

**BOARD OF ADJUSTMENT
MEETING
THURSDAY, MAY 27, 2021
6:30 P.M.
Conference Room
300 West Crowell Street
Monroe NC**

Item 1. **Call to Order.**

Item 2. **Approval of Minutes – April 22, 2021**

Item 3. **Conflicts of Interest**

Item 4. **Case PLZNA-2021-00052 Variance** – The applicant, First Care Medical Clinic, is requesting a Variance to the sign ordinance to modify the existing monument sign located at 404 S. Sutherland Avenue. The applicant is requesting a variance from Section 156.133 (W) Section 5, b of the sign code in order to install an LED electronic sign within the existing monument sign on the property. (Tax ID #09-194-137) *[Tabled from April 22, 2021 meeting]*

Item 5. **Case PLZNA-2021-00064 Variance** - The applicant, WSB Retail Partners, LLC, is requesting a Variance to section 156.221 in order to remove trees with a circumference greater than seventy-five (75) inches at 2806 W. Highway 74 (Tax ID #09-298-092)

Item 6. **Next Meeting:** June 24, 2021

Item 7. **Adjournment**

Attention: BOARD MEMBERS:
Please call Maryann Brown at 704.282.4527 to confirm your attendance. Thank you!

***cc: Mujeeb Shah-Khan
 Ashley Duncan
 Doug Britt
 Keri Hutchins***

**MINUTES OF THE
BOARD OF ADJUSTMENT MEETING
APRIL 22, 2021 at 6:30 P.M.
Conference Room
300 West Crowell Street
Monroe NC**

To S. Laney – e-mailed 4-23-21

Item 1. Call to Order

Chairman George Massey called the April 22, 2021 meeting to order at 6:30 p.m. The Clerk of the Board called the roll. Mr. Massey noted that there was a quorum present with **4** members.

Members Present: George Massey, William Draper, Ken Deal and George Smith

Members Absent: Louis Philippi and Julius Marsh, Jr.

Staff Present: Doug Britt, Senior Planner; Ashley Britt, Assistant City Attorney; Joe McCollum, BOA Attorney; and Maryann Brown, Administrative Assistant

Guests: Brian Spiers, Leo Livarchuk and Paul Livarchuk

Item 2. Approval of Minutes – Minutes of March 11, 2021 Meeting

Approval of the minutes for the meeting was requested.

Motion: George Smith moved to approve the minutes of the March 11, 2021 Meeting.

Second: William Draper

Action: The motion to approve the minutes passed unanimously with the following votes:

AYES: **George Massey, Ken Deal, William Draper, George Smith**

NAYS: **None**

Mr. Massey asked for a motion to table Item #7, a Variance, until the next meeting, without further advertising.

Motion: Ken Deal made a motion to table the Variance request until the next meeting.

Second: William Draper

Action: The motion to table the Variance request to the next meeting, without further advertisement, passed with the following votes.

AYES: **George Massey, Ken Deal, William Draper, George Smith**

NAYS: **None**

Item 3. **Conflicts of Interest**

Doug Britt said this is a quasi-judicial board, like the Historic District Commission, and we want to make sure members state if they have a conflict of interest or bias prior to cases being heard. He said we will have this on the agenda for every meeting. He then handed out copies of the conflict sections of the City ordinances and state statutes that apply to this Board.

Item 4. **Case PLSUP-2021-00048 Special Use Permit – Mr. Massey said the Board of Adjustment is requested to consider this request by Brian Spiers of Harland Building Group for a Special Use Permit to build a new Single Family residence at 601 Stafford Street, which is located in the Winchester Overlay District. (Tax ID #09-228-202)**

Mr. Massey said that anyone who is going to give testimony in this case needs to be administered the oath. Doug Britt and Brian Spiers came forward and were sworn. Brian Spiers said he is the owner and builder of the lot at 601 Stafford Street.

Doug Britt, Senior Planner, introduced this item and said it is a request for a Special Use Permit for 601 Stafford Street. He said the applicant is requesting to build a single-family home at 601 Stafford Street. He said at this time, he will present the Findings:

Findings:

1. The property at 601 Stafford Street is currently owned by BWB2, LLC and is zoned R-10 (Residential- High Density). The property is also located in the Winchester Overlay District. (Exhibit 1, 2, 3)
2. According to Section 156.124, Overlay Districts, all principal developments in the Winchester Overlay District shall obtain a Special Use Permit. This section has several other requirements; however, due to state law changes, many can no longer be enforced. Each requirement has been addressed below (Exhibit 4):
 - a. The construction or renovation as proposed and designed will be compatible in the neighborhood, and along the street with which it is located.
-This requirement can no longer be enforced due to G.S. 160A-381 as it is considered a design standard, which cannot be used unless the applicant voluntarily consents to it.
 - b. The construction or renovation as proposed and designed fulfills the intent of § [156.132](#) of the City of Monroe Code of Ordinances.
-This standard applies only to commercial properties.
 - c. The construction or renovation as proposed and designed will not substantially injure the value of adjoining or abutting property.
-This standard is addressed in the Special Use Permit standards.
 - d. The construction or renovation as proposed maintains the historic character and integrity of the infill neighborhood in which it is located.
-This requirement can no longer be enforced due to G.S. 160A-381 as it is considered a design standard, which cannot be used unless the applicant voluntarily consents to it.

- e. The construction or renovation as proposed shall adhere to the strategies and objectives outlined in the City of Monroe Land Development Plan.
-This standard is addressed in the Special Use Permit standards.
 - f. Duplexes may be allowed on corner lots.
-The applicant is not proposing a Duplex.
 - g. All principal developments shall obtain a special use permit.
 - h. Mobile homes shall not be permitted.
-The applicant is not proposing a mobile home.
3. The applicant submitted a Special Use Permit Application on April 1, 2021 requesting to construct a new single family home on the property. The home is 1,432 heated square feet with a one-car garage. (Exhibit 5 and 6)
 4. All adjoining property owners have been properly notified of this special use permit. (Exhibit 7)

Doug said he will be glad to answer any questions and the applicant is here to answer any questions as well.

Mr. Massey asked Doug if he heard anything from any of the neighbors. Doug said no.

William Draper asked Doug if this request was similar to the proposal that was turned down. Doug said the Board turned down the last request which was two (2) houses to be built on Winchester Avenue. He said the Board has also approved various other houses to be built on John Street. He said this is a different request than the ones before.

William Draper asked Doug if all of the houses in the east/west lots are in the 60-foot range. He said the lots all look the same in width. Doug said that is correct. He said Winchester is an older neighborhood and the lot sizes were determined years ago. He said they are small, narrow lots.

Mr. Massey said if there are no further questions, would the applicant like to come forward and speak. Mr. Brian Spiers came forward. Mr. Massey said to Mr. Spiers that he answered all of the questions in the application but did he have anything he wanted to add to his responses.

Mr. Spiers said he has dealt closely with the gentleman that owned this land. He said the man's father had owned the property since 1920. He said he met the man's cousin who lives two (2) doors down. He said he is getting no objections from anybody over what he is doing. He said it is a vacant lot. He said he is going to build a nice home, probably in the \$250,000-\$300,000 range. He said he cannot think of anything he is doing wrong that someone would object to.

Mr. Massey asked if there were any questions for Mr. Spiers. There were none.

Mr. Massey said there are certain standards that this Board has to look at and have to be met and that is what we need to deal with:

A. The use will not materially endanger the public health or safety if located, designed, and proposed to be operated according to plan.

Motion: Ken Deal made a motion that this **standard is met** because the use will not materially endanger the public health or safety if located, designed, and proposed to be operated according to the submitted plan.

Second: William Draper

Action: The motion to approve passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith

NAYS: None

B. The use or development complies with all regulations and standards of the City of Monroe Zoning Ordinance, as well as any other state or local rule or regulation governing the development of land.

Motion: William Draper made a motion that the **standard is met** because it will not affect the value of the surrounding homes or the value basically in the whole area. He said it may raise the value of homes.

Second: George Smith

Action: The motion to approve passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith

NAYS: None

C. The use or development will not adversely impact surrounding property and will not substantially injure the value of adjoining property.

Motion: Ken Deal made a motion that the **standard is met** because the use or development will not adversely impact surrounding property and will not substantially injure the value of adjoining property. He said it will in fact enhance the surrounding property values in the neighborhood.

Second: William Draper

Action: The motion to approve passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith

NAYS: None

D. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Monroe Land Development Plan.

Motion: William Draper made a motion that the **standard is met** because it will be in conformity with the land use around it of single-family homes.

Second: Ken Deal

Action: The motion to approve passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith

NAYS: None

Mr. Massey asked for a motion to grant or deny the Special Use Permit request.

