



Town of Mint Hill

John M. McEwen Assembly Room
4430 Mint Hill Village Lane
Mint Hill, North Carolina 28227

Mint Hill Board of Adjustment Agenda June 27th, 2016 at 6:30 p.m.

1. Call To Order
2. Roll Call and Declaration of Quorum
3. Approve Minutes of May 23rd, 2016 Regular Meeting
4. Reports of Committees, Members, and Staff
5. Old Business
6. New Business
 - A. Discussion and Decision on Variance Request #V16-4, Filed by Kevin Lehman for Property Located at 6906 Old Oak Lane, Tax Parcel #135-263-38, from Section 6.1 Table 2: Dimensional Requirements of the Mint Hill Unified Development Ordinance.
 - B. Discussion and Decision on Variance Request #V16-5, Filed by Essex Homes Southeast, Jeremy Smith, for Property Located at 4026, 4044 and 4058 Nottaway Place Drive, Tax Parcel #195-022-23, 195-022-24 and 195-022-25, from Section 6.1 Table 2 of the Mint Hill Unified Development Ordinance.
7. Other Business
8. Adjournment

Candice Everhart
Program Support Assistant
June 20th, 2016

MINUTES OF THE MINT HILL BOARD OF ADJUSTMENT
May 23rd, 2016

The Mint Hill Board of Adjustment met in regular session on Monday, May 23rd, 2016 at 6:30 p.m. in the John M. McEwen Assembly Room, Mint Hill Town Hall.

ATTENDANCE

Chairman: Gary Isenhour
Vice Chairman: June Hood
Members: Michael Weslake, Ronald Rentschler, Bobby Reynolds
ETJ Members: Debi Powell and David Tirey
Planning Director: John Hoard
Town Planner: Chris Breedlove
Clerk to the Board: Candice Everhart

CALL TO ORDER

Chairman Isenhour called the meeting to order at 6:30 p.m., declared a quorum present and the meeting duly constituted to carry on business.

ORDER OF BUSINESS

Approval of Minutes of October 26th, 2015 Regular Meeting: Upon the motion of Mr. Reynolds, seconded by Mrs. Hood, the Board unanimously approved the minutes of the October 26th, 2015 Board of Adjustment regular meeting.

Reports of Committees, Members and Staff: None.

Old Business: None.

New Business:

- A. **Discussion and Decision on Variance Request #V16-2, Filed by Melanie and Brandon Heffner for Property Located at 12119 Lawyers Road, Tax Parcel #19723123, from Section 6.1 Table 2: Dimensional Requirements for a Residential District:**

Mr. Isenhour asked the applicant and Mr. Hoard to step forward and be sworn in. Do you swear or affirm that the testimony you are about to give is to the best of your knowledge so help you God? I do, stated Mr. Heffner and Mr. Hoard.

Mr. Hoard stated, the applicant is asking for a variance to the lot size of 130' width. We make that measurement at the minimum setback line. This house there would be a 60' setback. If the applicants were to subdivide this property they would only have 100'. Therefore they are asking for the variance.

Mr. Isenhour said, I don't think we've dealt with a variance for 30'. Our ordinance states what it is, but most of our variances deal with two or three feet usually. Mr. Hoard said, I'm not sure that I've seen one with a lot width variance come before you.

Mrs. Powell asked, was the grandmother's house built under Mint Hill or Charlotte Mecklenburg County? Mr. Hoard said I'm not sure because it is an older house.

Mr. Tirey asked, is the property behind it ever going to be developed? Mr. Hoard said, it appears that next to it are single family lots.

Mr. Isenhour asked, where is the driveway coming from? Mr. Hoard said, it is on one of the first handouts you have that shows it coming from Lawyers Rd.

Mr. Rentschler asked, is the shaded area grandma's house? Mr. Hoard said, yes.

Mr. Rentschler asked, does the lot size in square foot meet the ordinance? Mr. Hoard said, yes.

Mr. Reynolds asked, are they using it for the driveway? Mr. Hoard said, yes.

Mr. Tirey asked, is the driveway going to connect to Lawyers Road? Mr. Heffner said, yes.

Mr. Isenhour asked the applicant if he would like to approach the podium.

Mr. Heffner said, the back of the property is a swim buffer so nobody can build back there.

Mr. Tirey asked, how long is the driveway going to be? Mr. Heffner said, I didn't get an exact measurement, but it would be a couple of hundred feet.

Mr. Tirey asked; have you spoke with adjoining property owners? Mr. Heffner said, my grandmother is one and the other person is renting.

Mr. Isenhour asked if there had been notification sent to adjoining property owners. Mr. Hoard said, yes we have sent letters as well as posted a variance sign.

Mr. Isenhour said, our variance tonight is to decide on variance request Discussion and Decision on Variance Request #V16-2, Filed by Melanie and Brandon Heffner for Property Located at 12119 Lawyers Road, Tax Parcel #19723123, from Section 6.1 Table 2: Dimensional Requirements for a Residential District. Are there any further questions? If there are no further questions we will go into our Fact Findings section.

Unnecessary hardships would result from the strict application of the ordinance.

Mr. Westlake said, unnecessary hardships would result due to subdividing the lot because of the odd shape.

Mr. Reynolds said, unnecessary hardships would result from the applicant not being able to build a structure.

Mrs. Hood said, I agree with the two previous statements.

Mr. Isenhour said, I agree with Mr. Reynolds.

Mrs. Powell said, unnecessary hardships would result from the strict application of the Ordinance in that without a variance the applicant could not make reasonable use of their property in building any residential structure.

Mr. Rentschler said, I agree with Mrs. Powell.

Mr. Tirey said, I also agree with Mrs. Powell.

The hardship results from conditions that are peculiar to the property, such as location, size or topography.

Mr. Tirey said, the hardship on the location is the fact of the 100' driveway that can't be built within the guidelines of the variance.

Mr. Rentschler said, I agree with that.

Mrs. Powell said the hardship results from conditions that are peculiar to the property, as well as did not result from actions taken by the applicant, in that the hardship results from the shape of the lot at the 60' setback, while all other lot dimensions fall into compliance.

Mr. Isenhour said, I agree with Mrs. Powell.

Mrs. Hood said, I agree with the previous statements.

Mr. Reynolds said, the hardship results from conditions that are peculiar to the size, shape and location of the home on the lot.

Mr. Westlake said, I agree with Mr. Reynolds.

The hardship did not result from actions taken by the applicant or the property owner.

Mr. Westlake said, the hardship is not a result of the actions taken by the applicant. The hardship is the dimensions and the shape of the lot.

Mr. Reynolds said, the hardship did not result from actions taken by the applicant. It is due to peculiar lot shape and size.

Mrs. Hood said, I agree.

Mr. Isenhour said, I agree.

