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 26th, 2017 at 6:30 p.m.

1. Call To Order
2. Roll Call and Declaration of Quorum
3. Approve Minutes of May 22nd, 2017 Regular Meeting
4. Reports of Committees, Members, and Staff
5. Old Business
    A. Variance Request #V17-1, Filed by Suzanna Wolf, Property Located at 7200 Apple Creek Drive, Tax Parcel Number 135-366-06.
6. New Business
    A. Variance Request #V17-3, Filed by Donald Scott Harder and Annette Carol Harder for property located at 970 Ben Black Road, Tax Parcel Number 139-431-14.
7. Other Business
8. Adjournment

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Candice Everhart
Program Support Assistant
June 19th, 2017

MINUTES OF THE MINT HILL BOARD OF ADJUSTMENT
May 22nd, 2017

The Mint Hill Board of Adjustment met in regular session on Monday, May 22nd, 2017 at 6:30 p.m. in the John M. McEwen Assembly Room, Mint Hill Town Hall.

ATTENDANCE

Chairman: Gary Isenhour
Members: Michael Weslake, Ronald Rentschler and Bobby Reynolds
ETJ Members: Debi Powell and David Tirey
Absent: June Hood
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 February 27th, 2017 Regular Meeting: Upon the motion of Mr. Isenhour, seconded by Mr. Rentschler, the Board unanimously approved the minutes of the February 27th, 2017 Board of Adjustment regular meeting.

Reports of Committees, Members and Staff: None.

Old Business: None.

New Business:

A. Variance Request #V17-1, Filed by Suzanna Wolf, Property Located at 7200 Apple Creek Drive, Tax Parcel #135-366-06: *Mr. Isenhour asked the applicant and Mr. Breedlove 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. Breedlove and Mrs. Wolf.

Mr. Breedlove said, we're talking about a shed and in the main provision of the Ordinance says there's a ten foot minimum separation requirement. The shed is three and a half feet at its closest point to the house. Our Code Enforcement Officer received a complaint and that's how we became aware of this. The property owner was not aware this was not in compliance with the Ordinance.

Mr. Isenhour asked, if we deny this then she has to take down the shed? Mr. Breedlove said, yes.

Suzanne Wolf of 7200 Apple Creek Drive stated, I bought the shed in Mecklenburg County and they told me as long as it was 12'x12' or less then I didn't need a permit. I took him at his word and I didn't do this out of any malice or anything. In reference to the photos this is how we painted the shed to match the house and make it very attractive. The reason for the location is due to a lot of factors. Our house is built on the corner, not facing the road. We have a circular driveway and our septic system as well as our drainage pipes are located in that circular area so we couldn't place the shed there. We can't move it to the side because we are exactly sixteen feet from our neighbor's property and we don't want to encroach on their property. To the other side our neighbors, the Algorez's, have cemented their whole back yard and so when it rains all of the water runs off into our back yard. It's also all downhill and full of trees. The side on Apple Way is our side yard, but our neighbor's front yard. We also had a shed in this same place for eighteen years prior with no issues and so we didn't realize we were doing anything wrong by replacing it with a new shed.

Mr. Weslake asked, is there an aerial view? Mr. Breedlove said, yes.

Mr. Isenhour asked Mrs. Wolf, they guy you spoke to said 12'x12' was fine? Mrs. Wolf said, yes.

Mrs. Powell asked, there is a silver metal shed that sits behind this shed, is it in a better position as far as a setback standpoint? Mr. Breedlove said, yes if it sits further away from the house than this shed.

Mrs. Powell asked, can the metal shed not be moved and this shed move backwards? Mrs. Wolf said, the metal shed is 8'x8' and this shed is 12'x12' so we couldn't push it any further back.

Mrs. Powell asked, can you attach it to the house? Mrs. Wolf said, I spoke with Margie about that. There is a living space downstairs therefore we're not able to attach it to the house. I also have a permit because I run a business out of the shed so it would create a hardship if I had to take it down because I would have to close my business.

Mr. Weslake asked, why can't you scoot it over? Mrs. Wolf said, I would encroach on my neighbor.

Mr. Tirey asked, what would be too narrow if the metal building was removed and this shed was pushed back? Mrs. Wolf said, it would push back into Irwin Creek and there is also a substantial drop-off.

Mrs. Powell said, the side on Apple Road Court. I would feel more comfortable giving a variance with the shed encroaching on that side than where it is now. Mrs. Wolf said, we would have to put a slab out there because it slopes down and they've laid cable and natural gas lines there.

Mr. Tirey asked, have you discussed any of this with the builder? Mrs. Wolf said no,

they hired an independent contractor who just came in and built it.

Mr. Breedlove said, to address the attachment question from earlier, I don't think that would be to standards with building codes.

Mrs. Powell asked, could you do a breezeway? Mr. Breedlove said, it would still be considered an accessory structure so it still needs to be ten feet away from the house.

Mr. Isenhour asked, are there any more questions?

Mr. Weslake said, I don't feel like I can make a fair decision to her right now because I would like to see this in person. I don't feel like the pictures do it justice. Can we table this until next month?

Mr. Breedlove said, I wouldn't recommend that. The School of Government has talked about other Towns in the State that have some similar cases and they've been thrown out. Generally it's not a good idea. If you are going to go out there I would suggest you take your own photos because you must have evidence in these types of cases.

Mr. Tirey said, I understand in your explanation is that towards the back it is unleveled and boggy. Have you gotten a quote on if you did move it back? Mrs. Wolf said, I haven't because it's heavily treed and we would have to take down approximately twenty trees. I feel like that would cause more destruction than helping.

Mr. Breedlove said, also there is that easement for drainage and they can't block that.

Mr. Tirey made a motion to table the Variance Request #V17-1 Filed by Suzanne Wolf for property located at 7200 Apple Creek Drive, until next month to wait for a full Board to vote. Mrs. Powell seconded the motion and the Board unanimously agreed.

Mr. Isenhour stated the Variance Request #V17-1 will be deferred until June 26th, 2017.

B. <u>Variance Request #V17-2 Filed by Teresa and John Alderman, Property Located at 4038 David Drive, Tax Parcel #195-012-10:</u> *Mr. Isenhour asked the applicant and Mr. Breedlove 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. Breedlove and Mr. Alderman.

Mr. Breedlove said, the applicant can't meet the minimum width requirements and side street setbacks to subdivide the property. If the applicant receives the variance tonight then they can subdivide. This is the first step and if they receive the variance then they will have to get a surveyor to draw up a plat. Planning Board can't approve a variance to the minimum width requirement, area and side street setbacks. That is what

you will be approving or denying a variance on. The two lots would only be 20,000 square feet instead of the 30,000 we require and they need to reduce the side street setback from 30' to 25'.

Mr. Rentschler asked, were these originally two lots and do they have two tax I.D.'s? Mr. Breedlove said, yes. This parcel number existed in a deed in 1965. Prior to 1965 it seems that this was in fact two lots.

Mr. John Alderman of 1221 Paddock Circle, Charlotte, NC stated, my wife and I inherited this land in 1992. Prior to that it belonged to the Hooks family who owned it since the 1800s. I researched this back through 1965 as far back as I could with Mecklenburg County. I couldn't find anything documenting when these were made back into a single lot. The lots were approximately 100'x200' and at the time the 30,000 square feet didn't exist. In a nutshell what's basically happened is that we have been approached to sell this lot but for it to be divided into two lots. They've already received the septic permits from Mecklenburg County to build a four bedroom house on each lot. That isn't the problem, the problem comes from needing the 30,000 square feet minimum lot size. They will have to look elsewhere for land to build two houses if they can't subdivide this. The Svets family gave me a good offer and I want to be able to maximize that value for them. What we're asking for tonight is based on the economic hardship for this family who has already spent a good amount of money they've spent on this dream to have their family all at one location.

