



1. CALL TO ORDER
2. ROLL CALL AND DECLARATION OF QUORUM
3. APPROVE MINUTES OF JUNE 28, 2021 REGULAR MEETING AND JULY 26, 2021 QUASI-JUDICIAL TRAINING
4. REPORTS OF COMMITTEES, MEMBERS, AND STAFF
5. OLD BUSINESS
6. NEW BUSINESS
  - A. ELECT CHAIRPERSON FOR BOARD OF ADJUSTMENT
  - B. VARIANCE REQUEST [#V22-01](#), FILED BY SHERRI HARTSELL, PROPERTY LOCATED AT 6902 MATTHEWS-MINT HILL ROAD, TAX PARCEL #195-182-63, TO REQUEST A VARIANCE TO ALLOW AN INCREASE TO THE ON-STRUCTURE SIGNAGE
  - C. VARIANCE REQUEST [#V22-02](#), FILED BY CHAD EARP, PROPERTY LOCATED AT 7020 BRIGHTON PARK DRIVE, TAX PARCEL #135-381-68, TO REQUEST A VARIANCE TO ALLOW AN INCREASE TO THE ON-STRUCTURE SIGNAGE
  - D. VARIANCE REQUEST [#V22-03](#), FILED BY SCOTT W. BARTHOLOMEW, ARCHITECT, PROPERTY LOCATED AT 10609 RUSSET PLACE, TAX PARCEL #139-274-24, TO REQUEST A VARIANCE TO REQUEST A REDUCTION TO THE 20' SIDE SETBACK
7. OTHER BUSINESS
8. ADJOURNMENT

<p style="text-align: center;"><b>VIEWING A PUBLIC MEETING ONLINE</b></p> <p>The Town of Mint Hill live-streams the regularly scheduled meetings of the Board of Commissioners, Planning Board and Board of Adjustment. Anyone can view the live meetings or watch at a later time on the Town’s YouTube Channel. To watch a meeting, hover a smartphone camera app over the QR Code to the right or navigate any web browser to <a href="https://bit.ly/2YBIORz">https://bit.ly/2YBIORz</a>.</p>	 <p style="text-align: center;"><b>LIVE STREAM</b></p>
<p style="text-align: center;"><b>AGENDAS &amp; MINUTES</b></p> <p>Current and past Agendas and Minutes for the Board of Commissioners, Planning Board and Board of Adjustment can be found at <a href="https://bit.ly/3gulVL4">https://bit.ly/3gulVL4</a> or hover a smartphone camera app over the QR Code to the right.</p>	 <p style="text-align: center;"><b>AGENDA &amp; MINUTES</b></p>

**MINUTES OF THE MINT HILL BOARD OF ADJUSTMENT  
JUNE 28, 2021**

The Mint Hill Board of Adjustment met in regular session on Monday, June 28, 2021 at 6:30 p.m. in the Assembly Room, Mint Hill Town Hall.

**ATTENDANCE**

Chairman: Gary Isenhour  
Members: Todd Fisher, Bill Mathers, Bobby Reynolds, and Michael Weslake  
ETJ Members: Debi Powell  
Town Planner: Nathan Farber  
Clerk to the Board: Savanna Ocasio  
Commissioner: Mike Cochrane  
Absent: David Tirey and Ronald Rentschler  
Town Attorney: Kevin Bringewatt

**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 January 25, 2021 Regular Meeting:** Upon the motion of Chairman Isenhour, seconded by Mr. Reynolds, the Board unanimously approved the minutes of the January 25, 2021 regular meeting.

**Reports of Committees, Members and Staff:** None.

**Old Business:** None.

**New Business:**

**A. Variance Request #V21-02, Filed by Enza Pilla, Property Located at 13605 Fairington Oaks Drive, Tax Parcel #192-212-56, from Section 6.1 Building Lot Standards and Dimensional Requirements of the Mint Hill Development Ordinance:** The following individuals were sworn in and spoke in conjunction with #V21-02: Town Planner Farber, Ms. Pilla, Mr. Garcia, and Mrs. McCloud. Town Planner Farber submitted the following memo to the Board:

The applicant is requesting a variance from Section 6.1 *Building Lot Standards and Dimensional Requirements* of the Mint Hill Unified Development Ordinance, for property located at 13605 Fairington Oaks Drive, Tax Parcel 192-212-56. The applicant is asking that an addition to her home encroach into the current required 20' setback. She states that it will encroach by 4 feet and 11 inches. All other requirements will be met.

Mr. Garcia, 13605 Fairington Oaks Drive, introduced himself and the requested Variance. He was before the Board to request an addition be made by attaching a garage to their home. Mr. Garcia and Ms. Pilla recently moved from New York to Fairington Oaks in Mint Hill and were not made aware that an attached garage was not allowed. The purpose of the intended garage would be for parking their car and storing Mr. Garcia's work equipment. Mr. Garcia referred to the site plan and stated the house was set one way, but the property lines were set a different way. He stated if approved, the garage would encroach 4 feet and 11 inches into the 20-foot required setback. Mr. Garcia asked the Board to approve his Variance request as it was an essential need to his business and the only neighbor this would affect had no concerns.

Mrs. McCloud, 13615 Fairington Oaks Drive, stated she was the neighbor to the right, so the encroachment would be closest to her property line. Mrs. McCloud said she had no concerns and Ms. Pilla and Mr. Garcia had been wonderful neighbors.

Mr. Weslake asked Mr. Garcia if the Board could review the site plan Mr. Garcia provided.

Mr. Fisher asked if this lot had public water and sewer. Ms. Pilla stated they had public water and a septic tank.