Mrs. Powell said, the hardship did not result from actions by the applicant or the property owner. The shaping of the lot size is out of the control of the applicants and in attempt to rectify the 30' shortage they tried to purchase land from adjacent property owners with a failed approach.

Mr. Rentschler said, I agree.

Mr. Tirey said, I agree.

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.

Mr. Tirey said, the request for a variance is consistent due to the hardships in this case.

Mr. Rentschler said, I agree.

Mrs. Powell said, 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. Where the house will be built is far from the road at a location with a width of approximately 200 feet and would not interfere with future development in the area.

Mr. Isenhour said, I agree.

Mrs. Hood said, I agree.

Mr. Rentschler said, I agree.

Mr. Westlake said, I agree.

Mr. Westlake asked, are they locked into building the house in this location? Mr. Hoard said, no. The only thing in this variance is specific to the lot width unless you made a condition.

Mr. Westlake said, I would like to make a condition that the house be built in the back.

Mrs. Powell said, in regards to Variance request #V16-2, filed by Melanie and Brandon Heffner, for property located at 12119 Lawyers Road, being Tax Parcel Number 19723123; Zoned Mint Hill residential, requesting a variance from Section 6.1 Table 2: Dimensional Requirements for a Residential District for a 30 foot reduction of the minimum lot width requirement as measured at the 60 foot front setback, resulting in a lot width of 100 feet at the minimum setback; I make a motion to approve this variance for the following reasons: Unnecessary hardships would result from the strict application of the Ordinance in that without a variance the applicant could not make reasonable use of their property in building any residential structure. The hardship results from conditions that are peculiar to the property, as well as did not result from actions taken by the applicant, in that the hardship results from the shape of the lot at the 60 foot setback, while all other lot dimensions fall into compliance. A variance would be consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved in that a variance would not adversely impact the abutting property owners; and the house will be built far from the road at a location with a width of approximately 200 feet and would not interfere with future development in the area, with the condition that the house must be built in the rear of the property as shown in Exhibit A.

B. Discussion and Decision on Variance Request #V16-3, Filed by Johan Boon for Property Located at 8501 Lochinvar Drive, Tax Parcel #139-271-87, from Section 6.9.2A of the Mint Hill Unified Development Ordinance.

Mr. Isenhour asked the applicant and Mr. Hoard to step forward and be sworn in. Do you swear or affirm that the testimony you are about to give is to the best of your knowledge so help you God? I do, stated Mr. Boon and Mr. Hoard.

Mr. Hoard asked the applicant to speak about why he was requesting a variance and to answer questions from the Board.

Mr. Boon said, our fence is falling down and I have pictures if you would like to see them. It is a six foot fence and it is not quite doing the job. The main reason we are asking for the variance is because we want to put up an 8' echo fence. This fence will bring the decibel level down about twenty decibels. The neighbors have a truck and an SUV with loud engines and mufflers. We are only looking to put the fence up on one side of the property. It is going to set us back about \$10,000 so that's how important reclaiming our privacy is.

Mr. Isenhour asked, did you say the neighbors' house is higher than yours? Mr. Boon said, yes. They have a dog house in the back and you can almost see all of it over the fence.

Mr. Tirey asked, did you say the only side you're requesting is the one that separates you and your neighbors? Yes, answered Mr. Boon.

Mr. Isenhour asked, did you say there was a light that shines down? Mr. Boon said, yes. There is a flood light that makes it look like a sky light at night.

Mr. Westlake asked, what side are you putting the fence on? Mr. Boon said, the line you see between our house and the two vehicles that would be where the fence is going.

Mrs. Powell asked, how much taller is there house than yours because when I drove out there it doesn't seem like much from the road. Mr. Boon said, it's probably about three feet higher.

Mr. Tirey asked, is the fence going to be one height all along? Mr. Boon said it will follow a contour.

Mr. Westlake asked, what is the length of the fence? Mr. Boon said 176'. It will go all the way from about eight feet short of the telephone pole to the back of my property.

Mr. Tirey asked, do you run a business off your property? Mr. Boon said, yes it is Boon Tree Service.

Mrs. Powell asked, is the whole neighborhood in general sloping down? Mr. Boon said, three houses up toward Bain Road is the peak and the rest slopes down to the creek.

Mrs. Powell asked, have you thought of other noise barriers such as natural landscaping, oak trees, or a seven foot fence? Mr. Boon said, when they crank up the noise it has made the pictures rattle on our walls.

Mrs. Powell asked, this fence will stop that? Mr. Boon said, it will help. It's a two sided fence with an air space between.

Mr. Rentschler asked, how wide are the panels? Mr. Boon said, eight feet. They don't make this fence in anything but six and eight foot increments. There is no seven foot available.

Mr. Reynolds said, I would like to see what you are putting up. Mr. Boon gave the board a picture of the fence he had chosen.

Mr. Tirey asked, are you just replacing the existing fence? Mr. Boon said, we are extending it down the driveway toward the road, just shy of the phone pole.

Mr. Rentschler asked, is there a right of way distance on the front of the lot? Mr. Hoard said it's a sixty foot right of way.

Mrs. Powell asked, is there any way the eight foot can just be in the back and not along the driveway? Mr. Boon said, they crank it up in their driveway and I just want to stop that noise coming through.

Mr. Westlake asked, could the panels be cut to seven foot? Mr. Boon said, it is supposed to be a thirty year guarantee and indestructible so I think if I cut it that would jeopardize the warranty.

Mrs. Powell said, I sympathize with everything you're going through but so many people have that same problem. I'm having a hard time because in our finding of facts it states, hardships resulting from personal circumstances as well as hardships resulting from conditions that are common to the neighborhood or general public may not be the basis for granting a variance. If your neighborhood hears all of that noise too there is no reason for them also to want a variance. Mr. Boon said, our bedroom is right by that side. When we moved there that house was not built. Then they built that house and they put the driveway right next to our property line. I can't explain my situation much more and just hope for the best. We've been to court over the dogs and I've had to call the police over the noise. I feel like we would be better neighbors with the eight foot fence.

Mr. Westlake asked, are they owners or renters of the house? Mr. Boon said they are owners and have been there seventeen years.

Mr. Isenhour said, our variance tonight is to decide on variance request Discussion and Decision on Variance Request #V16-3, Filed by Johan Boon for property located at 8501 Lochinvar Drive, Tax Parcel #139-271-87, from Section 6.9.2A of the Mint Hill Unified Development Ordinance. Are there any further questions? If there are no further questions we will go into our Fact Findings section.

Unnecessary hardships would result from the strict application of the ordinance.

Mr. Tirey said, yes the hardship results from the flood lights and the noise and the fact that he can't get the fence in a seven foot fence.

Mr. Rentschler said, unnecessary hardship would not result. I see nothing different here

than with other property owners.

