

**BOARD OF ADJUSTMENT
MEETING
THURSDAY, NOVEMBER 17, 2022
6:00 P.M.
Council Chambers
300 W. Crowell Street
Monroe NC**

AGENDA

Item 1. **Call to Order:**

Item 2. **Pledge of Allegiance and Moment of Silence**

Item 3. **Approval of Minutes – October 10, 2022**

Item 4. **Conflicts of Interest**

Item 5. **PLSUP-2023-00047 Special Use Permit-** The Board of Adjustment is requested to consider a Special Use Permit application from Mark A. Fox, Guarantor of Fox's Alley, LLC. In order to establish a bourbon and cigar lounge within the GB, General Business District at 1901 B Skyway Drive.
Parcel # 09-222-056

Item 6. **PLZNA 2023-00055 Variance-** The Board of Adjustment is requested to consider a Variance application from LeNeal Austin Love, Secretary of the United Church of Deliverance. The applicant is requesting a variance from Section 157.4.2.3 of the Unified Development Ordinance that requires a minimum lot area of 12,000 in the RMD, Residential Medium Density, District in order to subdivide the property.
Parcel # 09-273-200

Item 7. **Discussion:** Date of December Meeting

Item 8. **Adjournment**

*Attention: BOARD MEMBERS:
Please call Ashlyn Penegar at 704.282.4527 to confirm your attendance. Thank you!*

cc: *Mujeeb Shah-Khan
Ashley Duncan
Doug Britt
Keri Mendler
Megan Brightharp*

**MINUTES OF THE
BOARD OF ADJUSTMENT MEETING
October 10, 2022, at 6:00 P.M.
Council Chambers
300 W. Crowell St.
Monroe, NC**

To S. Laney :

Item 1. Call to Order

Chairman Kenneth Deal called the October 10, 2022, meeting to order at 6:00 p.m. and noted that there was a quorum present with 3 members. Ashlyn Penegar, Administrative Assistant, called the roll.

Members Present: Kenneth Deal, William Draper and George Smith

Members Absent: None

Staff Present: Doug Britt, Senior Planner; Megan Brightharp, Planner I; Al Benshoff, BOA Attorney; Ashley Britt, Assistant City Attorney; Ashlyn Penegar, Administrative Assistant

Guests: John Floyd, Jeff Myers, Ryan Mitchell, Andy Morrison, Brian Lappin, Todd Gingrich, Jess Hendricks

Item 2. Approval of Minutes – Minutes of June 23, 2022

Motion: Mr. Draper made a motion to approve the minutes of the June 23, 2022, meeting.

Second: Mr. Smith

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

AYES: **Kenneth Deal, William Draper and George Smith**

NAYS: **None**

Item 3. Conflicts of Interest

Chair asked if there were any conflicts of interest. There were none.

Item 4. PLZNA-2023-00025 Variance- The Board of Adjustment is requested to consider a Variance application from Gary Ross, owner of 1108 Crescent Street. The applicant is requesting a variance from section 157.4.2.3 of the Unified Development Ordinance that requires a 20' front yard setback in the RMD, Residential Medium Density, District in order to build a 10' x 20' front porch. (Parcel ID # 09-238-108A)

Chair said that anyone who is going to give testimony in this case needs to be administered the oath. Doug Britt, Senior Planner, Megan Brightharp, Planner I and Gary Ross, Applicant, came forward and were sworn.

Megan Brightharp, Planner I, said this is a Variance request from the front yard buffer in order to construct a front porch for an existing home at 1108 Crescent Street. She proceeded to enter the proposed Findings into the record:

Proposed Findings:

1. The property located at 1108 Crescent Street is owned by Gary and Debra Ross and is zoned RMD (Residential Medium Density). (Exhibit 1 and 2)
2. A variance application was submitted on August 29, 2022, requesting to build a 10' x 20' porch within the required front yard setback. (Exhibit 3)
3. Unified Development Ordinance (UDO) Section 4.2.3 entitled "RMH- Residential Medium Density" states in relevant parts: (Exhibit 4)
Table 4.2.3.2 RMD District Development Standards Table
Setbacks: Front (Street): 20'
4. In order to construct the porch, the applicant requests a front yard setback reduction from 20 feet to 15 feet. (Exhibit 5)
5. All adjacent property owners have been notified of the proposed variance. (Exhibit 6 and 7)

Chair said at this moment, the Board will entertain comments from anyone in favor of approval of this variance.

Gary Ross stepped forward to the podium and introduced himself. He said my address is 1108 Crescent Street in Monroe, NC 28112.

Chair asked if Mr. Ross had a statement regarding this variance.

Mr. Ross said just one thing mainly, the amount of variance is only 5 (five) ft. I wouldn't have needed this variance, except that this house was built in 1975 and my family has lived there ever since and it's a small house and we just wanted to have a deck so that we could sit outside and that type of thing. They put these power lines through the front there and took away land from us and we had no choice in the matter, which caused us to need this variance. The area that I am looking to build at, the sidewalk is already there, I just want to go to the edge of the sidewalk and the end of my house, that's all I want to do. It's a simple deck, nothing fancy. I wanted to do it right with a permit and everything, so that's why I am here asking for a variance.

Chair asked and said so if this would be allowed, then up to the new porch would just be 15 (fifteen) ft. from the roadway?

Mr. Ross said yes sir. Before that 5 (five) ft. was taken away from me, it would have been fine, but I had no choice in that matter, so I need the variance to put a deck on the front of my house.

Chair asked if there are any questions for the petitioner? There were none.

George Smith asked is there any reason you couldn't put the deck on the backside of the house or one side or something like that?

Mr. Ross said the backside of the house, it's not showing on the map, but there is a building right behind it right there and that's been built since that photo was taken. It's really high and there are no doors, there is only 2 (two) doors in the house and one out the one side and it's for parking our cars and then the other is the front, so that's the most logical place to put it.

Chair asked Megan Brightharp to return to the podium and said could you please explain how the setbacks are measured?

Megan Brightharp said setbacks are measured from the edge of the road or right of way line and so the setback in this case was measured from the right of way line to be 20 (twenty) ft. and so from his home to that right of way line is 25 (twenty-five) ft. total.

Chair asked how much right of way distance from the roadway to the right of way?

Megan said the right of way line is at the roadway.

Chair asked so they are the same?

Megan said yes. In some instances, they are not, but in this case they are the same.

George Smith asked you didn't lose anything when the power lines came in?

Al Benshoff said I would like to address that. Here is a copy of the Electrical Transmission Line Easement Deed dated February 29, 2008, and I will pass this around. (Exhibit: 9) An easement gives the City the right to go on a property and use it for City purposes, but Mr. Ross owns the land underneath the easement, so the proper measurement of the setback is from the right of way line and not from the edge of the easement. It absolutely looks like the easement is not usable for any other purpose and it probably isn't because it would interfere with the City's electrical transmission line, but technically the setbacks measure from the right of way line and not from the easement line. There has been a lot of confusion about that. Would you like to introduce the Electrical Transmission Line Easement Deed as the next exhibit, Ms. Brightharp? Megan said I will be adding Exhibit 9 to the record, which is the Electrical Transmission Line Easement Deed.

Al Benshoff said thank you.

Chair said in light of Exhibit 9, how does that change the computation in compliance with the UDO?

Megan asked repeat that question again please?

Chair said with this new Exhibit 9, how does that equate for the measurement?