Mr. Mathers stated he had several questions and asked the applicant to be patient with him. He explained he had been in the real estate business for over 40 years. Mr. Mathers explained the recorded deed stated Ms. Pilla closed on the home in November. When purchasing a home, it was the realtor's job to go through all paperwork and information with the buyer. He asked how long it was before Ms. Pilla found out about the Ordinance. Ms. Pilla stated when looking for a house in Mint Hill, they specifically told their realtor what they wanted/did not want. She stated for example, if a home did not include a garage, they would need to add a garage. If the home did not include a swimming pool, they wanted to be able to install a pool. Ms. Pilla stated with her realtor knowing all of this, she did not mention there was a 20' side setback. She stated the original plans they drew up with the architectural seal was for a two-car garage, leaving 5 feet between the properties which would have never been approved, so they shrunk it down to the smallest they could go. Mr. Mathers asked when the house was purchased, was Ms. Pilla's realtor also her buyer's agent. Ms. Pilla said yes. Mr. Mathers asked if Ms. Pilla signed a Buyer Agency Agreement. Ms. Pilla said yes. Mr. Mathers stated in the real estate business, unfortunately, there were a lot of realtors that did not tell the buyer what they needed to know. He stated there were a lot of things which indicated Ms. Pilla should have known about the attachment not being allowed prior to purchasing the home. Ms. Pilla stated she honestly did not know. Mr. Mathers stated he had a few documents he wanted to discuss with Ms. Pilla so she could be aware of what to look for when signing contracts. Each Board member and Ms. Pilla received the following documents: an Exclusive Buyer Agency Agreement, a Professional Services Disclosure and Election, and the MLS listing of the home. Mr. Mathers asked if a survey was done on the property when purchased. Ms. Pilla said a survey was done. Mr. Mathers said he could not find anything in the tax records of a recorded survey. He asked if Ms. Pilla remembered signing an Exclusive Buyer Agency Agreement with her realtor. Ms. Pilla said yes. Mr. Mathers began going through the documents and spoke on the following highlighted sections that he felt pertained to Ms. Pilla:

- Buyer acknowledges receipt of a sample copy of a Professional Services Disclosure and Election form for review purposes.
- Buyer or Buyer's agents or representatives, at Buyer's expense, shall be entitled to conduct all desired tests, surveys, appraisals, investigations, examinations, and inspections of the Property as Buyer deems appropriate.
- Buyer's agents, representative, closing attorney or lender true and accurate copies of the following items affecting the Property, including any amendments: Declaration and Restrictive Covenants, Rules and Regulations, Articles of Incorporation, By laws of the owner's association.

Mr. Mathers stated Ms. Pilla should have received those copies from her agent. Ms. Pilla said she did not receive them. Mr. Mathers stated in the listing itself, bylaws and HOA information were not listed. With it not being there, it was Ms. Pilla's agent's responsibility to provide that information to her before buying the house. Mr. Mathers asked Ms. Pilla if she was familiar with the Professional Services Disclosure and Election documents. Ms. Pilla said she was not. Mr. Mathers said this document was a requirement in North Carolina and a lot of real estate agents do not do it. He reiterated not finding a survey listed and said Ms. Pilla's attorney did not record it. He stated the only survey they could find for Ms. Pilla's property was the original, done by the builder years ago. Mr. Mathers referred to the MLS listing document and stated an HOA was required in Fairington Oaks, another reason Ms. Pilla's real estate agent should have given her copies of these documents. He mentioned this to emphasize Ms. Pilla should have known this information before purchasing the home. Ms. Pilla said the 20' side setback was not enforced by the HOA; it was the Town of Mint Hills Ordinance. Mr. Mathers understood and said Ms. Pilla should have had access to all of these documents in her decision making. Ms. Pilla stated they did their due diligence and would have done things differently having known this information. Mr. Mathers stated he was not suggesting Ms. Pilla knew, he was just explaining to her that in the real estate business, some realtors do the wrong things and he wanted Ms. Pilla to be aware of the fact she should have known.

Mr. Weslake asked if putting the garage on the back side of the house was an option. Ms. Pilla stated that was not possible due to her pool in the backyard.

Hearing no further questions, Chairman Isenhour asked the Board to move into the fact-finding portion of the case.

**Unnecessary hardships would result from the strict application of the Ordinance.**

*Mrs. Powell said unnecessary hardships would result from the strict application of the Ordinance as the applicant had no other options to build a garage except as an attached structure since their HOA rules and covenants limit all accessory structures to 200 sq ft.*

*Mr. Mathers, Mr. Fisher, Chairman Isenhour, Mr. Reynolds, and Mr. Weslake agreed with Mrs. Powell.*

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

*Mr. Weslake stated the hardship resulted from conditions that were peculiar to the property, such as location, size, or topography, due to the irregular shape of the lot along with home placement.*

*Mr. Reynolds stated the hardship resulted from conditions that were peculiar to the property, such as location, size, or topography, due to the shape of the lot.*

*Chairman Isenhour, Mr. Fisher, and Mr. Mathers agreed with Mr. Reynolds.*

*Mrs. Powell stated the hardship resulted from conditions that were peculiar to the property, such as location, size, or topography. Specifically, being the property line and the house not being in alignment causes the rear of the proposed garage to extend over the 20' side setback by 4' 11".*

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

*Mrs. Powell said the hardship did not result from actions taken by the applicant or the property owner. The hardship was created with the placement of the home when it was originally constructed, not being in alignment with the property line.*

*Mr. Mathers, Mr. Fisher, Chairman Isenhour, Mr. Reynolds, and Mr. Weslake agreed 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. Weslake said the requested variance was consistent with the spirit, purpose, and intent of the Ordinance such that public safety was secured and substantial justice was achieved by allowing the homeowners to build the additional garage.*

*Mr. Reynolds, Chairman Isenhour, Mr. Fisher, and Mr. Mathers agreed with Mr. Weslake.*

