, Iredell County. They have received the document from the MCO, and there is a need of around 150 beds in this county. If they are only going to be serving 48, there is still a need for another 100+ beds for what they do.

Mr. Dellinger asked what grade levels will they have in the school?

Mr. Little said mainly high school.

Chairman West asked if there were any further questions for Mr. Little.

There were no further questions for Mr. Little.

Chairman West then called the next person signed up to speak in favor, Brandi Finger.

Ms. Brandi Finger, resides at 10471 Alexander Martin Ave., Charlotte, but works at the current facility at 130 St. Jill Circle, Statesville. She states she is the QP Supervisor for all three facilities they currently operate. One in Statesville, one is Hays, and one in Maiden. Prior to this position, she was a teacher and worked with adolescent children up to adult with special needs, children who had been displaced, homeless, and come from DSS.

Ms. Finger said she got involved with this company because of the great need in North Carolina of displaced girls. She feels you can't do much just teaching them because when they leave school, they have to go home somewhere. There are not many facilities like this, and right now, they have three homes that house four girls each. There are many youth, male and female, that need these services. Currently, when these children step-down from a Level 3 to a Level 2, there is nowhere for them to go. When they turn 18, they have nowhere to go.

Ms. Finger said this company has given her the opportunity to provide them with the skills they need to go overcome their trauma. All of the girls they service have dealt with some type of trauma along with health care needs. They have girls that haven't been to the dentist in several years. Some wear glasses that are coming apart. This facility provides those services for these children, total care for the individual, making sure they are at their appointments.

Ms. Finger said all of the children attend school currently. Once this new facility is built, being able to attend school right where they are will be paramount. School is difficult as it is, then on top of their situation. The grades will be from 2nd grade up to 12th grade. They will follow the same NCDPI guidelines that any school would follow within the state of North Carolina.

Ms. Finger spoke about children with disabilities. With trauma, there can also be a link with disabilities such as intellectual delays. They do not have physically disabled children, they do not provide those services at this time, but they do have residents that are intellectually delayed, and are provided with the services they need in order to be successful. If the children have IEP's, they will be provided the same as if they were at any Iredell-Statesville school or any other county in NC.

Mr. Dellinger clarified if a young lady came to them confined to a wheelchair, they would not accept her?

Ms. Finger said it is not that they won't accept her, but if she is in DSS custody, this facility would not be what her Medicaid and the MCO would approve her for because she would need a specific level of care, and Medicaid handles those differently.

Mr. Dellinger asked Ms. Finger with her long dissertation, her answer was no, they do not take that type of handicap.

Ms. Finger said no, they do not.

Mr. Dellinger asked what happens when they turn 18 with no family, or anywhere to go?

Ms. Finger said prior to entering their program, they identify what their transitional steps will be. They do an interview prior to find out what their next step will be whether it would be a family member to live with, if not, they look at other options. Through their MCO and Medicaid, they can apply for a program called LINKS, which will allow them to stay up to another six months where they can then transition to what is called transitional living. They can be provided housing, transportation, and schooling to college, or military.

Mr. Dellinger asked if they help the ones aging out to secure employment?

Ms. Finger said yes, they start thinking about that as soon as they arrive with them. They currently have girls with jobs.

Chairman West asked if there were any further questions for Ms. Finger.

There were no further questions for Ms. Finger.

Mr. McCombs asked if Ms. Finger and Mr. Little are classified as expert witnesses?

Mr. Dellinger said they are considered to be.

Mr. Aman asked if there was certification that could document that?

Ms. Finger said her degree and certifications she has received from being with this company.

Mr. Allen asked staff would the Board need to certify them as expert witnesses?

Ms. Harper said the Board in the past has decided if they feel they were an expert witness based on the information the speaker provides as far as their background and what they do. If the Board feels they are expert witnesses, they can make that determination.

Chairman West said he would say that if Ms. Finger has a degree in this type of care, then that would qualify her as an expert witness.

Mr. Allen then made a Motion to accept Ms. Finger as an expert witness.

Ms. Harper said Mr. Little is the applicant and doesn't necessarily need to be an expert witness.

Mr. Dellinger seconded said Motion and all were in favor (7-0) of Ms. Finger being an expert witness.

Chairman West at this time called those that signed in to speak as neutral for the application.