Megan said the measurements we presented in our previous exhibits has taken that into consideration, from the home to the right of way line, it was 25 (twenty-five) ft. and 5 (five) ft. of that is that easement.

George Smith said so, without that easement he would be ok?

Al Benshoff said no.

Megan said no. We didn't take the easement into consideration for how much he needs to ask for. From his home to the right of way line, it was 25 (twenty-five) ft., and the minimum front yard setback is 20 (twenty) and that leaves 5 (five) ft. He is trying to build a porch 10 (ten) ft. from the house, so he is asking for a variance for 5 (five) ft. for that 10 (ten) ft. in total.

George Smith said ok, so he only gets 5 (five) ft. from the 10 (ten) ft. that he needs?

Megan said yes.

Chair asked if there was anyone that would like to speak in favor of the variance? Is there anyone that would like to speak in opposition of this variance? Very well, do we have any comments from Board members?

Chair said at this moment, I will entertain motions on whether or not to accept the proposed Findings of Fact 1-5 as a matter of record.

Motion: Mr. Draper made a motion to approve the Findings of Fact 1-5.
Second: Mr. Smith
Action: The motion to approve the Findings of Fact 1-5 passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith
NAYS: None

Board discusses.

Al Benshoff says this is a draft order about the variance for your consideration. It's just a draft and I would urge you to make your own Findings, which you have already done, and your own Conclusions, which you have not yet done.

Chair states based on the findings, that we are now moving on to the conclusion phase on whether to grant or deny the request for the variance.

Chair said now we are moving onto the conclusions.

1. It is the Board's CONCLUSION, that unnecessary hardship (**would**/~~would not~~) result from the strict application of the ordinance.

Motion: Mr. Smith made a motion that it would be an unnecessary hardship.
Second: Mr. Draper
Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith
NAYS: None

2. It is the Board's CONCLUSION, that the hardship (**is**/~~is not~~) peculiar to the applicant's property.

Motion: Mr. Draper made a motion that it is peculiar to that piece of property because it was built just 25 (twenty-five) ft. from Crescent Street right of way.

Second: Mr. Smith

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

3. It is the Board's CONCLUSION, that the hardship (is/**is not**) the result of the applicant's own actions.

Motion: Mr. Smith made a motion that it is not because the front setback was adequate when the house was built.

Second: Mr. Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

4. (a) It is the Board's CONCLUSION, that the variance (**is**/~~is not~~) consistent with the spirit, purpose, and intent of the ordinance.

Motion: Mr. Smith made a motion that it is because it is the smallest variance that could be granted in order for the deck to be built.

Second: Mr. Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

- (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.

Motion: Mr. Draper made a motion that in granting the variance, the public safety will be secured, and substantial justice will be achieved because the decrease in the setback will not affect the public because the deck is to be located as far as possible from all lot lines. It does not affect traffic or pedestrian traffic.

Second: Mr. Smith

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Chair asked for a motion to grant or deny the variance request

Motion: Mr. Deal made a motion to grant this variance based on the information provided, the findings of fact in the draft submitted by Mr. Benshoff

Second: Mr. Draper

Action: The motion to grant the variance passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith
NAYS: None

Item 5. PLSUP-2023-00002 Special Use Permit- The Board of Adjustment is requested to consider a Special Use Permit application from Brian Lappin, representative of Metal Recycling Services, LLC. The applicant is requesting a Special Use Permit to establish a metal recycling facility at 3001 East Highway 74, located within the ETJ. (Parcel #: 09-087-011, 09-087-004A)

Chair asked that anyone who has not been sworn in to please step forward. John Floyd, Ryan Mitchell, Todd Gingrich, Andy Morrison, Doug Britt and Megan Brightharp stepped forward and were sworn.

Megan Brightharp, Planner I, said this is a petition for a Special Use Permit request by Brian Lappin. She proceeded to enter the proposed Findings into the record:

1. The property at 3001 East Highway 74 is owned by Metal Recycling Services, LLC and is zoned GI (General Industrial). (Exhibit 1, 2).
2. A Special Use Permit Application was submitted on June 30, 2022, requesting to establish a metal recycling center in the GI (General Industrial) District. (Exhibit 3)
3. According to Section 157.7.1 of the City of Monroe Unified Development Ordinance titled "Tables of Permissible Uses (Traditional and Mixed-Use)," Recycling and Waste Related Services are only allowed in the GI Zoning District with the issuance of a Special Use Permit from the Board of Adjustment. (Exhibit 4)
4. According to Section 157.7.2.8.E of the City of Monroe Unified Development Ordinance titled "Recycling and Waste Related Services," the use is described as "any facility which deals in the recycling, disposal, or elimination of used materials or waste," with "recycling facility" listed as an example. (Exhibit 5)
5. A Standard 5 Appraisal Impact Study was completed by Morrison Appraisal, Inc. It is the opinion of Morrison Appraisal, Inc. that a metal recycling center will not adversely affect the value of the adjoining properties. (Exhibit 6)
6. All adjoining property owners have been notified of the Special Use Permit application. (Exhibit 7&8).

Megan Brightharp concluded the presentation and said I will be happy to answer any questions that you might have, and the applicant is here if you have any questions for them.

Chair asked if there are any questions for staff?

Mr. Draper asked when they say recycle, how big are we talking?

Megan Brightharp said I would like to defer to the applicant.

John Floyd approached the podium and said I am an attorney with Moore & Van Allen in Charlotte, NC and I am here on behalf of Metal Recycling Services. What we have here is there is an existing facility for Metal Recycling Services located here and that facility already takes things like automobiles. You can bring your car in, and they have a giant shredder there that will tear it up and put it through a process to get the steel out of it.

Mr. Draper asked if it comes out in a cube?

Mr. Floyd said no, actually what comes out is what we've got in these bags right here (shows 2 large bags full of "fluff") and this is the end product and this is what is currently in place at their existing facility on Bivens Rd.

George Smith asked is this the same facility that every once in a while has a meeting across the road?

Mr. Floyd said I can't speak to that.

Mr. Smith said I was just wondering if it's the same facility.

Mr. Floyd said to answer your question, this is what is currently produced at the existing facility on Bivens Rd., and it is right across the street. So, what they are proposing to do is essentially construct an expansion of the existing facility that will take this material right here, that is already produced and use new technology to pull out metal that is left behind under the existing process.

Mr. Draper asked is heat involved in this process?

Mr. Floyd said we will go through this a little bit, but essentially what the product is, this is called fluff. They used infrared sensors, air sensors that floats along conveyor belts that actually pulls the metal out and what is left over is the pieces of the car that can't be recycled. These are things like the seats, the leather upholstery and things like that. So, no, there is no actual smelting of metal or anything like that at this facility. It is taking this fluff, which is already being produced and separating it to get out the metal. You can see in here that there are pieces of metal in it, it just takes that out so that it can be resold, and it reduces the amount of stuff that currently gets sent to a landfill.

Mr. Smith asked basically this is mechanical separation?

Mr. Floyd said yes, sir.

Chair asked Mr. Smith if that answered your question?

Mr. Smith said yes.

Chair asked if you have any additional questions?

Mr. Smith said no.

Chair said at this time, I would like to call forward anyone who wants to speak in favor of the project.