Motion: George Smith made a motion to grant the issuance of the Special Use Permit

Second: Ken Deal

Action: The motion to grant the Special Use Permit passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith

NAYS: None

Mr. Massey said the Special Use Permit request has been granted.

Item 5. Case PLSUP-2021-00049 Special Use Permit – Mr. Massey said the Board of Adjustment is requested to consider this request by Brian Spiers of Harland Building Group for a Special Use Permit to build a new Single Family residence at 603 Stafford Street, which is located in the Winchester Overlay District. (Tax ID #09-228-202A)

Mr. Massey said that anyone who is going to give testimony in this case needs to be administered the oath. Doug Britt and Brian Spiers came forward and were sworn.

Doug Britt, Senior Planner, introduced this item and said this is a Special Use Permit to build a single-family home at 603 Stafford Street. He said at this time he will present the findings:

Findings:

1. The property at 603 Stafford Street is currently owned by BWB2, LLC and is zoned R-10 (Residential- High Density). The property is also located in the Winchester Overlay District. (Exhibit 1, 2, 3)
2. According to Section 156.124, Overlay Districts, all principal developments in the Winchester Overlay District shall obtain a Special Use Permit. This section has several other requirements; however, due to state law changes, many can no longer be enforced. Each requirement has been addressed below (Exhibit 4):
 - a. The construction or renovation as proposed and designed will be compatible in the neighborhood, and along the street with which it is located.

-This requirement can no longer be enforced due to G.S. 160A-381 as it is considered a design standard, which cannot be used unless the applicant voluntarily consents to it.

- b. The construction or renovation as proposed and designed fulfills the intent of § [156.132](#) of the City of Monroe Code of Ordinances.
-This standard applies only to commercial properties.
 - c. The construction or renovation as proposed and designed will not substantially injure the value of adjoining or abutting property.
-This standard is addressed in the Special Use Permit standards.
 - d. The construction or renovation as proposed maintains the historic character and integrity of the infill neighborhood in which it is located.
-This requirement can no longer be enforced due to G.S. 160A-381 as it is considered a design standard, which cannot be used unless the applicant voluntarily consents to it.
 - e. The construction or renovation as proposed shall adhere to the strategies and objectives outlined in the City of Monroe Land Development Plan.
-This standard is addressed in the Special Use Permit standards.
 - f. Duplexes may be allowed on corner lots.
-The applicant is not proposing a Duplex.
 - g. All principal developments shall obtain a special use permit.
 - h. Mobile homes shall not be permitted.
-The applicant is not proposing a mobile home.
3. The applicant submitted a Special Use Permit Application on April 1, 2021 requesting to construct a new single family home on the property. The home is 1,432 heated square feet with a one-car garage. (Exhibit 5 and 6)
4. All adjoining property owners have been properly notified of this special use permit. (Exhibit 7)

Doug said he would be glad to answer any questions. Mr. Massey asked Doug if he heard from any of the neighbors. Doug said no.

Mr. Massey asked if the applicant would like to come forward and speak. Mr. Brian Spiers came forward. Mr. Massey asked Mr. Spiers if he would like to add anything to his responses in the application. Mr. Spiers said no. He said he just wanted to say he spoke to people all around the property and he just wants to improve the area and build a nice home on a vacant lot.

Mr. Massey asked if there were any questions for Mr. Spiers. There were none.

Mr. Massey said there are certain standards that this Board has to look at and have to be met and that is what we need to deal with:

- A. The use will not materially endanger the public health or safety if located, designed, and proposed to be operated according to plan.**

Motion: Ken Deal made a motion that this **standard is met**.

Second: William Draper

Action: The motion to approve passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith

NAYS: None

- B. The use or development complies with all regulations and standards of the City of Monroe Zoning Ordinance, as well as any other state or local rule or regulation governing the development of land.**

Motion: William Draper made a motion that the **standard is met**.

Second: George Smith

Action: The motion to approve passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith

NAYS: None

- C. The use or development will not adversely impact surrounding property and will not substantially injure the value of adjoining property.**

Motion: Ken Deal made a motion that the **standard is met**.

Second: William Draper

Action: The motion to approve passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith

NAYS: None

- D. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Monroe Land Development Plan.**

Motion: William Draper made a motion that the **standard is met**.

Second: George Smith

Action: The motion to approve passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith

NAYS: None

Mr. Massey asked for a motion to grant or deny the Special Use Permit request.

Motion: George Smith made a motion to grant the issuance of the Special Use Permit.
Second: Ken Deal
Action: The motion to grant the Special Use Permit passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith
NAYS: None

Mr. Massey said the Special Use Permit request has been granted.

Item 6. Case PLSUP-2021-00050 Special Use Permit - Mr. Massey said the Board of Adjustment is requested to consider this request by Leonid Steven Livarchuk for a Special Use Permit to allow retail sales in the OT (Office Transitional) zoning district located at 606 E. Franklin Street. (Tax ID #09-195-043)

Mr. Massey said that anyone who is going to give testimony in this case needs to be administered the oath. Doug Britt and Leonid Livarchuk came forward and were sworn. Mr. Massey asked Mr. Livarchuk to state his name and address. Mr. Livarchuk did so and said he resides at 3001 Bob White Circle, Unit B, Wingate, NC.

Doug Britt, Senior Planner, introduced this item and said this is a Special Use Permit request by Leonid Livarchuk to allow retail sales in the OT (Office Transitional) zoning district located at 606 E. Franklin Street. He said at this time he will present the findings:

Findings:

1. The property at 606 E. Franklin Street is owned by LPL Development and is zoned OT (Office Transitional). (Exhibit 1, 2)
2. The applicant submitted a Special Use Permit Application on April 1, 2021 requesting to allow retail sales at 606 E. Franklin Street. The applicant is proposing to operate a convenience store on the site. (Exhibit 3)
3. According to Section 156.110 of the City of Monroe Unified Development Ordinance titled "Table of Permissible Uses", retail sales is only allowed in the OT zoning district with the issuance of a Special Use Permit from the Board of Adjustment. (Exhibit 4).
4. A Standard 5 Appraisal Impact Study was completed by Morrison Appraisal, Inc. It is the opinion of Morrison Appraisal, Inc. that retail sales will not adversely affect the value of the adjoining properties. (Exhibit 5)
5. All adjoining property owners have been properly notified of this special use permit. (Exhibit 6)

Doug said he would be glad to answer any questions. Mr. Massey asked Doug if he received any phone calls. Doug said no.

Mr. Massey asked if anyone had any questions. There were none.

Mr. Massey asked if the applicant would like to come forward and speak. Mr. Leonid Livarchuk came forward. Mr. Massey asked Mr. Livarchuk if he would like to add anything to his responses in the application. Mr. Livarchuk said no.

William Draper asked Mr. Livarchuk what he planned to sell at that location. Mr. Livarchuk said it would be a convenience store. He said they would sell bottled drinks, snacks, candy, gum, etc.

Mr. Massey asked if there were any other questions. There were none.

Mr. Massey said there are certain standards that this Board has to look at and have to be met and that is what we need to deal with:

A. The use will not materially endanger the public health or safety if located, designed, and proposed to be operated according to plan.

Motion: Ken Deal made a motion that this **standard is met**.

Second: William Draper

Action: The motion to approve passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith

NAYS: None

B. The use or development complies with all regulations and standards of the City of Monroe Zoning Ordinance, as well as any other state or local rule or regulation governing the development of land.

Motion: George Smith made a motion that the **standard is met**.

Second: William Draper

Action: The motion to approve passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith

NAYS: None

C. The use or development will not adversely impact surrounding property and will not substantially injure the value of adjoining property.

Motion: William Draper made a motion that the **standard is met**.

Second: George Smith

Action: The motion to approve passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith

NAYS: None

- D. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Monroe Land Development Plan.**

Motion: George Smith made a motion that the **standard is met.**
Second: William Draper
Action: The motion to approve passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith
NAYS: None

Mr. Massey asked for a motion to grant or deny the Special Use Permit request.

Motion: William Draper made a motion to grant the issuance of the Special Use Permit
Second: Ken Deal
Action: The motion to grant the Special Use Permit passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper, George Smith
NAYS: None

Mr. Massey said the Special Use Permit request has been granted.

Item 7. **Next Meeting – May 27, 2021**

Item 8. **Adjournment**

Mr. Massey said he would entertain a motion to adjourn at this time.

Motion: Ken Deal made a motion to adjourn the meeting.
Second: William Draper
Action: The motion to adjourn passed unanimously with the following votes:

AYES: George Massey, Ken Deal, William Draper and George Smith
NAYS: None

The meeting was adjourned at 7:05 p.m.