Mr. Rudy Pomeroy, 2229 Lake Ridge Drive, Belmont, NC said he is a MAI,SRA with the Appraisal Institute, which is the highest level that a person can be as an appraiser in the industry. Mr. Pomeroy said he has provided the impact study and based on matched pair analysis of similar facilities in this area as well as other areas, and dwellings in proximity to existing educational facilities and measured any kind of impact positive or negative that would have on those facilities, and found there is no significant impact. This is also supported by case studies throughout the nation, most notably in New York City, as well as Illinois. He states they also called and talked to other market participants and got their perception and talked about the exact facility, size, and different features of this facility to get their opinion to make sure it is reasonable. It is his final conclusion that there are no immediate impacts to the houses or residences around this particular property.

Mr. Dellinger said as a retired former appraiser, an assignment like this is extremely difficult, and he feels Mr. Pomeroy did a good job and covered all the bases.

Chairman West asked if there were any questions for Mr. Pomeroy.

There were no questions for Mr. Pomeroy.

Chairman West then called another neutral speaker, Mr. Terry Wilhelm to come forward.

Mr. Terry Wilhelm, 4961 Wilkesboro Highway, Statesville, said he came into this meeting neutral because he was not sure exactly what this was concerning. He said he lives about a half-mile from this location and after hearing what everyone has said, he is against it. Mr. Wilhelm said he has five small grandchildren that live on his property and is concerned after testimony talked about runners and potentially how these people will be.

Mr. Wilhelm said it is a very rural area. The area around this is property is used for hunting. There are a lot of people that shoot their rifles during hunting season and should be a concern for these girls safety. He said in his opinion, something like this is better suited for something closer to town.

Mr. Dellinger asked if Mr. Wilhelm directly adjoins this property.

Mr. Wilhelm said no not directly but not that far through the woods.

Chairman West asked if there were any further questions for Mr. Wilhelm.

There were no further questions for Mr. Wilhelm.

Chairman West said before moving any further, he wanted to ask Mr. Little at night when they put the kids to bed, if one decides at 3:00 in the morning to get up and walk out of the building and walk away, is there any type of security to prevent that.

Mr. Little said absolutely.

Ms. Harper reminded the Board that Mr. Little did say there was night security during his testimony.

Mr. Wilhelm came back to the podium and asked Mr. Little if there would be one security person on the property to cover 38 acres? It would be hard for one person to cover 50 girls especially at night.

Mr. Wilhelm said at this point in time, there would be at least one security person on site at night. There would also be drones to cover the border and at the same time, there are cameras all around. The Executive Director, Demetrius, can pull up on his cell phone right now and look at all the cameras that are in the current group facilities to see what is going on, technology does a lot. Mr. Little reiterated there is a 4:1 ratio of employee and children. The employees don't sleep at night.

Mr. Wilhelm said he knows technology is good, but it wouldn't cover all the bases. Mr. Wilhelm asked Mr. Little what made them choose this site to begin with being such a rural area?

Mr. Little said the simple fact that it is 38 acres that are rural.

Mr. Wilhelm asked Mr. Little if he was aware it is a highly hunted area.

Mr. Allen asked how close this facility is to Central School/Trinity?

Mr. Wilhelm said Central would be the closest school and probably 1 ½ miles, not over 2 miles.

Mr. Allen asked is there any hunting near Central School?

Mr. Wilhelm said not in close vicinity because it is mostly residential right around the school and not a lot of woods. With the proposed site, there is basically woods around all sides except for the road and probably hunted.

Mr. Aman asked Mr. Wilhelm if he thinks there would be people hunting that would not be aware of this facility after it is completed.

Mr. Wilhelm said probably no. He feels like they would know.

Mr. Aman said he hears what Mr. Wilhelm is saying but he is not buying that it would be an imminent danger.

Mr. Wilhelm said stray bullets can go a long way.

Mr. Aman said yes they can, but it is not something you hear of happening around schools on a regular basis. Yes, there is a potential obviously, but is not something that would give reason as to not to have a facility of this type. That particular criteria won't come into the decision making process.

Mr. Wilhelm said it is probably something that would not likely happen, but for their safety if one were to stray off into the woods it would be possible. That could happen with anybody in a residential neighborhood, he understands that.

Chairman West informed Mr. Little he does have a right for rebuttal if there was anything brought up against the request that he would like to rebut.