Mrs. Powell said, unnecessary hardships would not result from the strict application of the ordinance in that without a variance the applicant could install a seven foot fence and with the use of additional screening options such as natural landscaping ensure privacy and adequate screening of floodlights and sound barrier aide in reducing the hardship.

Mr. Isenhour said, there is unnecessary hardship because he can't get this sound barrier fence in a seven foot fence.

Mrs. Hood said, yes unnecessary hardships result from the strict application of the ordinance. The next door property is on a higher elevation than his and also the fence is not available in the seven foot dimension.

Mr. Reynolds said, unnecessary hardship would result by not allowing this man to live in peace and tranquility on his own lot.

Mr. Westlake said, unnecessary hardships would not result. The owner has other options such as natural landscaping also we have only seen one type of fence from a big box store. There are probably seven foot fences from a smaller company that specializes in this.

The hardship results from conditions that are peculiar to the property, such as location, size or topography.

Mr. Westlake said, the hardship is not a result of these conditions. The hardship is a result of the size he has chosen.

Mr. Reynolds said, the hardship results from conditions due to the typography change.

Mrs. Hood said, I agree with Mr. Reynolds.

Mr. Isenhour said, I agree as well. Also, I believe the hardship is also produced by the neighbors with the loud noise and the lights shining in the bedroom.

Mrs. Powell said, the hardship does not result from conditions that are peculiar to the property, such as location, size or typography. I don't feel there is anything different in the typography of these two lots versus the other lots in the neighborhood. Stating in the finding of facts, hardships that result from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

Mr. Rentschler said, I agree with Mrs. Powell.

Mr. Tirey said, there may be some hardship from the typography, but the main hardship is the size of the fence.

The hardship did not result from actions taken by the applicant or the property owner.

Mr. Tirey said, no. There is no hardship as a result of the property owner.

Mr. Rentschler said, I agree.

Mrs. Powell said, the hardship does result from actions taken by the applicant or the property owner. The hardship results from the applicant wanting to exceed the seven foot height restriction when he could use other means to ensure privacy and sound buffer.

Mr. Isenhour said, I agree with Mr. Rentschler.

Mrs. Hood said, I agree the hardship does not result by the actions taken by the

applicant.

Mr. Reynolds said, the hardship does not result by actions taken by the applicant. It comes from a noisy neighbor.

Mr. Westlake said, the hardship does result by actions taken by the applicant. If he was installing a seven foot fence we would not even have to have the variance.

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.

Mr. Westlake said, the requested variance is not consistent. There is no bearing on public safety. I think that installing the eight foot fence would not be consistent with the ordinance.

Mr. Reynolds said, the requested variance is consistent and public safety is secured by allowing this fence to be constructed.

Mrs. Hood said, I agree that to grant this variance would be the just thing to do.

Mr. Isenhour said, I agree with the facts stated by Mr. Reynolds.

Mrs. Powell said, the requested variance is not consisted with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved in that there is nothing unique about the lay of the land to justify one property owner receiving preferential treatment. As well as hardships that result from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

Mr. Rentschler said, I agree with Mrs. Powell.

Mr. Tirey said, I agree with Mrs. Powell.

Mrs. Powell said, in regards to Variance Request #V16-3, Filed by Johan Boon for Property Located at 8501 Lochinvar Drive, Tax Parcel #139-271-87, from Section 6.9.2A Fence and Wall Permitted to exceed the maximum fence height of seven feet by one foot; I make a motion to deny this variance for the following reasons: Unnecessary hardships would not result from the strict application of the ordinance in that without a variance the applicant could use natural landscaping to screen and provide additional sound barrier protection and would still be able to make reasonable use of their property. The hardship results from conditions that are not peculiar to the property in that here is nothing unique with the lay of this applicant's land. Hardships that result from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance would not be consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved in that there is nothing unique with the lay of the land to justify one property owner receiving preferential treatment. As well as hardships that result from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. Mr. Rentschler seconded the motion. Mr. Isenhour asked for the vote. Mr. Westlake agreed, Mr. Reynolds disagreed, Mrs. Hood disagreed, Mr. Isenhour disagreed, Mrs. Powell agreed, Mr. Rentschler agreed and Mr. Tirey agreed. The motion passed to deny Variance Request #V16-3.

C. Discussion and Decision on Updates for Board of Adjustment Rules and Procedures: Mr. Hoard said, we set this up to talk about at our last meeting because we had to give you at least a thirty day notice. This is based on legislation passed two years ago and we had to make some changes to our Ordinance that affected your Rules and Procedures. We are just addressing what was changed through legislation.

Mr. Rentschler made a motion to adopt the updates for the Board of Adjustment Rules and Procedures. Mr. Isenhour seconded the motion and the Board unanimously agreed.

Other Business: None

Adjournment: Upon the motion of Mr. Reynolds, seconded by Mr. Rentschler, and unanimously agreed upon, Chairman Isenhour adjourned the meeting at 7:25 p.m.

Candice Everhart
Program Support Assistant

Memo

To: Board of Adjustment
From: Staff
Date: 6/20/2016
Re: Variance Request #V16-4, Filed by Kevin Lehman for property at 6906 Old Oak Ln

Variance Request

The applicant is requesting a variance from Section 6.1 Table 2 Dimensional Requirements of the Mint Hill Unified Development Ordinance for property located at 6906 Old Oak Ln, Tax Parcel 135-263-38. The applicant is seeking relief from the 40' rear yard setback. The house encroaches almost 10 feet into the rear yard. All other setbacks are met.

Background: Green Meadows (originally approved as Olympus in 2007) was platted in 2012 with the following setbacks:

Setback table

Min. Lot Area = 20,000 sq. ft.
Min. Lot Width = 125'
Front setback = 50'
Rear yard = 40'
Side yard = 15'
Side yard (corner lot) = 25'

6906 Old Oak Ln (Lot 25 on Map Book 54 Page 16) is shown correctly with the 50' front setback based on the public road frontage on Old Oak Ln. The 40' rear yard is shown from the south property line and the 15' side yards from the east and west property lines.

Please see enclosed application with exhibits and surveys attached.

VARIANCE
APPLICATION

Town of Mint Hill
Board of Adjustment
4430 Mint Hill Village Lane
Mint Hill, N.C. 28227
(704) 545-9726

Office Use Only	
Petition #	V16-4
Date Filed	6/3/2016
Received By:	CB

Variance requested on property located at: 6906 Old Oak Lane

Tax Parcel Number: 13526338 Zoning District: R (Mint Hill)

Describe variance being requested:

10' Variance of rear yard setback as shown on
MB 54 PGS 16/17.