Mr. Floyd said thank you again and I represent Metal Recycling Services and I want to thank you for being here tonight, for serving on the Board and I know tonight is not your normal meeting schedule. As I mentioned before, Metal Recycling Services operates a metal recycling facility currently on Bivens Rd. and

we are here seeking a Special Use Permit to allow expansion of that facility across the street to take the byproduct of that existing facility and put it through new technology that pulls out additional metals. This will increase what they can sell and reduce what goes to the landfill. You will hear from 4 (four) witnesses this evening and I will try to be respectful of your time and I believe this application is unopposed and I will do what we can to speed things along. But, I am required to establish or provide substantial evidence to establish 4 (four) criteria that are there on the screen and I am sure you are familiar with them, but the proposed expansion doesn't endanger the public health, meets the requirements of the UDO, isn't going to harm neighboring property values and is consistent with the Land Use Plan and is in harmony with the neighborhood. With that, I would like to call Ryan Mitchell as my first witness.

Ryan Mitchell approached the podium.

Chair said to Mr. Mitchell, please state your name and your address for the record.

Mr. Mitchell said my name is Ryan Mitchell and I live at 9646 Sweet Shooter Lane in Charlotte, NC 28210.

Mr. Floyd said can you give the Board or tell them a little bit about yourself and your position?

Mr. Mitchell said I have been in the recycling industry for about 27 (twenty-seven) years. I've worked 19 (nineteen) of it with the company that I am currently with. Metal Recycling Services, I've been here in Monroe for 11 (eleven) years and that's pretty much the story.

Mr. Floyd asked what is your current job at Metal Recycling Services?

Mr. Mitchell said right now I am the Regional Operations Manager, so I have facilities here in North Carolina and 1 (one) in Kentucky and 1 (one) in Charleston, WV.

Mr. Floyd asked what is Metal Recycling Services?

Mr. Mitchell said Metal Recycling Services is the raw material provider for Nucor Steel, our parent company. Our main thrust really is shredding, so we supply somewhere around ten thousand (10,000) tons of shredded metal to Nucor on a monthly basis. We also recycle somewhere around a million tons of aluminum type (inaudible) and another eight hundred thousand (800,000) pounds of non-perish materials here in the area of Monroe.

Mr. Floyd asked you currently have a facility here on Bivens Road? Is that correct?

Mr. Mitchell said yes, that is correct.

Mr. Floyd asked how would you describe the safety record at that Monroe facility?

Mr. Mitchell said when I went out there today, we had worked 1,536 days without an accident. So, I think that is pretty good, it's a little over 4 (four) years. We work really hard at that.

Mr. Floyd asked if you are compliant with all OSHA requirements?

Mr. Mitchell said we are. As a matter of fact, we report to the Sharp program, I think Cherie Berry actually got it started here in NC. We invite OSHA inspectors in to our facilities and we really work hand in hand with them, so that we can figure out how to improve and make our processes safer and better for our people and our customers.

Mr. Floyd asked does the facility operate in compliance with all environmental requirements?

Mr. Mitchell said we do.

Mr. Floyd asked if you have had any accident or incident at the Monroe facility that would have negatively impacted the public health or safety?

Mr. Mitchell said no sir.

Mr. Floyd asked can you tell the Board a little bit about the operations for the Monroe facility? Let me put it to you this way, if I was a person and I showed up with my car and I want to sell it to you, can you describe to them what will happen to that car?

Mr. Mitchell said I can. So, you are going to come into our facility, and you are going to pull onto our scale. We will weigh you in and I don't know if any of you guys have ever recycled anything or no, but we will weigh you in if you have a car. We are going to ask you if that car is 10 (ten) years old or older, if it is newer than 10 (ten) years old, we will require a title, then we will have them pull forward, once we have the weight. Then, they will go down to our inspection station and we will inspect the car and look for mercury switches, we look for gas, we look for batteries first, we read off the VIN number for the car to make sure that it's not stolen. We have a dual system on that, where we send it in to the state of North Carolina and we work really closely with the NCDOT to help with the problems that they have in the past and then our company also has another hotline, if you will, you will put the VIN number in and it will check the data bases across multiple states. So, it makes sure that we aren't purchasing something that has been stolen. Once we get the go ahead and we will move it down and eventually go on a drain rack and we will drain the gas out of it, if it has gas in it, we drain the antifreeze out of it, we take the motor oil out of it and we also collect the Freon to make sure that there is no kind of mercury switch in that vehicle, which it's getting less and less as the cars are getting newer and newer.

Mr. Floyd asked what happens to the car after all that?

Mr. Mitchell said that's the best part. We take it over to our shredder and it will go up on the shredder, we go through, and we have a rotor that weighs about seventy thousand (70,000) pounds with hammers in it and it turns counter clockwise and the car will drop down in there and it will start shredding the car. So, it will come down out of there and we've got a series of three (3) magnets. So, all the ferrous material that is magnetic will come up to these magnets and then drops down and comes up again and drops down and that goes into a pile by itself. The rest of the material, what we call fluff, which is anything that is not magnetic, it can be copper, it can be brass, it could be copper wire, stainless steel, seats, seatbelts, rubber tires, dirt. You know, people love to sell us dirt, it's amazing how much North Carolina real estate is worth nowadays. Anyways, it goes the other way and currently, we've got a separation system that was pretty good about twenty (20-) years ago and we would separate it magnetically and it's mostly done mechanically, as you were speaking to earlier. But, we still have some guys that pick and make sure the lines are running right and that's where we are getting roughly a million pounds on a monthly basis, just from our shredding activities. So, that's what happens to the car.

Mr. Floyd asked can you explain what these bags are full of?

Mr. Mitchell said in this bag (the bag of fluff that was previously shown to the Board) if I can come up towards you guys. This bag is U & F, it has not been through our separation system, and you can see all the different kinds of metals that's in there. That has not been through our current system.

Mr. Draper asked you use no water in this system?

Mr. Mitchell said we do not, not in the separation system. We do put water in our shredder as we are shredding and that's what you're see when it's turning, what you see rising up is steam. That way we aren't overheating, and I mean it already gets warm.

Mr. Draper said ok, modern cars. Some have dozens of computers in them, what do you do with those?

Mr. Mitchell said well, that is part of what we are trying to improve here with this new system that we are putting in. To be honest with you, those are going to get shredded and then when it comes out, part of the separation system will be to collect those green boards that come inside. Those are the mother boards and all that stuff. With this new technology we have, you can visually see it through a sensor bar, and it will shoot a puff of air on this green board and blow it over and the rest of the material will keep flowing through. This is exactly what we are trying to do and as the times change and there is no more metals in these cars, we want to put less in the landfills and that's ultimately what we are trying to do. That means, we will make more money. Our current system that we have, this is what's left (shows 2nd bag of fluff). You can see some insulated wires in there and what you really can't see very well is all the little fine, small stuff, it's full of metal and we have a way that we can separate that out as well, so you can see the insulated wire and things in there. This is the before (shows first bag) and that's after it's been separated with our current system.

Mr. Smith said it leaves the wires.

Mr. Mitchell said it leaves the different metals in there, the small stuff is what we cannot get out currently.

Mr. Draper asked how many folks do you employ out there?

Mr. Mitchell said we have 40 (forty) people employed currently.

Mr. Draper asked if you expand to this new facility?

Mr. Mitchell said probably another 12 (twelve) to 14 (fourteen) people.

Mr. Floyd asked that fluff isn't hazardous, is it?

Mr. Mitchell said no, it's not hazardous.

Mr. Floyd said after we've all been touching it. What currently happens to it at the end of the day?

Mr. Mitchell said at the end of it, now it heads to the landfill, and it's being used as cover out at Anson County.