Respectfully submitted,

George Massey
Chairman

Maryann Brown
Clerk of the Board

DRAFT



STAFF REPORT

PLZNA- 2021-00058

TO: Board of Adjustment Members

DATE: May 27, 2021

FROM: Doug Britt, Senior Planner

SUBJECT: Variance Request by First Care Medical to install a LED sign within the existing monument sign in the Office Transitional District

SUMMARY STATEMENT

First Care Medical is requesting a variance to the sign section of the zoning code to install a LED sign within the existing monument sign located 404 S. Sutherland Avenue. The applicant's property is located in the Office Transitional zoning district; the zoning code does not allow electronic changeable copy signs in this zoning district.

SITE DATA

Type of Action:	Variance
Date of Petition:	March 31, 2021
Name of Petitioner:	First Care Medical
Location:	404 S. Sutherland Avenue
Tax ID #:	09-194-137
Lot Size:	.76 Acres
Zoning Classification:	Office Transitional District

REVIEW

Findings:

1. The property located at 404 S. Sutherland Avenue is owned by Benedict Okwara of Okwara Properties and is zoned Office Transitional. (Exhibit 1, 2)
2. On March 31, 2021, the applicant submitted a variance application in order to request a variance to the sign code regarding the Office Transitional district sign allowances. The applicant is requesting to install an electronic changeable copy sign within the existing

ground monument sign. The overall square footage of the existing sign will not be altered. The sign if approved with the electronic changeable copy would be located approximately 306 feet from a residential district. (Exhibit 3, 4)

3. Section 156.133 (W) does not allow properties in the Office Transitional District to have electronic changeable copy signs or for said signs to be located within 400 feet of residential districts and institutional uses. (Exhibit 5)
4. All adjacent property owners have been notified of the variance request. (Exhibit 6)

Conclusions:

1. It is the Board's CONCLUSION, that unnecessary hardship (would/would not) result from the strict application of the ordinance.
2. It is the Board's CONCLUSION, that the hardship (is/is not) peculiar to the applicant's property.
3. It is the Board's CONCLUSION, that the hardship (is/is not) the result of the applicant's own actions.
4. (a) It is the Board's CONCLUSION, that the variance (is/is not) consistent with the spirit, purpose, and intent of the ordinance.

(b) It is the Board's CONCLUSION, that in granting of the variance, the public safety (will/will not) be secured and substantial justice (will/will not) be achieved.
5. The variance (will/will not) result in the extension of a nonconforming situation in violation of § 156.90, and it (will/will not) authorize the initiation of a nonconforming use of land.

THEREFORE, on the basis of all foregoing, IT IS ORDERED that the application Variance *PLZNA-2021-00058* be (**approved/denied**).

Exhibit 1-Aerial Map
Exhibit 2-Zoning Map
Exhibit 3-Application
Exhibit 4- Sign Distance Map
Exhibit 5- Ordinance
Exhibit 6- APO List

Prepared by: DB 5-17-21

Ortho Map

PLZNA 2021-00058

Legend

- Centerlines
- Parcels

Existing: OT
(Office Transitional)

Owner: Okwara Properties

Acres: .76



0 50 100
Feet



Zoning Map

PLZNA 2021-00058

Legend

— Centerlines

▭ Parcels

Zoning Districts

Code

 R-10

 OT

 GB

 CD

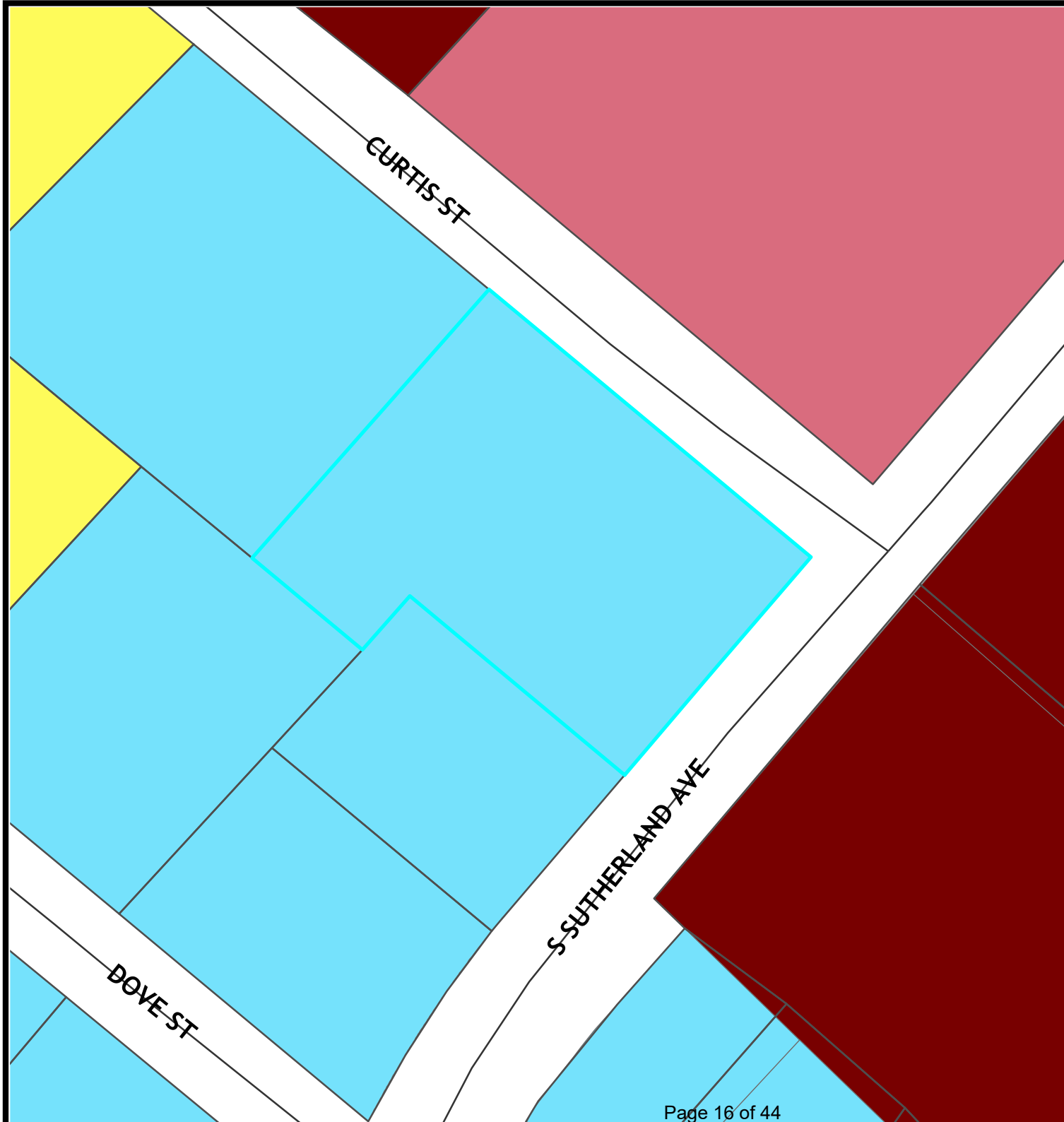
Existing: OT
(Office Transitional)

Owner: Okwara Properties

Acres: .76



0 50 100
 Feet





City of Monroe Variance Application Form

Applicant's Name: First Care Medical Clinic

Applicant's Address: 404 S Sutherland Ave, Monroe NC 28112

Property Owner's Name: Okwara Properties

Property Owner's Address: 404 S. Sutherland Ave, Monroe, NC 28112

For Staff Use Only

Application #: _____

Date Submitted: _____

Approved: _____

Denied: _____

Legal Relationship of Applicant to Property Owner: Corporation

Contact Person Name and Phone Number: Dr. Benedict Okwara (704) 604-8104

Existing Use of Property: Walk-in Primary Care and Urgent Care Medical Facility

Property Location: 404 S Sutherland Ave, Monroe NC 28112

Tax Map Number: 09194137- Lot Size: _____ Zoning District: Office Transitional

Ordinance section number to which a variance is being sought. 156.133(W), section 5, subsection b

Proposed variance description: Addition of LED signage to existing monument signage for First Care Medical Clinic.

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under NC State law, the Board must reach the conclusions listed below before it can issue a variance. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of the conclusions below.

Please provide facts and arguments on how the request for a variance meets each of the conclusions listed below. Please be as specific as possible in your statements. Should you need more room to complete the information, please attach a separate sheet.

1. **There are unnecessary hardships in the way of carrying out the strict letter 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, and it is not sufficient that failure to grant the variance will simply make the property less valuable.]