(Complete if Applicant is other than Property Owner)

Kevin and Teresa Lehman
Name of Property Owner

Kevin Lehman
Name of Applicant

6906 Old Oak Lane
Address of Owner

Address of Applicant

Mint Hill, NC 28227
City, State, Zip

City, State, Zip

(980) 229-2310
Telephone Number

Telephone Number

Kevinlehman@gmail.com
E-Mail Address

E-Mail Address


Signature of Property Owner

Signature of Applicant

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the State Enabling Act, the Board is required to reach four conclusions as a prerequisite to the issuance of a variance: (1) that unnecessary hardships 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) that the hardship did not result from actions taken by the applicant or the property owner and, (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.

In the spaces provided, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these four required conclusions.

UNNECESSARY HARDSHIPS 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.

The ordinance calls for a required 40' rear yard. The house is currently in violation of this requirement by a little more than 9'. Application of the setbacks required by the ordinance will create a violation on the final survey. The house is unable to be sold due to title insurance requirements, creating a hardship I was unaware of.

THE HARDSHIP RESULTS FROM CONDITIONS THAT ARE PECULIAR TO THE PROPERTY, SUCH AS LOCATION, SIZE OR TOPOGRAPHY. Hardship 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.

Due to the topography of the lot, the builder informed me that my home, as it faces the access easement, needed to be slid to the right in order to get it onto the usable building pad. I was informed that the builder was obtaining permission from zoning to approve the move. I was just informed that approval was not obtained.

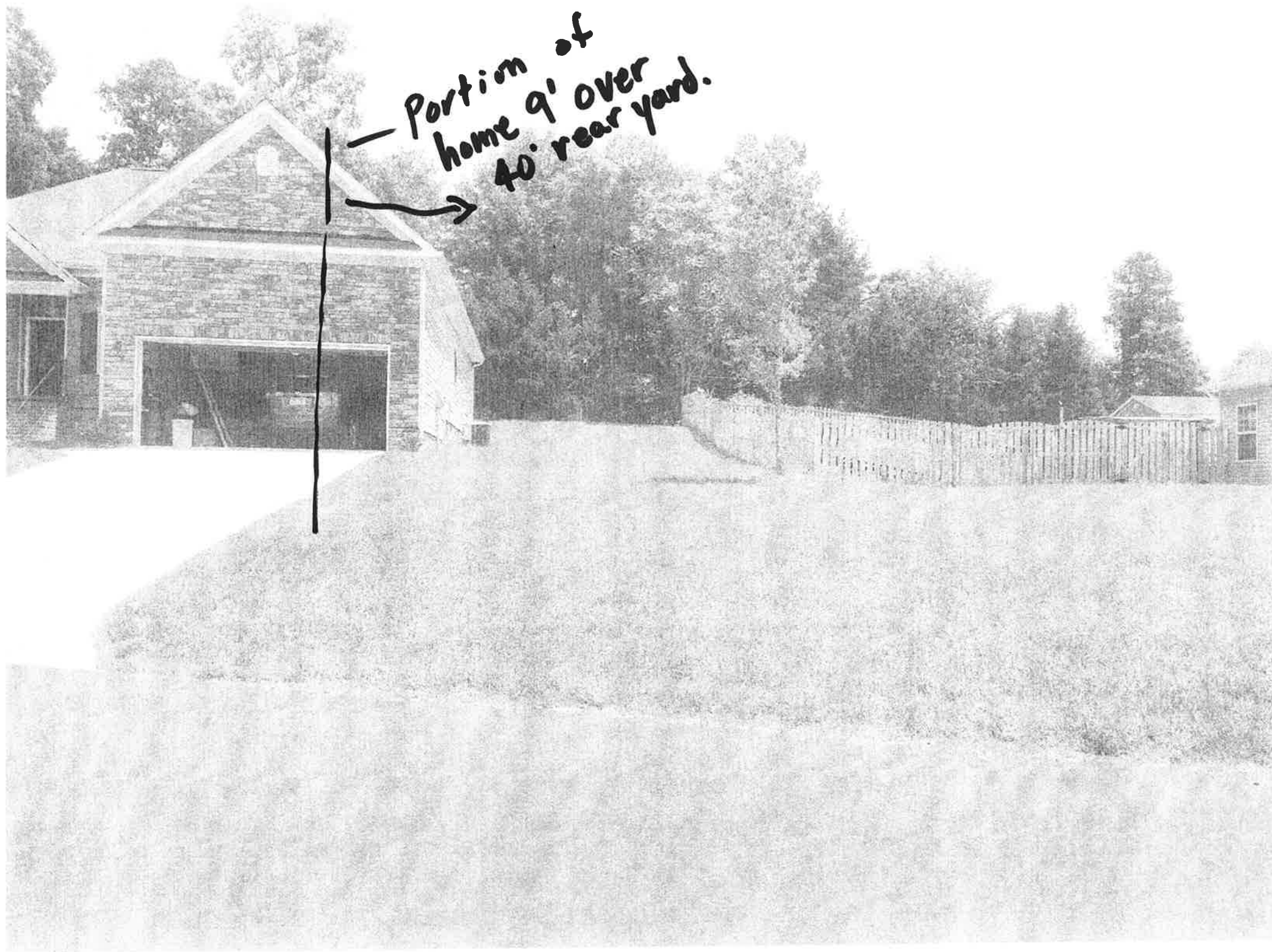
THE HARDSHIP DID NOT RESULT FROM ACTIONS TAKEN BY THE APPLICANT OR THE PROPERTY OWNER. The act of purchasing property with knowledge that circumstances exist that may justify granting a variance shall not be regarded as a self-created hardship.