Mr. Little came forward and addressed the issue of hunting. Mr. Little said there are rules against trespassing and people own this land and have houses around this site, and feels the concept of hunting would be by the land owners and certainly would have to be permitted. The issue regarding kids running from the facility that Mr. Little brought up concerning his five grandkids living on his property and being concerned. Mr. Little said he is sure at some point in time, someone they know has said they are going to run away. Whether they run a block down the street and come back or essentially run from school. They have one full-time employee for every four children 24 hours a day, even at night with no one sleeping except for the kids. They will have cameras all around, motion sensors and things of that nature, and shouldn't be any concerns about running. Yes he feels there might be someone run from time to time, but at the same time, cameras will catch them and will set off an alarm. They won't be able to just sneak out of the house and not have an alarm go off to notify them to see what is going on to alert the police or something of that nature. It is not a regular event but does happen from time to time. Normally kids who run would go from a Level 3 to a Level 4, but as mentioned previously, Level 4 doesn't really exist in NC. They may go to a more lockdown facility where they lock their doors and windows and are allowed out from time to time but are more heavily monitored until their behavior gets to a point where they understand there are rules they have to obey.

Chairman West stated that most hunters are responsible. If that were an issue, that would be an issue at every house around, for potentially a stray bullet hitting something.

Mr. Aman said there are many people here tonight and they need to understand what drives the decisions that the Board makes. When you look at how you can use property, there are what is called by-right uses. If you do something on the property that meets all the requirements of the zoning, then you have a right to do what you want to do with it. This is a case with a special permit, and the reason it is elevated to this is, to make sure there is another eye looking at this above and beyond the Planning Department and Government. This Board does not have a wide authority to say we don't like this type of facility, therefore, we are going to reject it. There are 100 pages of documentation that have been presented. The document explains the demographics of the county, the property, who sold it and where it came from, etc. This is one of those instances where it clearly meets the requirement of the code, and staff has even testified to that.

Chairman West if there are any further staff comments.

Ms. Harper entered the staff report and powerpoint presentation into the record.

Chairman West closed the public hearing.

The Board went over the Special Use Permit check sheet

1. The Special Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed.

Johnson:	TRUE	Expert testimony by Mr. Pomeroy
Aman:	TRUE	38 acres that meets the requirements and code
Allen:	TRUE	Based on plan & is allowed in 2030 Land Use Plan
Dellinger:	TRUE	Expert testimony by Mr. Pomeroy & staff report
McCombs:	TRUE	Testimony by Mr. Little
West:	TRUE	Based on staff comments & expert testimony
Brater:	TRUE	Expert testimony of Brandi Finger & Mr. Pomeroy

TRUE BY A VOTE OF 7-0

2. The Special Use meets all required criteria and specifications of the Iredell County Land Development Code.

Johnson:	TRUE	Staff testimony & expert testimony
Aman:	TRUE	Based on staff testimony
Allen:	TRUE	Staff testimony, expert testimony & plan presented
Dellinger:	TRUE	Expert testimony & staff report
McCombs:	TRUE	Staff comments, meets Chapter 3 R27 of LDC
West:	TRUE	Recognized use in the Land Development Code
Brater:	TRUE	Meets criteria in the LDC per staff testimony

TRUE BY A VOTE OF 7-0

3. The Special Use will not substantially injure the value of the adjoining or abutting property or it is a public necessity.

Johnson:	TRUE	Expert testimony by Mr. Pomeroy & appraisal report
Aman:	TRUE	Expert testimony by Mr. Pomeroy & report presented
Allen:	TRUE	Appraisal presented by licensed appraiser
Dellinger:	TRUE	Expert testimony & appears to meet all criteria
McCombs:	TRUE	Expert testimony by Mr. Pomeroy
West:	TRUE	Compared to placing a regular school there
Brater:	TRUE	Expert testimony & appraisal report

TRUE BY A VOTE OF 7-0

4. The Special Use will be in harmony with the area in which it is located and will be in general conformity with the plan of development of the county.

Johnson:	TRUE	Testimony & Land Development Code conformity
Aman:	TRUE	Will be in harmony and conformance to code
Allen:	TRUE	In conformity with the development plan of county
Dellinger:	TRUE	Size of land & in accordance to the LDC
McCombs:	TRUE	Mr. Pomeroy's impact study
West:	TRUE	Rural setting is beneficial to the applicant's goal
Brater:	TRUE	Clients will be best served by the theory of location

TRUE BY A VOTE OF 7-0

DECISION: Mr. Dellinger made a motion to **APPROVE** the Special Use Permit based on the Findings of Fact and the evidence submitted. Mr. Johnson seconded said motion. Motion passed by a margin of 7-0.

VOTE: 7-0

ADJOURNMENT: At this time, Chairman West declared the meeting adjourned at 6:58 pm.

Cindy Nicholson, Administrative Assistant

Date Read and/or Approved

DATE FILED IN THE MINUTE BOOK BY THE CLERK: _____. NOTE: THE APPLICANT HAS THIRTY [30] DAYS FROM THIS DATE TO APPEAL THE DECISION BY THE BOARD.