See attached

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

See attached

3. **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 the granting of a variance shall not be regarded as a self-created hardship]

See attached

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.**

See attached

5. **The variance will neither result in the extension of a nonconforming situation in violation of § [156.90](#), nor authorize the initiation of a nonconforming use of land.**

See attached

Request for variances may need to be accompanied by a sketch plan or survey from a Registered Land Surveyor. Said plan shall show, in a scaled form, the location and size of:

1. The boundaries of the lot(s) in question,
2. The size, shape and location of all existing buildings, parking facilities and accessory buildings,
3. The size, shape and location of all proposed buildings, parking facilities and accessory uses,
4. The location of all setbacks and front lot widths as measured at the front setback,
5. The location and type of screening and buffering proposed; and
6. Other information deemed by the Zoning Officer necessary to consider the application complete.

Benedict Okwara

Printed name of Applicant

[Signature]
Signature of Applicant

04/15/2021

Date

Benedict Okwara

Printed name of Owner

[Signature]
Signature of Owner

04/15/2021

Date

FOR STAFF USE ONLY

(PLEASE DO NOT WRITE BELOW THIS LINE)

Scaled plan attached: Yes _____

No _____

Fee Attached: Yes _____

No _____

Adjoining property owner's information attached: Yes _____

No _____

Public hearing date: _____

Notice to applicant and adjoining property owners mailed on: _____ INT. _____

Action taken by the Board of Adjustment: _____

Notification of Action Mailed to applicant on: _____

From: 'cmbadinuju firstcarecanhelp.com'
<cmbadinuju@firstcarecanhelp.com>
Sent: Thursday, April 15, 2021 11:47 AM
To: Doug Britt
Subject: RE: First Care Medical Clinic Monroe Variance Application

In regards to the Variance application, Dr. Benedict Okwara is the owner and property owner of First Care Medical Clinic

On April 15, 2021 11:09 AM Doug Britt <dbritt@monroenc.org> wrote:

Doug Britt, Senior Planner

City of Monroe

300 W. Crowell Street

Monroe, NC 28112-0069

p (704) 282-4568

f (704) 282-4735

From: cmbadinuju firstcarecanhelp.com <cmbadinuju@firstcarecanhelp.com>
Sent: Thursday, April 15, 2021 10:38 AM
To: Doug Britt <dbritt@monroenc.org>
Cc: bokwara firstcarecanhelp.com <bokwara@firstcarecanhelp.com>; Ada Okwara <ambadinuju@firstcarecanhelp.com>; osistrunk@rizetrg.com
Subject: First Care Medical Clinic Monroe Variance Application

Hello Doug,

This is Obi, we spoke earlier this morning regarding the variance application that was submitted, included in the attached files are the updated Variance application

Application For Variance

First Care Medical Clinic, a community fixture for more than 25 years, has been operating at this location, providing primary care and walk-in urgent care services. Seeing more than 10,000 patients from the city of Monroe and surrounding areas annually, we provide a valuable community service, and plan to continue doing so for the indefinite future.

When originally constructed, the building was zoned office transitional, and did not include provisions for LED signage. As technology evolved, and LED signage became more common place, it was determined that due to the nature of the zoning, no LED signage would be permitted. However, as more office and commercial occupants have moved into existing buildings once used as residential housing, fewer residential property owners remain.

We respectfully request the following variances:

1. The addition of an LED component to our existing permanent signage. This LED signage would follow similar standards for LED signage found in other communities, and would compose up to 50% of the total face area of the existing signage. Furthermore, the messaging would conform to the following requirements:
 - a. Sign will not include animated or scrolling images, graphics, or video active images (similar to television images);
 - b. Sign will continuously show one message a minimum of ten seconds in time before switching to other message;
 - c. Message will not dim, flash, fade or scroll;
 - d. Message will have no moving, rotating, fluttering, blinking or flashing elements;
 - e. Message will have no animation, video, audio, pyrotechnic components, or blue casting technology.
 - f. Signage will not be lit between the hours of 11:00 PM and 6:00 AM
 - g. See Exhibit A for renderings of the signage
2. A variance surrounding the 400 feet rule between the signage and the closest residential property (see Exhibit B for arial view of the property):
 - a. The signage itself (red dot on Exhibit B) is approximately 500 feet from the nearest residential property located at 1209 Dove Street when measured from public roadways (blue line on Exhibit B), and is approximately 280 feet when measured as a straight line (yellow line on Exhibit B).
 - b. Even with the close proximity of the residential property referenced above, the overall height of the sign, combined with completely obscured sightlines would prevent the signage from being seen from the nearest residential property, as
 - i. The building structure itself located at 404 S. Sutherland avenue is between the sign location and the residential property
 - ii. Two additional structures, along with extensive landscaping and trees further obscure the straight-line sight line between the sign and the residential property

Arguments for Variance

1. **There are unnecessary hardships in the way of carrying out the strict letter 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, and it is not sufficient that failure to grant the variance will simply make the property less valuable.]

As a provider of healthcare services, especially on an urgent care basis, maximum visibility of our facility is necessary. In addition, due to the COVID-19 pandemic, it has become necessary to communicate changing information quickly and easily, and our practice has evolved to provide mobile events and vaccination clinics. With the addition of mobile “remain in your car” events, it has become necessary to communicate information quickly to patients to ensure proper vehicle flow through the entirety of our property.

While there is no unnecessary hardship to our property without an LED sign, we feel that it is in the best interest of the community that we be permitted to utilize an LED sign on our building to ensure timely and relevant communication and traffic flow.

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

Conditions peculiar to the property, such as the building layout, general location and extensive vegetation and trees, actually help to mitigate any impact an LED sign would have on nearby residential structures.

3. **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 the granting of a variance shall not be regarded as a self-created hardship]

Due to the evolving nature of the surrounding areas, and advances in technology, we were unaware that we would be wanting to install an LED sign, nor would the installation of such sign be a problem.

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.**

The original spirit, purpose and intent of the ordinance was to mitigate any interference from commercial signage, specifically light pollution, on residential structures from office transitional zoning. When the area was originally zoned office transitional, many of the surrounding structures on Sutherland, Dove and Park streets were purely residential, however over the last decade, many of the surrounding properties have since converted to office use. We feel strongly that the requested variance is consistent with the spirit, purpose and intent of the ordinance, as we have taken steps to ensure that any residential properties within the 400 foot exclusion zone will not be impacted by the signs normal usage, and the information provided on this sign is public service in nature.

5. **The variance will neither result in the extension of a nonconforming situation in violation of § 156.90, nor authorize the initiation of a nonconforming use of land.**

The variance will not create or extend any existing nonconforming situation, or nonconforming use of the land or property in question. In fact, it will serve to improve the land and public safety.