Mr. Isenhour said, on this page I'm looking at it says the property shall be considered as two lots with the seal in 1965. Deeds are deeds and it doesn't matter when. Mr. Alderman said, I wish it was that simple but I was told I can't go any further until we have a variance granted.

Mr. Rentschler said, if you look at all of the other lots near that property, they aren't in compliance. Two tax parcels that should be grandfathered in. Mr. Breedlove said, unfortunately the Ordinance isn't structured that way. Ultimately tax offices may have done all kinds of things. They could've said I want one tax bill instead of two. Counties couldn't zone until 1959 and then when Mint Hill came along we have different standards.

Mr. Isenhour said, we can move into the fact finding in there are no further questions.

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

Mr. Weslake said, yes the hardships result from the current parcel dimensions.
Mr. Reynolds said, yes the hardships result because they can't build homes on the lots as wished.
Mr. Isenhour said, unnecessary hardships result because it was two lots prior.
Mrs. Powell said, unnecessary hardships would result from the strict application of the ordinance because it's unreasonable to hold this lot to a higher standard that the surrounding lots.

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

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

Mr. Tirey said, no the hardship doesn't result from the property, but it results from the fact it was originally two lots.
Mr. Rentschler said, I agree.
Mrs. Powell said, the hardship results from conditions that are peculiar to the property such as the location, size and topography due to public sewer to be unavailable because of the slope of the land away from Highway 51.
Mr. Isenhour said, I agree with Mrs. Powell.
Mr. Reynolds said, I agree also.
Mr. Weslake said, I agree.

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

Mr. Weslake said, the hardship is not a result of the applicant or property owner, but a result of the lot being one lot where it was two once.
Mr. Reynolds said, it was not a result of the applicant or property owner, but that the lots were originally designed as two and should stay that way.
Mr. Isenhour said, I agree.
Mrs. Powell said, the hardship did not result from actions taken by the applicant or property owner. These lots were inherited and a 1965 tax map showing the property divided into two residential lots, but never recorded.
Mr. Rentschler said, I agree with Mrs. Powell.
Mr. Tirey said, I agree with Mrs. Powell.

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, yes the variance requested would be consistent asking that the two original lots be considered today as initially deeded and would be right in line with the other lots surrounding.
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 because other lots in this neighborhood are 20,000 square feet or less in area and 100' wide.
Mr. Isenhour said, I agree.
Mr. Reynolds said, the variance is consistent with the spirit and purpose and intent by allowing these lot sizes to allow the change and construction.
Mr. Weslake said, the requested variance is consistent with the spirit, purpose and intent because this will allow consistency with the surrounding lot sizes.

Mrs. Powell made a motion to approve Variance Request #V17-2, filed by Teresa and John Alderman for property located at 4038 David Drive, Tax Parcel number 195-012-10, for the following reasons: Unnecessary hardships would result from the strict application of the Ordinance in that the applicant could not make reasonable use of the property and it would be unreasonable to hold this lot to a higher standard than surrounding lots. The hardship results from conditions that are peculiar to the property in that the sloping down away from Highway 51 makes public sewer unavailable and causes the strip of land as is not to be rationally used. The hardship did not result from the actions taken by the applicant in that this property was deeded in 1965 into two lots, with a tax map showing the property originally divided into two residential lots #10 and #30, with the hardship being it was never recorded. A variance would be consistent with the spirit, purpose and intent of the Ordianance, and public safety would remain secure in that several other properties within this neighborhood are 20,000 square feet or less in area and 100 feet wide. Mr. Reynolds seconded the motion and the Board unanimously agreed. The variance has been granted.

Other Business: None

Adjournment: Upon the motion of Mr. Rentschler, seconded by Mr. Reynolds, and unanimously agreed upon, Chairman Isenhour adjourned the meeting at 7:35 p.m.

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Candice Everhart
Program Support Assistant

Town of Mint Hill

Memo

To: Board of Adjustment

From: Staff

Date: 5/15/2017

Re: Variance Request #V17-1, Filed by Suzanne Wolf for property at 7200 Apple Creek Dr

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Variance Request

The applicant is requesting a variance from part A.7 of Section 6.9.7 of the Mint Hill Unified Development Ordinance for property located at 7200 Apple Creek Dr, Tax Parcel 135-366-06. The applicant is seeking relief from the 10' minimum separation requirement. They desire to place a garden shed 3.5' away from the house, and thus need a 6.5' variance.

6.9.7 Accessory Uses and Structures.

A. Minor uses or structures which are necessary to the operation or the enjoyment of a permitted principal use and are appropriate, incidental and subordinate to any such uses, shall be permitted in all districts as an accessory use, subject to the following:

7. A detached accessory building in an R (Residential) District shall not be located closer than ten (10) feet to a principal structure.

Note: As proposed, the shed would meet the 15' left side setback, with one foot to spare.

Please see enclosed application for more information.

VARIANCE APPLICATION

Office Use Only	
Petition #:	V17-1
Date Filed:	4/21/2017
Received By:	CB

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

Variance requested on property located at: 7200 Apple Creek DRIVE

Tax Parcel Number: 135-366-06 Zoning District: R

Describe variance being requested:

WAS NOT AWARE OF CODE AS I WAS TOLD BY DEALER THAT AS LONG AS THE SHED I PURCHASED WAS NOT LARGER THAN 12 X 12. I WOULD BE IN COMPLIANCE. THE SHED WAS ERECTED 6' FROM THE DWELLING BUT TRULY, THERE IS NO OTHER ALTERNATIVE AS I HAVE ONLY INFRINGED ON MY OWN PROPERTY AND NOT MY NEIGHBORS.

	(Complete if Applicant is other than Property Owner)
Suzanne & Terence Wolf Name of Property Owner	Name of Applicant
7200 Apple Creek Dr Address of Owner	Address of Applicant
Charlotte NC 28227 City, State, Zip	City, State, Zip
704 877 5063 Telephone Number	Telephone Number
SuesAlwaysRight@Yahoo.com E-Mail Address	E-Mail Address
Suzanne Wolf Signature of Property Owner	Signature of Applicant

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

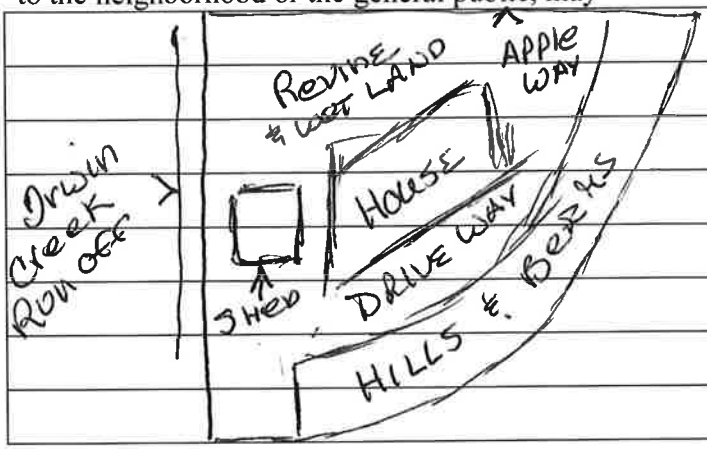
The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the State Enabling Act, the Board is required to reach four conclusions as a prerequisite to the issuance of a variance: (1) that unnecessary hardships would result from the strict application of 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 <u>arguments</u> 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.

As there is no other Alternate location, it would Result is the loss of my ~~livelihood~~ Livelihood. I have closed the Retail location of Abbey Rose florist and I am permitted by the town of Mint Hill to operate from this location. It would result in the loss of $10,000 that I have invested in this endeavor.

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.