Mr. Floyd asked is your company currently operating any facilities similar to what is being proposed to be built here in Monroe?

Mr. Mitchell said we do. We have one in Louisville, Kentucky, that I have been to and spent some time. We have one in Utah, we have 2 (two) in Florida. We've been doing this for some time. We are hoping to have a little better version of what they have, as technology continues to advance.

Mr. Floyd asked does any of those facilities give off any type of noxious gas or odor?

Mr. Mitchell said no.

Mr. Floyd asked does any of those facilities create any type of environmental issues?

Mr. Mitchell said they do not.

Mr. Floyd asked has any of them been cited as a type of public health hazard?

Mr. Mitchell said they have not.

Mr. Floyd said remember, I asked you to look at the photos on the screen. (Mr. Floyd displays pages 21-22 from the SUP application attached to the Board's packet at Exhibit 3.) I'm actually going to scroll through 2 (two) of them. Can you tell the Board what these are pictures of?

Mr. Mitchell said if you want to go back to the first one John. So, this is kind of the system that we are going to, it's very similar to this. I believe this is in Texas. So, you've basically got a system of belts and you can see the one that comes up and that's where it's going to start separating out by size, so all the really fine stuff, that's going to go out first. There are different holes in that system and different size holes, and we size all this material, and it will start going to different belts and each one of those belts will drop down on a different type of recovery equipment. Some of it is an Eddy Current, so basically what an Eddy Current system does is nonferrous materials, a lot of them are negatively charged and so we have a negatively charged magnet on there. When those 2 (two) come together, it's like when you were a kid and you tried to shove those magnets together, but it wouldn't and it's the same kind of principle. It will flip that metal off and then it will continue down on the stream and then it will get to the sensor sorter where it monitors what you have coming through. As it sees metal, it fires on that metal and pulls it off. There are several types, probably 4 (four) different types of separation that we have in this new system.

Mr. Draper said the average size of the car, what percentage....

Mr. Mitchell said we get about 26% out of it. It will come out as fluff, which is all the other metals, other than steel. We think it's probably going to go close to 30% in the years coming. But, in the years coming, who knows what's going to be, if we go the way we are going, I'm not even sure how we are going to be recycling. But, we will worry about it when we get there.

Mr. Floyd asked do you expect that the new facility is going to be something what these photographs show?

Mr. Mitchell said it will be similar, yes.

Mr. Floyd asked do you anticipate the new facility is going to create any noxious gas or odor?

Mr. Mitchell said no, it will not.

Mr. Floyd asked is there any reason that you are aware of to have any concerns about the new facility creating any type of environmental issue or endangering the public health?

Mr. Mitchell said it will not.

Mr. Floyd asked will the new facility be operated in accordance with all OSHA requirements?

Mr. Mitchell said absolutely.

Mr. Floyd asked will it be operated in accordance with all environmental rules and regulations?

Mr. Mitchell said yes sir.

Mr. Floyd asked will you be doing any shredding at this new facility?

Mr. Mitchell said no.

Mr. Floyd said is it fair to say that the new facility will be a much less intense use than what is currently going on at the existing MRS facility right across the street?

Mr. Mitchell said yes, it is pretty quiet. Yes, much less.

Mr. Floyd asked will the new facility have any positive environmental impacts?

Mr. Mitchell said it will. We are going to continue to pull more metal out and more recycling, which is good for everybody, and we are going to put less in the landfill, and they are still going to be able to use it for cover, instead of using dirt.

Mr. Floyd asked are you familiar with the area around the property where you are proposing to build the new recycling facility?

Mr. Mitchell said I am.

Mr. Floyd asked what can you tell us about what is around there?

Mr. Mitchell said we are right there on the corner of Bivens and Hasty. You go across the road, we own a truck lot, behind that is basically where our proposed site is. If you go South, you are looking at 74 and ASSA ABLOY is across the way, behind us, I guess that would be to the East, there is really nothing right now. Then, the other direction, there is the railroad tracks and once you cross over there, there is a business down there that is pretty far from where this will be.

Mr. Floyd said given your experience with these types of facilities, do you think this new proposed facility will be in harmony of the area which it is located?

Mr. Mitchell said I do.

Mr. Floyd said thank you. That is all of the questions I have for Mr. Mitchell at this time.

Chair asked do we have any Board members that have any questions for Mr. Mitchell?

Mr. Smith said I got a little confused when you talked about positive and negative, were you talking about electrostatic or are we talking about magnetism?

Mr. Mitchell said magnetism.

Mr. Smith said ok, because I usually think of North and South instead of positive and negative with magnets.

Mr. Floyd said ok, next I would like to call Todd Gingrich as my next witness.

Mr. Gingrich stepped forward to the podium.

Mr. Floyd said can you please tell the Board a little bit about yourself?

Mr. Gingrich said sure, my name is Todd Gingrich and I'm employed by a civil and environmental consultant, located at 3701 Archo Corporate Dr. Charlotte, NC. I've been a professional Civil Engineer in the state of North Carolina since 2006. I've been in the Charlotte area since that same time, pretty much all of my work is in the Charlotte Metro area. I've worked on all types of projects, any type of civil site land development, it could be commercial, industrial, residential, all the permitting that goes along with that, as well as construction administration with those projects.

Mr. Floyd said first of all, can you tell me what is on the screen?

Mr. Gingrich said sure. So, this is our site plan (Exhibit 3, page 19. Ed.) to go along with the Special Use Application and I'll just go around and work my way in. To the South, you see Highway 74 and to the East, is undeveloped property. On the North side of this property is basically a two hundred (200) ft. wide CSX rights-of-way and Bivens Rd. borders to the West. We are proposing to keep site access with the existing driveway, this will be permitted through the City as well as NCDOT. This will be a single access to the project, there is no direct access to US Highway 74. As we enter the site, there will be a parking lot for employees, a scale to weigh trucks coming in and out, a breakroom. In the center of the site, there is an intermittent stream that we are going to need to cross here with a culvert, so civil environmental consultants delineated the stream and the pocket wetland and of course we will get a permit through the core of engineers and DEQ for any impacts for this culvert crossing. Once we go in the site, it's basically all the gray area and will be either paved or asphalt and that will of course help keep down the dust and of course provide a small operating surface for all equipment and vehicles and so forth. As far as stormwater management for this site, it's all going to be in compliance with the DEQ and the City of Monroe standards. We are proposing three (3) stormwater BMP's or stormwater ponds for this site. These will most likely be dry ponds, with a sand filter under the drain, so they are only meant to hold water for a short period of time. This will treat and slow the rate of runoff from impervious areas that we are developing for the site. Water and sewer, fire water will be provided by Monroe Water and we do have a capacity assurance letter that is in our packet and those connections will most likely occur here on Bivens Rd. Water and sewer service basically to the breakroom and then fire water service either by private hydrants or by sprinklers to supplement the equipment on this side. On the west side, south side and east side, we are going to provide a twenty (20) ft. type 2 buffer and this will be a mixture of trees and shrubs. We will also have an eight (8) ft. high chain link fence with mesh screening inside that buffer. So, the fence is meant to provide security for the site, as well as screening so you have a visual barrier of what's going on inside the site. That's pretty much it, of course for permitting, we will work with NCDOT and the City of Monroe for driveway and utility connections, the United States Army Corp of Engineers and DEQ for stream crossing and site development engineering review through the City of Monroe and those are the permits that we are expecting at this time.