*Mrs. Powell said the requested variance was consistent with the spirit, purpose, and intent of the Ordinance such that public safety was secured and substantial justice was achieved. A variance allowing the rear section of the garage to encroach within the 20' side setback line by 4' 11" would allow this homeowner to have an attached garage like other properties within the neighborhood and would have no negative impact on the appearance of the neighborhood.*

**Mrs. Powell made a motion to approve Variance Request #V21-02, filed by Enza Pilla, for property located at 13605 Fairington Oaks Drive, being Tax Parcel number 192-212-56, requesting a variance to Section 6.1 Building Lot Standards and Dimensional Requirements, requesting an encroachment into the side setback. Mrs. Powell made a motion to approve the variance for the following reasons:**

- 1. Unnecessary hardships would result from the strict application of the Ordinance in that it was reasonable as the applicant has no other options for a garage except as an attached structure since HOA Rules and Covenants limit all accessory structures to 200 sq ft and the addition will meet all requirements of Section 6.1, except the rear section of the addition.**
- 2. The hardship results from conditions that were peculiar to the property specifically being the property line and house were out of alignment causing the proposed garage addition to extend over the 20 ft side setback by 4' and 11".**
- 3. The hardship did not result from actions taken by the applicant but results from the placement of the home when it was originally constructed not being in alignment with the property line.**
- 4. The Variance was a minimum one that will make possible the reasonable use of land and would be consistent with the spirit, purpose, and intent of the Ordinance and preserve its spirit. It would have no negative impact on the neighborhood and public**

**safety will be secure. And it provides substantial justice for the homeowner to have an attached garage like other properties within the neighborhood.**

**Mr. Reynolds seconded the motion, and the Variance was unanimously approved. The vote was 6-0.**

**Other Business:** None.

**Adjournment:** Upon the motion of Mr. Reynolds, seconded by Mrs. Powell, and unanimously agreed upon, Chairman Isenhour adjourned the meeting at 6:59 p.m.

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Savanna Ocasio  
Program Support Assistant

**MINUTES OF THE MINT HILL BOARD OF ADJUSTMENT  
JULY 26, 2021**

The Mint Hill Board of Adjustment met in called session on Monday, July 26, 2021 at 6:00 p.m. in the Flex Room, Mint Hill Town Hall.

**ATTENDANCE**

Chairman: Gary Isenhour

Members: Todd Fisher, Bill Mathers, Ronald Rentschler, Bobby Reynolds, and Michael Weslake

ETJ Members: Debi Powell and David Tirey

Planning Director: John Hoard

Clerk to the Board: Savanna Ocasio

Town Attorney: Kevin Bringewatt

Chairman Isenhour called the meeting to order at 6:00 p.m., ruled a quorum present and the meeting duly constituted to carry on business. Attorney Bringewatt gave a brief introduction to the Board Members. He stated the purpose of the called meeting was to inform the Board of their Quasi-Judicial duties and to review the new State statute, 160D, which became effective July 1<sup>st</sup>, 2021. Attorney Bringewatt reviewed the Quasi-Judicial Procedures (NCGS 160D-406) along with the most common concerns and courses of action for the Board. He gave the Board members an opportunity to ask any questions they had. Attorney Bringewatt then spoke of the next steps the Board would take such as Attorney Bringewatt beginning to attend each meeting and Staff making additions to the order granting/denying variance document.

There being no further business to come before the Board, Chairman Isenhour adjourned the meeting at 7:06 p.m.

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Savanna Ocasio  
Program Support Assistant



# Memo

To: Board of Adjustment

From: Staff

Date: August 22, 2022

Re: Variance Request #V22-01, Filed by Sherri Hartsell for Planet Fitness, Property  
Located at 6902 Matthews-Mint Hill Road, Tax Parcel #195-182-63

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## **Variance Request**

The applicant is requesting a variance from Section 6.5.6 *Sign Design and Construction Standards* of the Mint Hill Unified Development Ordinance, for property located at 6902 Matthews-Mint Hill Road, Tax Parcel # 195-182-63. The applicant is asking for a 126.81 square foot sign and one for 67.24 square feet. The ordinance allows a total of 64 square feet of on-structure signage. The total signage, if permitted, would exceed the allowable signage provided by the ordinance by 130.05 square feet.

**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 #:	<u>V22-1</u>
Date Filed:	<u>5/17/22</u>
Received By:	<u>JH</u>

Variance requested on property located at: 6902 ~~6908~~ Matthews Mint Hill RD  
Tax Parcel Number: ~~19518245~~ 195-182-63 Zoning District: BP-DO-B CD

**Describe variance being requested:**

To increase the square footage of the wall signs.

(Complete if Applicant is other than Property Owner)

PF Mint Hill LLC  
Name of Property Owner

Sherri Hartsell  
Name of Applicant

700 E. Morehead Street, Suite 100 B  
Address of Owner

8334-C Arrowridge Blvd  
Address of Applicant

Charlotte NC 28202  
City, State, Zip

Charlotte NC 28273  
City, State, Zip

704-996-7547  
Telephone Number

704-791-9789  
Telephone Number

stue@charnisdevelopmentgroup.com  
E-Mail Address

Sherri@advantage-permits.com  
E-Mail Address

Steven Harris  
Signature of Property Owner

Sherri Hartsell  
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 business sits within the Mint Hill Festival Shopping Center. It also is behind
Showmars. This lot is land locked. They do not have visibilty on Lawyers Rd or
Matthews Mint Hill Rd. The business needs more signage than the allowable
64 SQ FT. The Public would have difficulty finding the location with such small
signs.

**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 Property is landlocked and has no direct street access entry to the building
The lot sits to the side of the shopping center and behind Showmars. The location makes the business very difficult to see from the two main roadways.