Exhibit B: Sign Renderings

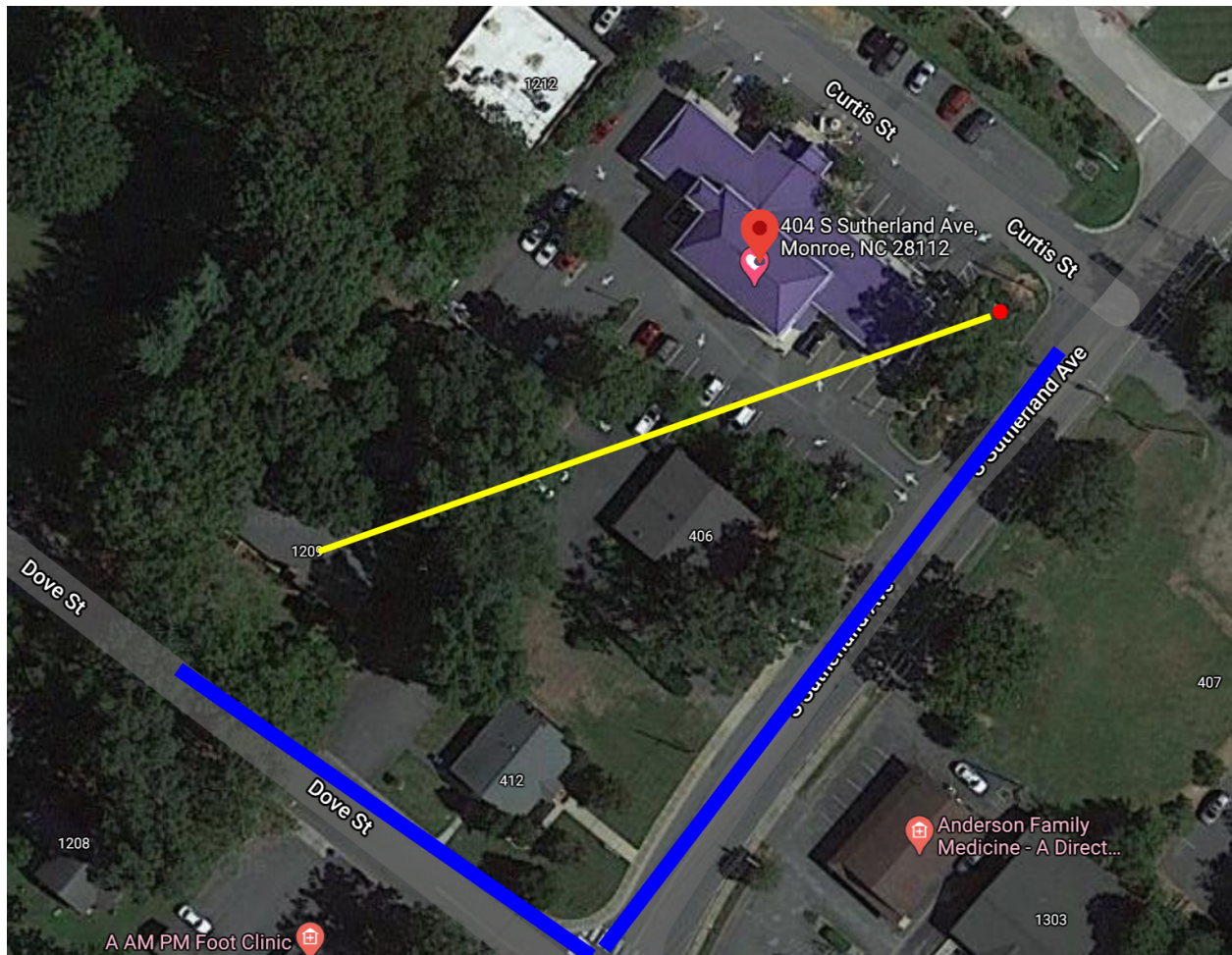


Existing Monument Sign without LED panel

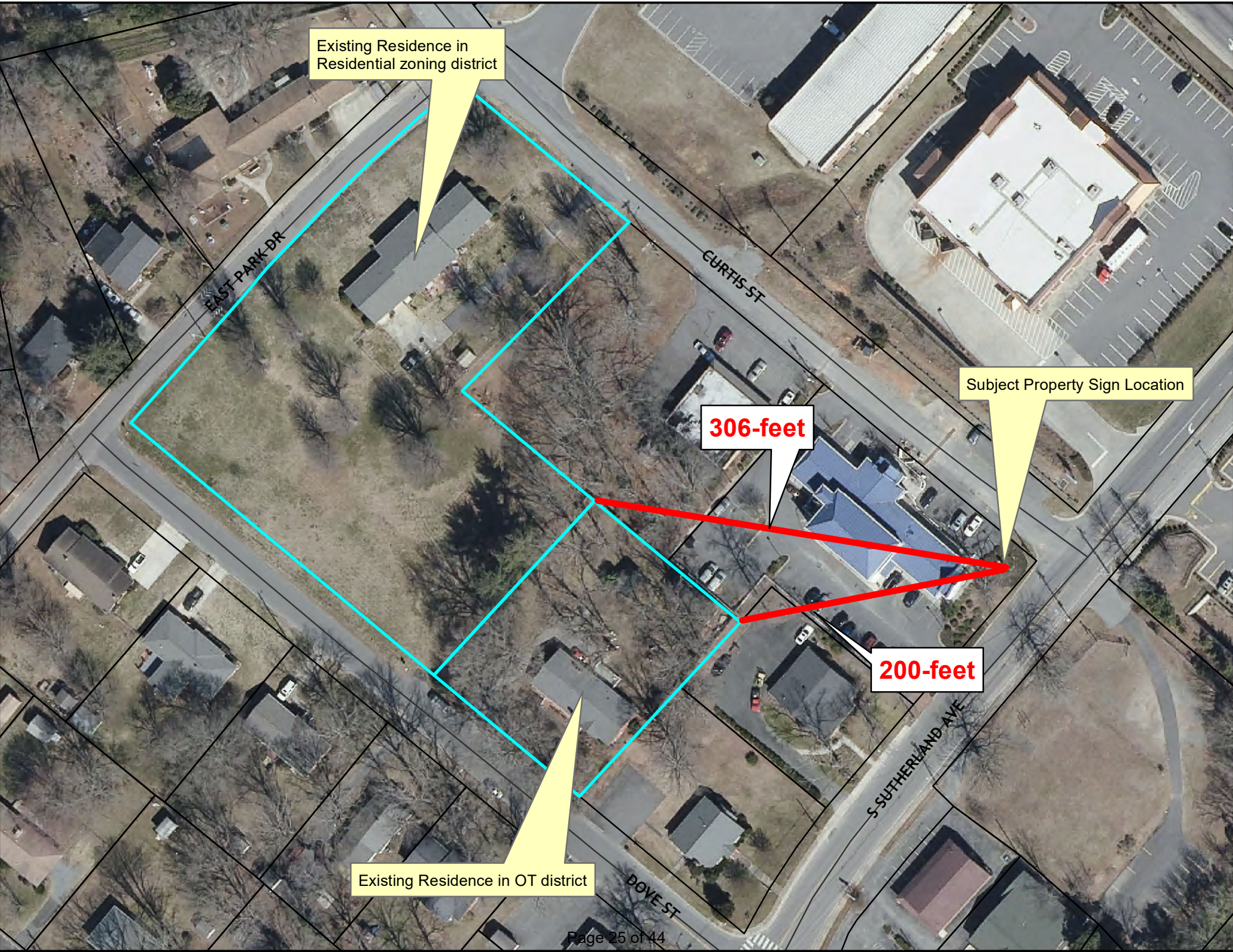


Monument with LED Panel Installed (50 inches high, 75 inches wide)

Exhibit A: Aerial Map



The red dot represents the location of the existing monument sign, the yellow line represents the closest direct line between the sign and the nearest residential property (280 feet), the blue line represents the the shortest public distance between the sign and the residential property (500 feet).



Existing Residence in Residential zoning district

Subject Property Sign Location

306-feet

200-feet

Existing Residence in OT district

156.133 Signs

(W) *General Business District (GB) and Industrial District (G-I).*

(5) *Electronic changeable face signs.*

(a) *Maximum size.* Sign area shall be calculated proportionally to the size of the property on which the sign is to be located. For all properties up to one (1) acre in size, no sign shall exceed sixty (60) square feet. For all properties over one (1) acre, area shall be calculated as follows: sixty (60) square feet for the first acre, then ten (10) square feet for each additional acre up to ten (10) acres. No sign shall in any case exceed one hundred fifty (150) square feet.

(b) *Spacing of sign to residential districts and institutional uses.* There shall be a minimum spacing of four hundred (400) feet between the electronic changeable face outdoor advertising sign and residential districts and institutional uses. Institutional uses include schools, religious facilities, health institutions, colleges and universities, vocational schools, child care centers, government buildings, recreation centers, public parks, and civic, social and fraternal associations, or other similar uses. The distance shall be calculated as the shortest measurable distance between the nearest point of the sign to the edge of residential district or to the property line of the institutional use.

(c) *Spacing to other electronic changeable face signs.* There shall be a minimum spacing of one thousand (1,000) feet between an electronic changeable face outdoor advertising sign and any other electronic changeable face outdoor advertising street sign on the same side of the street.

ACCTNO	OWNERNAME1	OWNERADDRE	OWNERCITY	OWNERSTATE	OWNERZIP
09194130	O'NEILL BERNARD	1206 DOVE ST	MONROE	NC	28112
09194134	DEMAYO REAL ESTATE LLC	PO BOX 34426	CHARLOTTE	NC	28234
09191006B	CF MONROE PROPERTIES LLC	3362 SMITH FARM RD	MATTHEWS	NC	28104
09194131	BAILEY LAWRENCE R	1208 DOVE ST	MONROE	NC	28112
09194135	BIVENS LAURENCE	1209 DOVE ST	MONROE	NC	28112
09194136	HODGE DEREK LEE	1208 CURTIS ST	MONROE	NC	28112
09194143	NGUYEN NGUYEN TRI	6406 ALBEMARLE RD STE B&C	CHARLOTTE	NC	28212
09194137	OKWARA PROPERTIES	404 S SUTHERLAND AVE	MONROE	NC	28112
09194138	FANCY COWGIRL LLC	PO BOX 1159	DEERFIELD	IL	60015
09191007	GOODMAN EMILY M	401 E PARK DR	MONROE	NC	28112
09194141	JEFFRIES PERRY L	871 HUFFMAN ST	GREENSBORO	NC	27405
09194132A	KEANE PAUL J	506 S SUTHERLAND AVE	MONROE	NC	28112
09194133	MEKIC FAHRUDIN	5006 DOWNING CREEK DR	CHARLOTTE	NC	28269
09194142	LIVEL ENTERPRISES LLC	1301 DOVE ST	MONROE	NC	28110
09191006A	BIRCHWOOD MONROE HOLDINGS LLC	C/O WALGREEN CO PO BOX 1159	DEERFIELD	IL	60015

APO Map

603 Stafford St.

Legend

- Centerlines
- Parcels
- 150-foot buffer
- Notified Properties
- Subject Property





STAFF REPORT

PLZNA- 2021-00064

TO: Board of Adjustment Members

DATE: May 27, 2021

FROM: Keri Mendler, Planner

PREPARED BY: Keri Mendler, Planner

SUBJECT: Variance Request by WSB Retail Partners, LLC to remove trees over seventy-five (75) inches in circumference.