Mr. Floyd said can you tell the Board what these are (shows street view photos from EX 3, pages 23-28 on screen)?

Mr. Gingrich said this is views from Highway 74, approaching the proposed facility. You can see the buffer along the front, and the fencing. There is a little bit of a grade separation, so you can see how it kind of goes up a little bit in elevation and then it will go down a little bit where the actual equipment will sit. In this shot, here you will see the signage along the road. We plan to have at least one sign along Highway 74 and again, no access to Highway 74.

Mr. Floyd asked did your firm help prepare these renderings?

Mr. Gingrich said we did.

Mr. Floyd asked do they reasonably reflect what the developed site will look like after construction is complete?

Mr. Gingrich said it does.

Mr. Floyd said as part of the preparation of the site plan, did you review the Monroe Unified Development Ordinance?

Mr. Gingrich said we did.

Mr. Floyd asked in your opinion, does the proposed project meet all of the requirement conditions and specifications that the Monroe UDO states?

Mr. Gingrich said yes, it does.

Mr. Floyd said that's all the questions I have for Mr. Gingrich. Do I have any questions from the Board members?

Mr. Smith asked in the separation operation, how fine of a product are we talking about? Are we talking about micron or half inch or what?

Mr. Floyd said I think that's more of a question for Mr. Mitchell.

Mr. Mitchell said I don't know about microns. We are probably looking at an 1/8 of an inch.

Mr. Smith asked you aren't talking about turning it into micro-fine material, because even metal if you get it micro-fine, it can cause fires. I'm just making sure we aren't going down that fine.

Mr. Mitchell said ok.

Chair asked if there is anything else for him?

Mr. Floyd said next I am going to call Mr. Andy Morrison as my witness.

Andy Morrison stepped up to the podium.

Mr. Floyd asked Mr. Morrison, can you just tell the Board a little bit about yourself?

Mr. Morrison said my name is Andy Morrison with Morrison Appraisal. It's a family business since 1985 and I've been with the company since 2004.

Chair asked please state the business address.

Mr. Morrison said of course, it's 613 Euclid St. here in Monroe, NC. I specialize in commercial real estate, evaluations, impact analysis, easement right of way work, pretty much anything that comes down the pipeline.

Mr. Floyd asked can you talk a little about your education and certifications?

Mr. Morrison said undergraduate at Appalachian State, Pre Law and then got into the appraising business, which is a family business. I have my certified general, which allows me to appraise any property type in the state of North Carolina. I am a MAI designated with the Appraisal Institute and I also have my CCIM designation with CCIM. Those are two of the highest designations available with the industry and I've had those for several years now.

Mr. Floyd asked can you describe your experience conducting impact studies?

Mr. Morrison said I've done a lot of impact studies. Mostly in the Union County area in Monroe. We've done them for many years, as long as I've been in business and my father has done them as well. I've seen about everything that's come across the pipeline and that kind of stuff.

Mr. Floyd asked did you conduct an impact study to determine if MRS's proposed use would substantially injure the value of the adjoining property?

Mr. Morrison said I did.

Mr. Floyd asked did you prepare a report to summarize your process and opinions?

Mr. Morrison said I did.

Mr. Floyd asked was that report submitted in connection with the application?

Mr. Morrison said it was.

Mr. Floyd showed a slide (Exhibit 6. Ed.) on the projector screen and asked does this appear to be the first page of the report?

Mr. Morrison said that is it.

Mr. Floyd asked can you explain the methodology that you use when conducting the impact analysis?

Mr. Morrison said what we typically do is we find kind of the use or in this case the Special Use Permit, we find that property type to something similar to it and then analyze the surrounding properties of comparable sites and determine if there is an impact to value based on that proximity to that use type and in this case, we looked for recycling facilities in the area and did an analysis of surrounding business sites and compared those to non-influenced sites in the market to see if there was any kind of correlation or impact either way in the evaluation.

Mr. Floyd asked what documentation did you review in connection with your impact study?

Mr. Morrison said the UDO to figure out the zoning of what's around. Kind of the surrounding land uses and the Land Use Plan. Just any sales or databases that we have access to, GIS, Costar, NLS and that type of deal.

Mr. Floyd asked as part of the process, did you look at the zoning on the subject property and the neighboring properties?

Mr. Morrison said I did, yes.

Mr. Floyd asked what did you find?

Mr. Morrison said all industrial areas. With the new UDO, the future land use is to remain in that kind of designation, industrial.

Mr. Floyd asked did you form an opinion regarding whether the proposed use would substantially injure the value of the adjoining property?

Mr. Morrison said I did.

Mr. Floyd asked what was your opinion in that regard?

Mr. Morrison said it will not harm the property.

Mr. Floyd asked can you explain to the Board your reasoning for that opinion?

Mr. Morrison said it's case studies that I have performed, and I've looked at some sites in the Charlotte area. One case was a location in Gastonia, and it was very similar operation to what they are doing now. It was located in an industrial area and there was a sale of an industrial building and it sold for just under \$10.00 a square foot, so I looked around in that area and pulled some comparable building of that type and we found it to be the average was consistent with that. So, it did not show any type of impact. We have several buildings in the Charlotte area with the same property type, same size, type of deal and the average price per square foot of those sales in that time period were \$9.23 a foot, so it was very consistent with the one that was exposed to the recycling facility.

Mr. Floyd asked did you conduct a similar analysis with regard to other similar facilities?

Mr. Morrison said I did. I looked at a United Scott, they handled both ferrous and nonferrous materials and it is the same thing, industrial area and the building beside sold back in 2019 and closed with a 6.2 cap rate, which is very consistent with a 2019 type of cap rates. Sales in that area, we've got several sales, building styles, size, age, they averaged \$55.00 a foot and then by the Boulevard site building sold for \$57.00 a foot, so it was very consistent with that. I didn't see an impact there. I looked at a competitor they have with CMC Recycling out of Spartanburg and it was still very similar. There is a very, very large industrial development that is going there by Stagg Industrial Holdings and it's going to be close to 275,000 square feet of building. They bought the building for 19 million dollars and the lot for 2.7 million. Stagg Industrial is in acquisitions and they have over 500 buildings in 40 states, so they go under extensive underwriting and site due diligence. In my opinion, they would not develop that site and spend that kind of capital if they were influenced negatively from the adjoining site.

Mr. Floyd asked is all the analysis that you conducted and the basis for your opinions contained in your report, which has already been made an exhibit in this hearing?

Mr. Morrison said it has. Yes.

Mr. Floyd said just to summarize, it's your opinion that the proposed use here would not substantially injure the value of adjoining property?

Mr. Morrison no, I didn't see anything in the empirical data and the opinions of the leasing representative, and he said he had never received a question from a prospective tenant about the recycling center that connects. He didn't think of any impact that it would have.

Mr. Floyd said that is all the questions I have for Mr. Morrison. Last, but certainly not least, I would like to call Ms. Megan Brightharp back. Does she need to give her address or anything?

Chair said no.

Mr. Floyd said Ms. Brightharp, could you just quickly talk about your job responsibilities here for the City of Monroe?

Megan Brightharp said I am a Planner 1 and I am responsible for Board of Adjustment cases, Special Use Permits, Variances, permits for new developments, fences and things of that nature and all the other standard duties of the Planning department.

Mr. Floyd asked is it fair to say that you coordinated the review of the site plan that as submitted by various departments within the City of Monroe?

Megan Brightharp said I did.