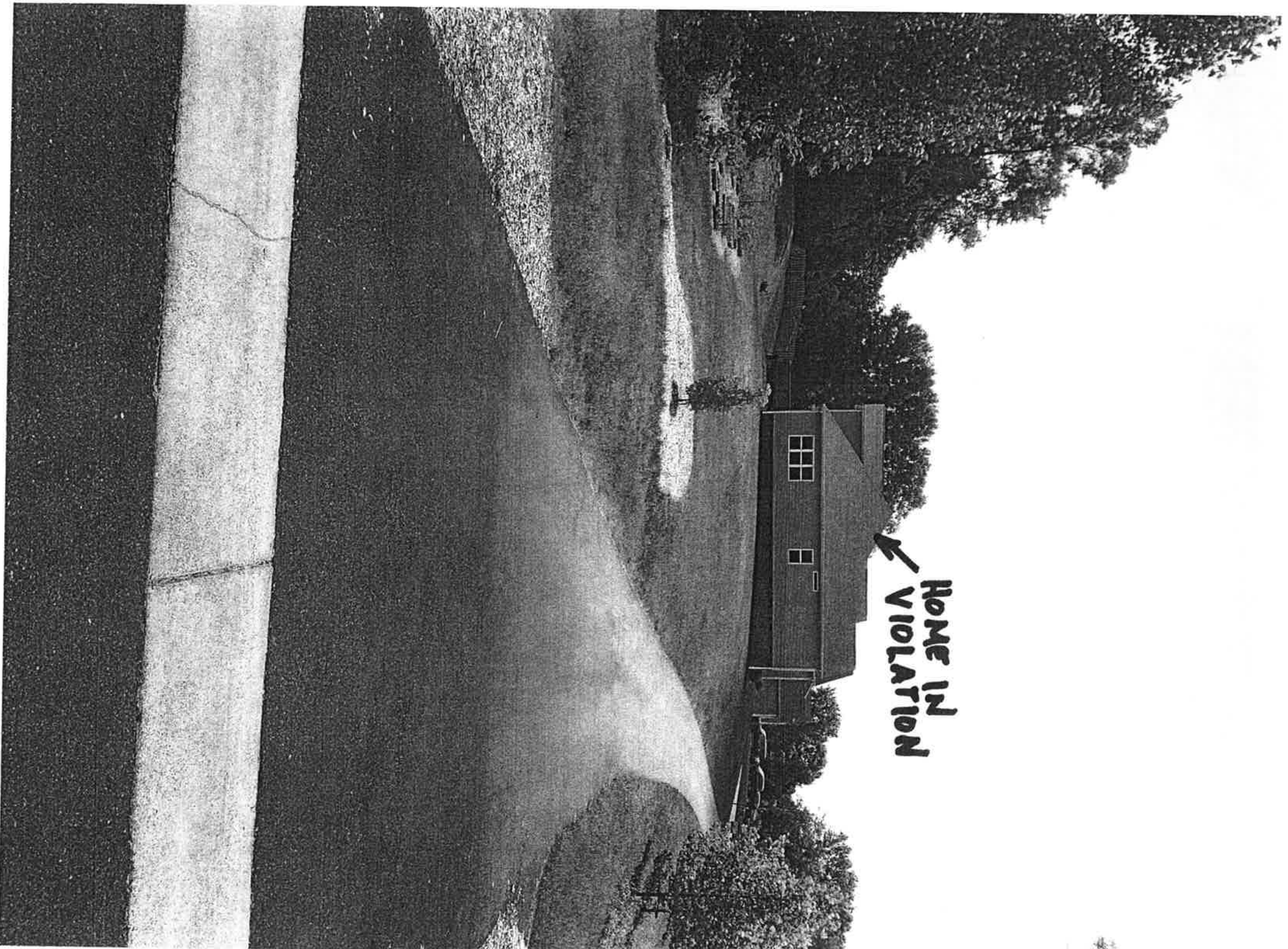
I purchased this home from Ryland in June of 2013. It was my belief that they had followed all zoning regulations and, since we received our certificate of occupancy, had passed all of the relevant inspections. Further, I received a survey at the time of closing, certifying the absence of violations. In addition, the closing attorney did not make me aware of any violations, nor did the title insurance company.

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.

The houses to my right, on lots 19, 18 and 26, all face the 30' access easement and use the easement to access Old Oak Lane. It is my belief that it was consistent with the spirit, purpose and intent of the ordinance that my (cont'd)

home was to face the 30' access easement and access Old Oak Lane in the same manner. My home, in no way, would impede access by emergency vehicles to the other properties via the access easement. Substantial justice would be achieved, since as the buyer of this property, I was unaware of this violation. I have lived in this home for 3 years without knowledge of this violation and only found out about it when the new buyer of my home discovered it during the due diligence period. Further, it is my belief that due to the oversight of Ryland Homes, the surveyor, closing attorney and title insurance company, I have become a victim through no fault of my own.

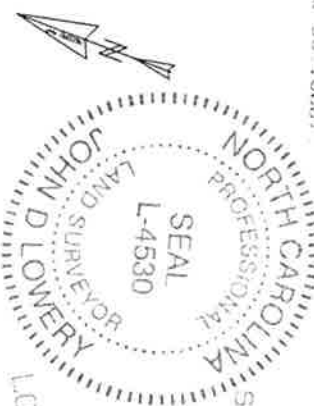




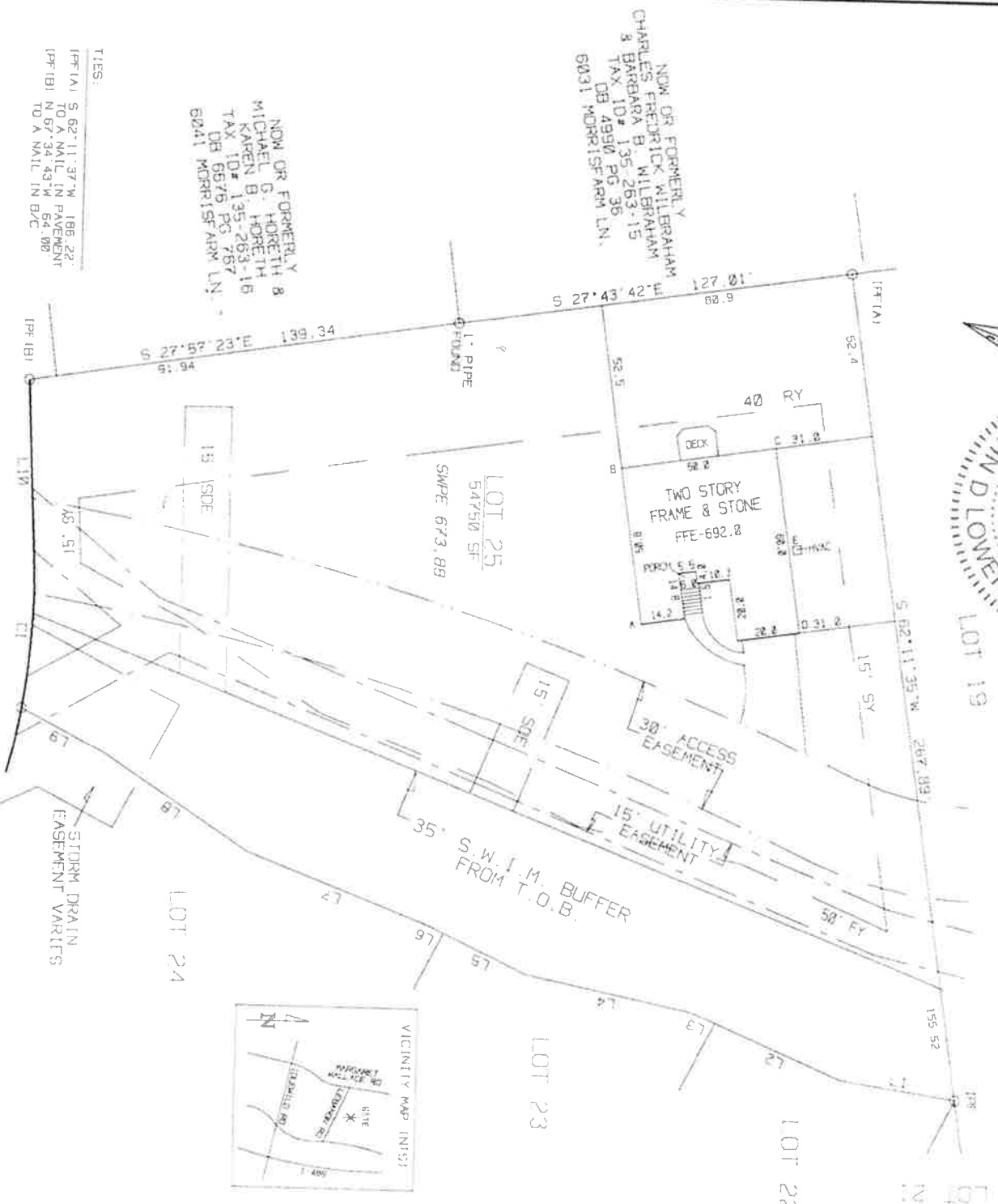
VIEW FROM OLD OAK LANE.