SUMMARY STATEMENT

Dusty Wiederhold, Managing Partner with WSB Retail Partners, LLC is requesting a variance to section 156.221 in order to remove trees with a circumference greater than seventy-five (75) inches at 2806 W. Highway 74.

SITE DATA

Type of Action: Variance
Date of Petition: April 9, 2021
Name of Petitioner: WSB Retail Partners, LLC
Location: 2806 West Highway 74
Tax ID #: 09-298-092
Lot Size: 2.84 Acres
Zoning Classification: General Business (GB)

REVIEW

Findings:

1. The property located at 2806 W. Highway 74 is owned by Sarah Hemby Trustees and is zoned General Business. (Exhibit 1, 2)

2. On April 9, 2021, the applicant submitted a variance application to request a variance to section 156.221 in order to remove trees with a circumference greater than seventy-five (75) inches at 2806 W. Highway 74. (Exhibit 3, 4)
3. Section 156.221 stipulates “trees seventy-five (75) inches in circumference must be preserved and shall not be removed.” (Exhibit 5)
4. All adjacent property owners have been notified of the variance request. (Exhibit 6)

Conclusions:

1. It is the Board’s CONCLUSION, that unnecessary hardship (would/would not) result from the strict application of the ordinance.
2. It is the Board’s CONCLUSION, that the hardship (is/is not) peculiar to the applicant’s property.
3. It is the Board’s CONCLUSION, that the hardship (is/is not) the result of the applicant’s own actions.
4. (a) It is the Board’s CONCLUSION, that the variance (is/is not) consistent with the spirit, purpose, and intent of the ordinance.

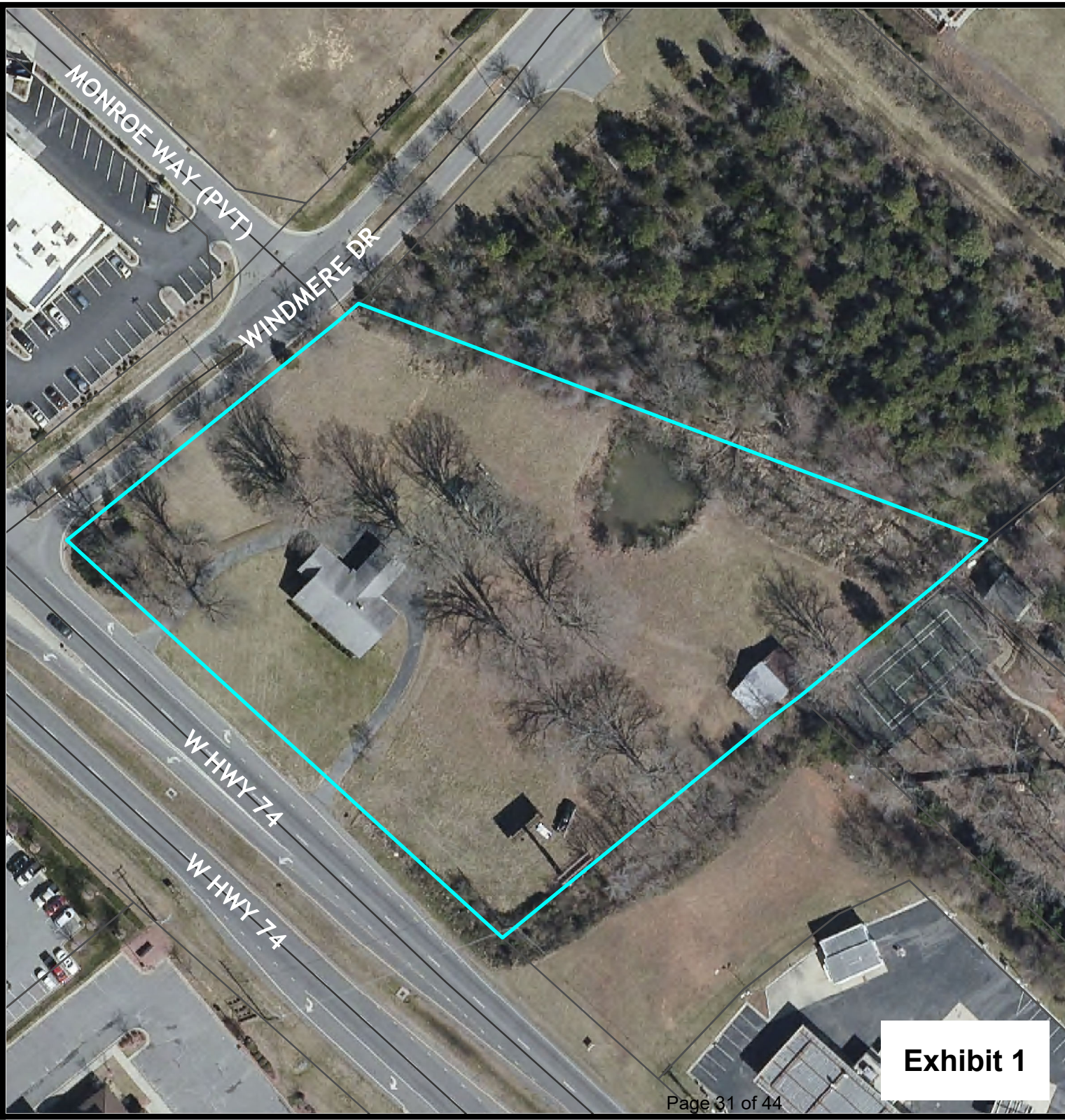
(b) It is the Board’s CONCLUSION, that in granting of the variance, the public safety (will/will not) be secured and substantial justice (will/will not) be achieved.
5. The variance (will/will not) result in the extension of a nonconforming situation in violation of § 156.90 and it (will/will not) authorize the initiation of a nonconforming use of land.

THEREFORE, on the basis of all foregoing, IT IS ORDERED that the application Variance *PLZNA-2021-00064* be (**approved/denied**).

Exhibits:

1. Aerial Map
2. Zoning Map
3. Application
4. Site Plan
5. Section 156.221
6. APO List
7. APO Map

Prepared by: KM 5-10-21



Ortho Map

PLZNA- 2021-00064

Legend

- Centerlines
- Parcels

Existing: GB (General Business)

Owner: Sarah Hemby Trustees

Acres: 2.84



0 75 150
Feet

Exhibit 1

Zoning Map

PLZNA- 2021-00064

Legend

— Centerlines

□ Parcels

Zoning Districts

■ R-40

■ R-20

■ OT

■ GB

■ CD

Existing: GB (General Business)

Owner: Sarah Hemby Trustees

Acres: 2.84



0 75 150
Feet

Exhibit 2



City of Monroe Variance Application Form

Applicant's Name: WSB Retail Partners, LLC

Applicant's Address: 474 Wando Park Blvd, Suite 205

Mt. Pleasant, SC 29464

Property Owner's Name: Sarah D. Hemby - Trustee

Property Owner's Address: 409 Hugh Crocker Dr.

Wesley Chapel, NC 28104

Legal Relationship of Applicant to Property Owner: Contract Holder

Contact Person Name and Phone Number: Dusty Wiederhold 843-513-8600 Managing Partner

Existing Use of Property: Single Family Residential

Property Location: 2806 West Highway 74, Monroe, NC 28110

Tax Map Number: 09 - 2980 - 092 Lot Size: 2.839 AC Zoning District: GB

Ordinance section number to which a variance is being sought. 156.221(A)

Proposed variance description: Permission to clear trees with a circumference of greater than 75 inches

For Staff Use Only	
Application #:	_____
Date Submitted:	_____
Approved:	_____
Denied:	_____

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under NC State law, the Board must reach the conclusions listed below before it can issue a variance. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of the conclusions below.

Please provide facts and arguments on how the request for a variance meets each of the conclusions listed below. Please be as specific as possible in your statements. Should you need more room to complete the information, please attach a separate sheet.