Mr. Floyd asked as part of that process, is it fair to say that the applicant submitted a proposal, and that proposal was then circulated to various departments for review and comment?

Megan Brightharp said yes, it was.

Mr. Floyd asked so then, all those comments were then provided back to the applicant, correct?

Megan Brightharp said yes.

Mr. Floyd asked is it fair to say that the applicant incorporated all those comments and feedback that it received from the various departments within the City to its site plan that was submitted with the application?

Megan Brightharp said yes.

Mr. Floyd asked in your position, are you familiar with the Unified Development Ordinance?

Megan Brightharp said yes.

Mr. Floyd asked in your opinion, does MRS's proposal meet all the conditions and specifications of the UDO?

Megan Brightharp said to obtain a Special Use Permit, yes.

Mr. Floyd asked are you familiar with the Monroe Land Use Plan?

Megan Brightharp said yes.

Mr. Floyd asked under the Monroe Land Use Plan, am I correct that the property we are talking about is intended for manufacturing, logistics and aerospace, is that correct?

Megan Brightharp said yes.

Mr. Floyd asked in your opinion, is the proposed use in general conformity with the City of Monroe Land Use Plan?

Megan Brightharp said yes.

Mr. Floyd said thank you, that is all of the questions I have for you. That's all the testimony I have. I won't beat a dead horse. We talked about it at the beginning, there are 4 (four) requirements or criteria that we are supposed to submit evidence on, and you heard from Mr. Mitchell about the safety record of MRS and about the fact that the existing facility and the new facility will meet all the requirements of OSHA and environmental and everything else that could be effaceable here. You've heard testimony from multiple individuals, Ms. Brightharp from the City, Mr. Gingrich who said the proposed use meets all the required conditions and specifications of the UDO. You heard testimony from Mr. Morrison, and he talked about his analysis that the proposed use will not substantially injure the value of adjoining property. Then again, you heard testimony from multiple individuals talking about the fact that this use will be in harmony with the area and that it is essentially all industrial zoning in that area and there is already an existing metal recycling facility right next door. Ms. Brightharp just testified that this is consistent with the Monroe Land Use Plan, so we think we have met our burden to provide evidence in support of each one of those criteria. I just would like to read for you a bit out of a recent opinion from the North Carolina Court of Appeals that was handed down from March of this year. It talks about the role of the Board of Adjustment and in this case, it talks about the City Council, but it's in the context of a Special Use proceeding. It says, "Our Supreme Court recently discussed in detail the law relating to consideration of a Special Use Permit. Instructing as follows: The City Council or other City Board as designated by the ordinance, must demonstrate whether the applicant has met its initial burden of production to show that its proposed use meets each standard in the ordinance. If the applicant meets its burden of production, with respect to each standard and if there is the absence of competent material and substantial evidence tending to support a denial, then the City Council lacks authority to deny the application." That is, our Supreme Court instructs that in lack of planning in a civil case, an applicant for a Special Use Permit who has met its burden of production automatically wins if no contrary evidence is offered." Again I will submit to you that I think we have offered credible, material, substantial evidence in support of each one of those criteria and we would ask that you grant the Special Use Permit.

Mr. Benshoff asked Mr. Floyd, may we have the citation please?

Mr. Floyd said sir, it is: *Dismas Charities Inc. vs. City of Fayetteville* 282 NC App. 29.

Board discussed.

Chair asked is there anyone else here to speak in favor of issuance of a Special Use Permit? Is there anyone present here to speak in favor of denial of the Special Use Permit? No one being indicated, that closes...

Mr. Benshoff said before you close the public testimony portion, may I have 5 minutes here to talk to Mr. Floyd about the proposed order?

Chair said certainly. We will take a 5-minute recess while the attorneys confer, then we will reconvene at 7:17.

Recess: 7:12- 7:17

Chair said I think everyone is back and I will close the public comments and testimony portion of the hearing and ask the Board members to quickly review the Findings of Fact presented by Mr. Benshoff in a draft Order.

Chair said at this moment, I will entertain motions on whether or not to accept the proposed Findings of Fact 1-6 as a matter of record.

Motion: Mr. Draper made a motion to approve the Findings of Fact 1-6.
Second: Mr. Smith
Action: The motion to approve the Findings of Fact 1-6 passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith
NAYS: None

Special Use General Standards-

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

Motion: Mr. Draper made a motion that the proposed amendment will not materially endanger the public health or safety if developed as presented based on the findings.
Second: Mr. Smith
Action: The motion that the standard has been met passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith
NAYS: None

- 2. 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: Mr. Smith made a motion that the standard is met based on the findings. All ordinances are met.
Second: Mr. Draper
Action: The motion that the standard is met passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith
NAYS: None

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

Motion: Mr. Draper made a motion that the standard is met based on the findings of fact.
Second: Mr. Smith

Action: The motion that the standard is met passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith
NAYS: None

4. **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: Mr. Smith made a motion that the standard is met.

Second: Mr. Draper

Action: The motion that the standard is met passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith
NAYS: None

Chair said based on the afore votes, do I have a motion to grant or deny the issuance of the Special Use Permit?

Motion: Mr. Draper made a motion to grant the Special Use Permit.

Second: Mr. Smith

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

AYES: Kenneth Deal, William Draper and George Smith
NAYS: None

Item 6. **Discussion:** **Date of November Meeting**

Doug Britt said currently, we don't know if we will have any business yet. But, the deadline for Board of Adjustment is usually November 1st, so we don't know yet.

Mr. Smith said I make a motion that if we are going to change the date, we just don't have it on a Thursday, that's my bowling night. I already told them from the last time we were going to have a meeting and I got a sub, and I don't have to, I don't want a sub. Monday worked out great, but it's ok if the regular meeting falls on a Thursday, I understand that.

Doug Britt said before you all start making motions, let me throw out this, because obviously we had advertising deadlines that we have to meet and obviously we can't do the week of Thanksgiving, because that's when the meeting would be, is Thursday. Ideally we would try to do the Thursday before, but if that's not going to work...

Mr. Smith said it can work, it's just not my first choice. But, if it has to, it will have to work.

Doug Britt said the dates we threw out there would be for us would be November 17th or December 1st and those are both Thursdays. What is our quorum now that we are down to three?

Ashley Britt said it's three for a Variance and two for a Special Use Permit.

Doug Britt said we can do it (a special use permit) with two, but the applicant may not want to do it with two because it means he would have to have unanimous approval, and if it's a variance, we would have to have three. So, that's where we are, and someone could come in tomorrow. If it's something that's not a whole lot involved and where they can easily apply and pay the fee and turn it in by the first working day of November, so that's kind of where we are.

Mr. Smith said if it has to be, it has to be. I have no problem with it.

Doug Britt asked so would your choice be the November 17th or December 1st?

Chair said November 17th.

Doug Britt said we will know November 1st, so come November 2nd, if we don't have anything, we will cancel the meeting, so we don't cramp your schedule. So, it will be set for November 17th.

Item 7. **Discussion:** Consideration of Requesting City Council to Approve Adding the Pledge of Allegiance and Moment of Silence at the Beginning of each Board of Adjustment Meeting.

Chair said just for some background, I put this on the agenda. The Planning Board just passed a motion to request that as well and one of our previous members who moved out of town had also requested it. So, the question is, do we want to do the Pledge of Allegiance and have a moment of silence in recognition of military, first responders and so on.

Mr. Draper said I don't care one way or the other.