I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION, THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM REFERENCED MAPS, THAT THE RATIO OF PRECISION OR POSITIONAL ACCURACY EXCEEDS 1:10000, AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.16001)

USK J.L.486
03M25



SIGNED
JOHN D. LOWERY NC#LS L-4530
DATE: JUN 19th, 2013



TIES:
TIE (A) S 62°11'37\"

NOW OR FORMERLY
MICHAEL G. HORETH 8
KAREN B. HORETH
TAX ID# 135-263-16
DB 6675 PG 767
6041 MORRISFARM LN

NOW OR FORMERLY
CHARLES FREDRICK WILBRAHAM
BARBARA B. WILBRAHAM
TAX ID# 135-263-15
DB 4950 PG 36
6031 MORRISFARM LN

OLD OAK LANE
60' PUBLIC R/W

ELEVATIONS

LINE	BEARING	DISTANCE	ARC	TANGENT	CHORD	CHORD BEARING
L 1	N 10°57'42\"	37.72	49.32°	24.76'	49.23'	N 74°11'46\"
L 2	N 04°03'06\"	44.12				
L 3	N 04°03'06\"	8.59				
L 4	N 07°36'41\"	54.96				
L 5	N 05°51'19\"	29.25				
L 6	N 05°51'19\"	7.09				
L 7	N 01°35'28\"	61.57				
L 8	N 14°00'27\"	55.44				
L 9	N 08°08'53\"	30.57				
L 10	N 68°03'08\"	56.85				
C 1	CURVE	RADIUS	ARC	TANGENT	CHORD	CHORD BEARING
		230.00'	49.32°	24.76'	49.23'	N 74°11'46\"
	DELTA ANGLE					
	12°17'14\"					

NOTE: U.G. UTILITIES IN AREA
SERVING OTHER PROPERTIES
THIS PROPERTY SUBJECT TO EASEMENTS
AND OR RIGHT-OF-WAYS OF RECORD
SEE RECORD PLAT FOR FURTHER NOTES.

FY - FRONT YARD SETBACK
RY - REAR YARD SETBACK
SY - SIDE YARD SETBACK
IPF - IRON PIN FOUND
IPS - IRON PIN SET
BC - BACK OF CURB
SWPE - STORMWATER PROTECTION ELEVATION
SDE - STORM DRAIN EASEMENT

PHYSICAL SURVEY

6906 OLD OAK LANE
OF
LOT 25 OF GREEN MEADOWS SUBDIVISION MAP 1
MINT HILL, MECKLENBURG COUNTY, N.C.
PROPERTY OF KEVIN & TERESA LEHMAN

SCALE - 1\"



AREA BY COORDINATE COMPUTATION
RECORDED IN BOOK 53
AT PAGE 231-232

JFKINS & LOWERY PLS PA
P.O. BOX 1169
WAXHAM, NC 28123
PHONE: (704) 821-3550
NC FIRM # C-3167

STATE OF NORTH CAROLINA MECKLENBURG COUNTY

"I, MARK C. CARTER, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN BOOK 28478, PAGE 326 OR OTHER REFERENCE SOURCE); THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION IN BOOK 28478, PAGE 326 OR OTHER REFERENCE SOURCE; THAT THE RATIO OF PRECISION OR POSITION ACCURACY IS 1:10,000, AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56, 1600)." THIS 31st DAY OF MAY, 2016.

Mark C. Carter
PROFESSIONAL LAND SURVEYOR



LYNN ANN CARTWRIGHT
& KIMBERLY DURHAM
NOW OR FORMERLY
LOT 19
DB 27877 PG 658
MB 54 PG 16-17
PARCEL ID # 135-263-44

ARTHUR SELBY & NANCY
SELBY
NOW OR FORMERLY
DB 8292 PG 830
PARCEL ID # 135-263-14

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	230.00	149.32	49.23	S 74°11'46" W	121°17'14"

LINE	BEARING	DISTANCE
L1	N 27°57'23" W	8.83
L2	S 10°57'42" E	37.72
L3	S 04°03'08" W	44.12
L4	N 04°03'08" E	8.59
L5	S 07°36'41" E	54.98
L6	S 05°51'19" E	29.25
L7	N 05°51'19" W	7.09
L8	S 01°53'02" W	61.57
L9	S 14°00'22" W	55.44
L10	S 08°08'53" W	30.57
L11	N 68°03'08" E	56.85
L12	N 27°43'42" W	3.98

CHARLES WILBRAHAM &
BARBARA WILBRAHAM
NOW OR FORMERLY
DB 4990 PG 36
PARCEL ID # 135-263-15

MICHAEL HORETH & KAREN
HORETH
NOW OR FORMERLY
DB 6676 PG 767
PARCEL ID # 135-263-16

MELANIE MOSHIER
NOW OR FORMERLY
LOT 24
DB 30466 PG 808
MB 54 PG 16-17
PARCEL ID # 135-263-39

EDWARD PEREZ & JENNY
RODRIGUEZ
NOW OR FORMERLY
LOT 23
DB 29482 PG 948
MB 54 PG 16-17
PARCEL ID # 135-263-40

SUZANNE BEAUDOIN & KIM
BEAUDOIN
NOW OR FORMERLY
LOT 22
DB 27277 PG 288
MB 54 PG 16-17
PARCEL ID # 135-263-41

VICINITY MAP
(Not to Scale)