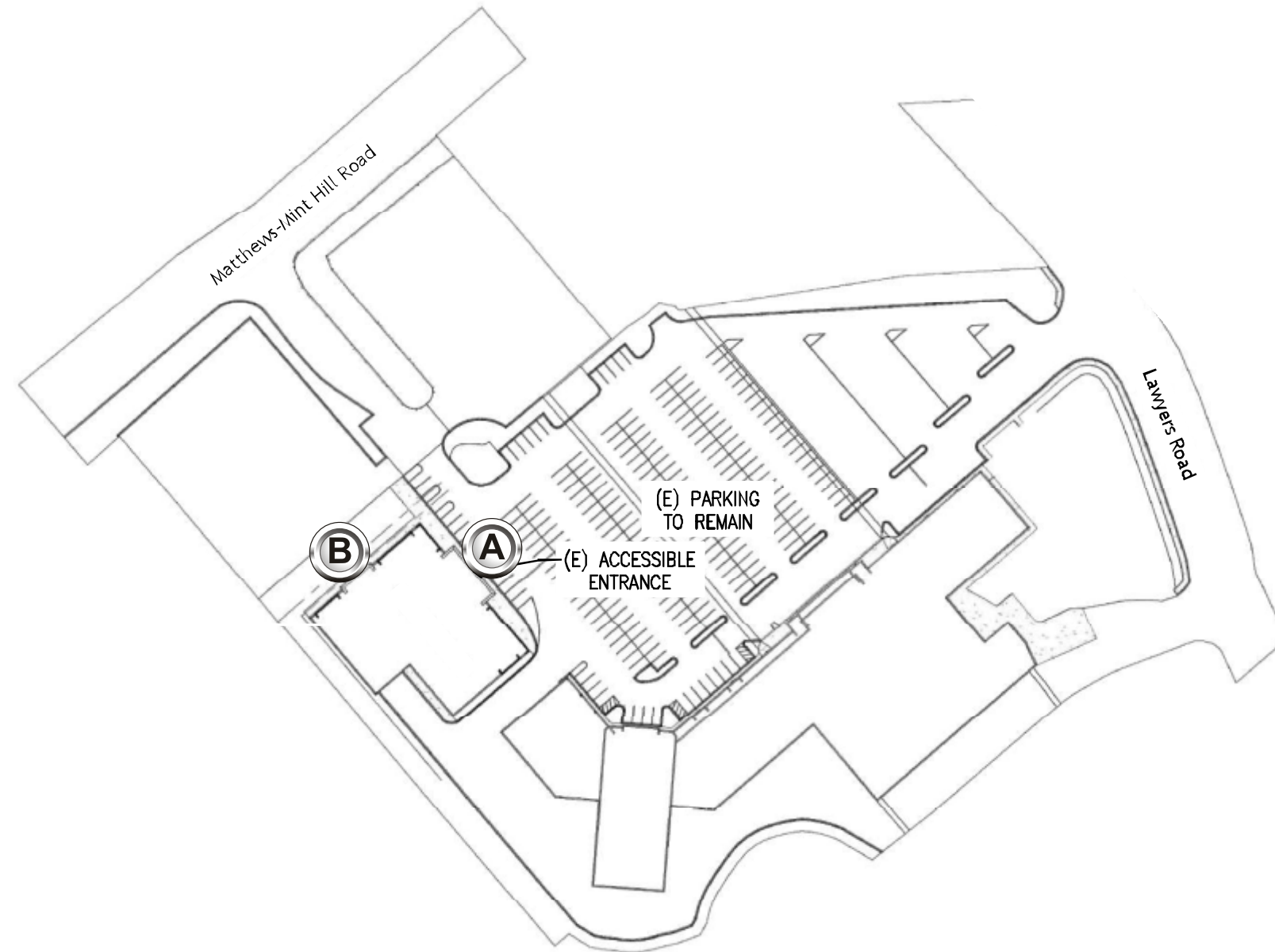
**THE HARDSHIP DID NOT RESULT FROM ACTIONS TAKEN BY THE APPLICANT OR THE PROPERTY OWNER.** The act of purchasing property with knowledge that circumstances exist that may justify granting a variance shall not be regarded as a self-created hardship.

This hardship is an inherited condition of the property and its orientation as it relates to the traffic patters. This site has very limited visibility and the restrictive amount of sign square footage would harm the business and its ability to market itself to the public.

**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.**

If this variance is approved, it will not affect the public safety or negatively impact the surrounding businesses. It will be a benefit to the public by providing more visibility to the business and ease for the costumer to find it.
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# SITE PLAN



## CUSTOMER APPROVAL

Customer Signature \_\_\_\_\_

Date \_\_\_\_\_

# SIGNAGE SPECIFICATIONS

- (A) CHANNEL LETTERS MOUNTED ON RACEWAY**  
Manufacture and Install (1) set of Channel Letters on Raceway
- (B) ILLUM. CHANNEL LOGO**  
Manufacture and Install (1) Channel Logo