Mr. Smith said I have no objections to it, no.

Chair asked Mr. Draper, do you have any objections to it?

Mr. Draper said no.

Motion: Mr. Deal made a motion to request City Council to allow the Board of Adjustment to conduct the Pledge of Allegiance and a moment of silence at the beginning of each Board of Adjustment meeting.

Second: Mr. Smith

Action: The motion passed unanimously with the following votes:

AYES: **Kenneth Deal, William Draper and George Smith**
NAYS: **None**

Item 8. **Adjournment**

Motion: Mr. Draper made a motion to adjourn the meeting.
Second: Mr. Smith
Action: The motion to adjourn passed unanimously with the following votes:

AYES: **Kenneth Deal, William Draper and George Smith**
NAYS: **None**

The meeting was adjourned at 7:29 p.m.

Respectfully submitted,

Kenneth Deal
Chair

Ashlyn Penegar
Clerk of the Board



**STAFF REPORT
PLSUP-2023-00047**

TO: Board of Adjustment Members

DATE: November 17, 2022

FROM: Doug Britt, Senior Planner

PREPARED BY: Megan Brightharp, Planner

SUBJECT: Request to establish a bourbon and cigar lounge in the General Business (GB) District at 1901 B Skyway Drive.

SUMMARY STATEMENT

The Board of Adjustment is requested to consider this Special Use Permit request by Mark A. Fox, Guarantor of Fox's Alley, LLC in order to establish a bourbon and cigar lounge within the GB, General Business District at 1901 B Skyway Drive.

SITE DATA

Type of Action: Special Use Permit

Date of Petition: October 14, 2022

Name of Petitioner: Mark A. Fox

Location: 1901 B Skyway Drive

Tax ID #: 09-222-056

Lot Size: 2.26 Acres

Zoning Classification: GB (General Business)

PROPOSED FINDINGS

Staff offers the following Proposed Findings:

1. The property at 1901 B Skyway Drive is owned by Fox's Alley, LLC and is zoned GB (General Business). (Exhibit 1, 2).
2. A Special Use Permit Application was submitted on October 14, 2022 requesting to establish a bourbon and cigar lounge in the GB (General Business) District. (Exhibit 3)
3. According to Section 157.7.1 of the City of Monroe Unified Development Ordinance titled "Tables of Permissible Uses (Traditional and Mixed-Use)", bars, tavern, and night clubs are only allowed in the GB Zoning District with the issuance of a Special Use Permit from the Board of Adjustment. (Exhibit 4)
4. According to Section 157.7.2.6.N of the City of Monroe Unified Development Ordinance titled "Bar/Tavern/Nightclub", the use is described as "Any business or commercial establishment which is devoted primarily to the retailing and on-premises consumption of alcoholic beverages (not made on-site) and which is licensed by the state to dispense or sell alcoholic beverages. May be subject to locational requirements." (Exhibit 5)
5. All adjoining property owners have been notified of the Special Use Permit application. (Exhibit 6&7).

CONCLUSIONS

Staff is bringing this request before you tonight for your consideration.

Attachment(s):

Exhibit 1: Ortho Map
Exhibit 2: Zoning Map
Exhibit 3: Application
Exhibit 4: UDO Section 157.7.1
Exhibit 5: UDO Section 157.7.2.6.N
Exhibit 6: APO List
Exhibit 7: APO Map

Prepared by: MB 10/17/2022

Ortho Map

1901 B Skyway Drive

Legend

- Centerlines
- Parcels
- Subject Property**



Owner: Fox's Alley, LLC

Acres:2.26

0 25 50 100 150 200
Feet

Zoning Map

1901 B Skyway Drive

Legend

— Centerlines

▭ Parcels

Zoning

 GB

 OM

 RHD

 RMD

 Subject Property



Owner: Fox's Alley, LLC

Acres: 2.26

0 25 50 100 150 200
 Feet



SPECIAL USE PERMIT APPLICATION

Applicant's Name: Mark A. Fox

Applicant's Mailing Address: 803 Deese Rd.
Monroe NC 28110

Applicant's Phone Number: 980-328-3464

Applicant's Facsimile Number: 704-776-9519

Applicant's Email Address: foxndhouse@hotmail.com

Property Location: 1901 B Skyway Dr. Monroe NC 28110

Tax ID Number: - - Deed Reference Number: BOOK PAGE

Existing Zoning:

Proposed Special Use:
A bourbon and Cigar Bar in the existing building at this location.

Proposed Conditions:

Every petition for a reclassification of property shall be accompanied by a site plan drawn to scale and sealed by a registered engineer, surveyor, architect, or landscape architect licensed to practice in the State of North Carolina. Site plans for subdivision applications shall be in the form of a preliminary plat with all information that is required per Chapter 156 of the Monroe Code of Ordinances – Zoning Code, and specifically listed in the Appendix *Standards*. In addition, all applications for a Special Use Permit shall be accompanied by a written consulting report from a North Carolina State Certified Real Estate Appraisal that conforms to Standard 5 of the Uniform Standards of Professional Appraisal Practice (single family homes on single family lots are exempt from this requirement). The site plan shall include the following information; however, the Zoning Administrator may require additional information whenever necessary and may waive one or more of the requirements if such is found to be irrelevant to the proposed project.

General Information Required

- A location map that shows the project in relation to surrounding parcels, zones, streets, right of ways, and utility services and easements, total acreage, north arrow, legend, and a vicinity map.
- Name of the applicant(s) and the name of the proposed development including a copy of the current deed.
- The names and address of all adjoining property owners referenced by tax ID numbers. (This information can be obtained at the office of the Union County Tax Collector located in the Old Courthouse)
- Scale, at one (1) inch equals 100 feet, unless otherwise approved by the Zoning Administrator.

Revised 12-22-15

SUP Application.doc REVISED 2-99, 7-99, 2/00, 12/03, 7/04, 9/13, 1/14, 12/15

Information on Natural, Historic, and Recreational Features Required

- Contour lines at no greater than five (5) foot intervals.
- Location and dimensions of all recreational areas, equipment, features, historic sites and open space.
- Natural screening (woods, thickets, etc.), streams, ponds, rivers and similar natural or man-made features.

Zoning and Lot Information Required

- Existing and proposed zoning district lines, flood plain delineation, property lines, existing and proposed parking, trash collection systems and screening (include a copy of the planting schedule) and building footprints for any structure or walls to be placed on the property. Residential uses shall include the number of units per building and the total project.
- Proposed lot dimensions and setbacks, with diagrams of proposed signs showing location on the lot, size, height, and attachment (if indicated).
- Watershed data to demonstrate compliance with sections 156.101 of the Monroe Code of Ordinances.
- Boundary of any phase lines, for phased development plans. (Include a statement for future building time line)
- Detailed landscape plan in compliance with section Chapter 156, Article XVII of the Monroe Code of Ordinances issued by a certified landscape architect, or other certified professional preparer

Transportation and Utilities Information Required

- Existing and proposed streets, sidewalks, easements, parking and loading areas, drainage facilities, storm water control devices, and public utilities.
- A driveway permit from NCDOT for developments on state maintained roads, and a city driveway permit for development on city maintained streets.
- A letter from the Director of Water Resources stating that adequate water and sewer is available, or can be made available, to the site in adequate capacities.