1. **There are unnecessary hardships in the way of carrying out the strict letter 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, and it is not sufficient that failure to grant the variance will simply make the property less valuable.]

See attached sheets

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

See attached sheets

3. **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 the granting of a variance shall not be regarded as a self-created hardship]

See attached sheets

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.**

See attached sheets

5. **The variance will neither result in the extension of a nonconforming situation in violation of § 156.90, nor authorize the initiation of a nonconforming use of land.**

See attached sheets

Request for variances may need to be accompanied by a sketch plan or survey from a Registered Land Surveyor. Said plan shall show, in a scaled form, the location and size of:

1. The boundaries of the lot(s) in question,
2. The size, shape and location of all existing buildings, parking facilities and accessory buildings,
3. The size, shape and location of all proposed buildings, parking facilities and accessory uses,
4. The location of all setbacks and front lot widths as measured at the front setback,
5. The location and type of screening and buffering proposed; and
6. Other information deemed by the Zoning Officer necessary to consider the application complete.

DUSTY WIEDERHOLD
Printed name of Applicant

[Signature]
Signature of Applicant

4-9-2024
Date

Sarah D. Homby
Printed name of Owner

[Signature]
Signature of Owner

4-9-21
Date

FOR STAFF USE ONLY
(PLEASE DO NOT WRITE BELOW THIS LINE)

Scaled plan attached: Yes _____ No _____ Fee Attached: Yes _____ No _____

Adjoining property owner's information attached: Yes _____ No _____

Public hearing date: _____

Notice to applicant and adjoining property owners mailed on: _____ INT. _____

Action taken by the Board of Adjustment: _____

Notification of Action Mailed to applicant on: _____

Statements of Fact in support of the variance request to clear trees with a circumference of greater than seventy-five (75) inches as required in Section 153.221(A) of the Monroe Zoning Code.

1. There are unnecessary hardships in the way of carrying out the strict letter of the ordinance.

The location of these trees is primarily in the middle of the parcel. As such, it renders the property undevelopable per the current Zoning Ordinance.

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

From historical aerial photos, surrounding commercial properties that have already been developed appear to have been farms with a good number of huge oak trees surrounding residences and barn structures and were clear cut to allow commercial development. This property was residential and the trees were kept for shade and privacy.

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

The trees were planted for the use and enjoyment of the residential home in the early 1950's, years before being incorporated into Monroe city and the current ordinance was passed.

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.

The spirit, purpose, and intent of the ordinance is that trees shall be preserved "to the greatest extent possible". The Ordinance specifically states that trees within required buffers are the most important to preserve but does allow their removal with a replacement in-kind. Of the twelve (12) trees required to be preserved on our site, only three (3) are in a required buffer. These trees are located in what will be a street buffer at the intersection of Hwy 74 and Windmere Dr. It is our intent to remove those trees and replace them with multiple new trees which will provide the street buffering that is the spirit of the Ordinance.

There are no existing trees at all that are in what will be a required fifty (50) foot buffer adjacent to the single-family residence. Given the distance from the current trees to the residence, any attempt to preserve those trees will not provide any screening benefit to them.

The subject property is located within a heavy commercial corridor. This property is one of a very few fronting Hwy 74 that has not yet been developed. Of the surrounding properties, all appear to have been clear cut and new trees planted onsite per the Ordinance.

This property and its trees do not serve any public benefit since they are located on private property and cannot be enjoyed by the public at large.

This property was involuntarily rezoned from a residential property to a commercial property around 2008. From that time until their death in 2016, the original owners, Mr. and Ms. Walter Dickens, on a limited income paid both county and city property taxes on a commercial property rather than a residential property. Since 2016 the Dicken's three children have borne the burden of paying the property taxes for the past four years. Between 2008 and 2020 the family has paid

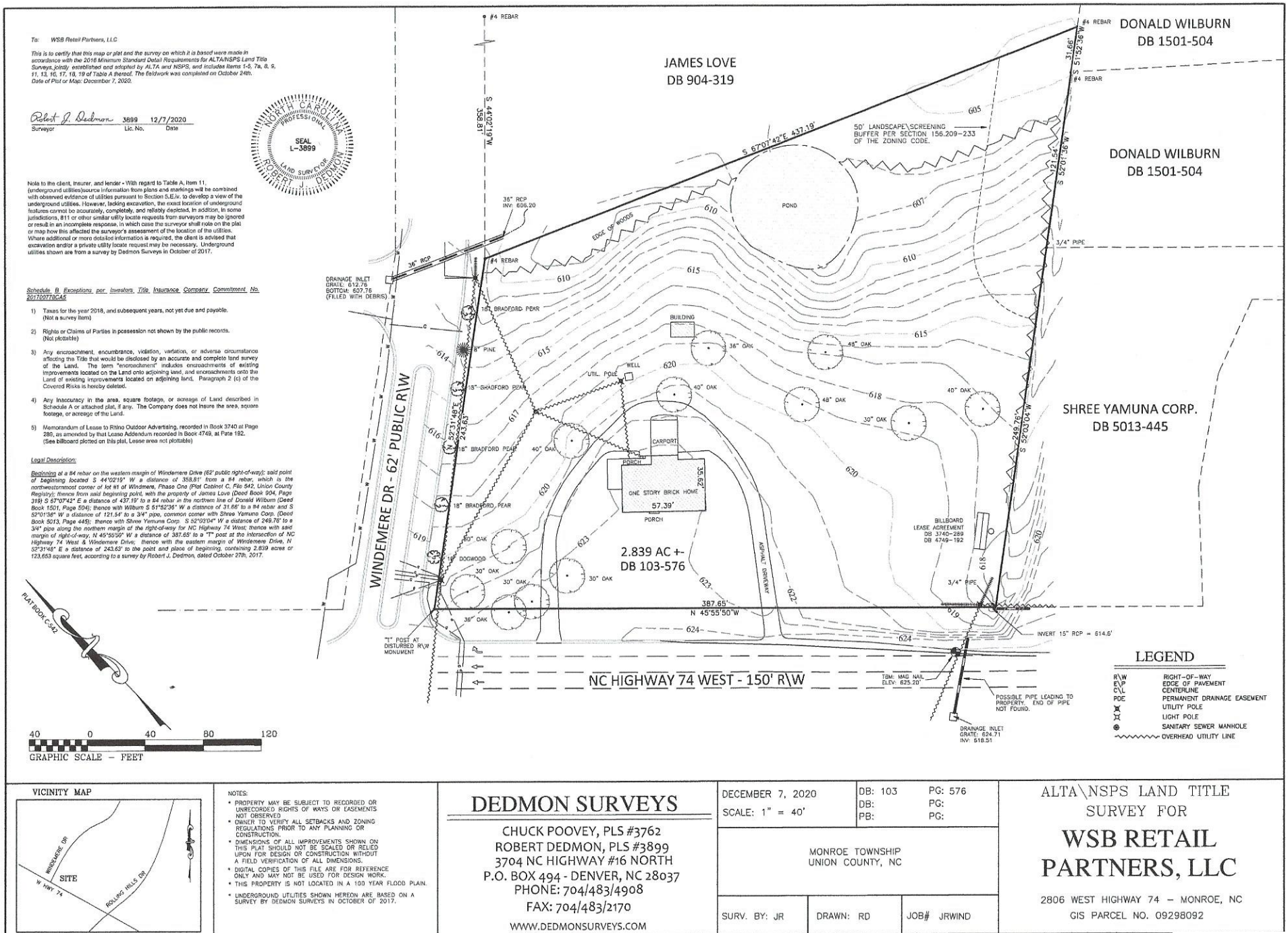
\$121,609.09 in commercial property taxes to the city of Monroe and \$152,996.94 to Union county for a total of \$286,911.82. Should this variance be denied it will severely hinder the ability to develop the property to maximum extent possible under its current zoning designation. Additionally, it will continue to place an undue burden on the family.