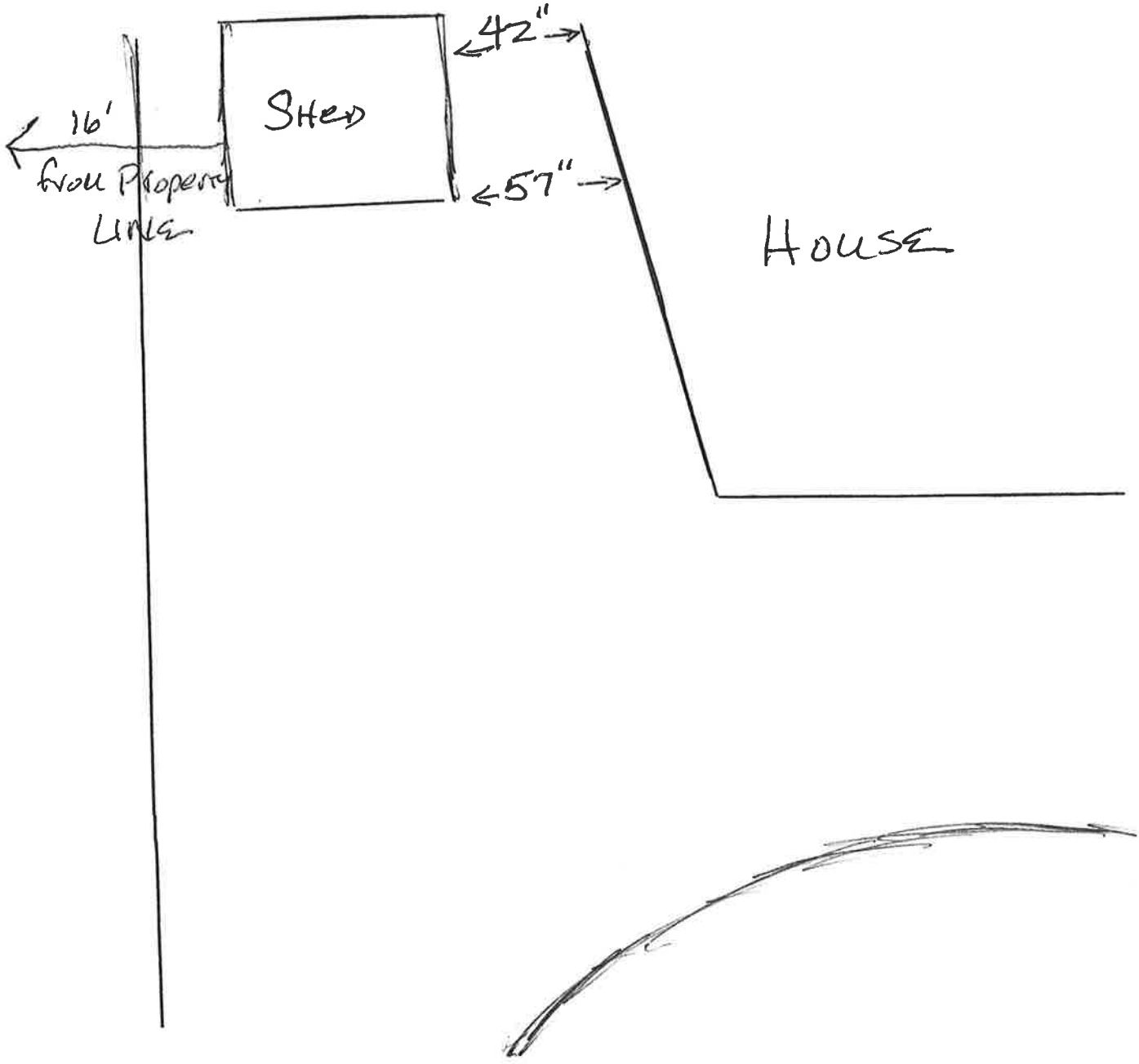


THE HARDSHIP DID NOT RESULT FROM ACTIONS TAKEN BY THE APPLICANT OR THE PROPERTY OWNER. The act of purchasing property with knowledge that circumstances exist that may justify granting a variance shall not be regarded as a self-created hardship.

I HAD NO IDEA THAT I WOULD be VIOLATING CODE. THIS SHED Replaces A SHED THAT HAD BEEN IN THIS LOCATION for 18 YEARS

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.

I believe THAT TO BE TRUE. THE SHED IS NOT AN eyesore. It enhances the look of the property. It infringes ON NO ONE elses property but THE Property owner.

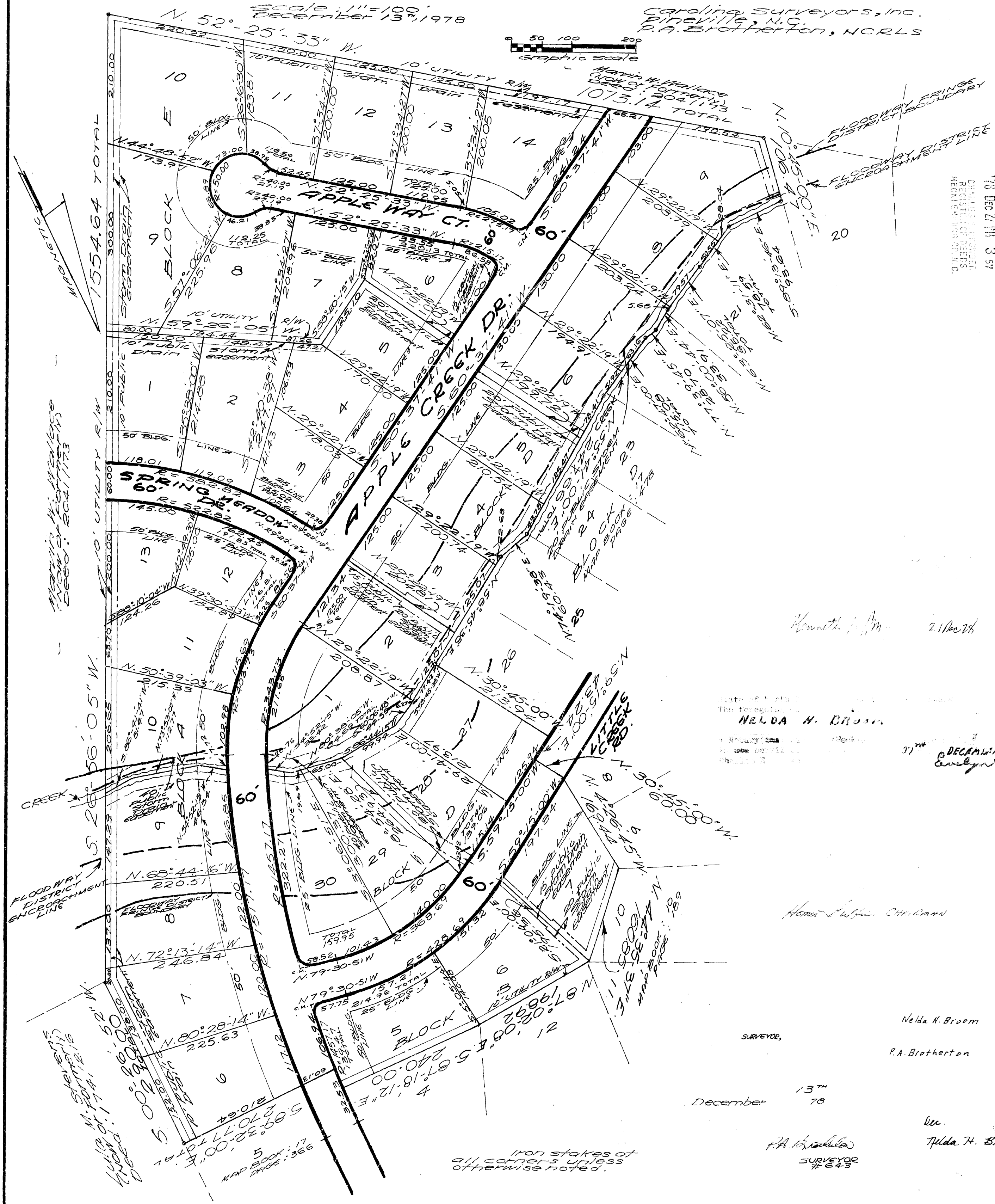

42"
SHED
16'
from Property
LINE
57"
HOUSE

Any construction or use within the areas delineated as FLOODWAY DISTRICT BOUNDARY LINE and FLOODWAY DISTRICT ENCROACHMENT LINE is subject to the restrictions imposed by the Floodway Regulations of Mecklenburg County.