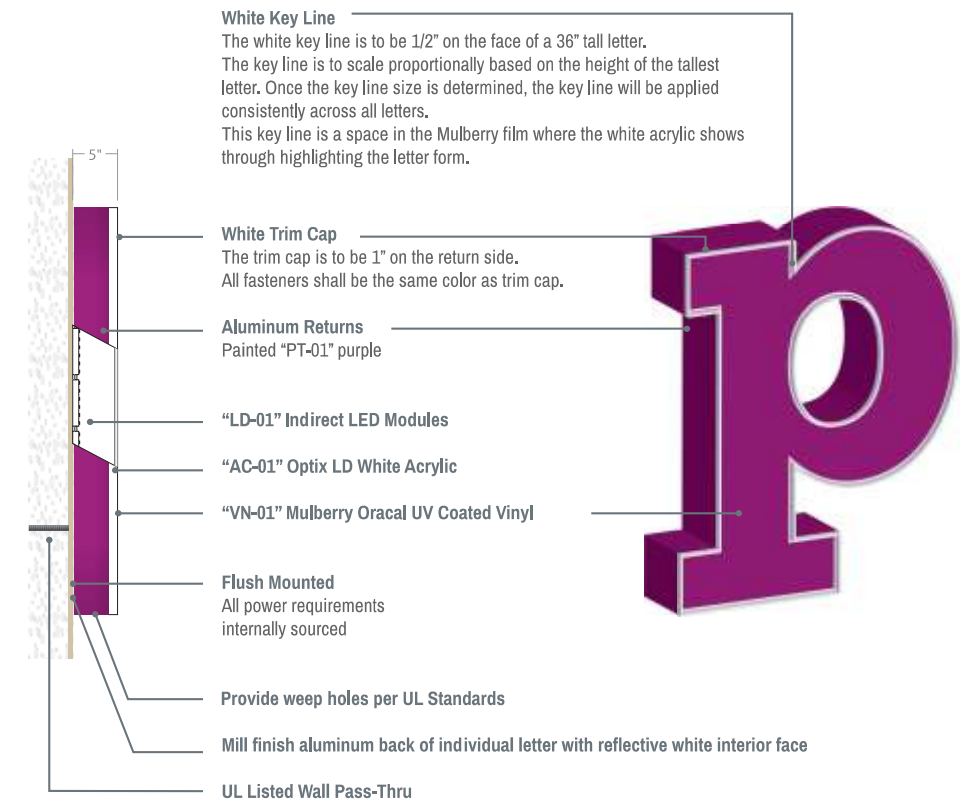
**COAST SIGN**  
1500 W. Embassy St. Anaheim, CA 92802 714.520.9144

Date: 03-02-2022  
Scale: NTS  
Drawn: WA  
PM: GA  
Project Name: PLANET FITNESS  
Address: 6908 Matthews  
City / State / Zip: Mint Hill, NC 28227  
Notes:

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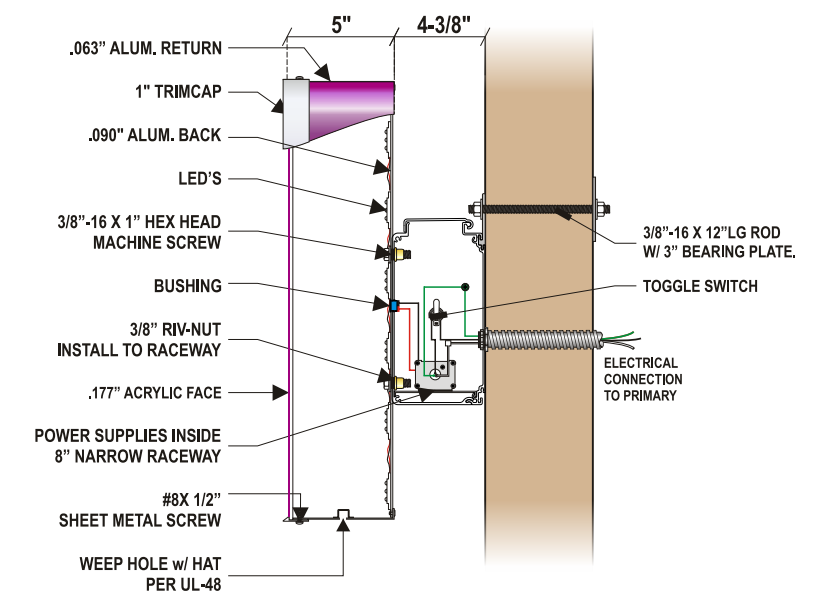
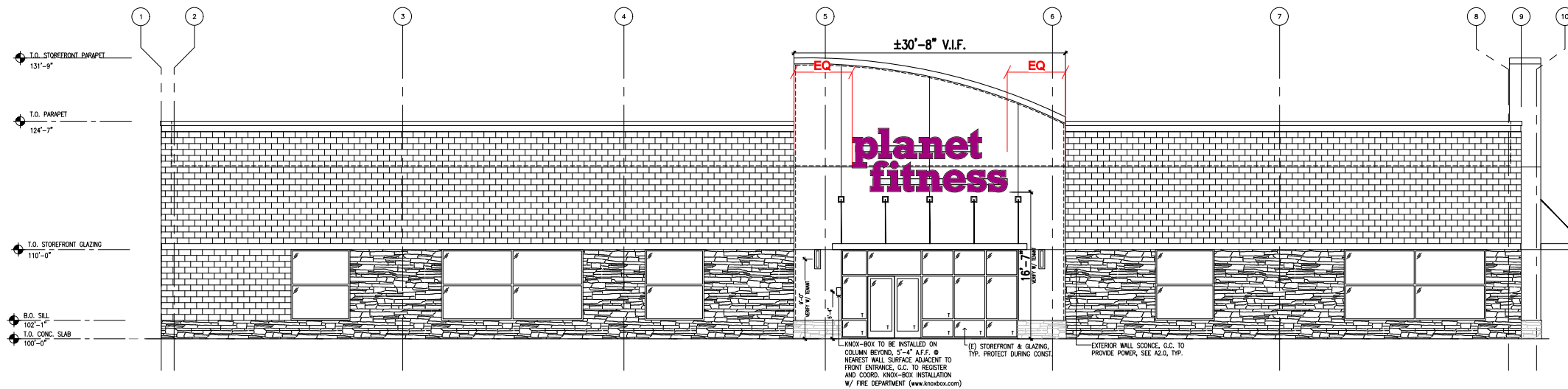
No.	Designer	Date	Revision Notes	No.	Designer	Date	Revision Notes
1				7			
2				8			
3				9			
4				10			
5				11			
6				12			

**DESIGN DRAWING 1 of 3**  
Request Number:  
**PRJ-PFIT-169745**



Scale: 1/4" = 1'-0"

**NOTES: NO CONNECTION AVAILABLE.  
WILL HAVE TO CONNECT TO AN EXISTING  
CIRCUIT OR RUN A NEW ONE.**




Scale: 1 1/2" = 1'-0"