CORNER BRIAN
NOW OR FORMERLY
LOT 21
DB 29818 PG 21
MB 54 PG 16-17
PARCEL ID # 135-263-42

NOTES

1. AREA CALCULATED BY COORDINATE COMPUTATION.
2. ADJOINING PROPERTY OWNERS NAMES WERE TAKEN FROM MECKLENBURG COUNTY TAX OFFICE RECORDS, AND ARE CONSIDERED AS NOW OR FORMERLY.
3. IRON RODS AT ALL CORNERS UNLESS NOTED.
4. THIS MAP IS SUBJECT TO ANY AND ALL APPLICABLE DEED RESTRICTIONS, EASEMENTS, RIGHT-OF-WAY, UTILITIES AND RESTRICTIVE COVENANTS AND PRELIMINARY PLAN WHICH MAY BE OF RECORD.
5. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES, MEASURED WITH ELECTRONIC MEASURING DEVICES.
6. LOT SUBJECT TO ALL ZONING ORDINANCES OF CITY OF CHARLOTTE. BUILDER/OWNER MUST VERIFY THAT LOT IS IN COMPLIANCE WITH ALL COUNTY AND HOMEOWNERS ASSOCIATION ZONING ORDINANCES PRIOR TO ANY LAND DISTURBANCE OR CONSTRUCTION.
7. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE SEARCH.
8. NO NCGS MONUMENT FOUND WITHIN 2000 FEET.
9. SETBACKS SHOWN ARE per CURRENT ZONING ORDINANCES UNLESS OTHERWISE NOTED.
10. SUBJECT PROPERTY ZONED R-3.

SLIT NOTES:

BUILDING SETBACK REQUIREMENTS (MINIMUM) ZONED R (MINT HILL)
FRONT: 50' FEET
SIDE YARD: 15' FEET
REAR YARD: 40' FEET
MINIMUM LOT WIDTH: 125' FEET
MINIMUM LOT AREA: 20,000 SF

FLOOD NOTE:

NO PORTION OF THE SUBJECT PROPERTY SHOWN HEREON LIES WITHIN A SPECIAL FLOOD HAZARD AREA PER F.E.M.A. FLOOD INSURANCE RATE MAP, COMMUNITY PANEL 3710459200K, DATED: FEBRUARY 19, 2014. SUBJECT PROPERTY IS IN COMMUNITY FLOOD PLAIN per MB 54 PG 16

GRAPHIC SCALE



(IN FEET)
1 inch = 30 ft.

LEGEND

RF	REBAR FOUND
RS	REBAR SET
R/W	RIGHT-OF-WAY
SF	SQUARE FEET
MB	MAP BOOK
DB	DEED BOOK
PG	PAGE
FS	FRONT SETBACK
RY	REAR YARD
SY	SIDE YARD
SD	STORM DRAIN LINE
SDE	STORM DRAINAGE EASEMENT
X	WOOD PRIVACY
CP	POWER POLE
IPF	COMPUTED POINT
IPF	IRON PIPE FOUND

PHYSICAL SURVEY
AT PROPERTY KNOWN AS
6906 OLD OAK LANE
LOT 25, GREEN MEADOWS SUBDIVISION, MAP 1
MB 54 PG 16 & 17
TAX # 135-263-38 DB 28478 PG 326
TOWN OF MINT HILL, MECKLENBURG COUNTY, NC
FOR: RICHARD LANDERS
DATE: MAY 31, 2016



PHOENIX LAND SURVEYING, INC.

1402 WAXHAW-INDIAN TRAIL ROAD
INDIAN TRAIL, NORTH CAROLINA 28079
PH: (704)-335-1655 FAX: 704-684-0514
EMAIL: INFO@PHOENIX-SURVEYING.COM

Land Surveying FIELD WORK: J.F.W. MAPPING: D. CARTER
Land Planning PROJ # 701-13-01 6906 OLD OAK LANE