A PLAT SHOWING
FARMWOOD SECTION #16
MINT HILL, N.C.
PROPERTY OF BOB McLEMORE & CO., INC.

Scale: 1" = 100'
December 13th, 1978

Carolina Surveyors, Inc.
Pineville, N.C.
P.A. Brotherton, NCRLS



'78 DEC 27 PM 3 59
PRESENTED FOR REGISTRATION
REGISTER OF DEEDS MECKLENBURG CO. N.C.

Kenneth [illegible] 21 Dec 78

The foregoing ... NELDA H. BROOM ... a Notary Public ... 21st DECEMBER 78

Evelyn J. [illegible]

Homer [illegible] CHAIRMAN

Nelda H. Broom

SURVEYOR, P.A. Brotherton REG. SURVEYOR

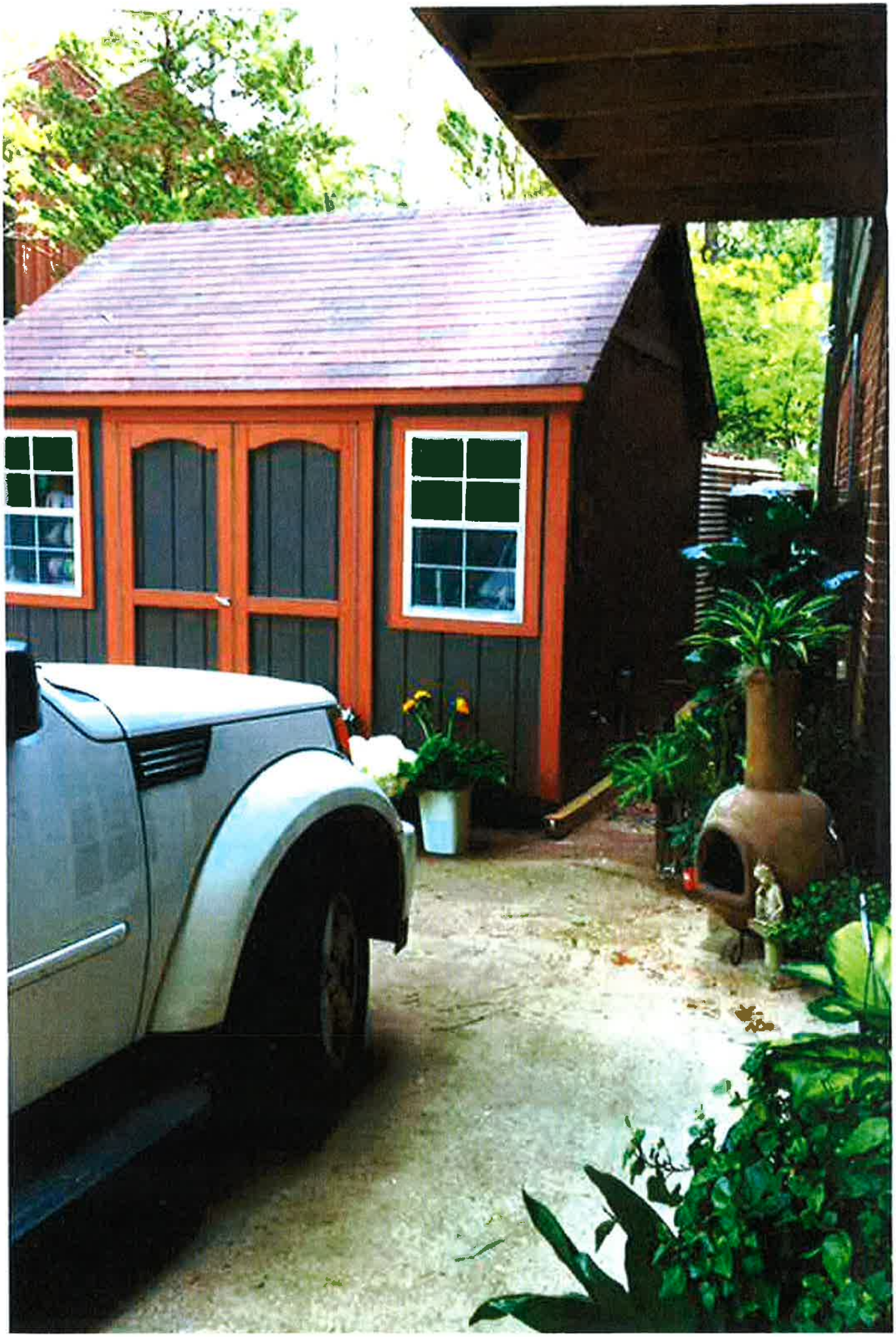
December 13th 78

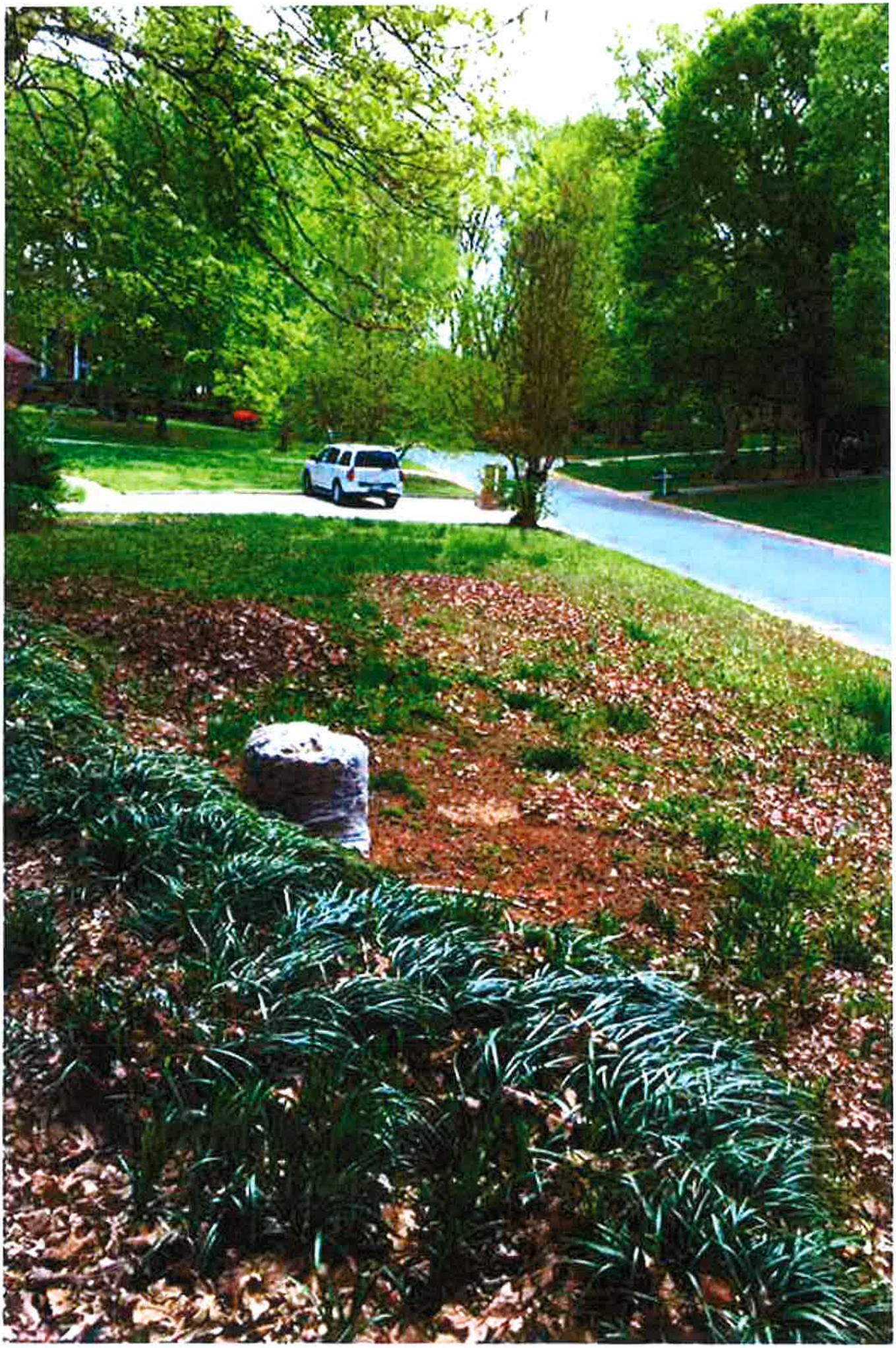
Dec. 18th 78

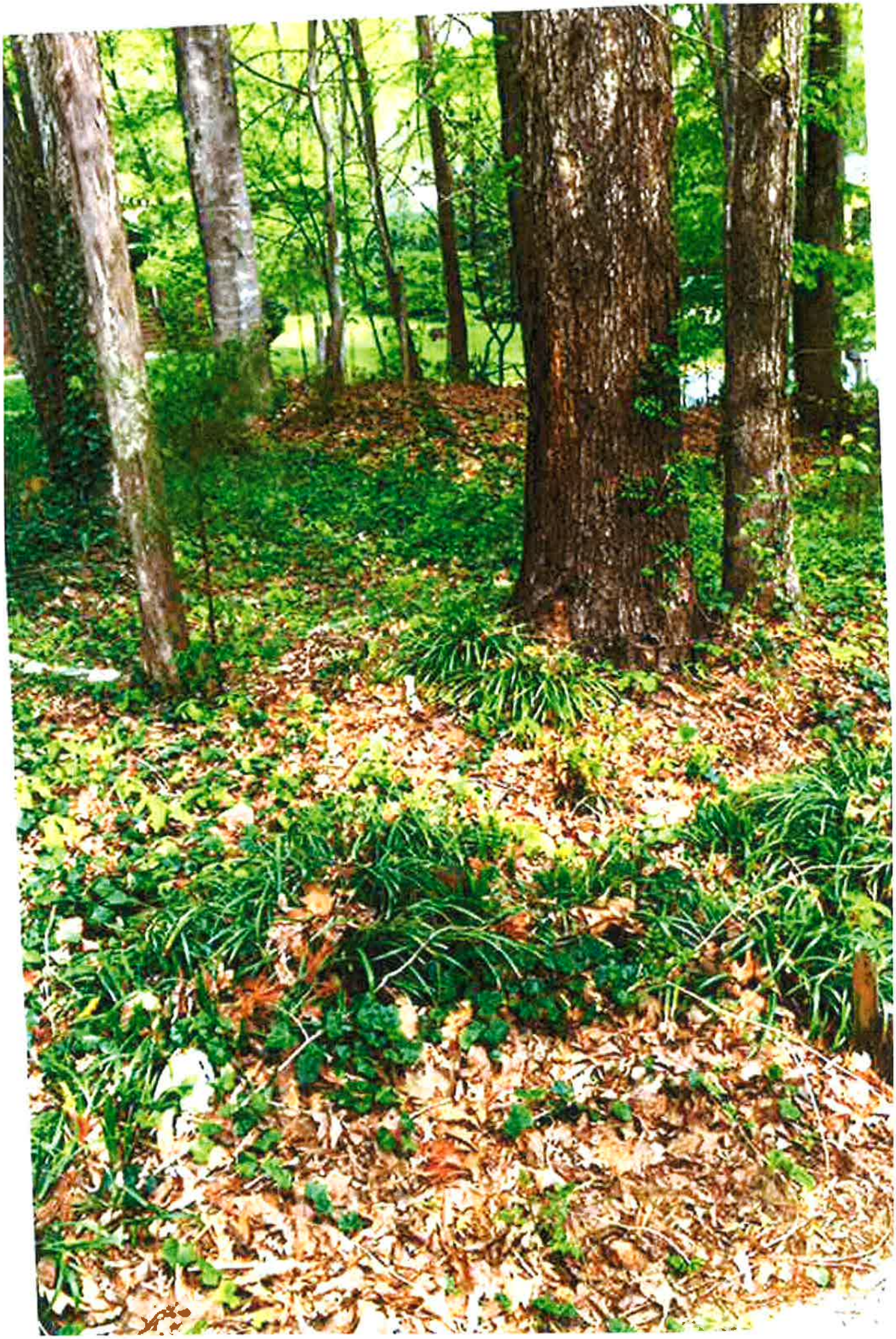
P.A. Brotherton
SURVEYOR #643

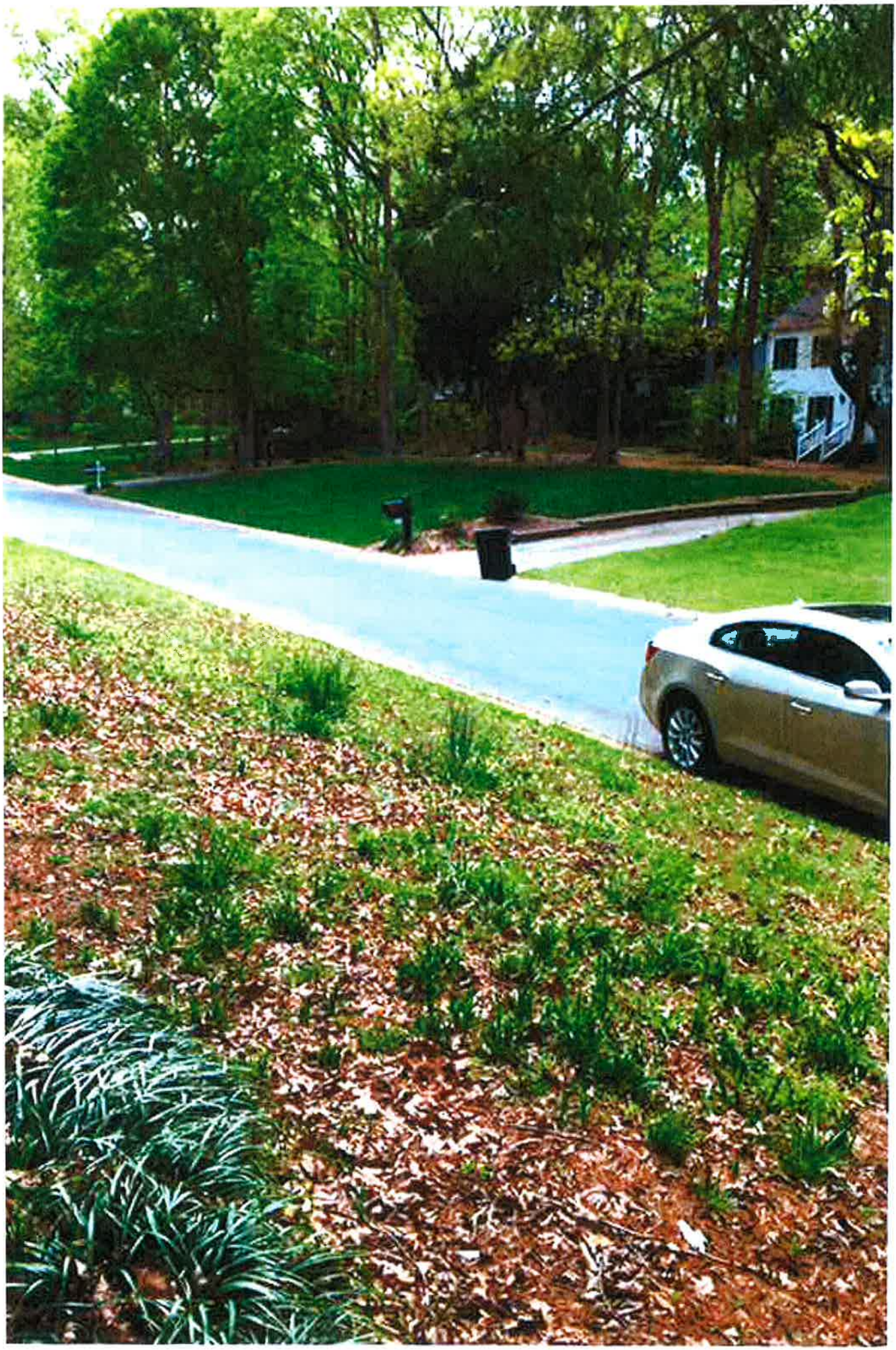
Nelda H. Broom

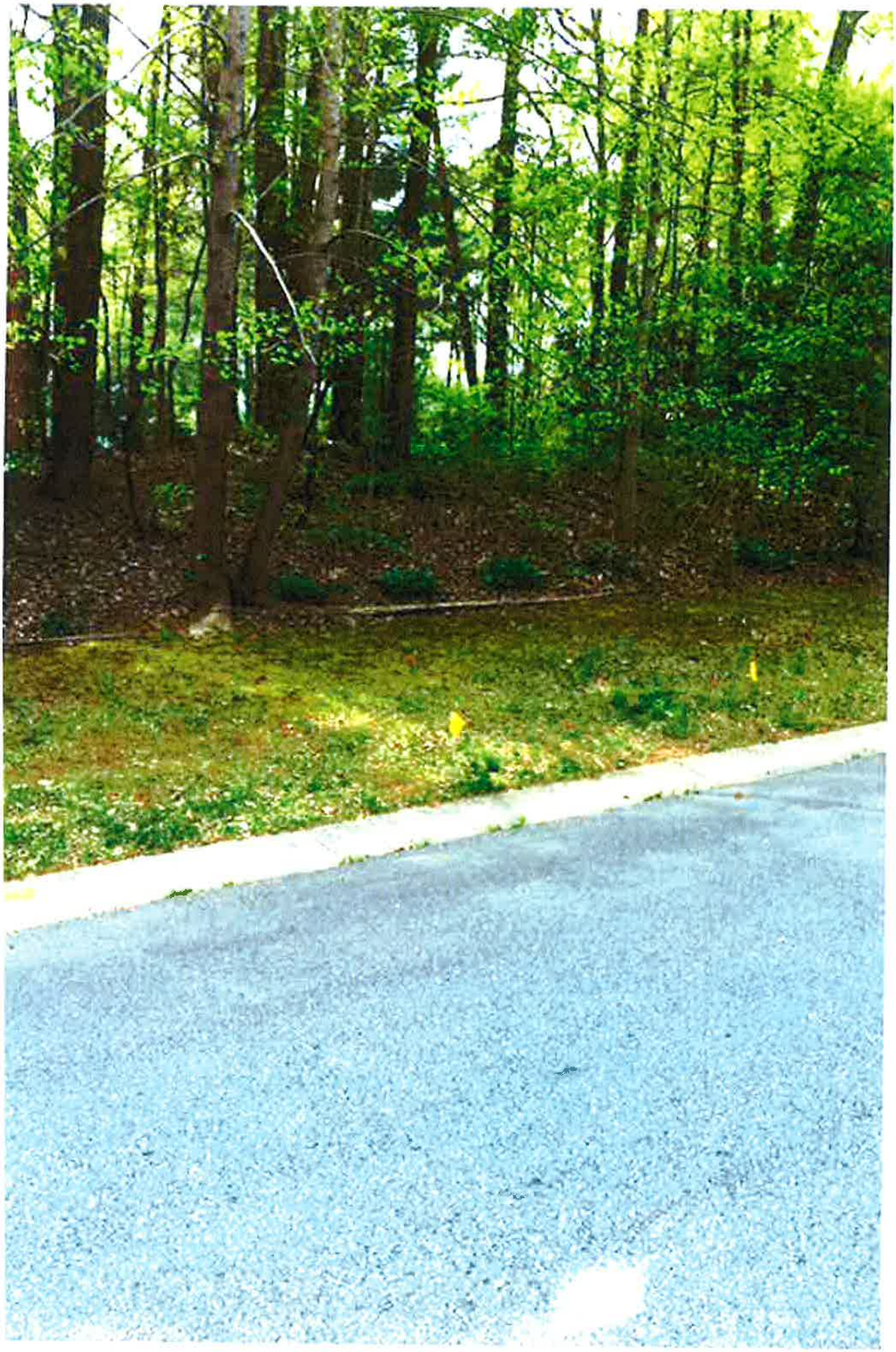

Apple Creek Dr
Mint Hill
6
9
7
1
10
7210
7200
2
8
3
5
4
10300-10337
Apple Way Ct
Mint Hill











Town of Mint Hill
Home Occupation Permit Application

6.9.1 *Customary Home Occupations.*

A. Customary home occupations may be established in any principal dwelling unit or accessory structure (such as a garage) as allowed by North Carolina State Building Code. Customary home occupations shall be incidental to a residential unit and shall not be considered a substitute to traditional retail establishments that rely on a substantial amount of walk-in traffic. Customary home occupation requirements shown herein shall apply in addition to all other applicable requirements of this Ordinance for the district in which such principal dwelling unit is located.

