

STATE OF NORTH CAROLINA
ORANGE COUNTY

FILED IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2019 AUG -9 P 2:15

18 CVS 1310

WILD FLORA FARM LLC and
KARA BREWER,

ORANGE CO., N.C.
BY 

Petitioners,

v.

ORANGE COUNTY BOARD OF
ADJUSTMENT, ORANGE COUNTY,
GLETA CARSWELL, RENE QUADT,
MARGARET WILKMAN, ALICE SANDRA
WILKMAN, THOMAS RAY and
DORIS RAY,

Respondents.

**PETITIONERS' NOTICE OF
VOLUNTARY DISMISSAL
WITHOUT PREJUDICE**

STATE OF NORTH CAROLINA
ORANGE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
18 CVS 0867

WILD FLORA FARM LLC, SOUTHEAST
PROPERTY GROUP LLC, THE BARN OF
CHAPEL HILL LLC, CHRIS BREWER and
KARA BREWER,

Petitioners,

v.

ORANGE COUNTY BOARD OF
ADJUSTMENT, ORANGE COUNTY,
GLETA CARSWELL, RENE QUADT,
MARGARET WILKMAN, ALICE SANDRA
WILKMAN, THOMAS RAY and
DORIS RAY,

Respondents.

STATE OF NORTH CAROLINA

ORANGE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

17 CVS 0607

SOUTHEAST PROPERTY GROUP LLC,
CHRIS BREWER, and KARA BREWER,

Petitioners,

v.

ORANGE COUNTY BOARD OF
ADJUSTMENT, ORANGE COUNTY,
GLETA CARSWELL, RENE QUADT,
MARGARET WILKMAN, ALICE SANDRA
WILKMAN, THOMAS RAY and
DORIS RAY,

Respondents.

STATE OF NORTH CAROLINA

ORANGE COUNTY

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

17 CVS 0097

SOUTHEAST PROPERTY GROUP LLC,
CHRIS BREWER, and KARA BREWER,

Petitioners,

v.

ORANGE COUNTY BOARD OF
ADJUSTMENT, ORANGE COUNTY,
GLETA CARSWELL, RENE QUADT,
MARGARET WILKMAN, ALICE SANDRA
WILKMAN, THOMAS RAY and
DORIS RAY,

Respondents.

NOW COME Petitioners Wild Flora Farm LLC, The Barn of Chapel Hill LLC, Southeast Property Group LLC, Chris Brewer, and Kara Brewer, pursuant to North Carolina Rules of Civil Procedure 41(a)(1), and hereby give notice of voluntary dismissal of their respective petitions for review of decisions made by the Orange County Board of Adjustment under N.C. Gen. Stat. §§ 153A-345.1, 153A-349, 160A-388, and 160A-393. In support of this Motion, Petitioners show unto the Court the following:

1. The above-captioned cases were consolidated by Order of Orange County Superior Court Senior Resident Judge Carl Fox on January 7, 2019.

2. The subject of these consolidated cases is a review in the nature of certiorari of multiple Orange County Board of Adjustment decisions, all of which share the same or similar underlying factual background pertaining to whether certain operational uses of a barn were exempt from Orange County's zoning authority. In turn, the Board's decisions were in response to appeals from various Orange County Planning Staff determinations made by Respondents Gleta Carswell, Rene Quadt, Margaret Wilkman, Alice Sandra Wilkman, Thomas Ray, and Doris Ray.

3. The consolidated hearings were calendared to be heard at the Orange County Superior Court's April 29, 2019 civil session.

4. Responding to a request by Petitioner Wild Flora Farm LLC submitted April 9, 2019, the Orange County Planning Staff issued another zoning determination on April 22, 2019, which set forth Orange County's conclusion that Wild Flora Farm LLC satisfied the elements of N.C. Gen. Stat. 153A-340(b)(2a), and therefore the operational uses at issue were exempt from the County's zoning authority.

5. Pursuant to N.C.G.S. §§ 153A-345.1, 153A-349, 160A-388(b1), and 160A-393(d), persons with standing have thirty (30) days to appeal such administrative determinations. As the

April 22, 2019 Zoning Determination – and potential appeals thereto – would invariably affect the pending consolidated cases, Petitioners Wild Flora Farm LLC and Kara Brewer filed a Consent Motion for Continuance, which expressly referenced the new zoning determination, to allow sufficient time for any interested persons with standing to file a notice of appeal from that determination with Orange County. The continuance was granted by Superior Court Judge Allen Baddour on April 29, 2019 and the consolidated cases were subsequently placed on this Court’s August 12, 2019 civil session calendar.

6. As of the date of this Notice of Voluntary Dismissal Without Prejudice, approximately 109 days have passed since the April 22, 2019 Zoning Determination was issued, well in excess of the thirty-day time period within which appeals must be filed. To date, no interested persons, including Respondents Gleta Carswell, Rene Quadt, Margaret Wilkman, Alice Sandra Wilkman, Thomas Ray, and Doris Ray, have filed a notice of appeal from that April 22, 2019 Zoning Determination.

7. Petitioners have been required to commit a staggering amount of time and resources to this matter over this course of almost four years. It is with reluctance that Petitioners dismiss this Court’s review of the subject Orange County Board of Adjustment decisions because Petitioners believe a comprehensive and objective consideration of the record would plainly demonstrate repeated actions outside the scope of the Board’s legal authority as well as abuses of discretion and commission of other violations of both North Carolina law and constitutional law by the Board and certain of its members. However, in light of the April 22, 2019 zoning determination and the sheer volume of the certified record in these consolidated cases, devoting more valuable resources into seeking such a review is simply not consistent with the principles of judicial economy.

Accordingly, pursuant to North Carolina Rules of Civil Procedure 41(a)(1), Petitioners hereby respectfully give notice of voluntary dismissal of the above-captioned consolidated cases, without prejudice, to the Respondents and Orange County Superior Court.

Respectfully submitted this the 9th day of August, 2019.

PETESCH LAW

By:



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CHRIS BREWER, and
KARA BREWER

CERTIFICATE OF SERVICE

I do hereby certify that I have this day served a copy of the foregoing **PETITIONERS' NOTICE OF VOLUNTARY DISMISSAL WITHOUT PREJUDICE** by U.S. Mail, First Class, postage prepaid, and electronic mail to the following persons at the following addresses, which is the last address known to me:

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Orange County*

This the 9th day of August, 2019.

By:



Andrew J. Petesch