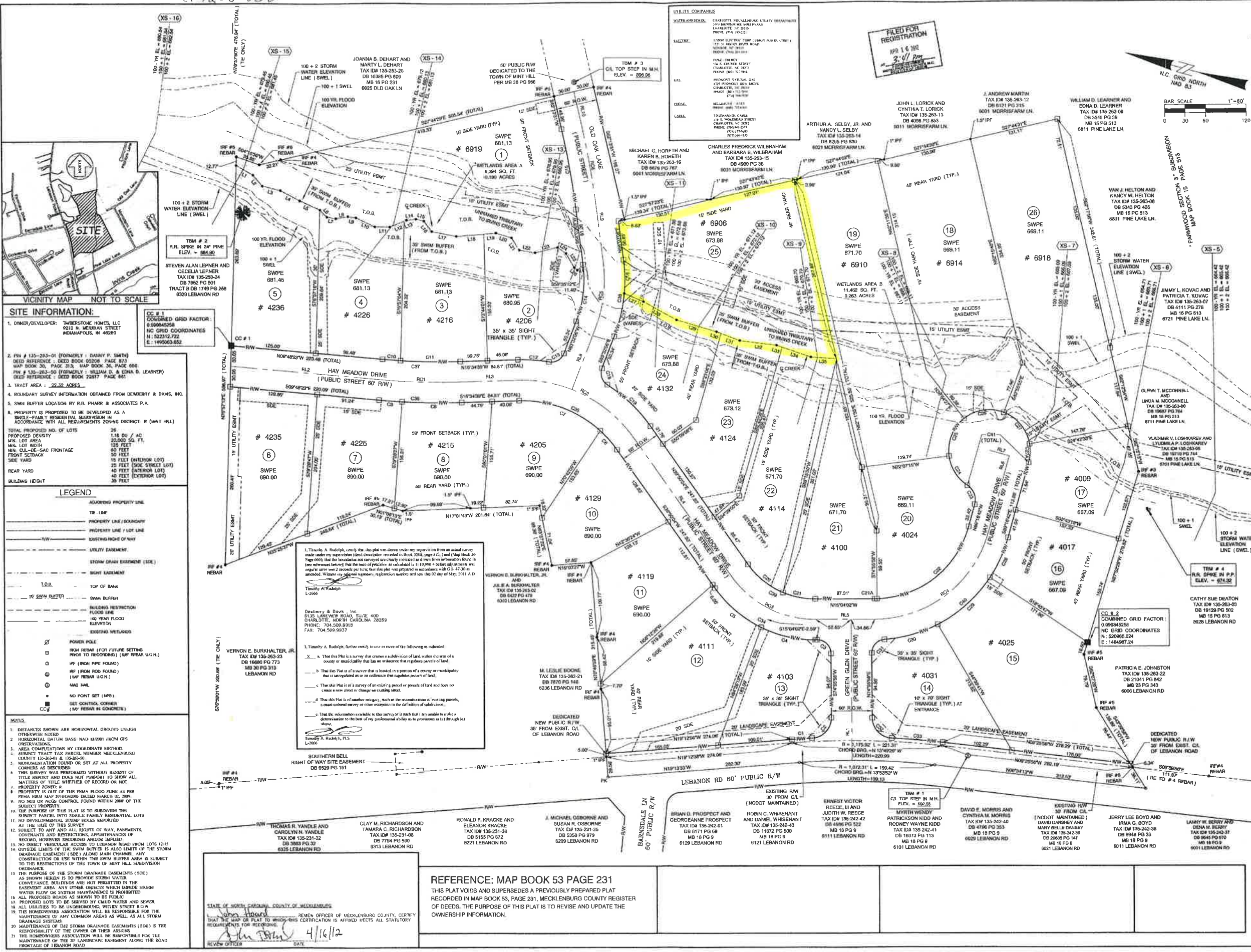
2012050832

54 16

Dewberry
N.C. REGISTRATION # F-0679

Dewberry & Davis, Inc.
8135 LAKEVIEW ROAD
SUITE 150
CHARLOTTE, NC 28210-2600
PHONE: (704) 508-8018
FAX: (704) 508-8018

GREEN MEADOWS
6200 LEBANON ROAD
ZONING: R
MINT HILL, MECKLENBURG COUNTY, NORTH CAROLINA
OWNER / DEVELOPER: TIMBERSTONE HOMES, LLC
9210 N. MERIDIAN STREET
INDIANAPOLIS, IN 46260



SCALE: 1 inch = 60 feet

No.	DATE	BY	Description
1	04/12/2012	JG	ADD PLAT REF. REMOVE SIGNATURE BLOCKS
2	04/10/2012	RM	REVISED OWNERSHIP IN TITLE BLOCK
3	01/18/2012	JBP	LINE TYPING, TEXT & MAP CHECK CONNECTIONS
4	02/10/2010	CFC	REV. PER MECK. COUNTY REVIEW COMMENTS
5	11/04/2009	CFC	REV. ADDRESS EMT., LANDSCAPE EMT., STREET NAME, SUBDIVISION NAME, and LOT ADDRESSES

DRAWN BY: C.F.C.
APPROVED BY: T.A.R.
CHECKED BY: J.C.G.
DATE: 04/23/2009

GREEN MEADOWS
SUBDIVISION
RECORD MAP 1

PROJECT NO. 50002057
SHEET NO. 1 OF 2

Memo

To: Board of Adjustment
 From: Staff
 Date: 6/20/2016
 Re: Variance Request #V16-5, Filed by Essex Homes Southeast, Jeremy Smith, for property at 4026, 4044 & 4058 Nottaway Place Dr

Variance Request

The applicant is requesting a variance from Section 6.1 Table 2 Dimensional Requirements of the Mint Hill Unified Development Ordinance for property located at 4026, 4044 & 4058 Nottaway Place Dr, Tax Parcel numbers 195-022-23, 195-022-24 & 195-022-25. The applicant is seeking to reduce the front setback on these 3 lots from 60' to 50' to allow for safe and proper grading of rear yards. All other dimensional requirements for these lots as platted will be met.

Type of Residential Dwelling	MINIMUM LOT DIMENSIONS				MINIMUM SETBACK IN FEET				MAX LOT COVERAGE	MAXIMUM HEIGHT	
	Lot Area in Square Feet	Lot Width at Minimum Setback	Lot Frontage Exception Cul-de-Sac	Lot Frontage on Cul-de-Sac	Front Yard Setback ⁽³⁾	Side Yard Setback Adjoining a Street	Side Yard Setback	Rear Yard Setback	Lot Coverage in Percent	Height in Stories	Height in Feet ⁽⁴⁾
Single-Family Detached ⁽¹⁾⁽²⁾	20,000	125	60	60	50	25	15	40	29	2	35
Single-Family Detached ⁽¹⁾⁽²⁾	30,000	130	70	70	60	30	20	40	20	2	35
Single-Family Detached ⁽¹⁾⁽²⁾	40,000	140	70	70	60	40	20	50	20	2	35

Section 6.1 Table 2

VARIANCE
APPLICATION

Town of Mint Hill
Board of Adjustment
4430 Mint Hill Village Lane
Mint Hill, N.C. 28227
(704) 545-9726

Office Use Only

Petition #: V16-5

Date Filed: 6/14/2016

Received By: CB

Variance requested on property located at: 4026, 4044, 4058 Nottaway Place Drive

19502225

Tax Parcel Number: 19502224 Zoning District: Residential

19502223

Describe variance being requested:

Reduce 60' front setback to 50' front setback to allow for safe and proper grading of rear yards.

(Complete if Applicant is other than Property Owner)

Essex Homes Southeast, Inc.
Name of Property Owner

Name of Applicant

13000 S. Tryon S., F-205
Address of Owner

Address of Applicant

Charlotte, NC 28278
City, State, Zip

City, State, Zip

(704) 423-8988
Telephone Number

Telephone Number

jsmith@essexhomes.net
E-Mail Address

E-Mail Address

Essex Homes Southeast, Inc.
By:

Essex Homes Southeast, Inc.
By:

Signature of Property Owner

Signature of Applicant

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the State Enabling Act, the Board is required to reach four conclusions as a prerequisite to the issuance of a variance: (1) that unnecessary hardships 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) that the hardship did not result from actions taken by the applicant or the property owner and, (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.

In the spaces provided, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these four required conclusions.

UNNECESSARY HARDSHIPS 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.

Due to the impact of the stream and associated topography present at the rear of the lots, grading could result in increased stormwater impact to the adjoining properties and stream. Further, the achievable slope could prove to be unmanageable and dangerous for property owners.

THE HARDSHIP RESULTS FROM CONDITIONS THAT ARE PECULIAR TO THE PROPERTY, SUCH AS LOCATION, SIZE OR TOPOGRAPHY. Hardship 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 topography falls from the rear of the lot to the stream and storm drain easement at a 1:1 pitch.

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 granting a variance shall not be regarded as a self-created hardship.

Essex Homes purchased the three lots from the Seller with the conditions present at the time of purchase (4/4/2016). Before and since purchase of the lots, Essex and its assigns began lot fits and grading evaluation in attempt to work with the existing topography and within the delineated setbacks.

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.

Per Article 6 Section 6.1 of the UDO, the subject properties meet all of the building lot standards and dimensional requirements. The requested variance seeks to reduce the front setback to 50' to ensure public and resident safety is secured. Although the subject lots exceed the minimum 30,000
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sq. ft. size requirement, they were developed with a public water and approved public sewer system. Therefore, they meet or exceed the 20,000 minimum (R)esidential sq. ft. requirement which requires only a 50' front yard setback. Applicant does not intend to reduce the lot size, but merely move the house pad 10' closer to the road to allow for safe and proper yard grading.