B. The home occupation shall be clearly incidental and subordinate to the residential use of the dwelling and shall not change the exterior residential character of the dwelling.

C. Use of the dwelling for the home occupation shall be limited to twenty-five (25) percent of the gross heated floor area of the principal structure.

D. The operator of the customary home occupation must reside on the same lot as where the customary home occupation takes place. Residents of the dwelling plus a maximum of one nonresident may be engaged in the customary home occupation or otherwise report to work at the dwelling.

E. No products, goods, materials, or equipment associated with the customary home occupation shall be visible from any adjoining street or properties. All such products, goods, materials or equipment shall be stored within the residential dwelling unit or garage or other accessory structure. On-premise sales of products are limited to those made or reconditioned on the premises and those that are necessary to the service being provided.

F. No external alterations inconsistent with the residential use of the dwelling shall be permitted and outside display of goods for sale or rent is prohibited.

G. Only vehicles used primarily as passenger vehicles (i.e., passenger automobiles, passenger vans and passenger pickup trucks) shall be permitted in connection with the conduct of the customary home occupation. No more than two (2) vehicles shall be used in conjunction with the customary home occupation. Parking in association with the customary home occupation shall only take place in the driveway or garage. The home occupation shall not generate traffic in a greater volume or consisting of larger vehicles than would normally be expected in a residential neighborhood.

H. Chemical, mechanical or electrical equipment or any other activity associated with the customary home occupation that creates odors, light emission, noises or interference in radio or television reception detectable outside the dwelling shall be prohibited.

I. Hours of operation shall be between the hours of 8:00 a.m. to 8:00 p.m. only.

J. Private instruction in the school of the arts of music, dance and similar subjects shall be limited to a maximum of two (2) students at a time (including the number of persons waiting on the property to receive such instruction).

K. The Administrator shall have the authority to allow a customary home occupation that is not listed above, provided the Administrator determines that the use will be harmonious with all existing and potential nearby residential uses and meets all of the performance criteria associated with customary home occupations listed herein.