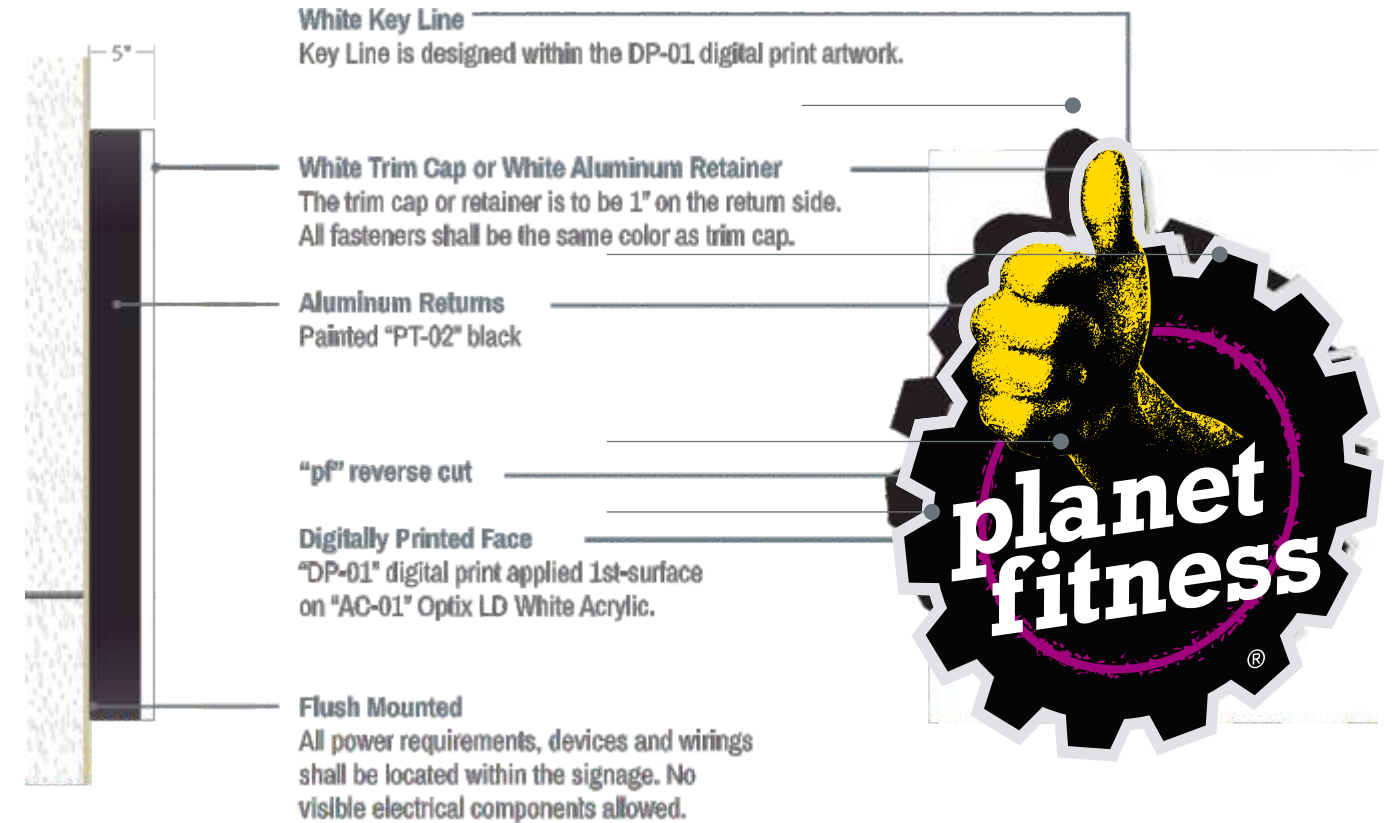
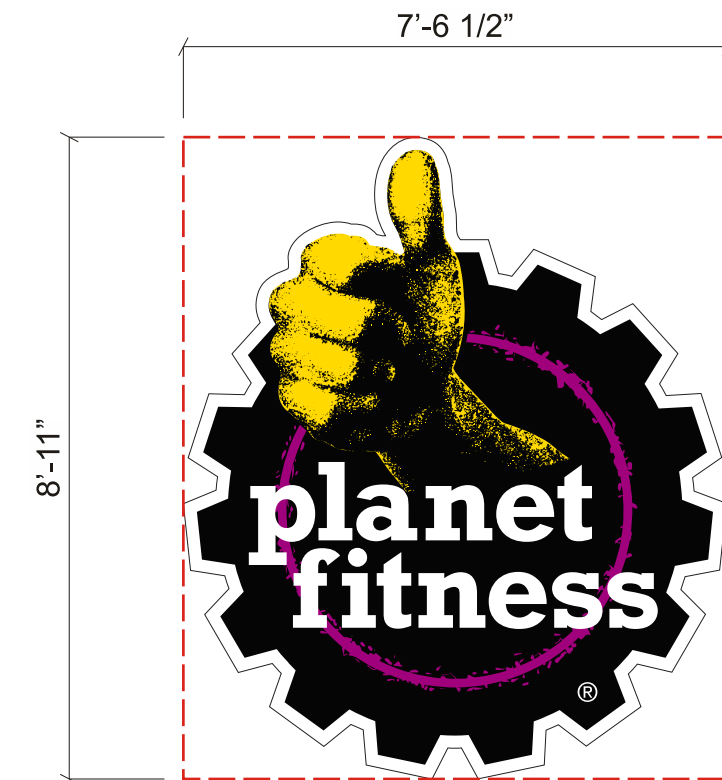
Scale: 1/16"=1'-0"