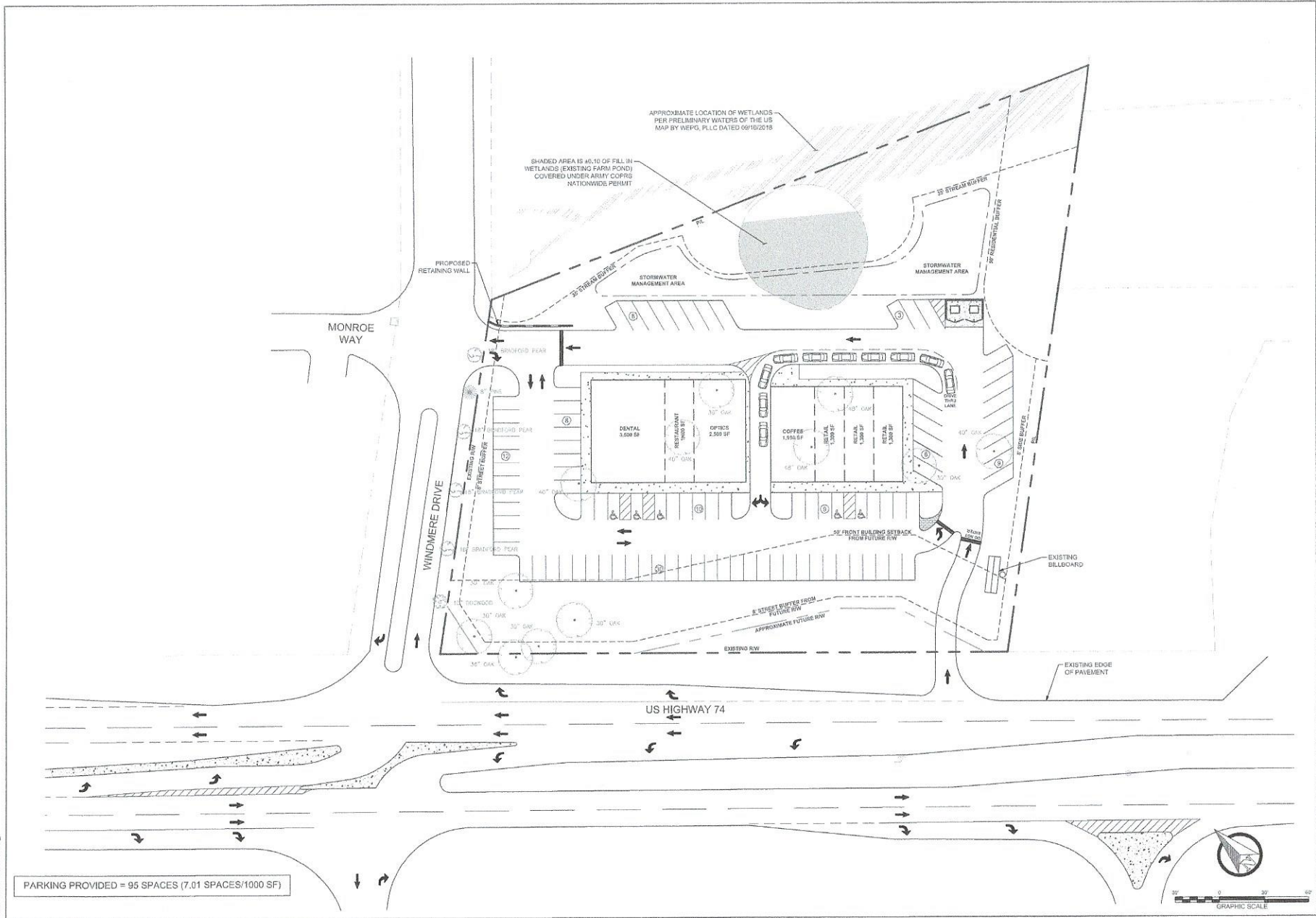
5. **The variance will neither result in the extension of a nonconforming situation in violation of §156.90, nor authorize the initiation of a nonconforming use of land.**

This variance request is for the removal of trees with a circumference of 75 inches or greater only and will not create or increase any nonconforming situations.

2806 W. Highway 74 - Monroe, NC
Parcel: 09298092
Tax History

Line	Monroe City				Union County			Total
	Tax Year	Total Paid	Sub-Total		Tax Year	Total Paid	Sub-Total	
1	2020	\$10,822.84			2020	\$12,835.34		
2	2019	\$10,822.84			2019	\$12,835.34		
3	2018	\$10,822.84			2018	\$13,092.05		
4	2017	\$10,296.01			2017	\$13,715.13		
5	2016	\$10,296.01			2016	\$13,460.50		
6	2015	\$10,296.01			2015	\$13,636.11		
7	2014	\$8,584.40			2014	\$11,790.59		
8	2013	\$8,584.40			2013	\$10,220.36		
9	2012	\$8,584.40			2012	\$10,220.36		
10	2011	\$8,584.40			2011	\$10,297.79		
11	2010	\$8,584.40			2010	\$10,297.79		
12	2009	\$7,665.27			2009	\$10,297.79		
13	2008	\$7,665.27	\$121,609.09		2008	\$10,297.79	\$152,996.94	\$286,911.82
14	2007	\$2,579.28						
15	2006	\$2,485.49						
16	2005	\$2,297.90						
17	2004	\$2,251.01						
18	2003	\$1,623.15						
19	2002	\$1,623.15						
20	2001	\$1,623.15						
21	2000	\$1,623.15						
22	1999	\$658.90						





FOR REVIEW ONLY



TARR GROUP
 8600 E. STATE ROAD 32
 SUITE 100
 MONROE, LA 70646
 PHONE: (504) 333-5579
 EMAIL: KEVIN@TARR-GROUP.COM

MONROE COMMERCIAL DEVELOPMENT
 WSB RETAIL PARTNERS, LLC
 H2 CONTRACTING, LLC
 2806 WEST HIGHWAY 74
 MONROE, NC

ORIGINAL ISSUE DATE: 03/30/2021
REVISIONS:
PROJ. NO.: 20005
CONCEPT SITE PLAN #10

§ 156.221 TREE PRESERVATION.

The following standards shall limit excessive topping, clear-cutting and major pruning of existing trees and other interior landscaping. Existing wooded areas may be counted toward buffer and screening requirements as stated above, and as well as toward the tree preservation standards as stated herein. The following regulations shall apply to the preservation and maintenance of existing trees and landscape features:

(A) *General preservation standards:* Deciduous and evergreen trees shall be preserved to the greatest extent possible. Those trees at least twenty-five (25) inches in circumference within required buffer and landscaping areas shall be tagged prior to site clearance and shall be preserved and incorporated into the required landscaping. Overall, at least ten (10%) percent of all existing trees shall be preserved, where feasible and practical. In any case where a deciduous and/or evergreen tree over twenty-five (25) inches in circumference is removed from the buffer, it shall be replaced with at least four (4) or more trees of similar species and size, the location of which shall be determined by the City Planner. **Trees seventy-five (75) inches in circumference must be preserved and shall not be removed.**

09298358
NOVANT HEALTH INC
ATTN: TAX DEPARTMENT 2085
FRONTIS PLAZA BLVD
WINSTON SALEM NC 27103

09298091
TARGET CORPORATION
%PROP. TAX DEPT. 2074 PO BOX 9456
MINNEAPOLIS MN 554409456

09298182
LOVE JAMES F III
LOVE MARY F
716 5TH AVENUE
SAINT ALBANS WV 25177

09259053
SHREE YAMUNA CORP
2800 W ROOSEVELT BLVD
MONROE NC 28110

09259055
PRIVETTE DAVID M
2603 ROLLING HILLS DR
MONROE NC 28110

09259055A
EVANS MICHELLE MERRITT
EVANS ROBERT
2605 ROLLING HILLS DR
MONROE NC 28110

09298357
MONROE PROMENADE LLC
%RIVERWOOD PROPERTIES, LLC 3350
RIVERWOOD PARKWAY SE #450
ATLANTA GA 30339

09298091F
BVA POPLIN PLACE LLC
c/o BIG V ACQUISITIONS LLC 162 N
MAIN ST STE 5
FLORIDA NY 10921

09298368
OWNERS ASSOCIATION INC
THE PARK AT MONROE PROPERTY
2085 FRONTIS PLAZA BLVD
WINSTON SALEM NC 27103

09259053A
SHREE YAMUNA CORP
2800 W ROOSEVELT BLVD
MONROE NC 28110

09298091A
BVA POPLIN PLACE LLC
c/o BIG V ACQUISITIONS LLC 162 N
MAIN ST STE 5
FLORIDA NY 10921

09301166
PANDEM ENTERPRISES INC
4007 MERRICK RD
SEAFORD NY 11783

09259054
PRIVETTE DAVID M
2603 ROLLING HILLS DR
MONROE NC 28110

09301162
RHUE PROPERTIES LLC
C/O SHAKE SHAKE SEAFOOD 2841 W
HIGHWAY 74
MONROE NC 28110

09298092
HEMBY SARAH D TRUSTEES
409 HUGH CROCKER DRIVE
WESLEY CHAPEL NC 281046341

BOARD OF ADJUSTMENT MTG.
May 27, 2021

2806 W. Hwy 74

WSB Retail Partners, LLC
474 Wando Park Blvd., Suite 205
Mt. Pleasant, SC 29464

APO Map

2806 W. Highway 74

Legend

- Centerlines
- Parcels
- 150-foot buffer
- Notified Properties
- Subject Property



Exhibit 7