L. The application process for a Customary Home Occupation Permit is located in Section 8.7.2.

M. The Applicant shall, at all times, be and remain responsible to obtain whatever additional permits or licenses may be required by Mecklenburg County or the State of North Carolina (for example, the Mecklenburg County Department of Health inspects kitchen facilities and requires a separate permit for food preparation). Any permit issued hereunder by the Town satisfies only the zoning requirement and shall not be deemed an approval, permit or license fulfilling any other legal requirements that any customary home occupation may require under law.

Occupant SUZANNE WOLF Phone 704-545-4900

Name of Business Abbey Rose Florist

Street Address 7200 Applecreek DR

Mailing Address as above

Email Address AbbeyRoseFlorist @ ATT.~~COM~~ NET

Describe the nature of the business (intended use or purpose): NON-RETAIL FLORIST- Accepts orders by Phone or Internet for Delivery only. No WALK IN TRADE.

I hereby acknowledge receipt of the Customary Home Occupation regulations and agree to abide by them. ****The Town of Mint Hill reserves the right to revoke the permit at any time if any of the Customary Home Occupation regulations are violated.****

Suzanne Wolf Date 3-13-17

Owner or Authorized Agent

Town of Mint Hill

Memo

To: Board of Adjustment

From: Staff

Date: 6/19/2017

Re: Variance Request #V17-3, Filed by Donald Scott Harder & Annette Carol Harder for property at 970 Ben Black Rd

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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 970 Ben Black Rd, Tax Parcel 139-431-14. An attached garage that was built in 2015 encroaches 18" into the 20' right side (West side) setback. The applicant is asking that the right side setback be reduced to 15'.

Note: This property is split by the Mecklenburg-Cabarrus County line. The Mecklenburg side is located in Mint Hill's ETJ, and the attached garage in question is entirely on the Mecklenburg side.

	MINIMUM LOT DIMENSIONS				MINIMUM SETBACK IN FEET				MAX LOT COVERAGE	MAXIMUM HEIGHT	
Type of Residential Dwelling	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

Please see enclosed application for more information.

VARIANCE APPLICATION

Office Use Only	
Petition #:	V17-3
Date Filed:	6/5/2017
Received By:	CB

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

Variance requested on property located at: ___970 Ben Black Rd, Midland, NC 28107_____

Tax Parcel Number: __13943113_____Zoning District: __Mint Hill_____

Describe variance being requested:

Due to an attached garage creating minor intrusion of 18 inches into the 20'set back space, we are seeking a variance to the 20ft. side set back on the West side of the property. If the setback requirement were changed to 15' there would be no violation.

Property Owner	*(Complete if Applicant is other than Property Owner)* Applicant
Donald Scott Harder & Annette Carol Harder	
Name of Property Owner	Name of Applicant
970 Ben Black Road	
Address of Owner	Address of Applicant
Midland, NC 28107	
City, State, Zip	City, State, Zip
615-439-5162 or 812-430-9249	
Telephone Number	Telephone Number
donald.harder@asurion.com annharder3@gmail.com	
E-Mail Address	E-Mail Address
Donald S Harder	
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.

This variance is required in order for the home to be marketable. Title insurance providers will not provide a clear and marketable title with the violation of the set-back ordinance. Removal of the brick garage that is now attached to the house would cause undue hardship by lowering the property value, and damaging the house and driveway.

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 position of the home in relationship to the property line, most of the garage is within the 20'set back requirement. However, the front corner does encroach 18 inches into the setback space.

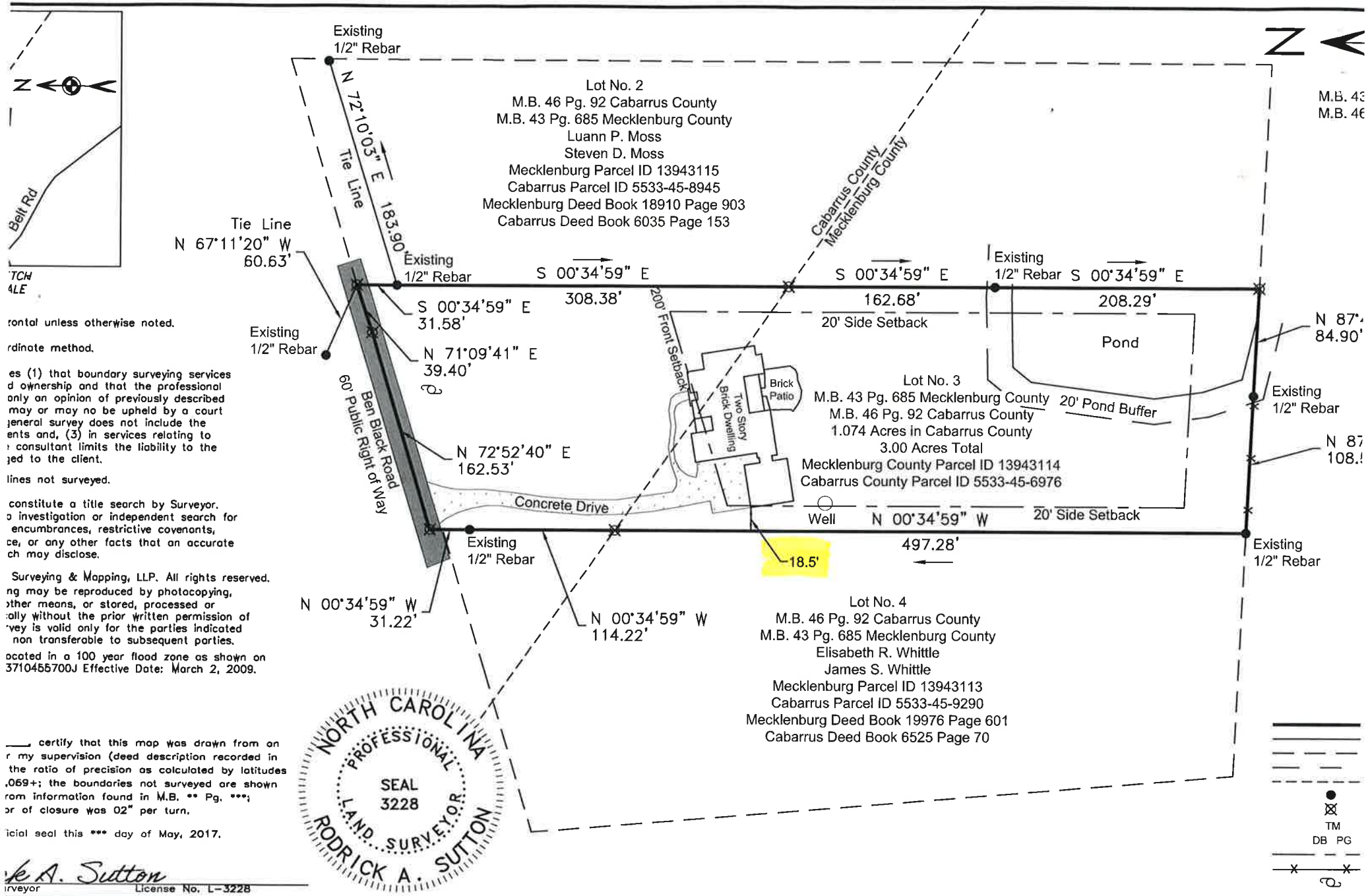
THE HARDSHIP DID NOT RESULT FROM ACTIONS TAKEN BY THE APPLICANT OR THE PROPERTY OWNER. The act of purchasing property with knowledge that circumstances exist that may justify granting a variance shall not be regarded as a self-created hardship.

The home was purchased by its current owners in March of 2015. In May of 2015, licensed builder, ***Lace Construction*** was contracted in good faith by the owners to build a matching brick garage and attach it to the house according to codes and zoning rules. In May of 2015 all plans were submitted and permits were approved and obtained to build the garage. Multiple site inspections occurred before, during, and after construction. In August of 2015 the garage was completed, all inspections were completed, and final payment was made to the contractor.