## Customer Signature

Date \_\_\_\_\_

 <p><b>COAST SIGN</b> 1500 W. Embassy St. Anaheim, CA 92802 714.520.9144</p>	<b>Date:</b> 03-02-2022	<b>Project Name:</b> PLANET FITNESS	This is an original unpublished drawing created by Coast Sign, Inc. It is submitted for your personal use in conjunction with a project being planned for you by Coast Sign, Inc., And shall not be reproduced, used by or disclosed to any firm or corporation for any purpose whatsoever without written permission.	<b>No.</b> 1	<b>Designer</b>	<b>Date</b>	<b>Revision Notes</b>	<b>No.</b> 7	<b>Designer</b>	<b>Date</b>	<b>Revision Notes</b>	<div> <b>DESIGN DRAWING 2 of 3</b> </div> <div>           Request Number:  <b>PRJ-PFIT-169745</b> </div>
	<b>Scale:</b> NTS	<b>Address:</b> 6908 Matthews		2				8				
	<b>Drawn:</b> WA	<b>City / State / Zip:</b> Mint Hill, NC 28227		3				9				
	<b>PM:</b> GA	<b>Notes:</b>		4				10				
				5				11				
				6				12				

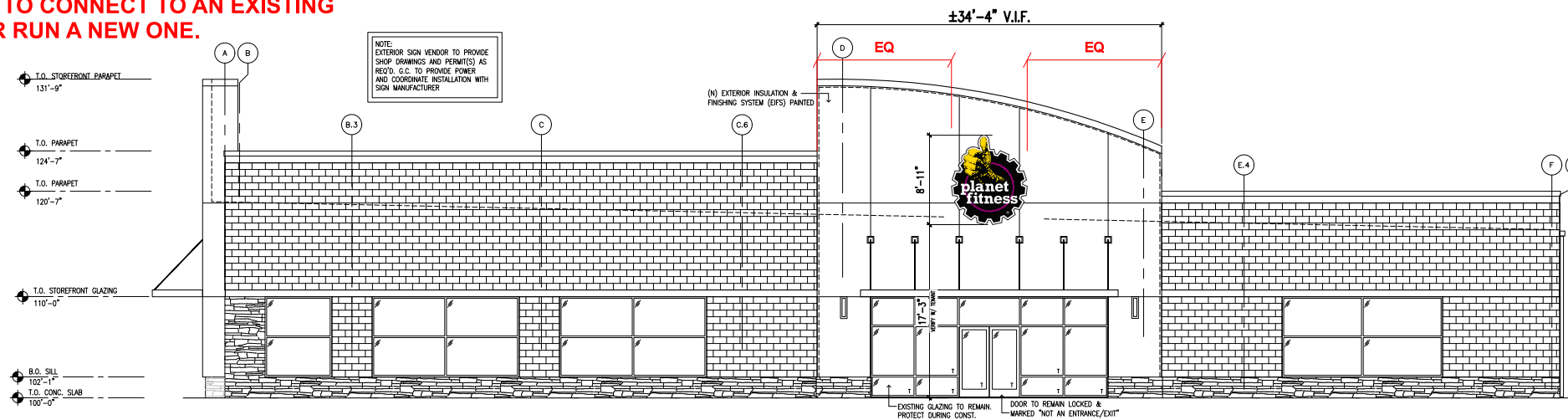




**B FRONT VIEW @ ILLUMINATED LOGO**  
Scale: 3/8" = 1'-0"

67.24 sq.ft

NOTES: NO CONNECTION AVAILABLE.  
WILL HAVE TO CONNECT TO AN EXISTING  
CIRCUIT OR RUN A NEW ONE.



**B SOUTH ELEVATION @ ILLUMINATED CHANNEL LETTERS**  
Scale: 1/16"=1'-0"

CUSTOMER APPROVAL

Customer Signature \_\_\_\_\_ Date \_\_\_\_\_

**COAST SIGN**  
1500 W. Embassy St. Anaheim, CA 92802 714.520.9144

Date: 03-02-2022 Project Name: PLANET FITNESS  
Scale: NTS Address: 6908 Matthews  
Drawn: WA City / State / Zip: Mint Hill, NC 28227  
PM: GA Notes:

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No.	Designer	Date	Revision Notes	No.	Designer	Date	Revision Notes	DESIGN DRAWING 3 of 3
1				7				Request Number: <b>PRJ-PFIT-169745</b>
2				8				
3				9				
4				10				
5				11				
6				12				



# Memo

To: Board of Adjustment

From: Staff

Date: August 22, 2022

Re: Variance Request #V22-02, Filed by Chad Earp, Property Located at 7020 Brighton Park Drive, Tax Parcel #135-381-68

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## **Variance Request**

The applicant is requesting a variance from Section 6.5.6 *Sign Design and Construction Standards* of the Mint Hill Unified Development Ordinance, for property located at 7020 Brighton Park Drive, Tax Parcel # 195-182-63. The applicant is asking a variance to add a 19.5 square foot sign to the wall extending from the building facing north. The 19.5 square foot is in addition to the existing, permitted 64 square feet of on-structure signage.

**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 #:	<u>122-2</u>
Date Filed:	<u>6/9/22</u>
Received By:	<u>[Signature]</u>

Variance requested on property located at: 7020 Brighton Park

Tax Parcel Number: 13538168 Zoning District: DO-B

**Describe variance being requested:**

Earp's convenience store at Brighton Park is requesting permission to add (1) sign to the
(north-facing) side of building that faces southbound traffic on hwy 51, Matthews-Mint Hill Rd.
<ul style="list-style-type: none"><li>• We request permission to add a 19.5 s.f. sign facing traffic driving south along 51.</li></ul>
<ul style="list-style-type: none"><li>• The sign we need to add is a 72in x 39in facelit wing shaped sign with Earp's E</li></ul>
<ul style="list-style-type: none"><li>• The wing shaped sign would be attached to the wall extending from the building</li></ul>
(facing north)

(Complete if Applicant is other than Property Owner)

Mark Oil Co.

Name of Property Owner

Chad Earp

Name of Applicant

1115 N. Church St.

Address of Owner

PO BOX 32064

Address of Applicant

Charlotte NC 28206

City, State, Zip

Charlotte NC 28232

City, State, Zip

704.375.4249

Telephone Number

704.458.6996

Telephone Number

BillTome@markoilcompany.com

E-Mail Address

wearp@carolina.rr.cm

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.

For customers traveling along hwy. 51, this store is difficult to recognize, and find. On

the side facing the grocery store and ABC store, the building and canopy are easily identifiable.

There is no visible signage to be seen by traffic headed south on 51. Trees have grown tall

since the store was built, and block the view of the facade facing 51. Because the building

is difficult to find, and the BP canopy is not visible from the street, per Mint Hill code, the store

owner is noticing a difference in sales inside of the store at this location compared to the

other Earp's locations. Currently the building looks vacant and unmarked due to a lack of

signage, and is not recognized by customers driving on 51 in search of a gas station and c-store.

**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.

Hwy 51 is very straight, and tree-lined. The building is on a corner at a stoplight intersection. Customers in vehicles passing by the site do not see the front of the building because of the trees. By the time a southbound vehicle on hwy 51 approaches the Earp's building, they are looking at the stoplight rather than looking directly at the front of our building. Traveling the other direction (Northbound into Mint Hill), there is a ground/monument sign (with gas prices) Customers cannot see the canopy or carwash building due to topography and positioning of the building, per city code. All signage identifying the store is on the side customers see after coming onto the site, within the shopping center. *Applicants will present a video and photos to show this.*

**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.

Earp's has a larger sign on the canopy-facing side of the store identifying the store. The same design is also used at other Earp's sites to identify the stores. The size of this sign is 63.67 square feet. In 2006 the Town of Mint Hill requested that the applicant to place Earp's letters (non-illuminated) on the side facing 51. The Board at that time felt like the letters would make the building look nostalgic and historic, and add visible identity to the building. Over time, the street scape has changed with trees growing to cover the view of the sign facing 51. It is necessary to add a sign identifying the building which cars can safely see while approaching. *Applicants will show a timeline of how the signage was chosen and implemented at the site, and look at how the conditions have changed over time.*

**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.**

To be consistent with other businesses along this road, Earp's should have adequate signage on the side of the building so that drivers can safely identify the building, decide to turn into the shopping center, and get into the turning lane at the stoplight.


**Signature:**

**Email:** billtome@markoilcompany.com

**Signature:**

**Email:** wearp@carolina.rr.com



North side of Earp's at Brighton Park facing Hwy 51, Matthews Mint Hill Rd and Southbound traffic

facelit wing  
72in x 39in

square footage of wing: 19.5





# Memo

To: Board of Adjustment

From: Staff

Date: August 22, 2022

Re: Variance Request #V22-03, Filed by Scott W. Bartholomew, Architect, Property  
Located at 10609 Russet Place, Tax Parcel #139-274-24.

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## **Variance Request**

The applicant, on behalf of the property owner, Michael Patrick Donnelly, is requesting a variance from Section 6.1 *Building Lot Standards and Dimensional Requirements* of the Mint Hill Unified Development Ordinance, for property located at 10609 Russet Place, Tax Parcel # 139-274-24. The applicant is asking for a variance to reduce the 20' side yard setback to 10'.



**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 #:	<u>V22-3</u>
Date Filed:	<u>6/17/2022</u>
Received By:	<u>JH</u>

Variance requested on property located at: 10609 Russett Place, Mint Hill, ~~SC~~ NC  
139-274-24  
Tax Parcel Number: 1327424 Zoning District: R

**Describe variance being requested:**

As set out in Section 6.1 of the Mint Hill Zoning Ordinance, the minimum lot size for a single family detached homesite (w/well and septic) is 40,000 square feet with 70 feet of frontage on the Cul-de-Sac, and 140 feet width at minimum front setback. The ordinance requires a front setback of 60' and side setbacks of 20'. The non-compliant lot in question predates the ordinance and has a lot frontage of less than 39' and less than 66' at the minimum front setback. Due to this, the width of the buildable area at the front setback is less than 24', 76' less than that set up by the ordinance as a minimum. Our request is for a variance to reduce the side setback lines to 10' to allow for a reasonable width for the buildable area of the lot.

(Complete if Applicant is other than Property Owner)

Michael Patrick Donnelly  
Name of Property Owner

18 Spruce St.  
Address of Owner

Poughkeepsie, NY 12601  
City, State, Zip

914-844-9694  
Telephone Number

mp.donnelly89@outlook.com  
E-Mail Address

  
Signature of Property Owner

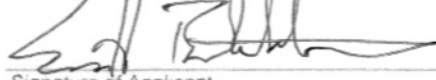
Scott W Bartholomew, Architect  
Name of Applicant

75 Haywood St, Ste C4  
Address of Applicant

Asheville, NC 28801  
City, State, Zip

828-712-1297  
Telephone Number

scott@swbarchitecture.com  
E-Mail Address

  
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.

A strict application of the side setbacks on this non-conforming lot would yield a building envelope to narrow to accommodate even a creatively designed single family home that is reasonably sized for the neighborhood.

**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 present is due to the narrow pie shape of the lot and the non-compliant frontage width. Additionally the lot begins to slope significantly downward beginning about 30' from the front setback prohibiting the ability to place the home further back on the lot. Available septic area as shown on the site plan is also a space limiting consideration.

**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 described hardships are all the result of the a lot subdivision which occurred prior to the current zoning ordinance going into effect and are not the result of any actions by the owner.

**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 requested variance provides the owner, through further creative architectural design, with a reasonable ability to utilize the lot for a single family home as set up by the ordinance. The 10 foot side setback, as requested, maintains a NC code compliant fire separation between our proposed structure and the property line.
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