In May 2017, while under a contract to purchase the home, the land survey conducted during the due diligence period revealed that a small portion of the front (north) corner of the garage is 18'6" from the property line, which makes the corner of the garage in violation of the setback by 18 inches.

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 West side of the property is adjacent to an unimproved lot that is currently utilized as farm land and would not cause any safety concerns or create any other issues. The most logical and simple solution is to provide a variance to the West side of the property line.



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located in a 100 year flood zone as shown on
3710455700J Effective Date: March 2, 2009.

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icial seal this *** day of May, 2017.

NORTH CAROLINA PROFESSIONAL SEAL 3228 LAND SURVEYOR RODRICK A. SUTTON

ke A. Sutton
irveyor License No. L-3228

AccuTech Surveying & Mapping, LLP
546 Newell Street NW
Concord, NC 28025
(704) 784-3286
Firm License No. : F-0759

SURVEYED BY ACS
INSTRUMENT TOPCON
COGO FILE 17126

SCALE IN FEET
1"=100'
0 50 100 200 300

Boundary & Location Surve
Christopher & Rachele Va
970 Ben Black Road
Midland, NC 28107
Number Ten Township Cabarrus County, Clear Creek

17126.dwg Model 5/24/2017 16:24:51

Mecklenburg County
Land Use and Environmental Services
P.O. Box 31097
700 N Tryon St
Charlotte, NC 28231-1097
(704) 336-3830

Permit: **B2819742**
Issue Date: June 29, 2015

Building Permit

One/Two Family

Property

Address: 970 BEN BLACK RD
Parcel: 13943114 Lot: Block:
Subdivision:
Tax Jurisdiction: MECKLENBURG

Site Details

Land Area (sq. ft.): Parking Required: Front Street:

Lot

Corner: N Through: N Irregular: N

Minimum Setbacks (ft.)

Front: 200 Left: 20 Right: 20 Rear: 50

Project

Project Number: 356623
Occupancy Type: R3 * RESIDENTIAL - SINGLE FAMI
Project Name: Harder Garage addition
Contract Cost: $50,956
USDC: 438 - Residential Garages / Carports(attach
Type of Work: Addition (expand footprint)
Work Details: Addition (expand footprint). Attached Garage.
New Heated Area:
New Unheated Area1156 sq. ft.
Deck Area:
Unhtd to Htd:
Renovate Existing:
Bdrm Add/Upfit: No

Owner

Name: Scott Harder
Address: 970 Ben Black Rd
Midland, NC 28107
Phone: (812) 483-2864

Trade Details

Electrical

Total Amps: 60 Number of Circuits: 2 Connections at 120 Volts: 0 Connections Over 120 Volts: 0
Service Type: Existing Utility Company: UNION ELECTRIC

Mechanical

No. of Gas Connections: 0 No. of Appliances: 0 Utility Company:
Heating/Cooling:

Plumbing

No. of Fixtures: 0 No. of Appliances: 0

Utilities

Type of Service: Existing

	Public Meter/Connection		Private Service	
	Individual	Master	Individual	Community
Water/Well:	No	No	Yes	No
Sewer/Septic:	No	No	Yes	No

This permit will expire if work either has not started within 6 months or is discontinued for a period of 12 months.
No credit or refund will be given unless applied for within 120 days after a permit has expired.

Mecklenburg County
Land Use and Environmental Services
P.O. Box 31097
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Building Permit

One/Two Family

Fees

Permit Fee Type:	Construction	Fax Fee:	$0.00	Fast Track Fee:	$0.00
*Permit Fee:	$671.64	Home Owner Recovery Fund:	$0.00	Fee Adjustment:	$0.00
Zoning Fee	$15.00	NESHAP Fee:	$0.00	Total Fee:	$686.64
Triple Fee:	$0.00	Paper Application Fee:	$0.00	Charge To Acct:	Yes
Fire Damage Fee:	$0.00	HFR Fee:	$0.00	Vector OK:	
Cmrcl Surcharge Fee:	$0.00	Paper Plans Conversion Fee:	$0.00	NESHAP OK:	

*** Permit Fee Calculation is based upon the following costs:**

Building Cost less Equipment over $500K:	$49,356.00
SubPermit Costs:	$1,600.00
Total Equipment Fee	$0.00
Total Cost Calculation:	$50,956.00

Equipment Summary

Total Equipment Costs:	$0.00
Equipment Cost at 100%	$0.00
Equipment Cost at 20%	$0.00

Contractors

Building Contractor LACE CONSTRUCTION INC
Phone: (704) 726-7365
Address: 10612-D PROVIDENCE RD
SUITE 221
CHARLOTTE, NC 28277

Contractor ID: X49203
License # : 73855
Contract Cost: $ 49,356
Home Owner: No
Permit Number: **B2819742**

Electrical Contractor OSBORNE BROTHERS ELECTRIC INC
Phone: (704) 926-0045
Address: P O BOX 2103
HUNTERSVILLE, NC 28070

Contractor ID: X30810
License # : 21038
Contract Cost: $ 1,600
Home Owner: No
Permit Number: **E2820617**

This permit will expire if work either has not started within 6 months or is discontinued for a period of 12 months.
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Mecklenburg County
Land Use and Environmental Services
P.O. Box 31097
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Charlotte, NC 28231-1097
(704) 336-3830

Permit: **B2819742**
Issue Date: June 29, 2015

Building Permit

One/Two Family

Miscellaneous

Entry Date: 06/25/2015 03:00 pm
Issue Date: 06/29/2015
Special Inspections: n/a

Entered By: LACE CONSTRUCTION INC
Issued By:

Lien Agent

Agent: Chicago Title Company, LLC
Phone: (888) 690-7384
Fax: (919) 489-5231
Email: support@liensnc.com
Mailing Address: 19 W Hargett ST Unit: 507, Raleigh, North Carolina 27601
Physical Address: 19 W Hargett ST Unit: 507, Raleigh, North Carolina 27601

Remarks

New 34x34 attached garage. Garage attached by required zoning enclosed breezeway from existing porch area of the home. Brick veneer, asphalt shingles, unfinished interior.

Inspection Team

Your project has been assigned to the South Inspection Team.
Your assigned Project Manager: Pearson, Stev

The South Team management also includes the following Inspection Supervisors:

Building Supervisor: DeMaury, Andrev
Electrical Supervisor: Barnes, Gerald
Mechanical Supervisor: DeMaury, Andrev
Plumbing Supervisor: DeMaury, Andrev

To contact your project manager, inspection supervisor or obtain inspection assistance with your project, call 980-314-3127.

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From
Mecklenburg County
Land Use and Environmental Services
P.O. Box 31097
700 N Tryon St
Charlotte, NC 28231-1097
(704) 336-3830

LACE CONSTRUCTION INC
10612-D PROVIDENCE RD
SUITE 221
CHARLOTTE, NC 28277

Mecklenburg County
Certificate of Compliance

Land Use and Environmental Services Agency
Code Enforcement Division

Not Intended To Grant Occupancy

Property Address: 970 BEN BLACK RD Unit:
Jurisdiction: MECKLENBURG
Subdivision/Project:
Job Description: Harder Garage addition

Property Description
Parcel Number: 13943114 Block Number:
Lot Number:

Building Permit Information
Permit Number: B2819742 Permit Issue Date: 06/29/2015
Permit Fee Type: Construction

Contractor: LACE CONSTRUCTION INC

This Certificate of Compliance is issued in conformance with NC GS 153A-363 and GS 160A-423
By issuing this Certificate of Compliance the Department represents that the scope of work, described in the above referenced permit only, is complete. As indicated in the GS 153A-363 and GS 160A-423, this Certificate of Compliance shall not be construed to grant authority to occupy this building.
This is not a Certificate of Occupancy.
A Certificate of Occupancy designates the occupancy type which may be safely occupied.

BY _____
DIRECTOR

08/28/2015
DATE OF CERTIFICATION *