Special use permit approval requires several standard findings of fact (see below). It shall be the responsibility of the applicant to address all findings related to the development proposal. The burden of submitting competent evidence that the findings have been met is the applicant's responsibility. Every application shall include an appraisal report from a certified appraiser that the proposed use will not substantially injure the value of the adjoining property, as specified in the findings below. Additional information supporting the special use permit application shall be the responsibility of the petitioner and not the responsibility of the city.

At the Board of Adjustment hearing, petitioners should be prepared to testify to the following standard findings of fact for all special uses:

- (1) Will not endanger the public health or safety,
- (2) Will not injure the value of adjoining or abutting property,
- (3) Will be in harmony with the area in which it is located, and
- (4) Will be in conformity with the land-use plan, thoroughfare plan, or other plan officially adopted by the Council.

Note: Due to the amount of detailed information needing to be submitted to the city, it is *requested* that early contact with the city planning department be accomplished to avoid unnecessary delays. All applications for a special use permit shall be reviewed by the Zoning Administrator prior to Board of Adjustment review. The applicant shall submit a completed application no later than 30 days prior to the Board of Adjustment meeting at which the petition is to be heard. If the application is found to be incomplete or the development is found to be in conflict with the requirements of this application, the developer shall be notified and the petition rejected.

Upon acceptance of the site plan by planning staff, the petitioner shall provide fifteen (15) copies of the site plan for review by the Board of Adjustment.

It is understood and acknowledged that if the Special Use Permit is authorized, the property involved in this request will be perpetually bound to the use(s) authorized and subject to such conditions as imposed, unless subsequently changed or amended as provided for in Chapter 156.42 of the Zoning Ordinance of the City of Monroe Code of Ordinances.

I. Special Use General Standards:

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

The use will NOT endanger the public health or safety. It is located in a non-residential location. The conditions of the use will be appealing and structured as private membership.

- 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.

yes, the structure is pre-existing and was formerly a business.

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

No, the development of this use should actually raise the value of the adjacent land and businesses, by upgrading the structure and making it a viable business.

- 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.

Yes, my wife and I own the Bowling Alley on the same property. We have made and kept Fox's Alley Bowling Center a wonderful addition to Monroe with NO violations. We will do the same with this project.

To the best of my knowledge, all of the information herein submitted is accurate and complete.

Mark A. Fox / Guarantor of Fox's Alley LLC

Applicant (printed)

Mark A. Fox / Guarantor of Fox's Alley LLC

Applicant's Signature

Date

10-14-22

Mark A. Fox / Guarantor of Fox's Alley LLC

Property Owner (printed)

Mark A. Fox / Guarantor of Fox's Alley LLC

Property Owner's Signature

Date

10-14-22

MONROE UDO

TABLE 7.1. - TABLE OF PERMISSIBLE USES

“P” = Permitted, “S” = Special Use Permit Required, “X” = Prohibited

	Traditional Districts												Mixed-Use Districts					
Use Type	RR	RLD	RMD	RHD	OM	NB	GB	GI	HI	PUD	PCD	DC-MX	DG-MX	CC-MX1	CC-MX2	RC-MX	MD-MX	REFERENCE
Indoor Recreation	X	X	X	X	X	S	P	S	X	X	P	P	S	P	P	P	X	7.2.6.J
Outdoor Recreation	X	X	X	X	X	X	S	S	X	X	P	X	X	X	X	X	X	7.2.6.K
Restaurant	X	X	X	X	S	P	P	X	X	P	P	P	P	P	P	P	P	7.2.6.L
Restaurant with Drive-Through	X	X	X	X	X	S	P	S	X	P	P	X	X	P	P	P	P	7.2.6.M
Bar/Tavern/Nightclub	X	X	X	X	X	S	S	S	X	X	P	P	S	S	S	P	S	7.2.6.N
Microbrewery/Winery/ Distillery	X	X	X	X	X	X	P	P	X	P	P	P	P	P	P	P	X	7.2.6.O
Car, Boat, Other Vehicle Sales and Rental	X	X	X	X	X	X	P	S	X	X	P	X	X	X	X	X	X	7.2.6.P
Minor Vehicle Service	X	X	X	X	X	S	P	P	X	X	P	X	X	P	P	X	X	7.2.6.Q
Major Vehicle Service	X	X	X	X	X	X	P	P	P	X	X	X	X	X	X	X	X	7.2.6.R
Convenience Store with Fuel Pumps	X	X	X	X	X	S	P	P	X	X	P	X	P	P	P	P	P	7.2.6.S
Car Wash	X	X	X	X	X	S	P	X	X	X	P	X	X	P	P	P	X	7.2.6.T

- e. Streetwalls are required at the boundaries of drive aisles along drive-through lanes. Streetwalls shall meet the requirements of Section 8.7.4.6: Pedestrian Considerations.

N. Bar/Tavern/Nightclub

1. **Characteristics.** Any business or commercial establishment which is devoted primarily to the retailing and on-premises consumption of alcoholic beverages (not made on-site) and which is licensed by the state to dispense or sell alcoholic beverages. May be subject to locational requirements.
2. **Accessory Uses.** Selling of food, ancillary indoor storage, associated office, deck, patio for outdoor seating or dining and entertainment, parking, valet parking facility.
3. **Examples.** Bars, taverns, cocktail lounges.

O. Microbrewery/Winery/Distillery

1. **Characteristics.** Any business or commercial establishment which is devoted primarily to the production of beer, malt beverages, wine or spirits for distribution, retail, or wholesale. May be subject to locational requirements.
2. **Accessory Uses.** Tasting room, selling of food, ancillary indoor storage, associated office, deck, patio for outdoor seating or dining and entertainment, parking, valet parking facility.
3. **Examples.** Bars, taverns, cocktail lounges.

P. Car, Boat, Other Vehicle Sales & Rentals

1. **Characteristics.** Establishments that are involved with the sale or lease of motor vehicles (including but not limited to cars and boats), renting of motor vehicles, and display of these motor vehicles.
2. **Accessory Uses.** Accessory uses may include ancillary indoor storage, associated office, showroom, vehicle fueling (for vehicles for sale or lease, not open to the general public), car wash (for vehicles for sale or lease, not open to the general public), and limited retail sales of items associated with motor vehicles.

PIN	OWNERNAME1	CURR_ADDR2	OWNERADDRE	OWNERZIP	OWNERSTATE	OWNERCITY	OWNERNAME2
09223010	WIGGINS CLARA P		408 W ROOSEVELT BLVD	28110	NC	MONROE	
09222004	PLYLER COMMERCIAL INVESTMENTS LLC		PO BOX 67	28110	NC	MONROE	
09222054	BONAR PROPERTIES LLC	#10939	2764 PLEASANT RD	29708	SC	FORT MILL	
09222054A	SMALL DAVID A		PO BOX 3001	281113001	NC	MONROE	SMALL GALE B
09222057C	ASL PROPERTIES INC		8539 MONROE RD	28212	NC	CHARLOTTE	
09222002	601 PROPERTIES		1900 SKYWAY DR	28110	NC	MONROE	
09223016	HELMS MARTHA HOUSE ET AL		109 WEE LOCH DR	27511	NC	CARY	KAYE HELMS
09222058	STONEHENGE APARTMENT PROPERTIES LLC		7735 OLD GEORGETOWN RD #301	20814	MD	BETHESDA	
09222057B	SWAPS LLC		4003 BROOK VALLEY RUN	28110	NC	MONROE	
09223017	PERRY RICHARD HEIRS	6579 BOPRE LANE	C/O KATHY FEASTER	28037	NC	DENVER	
09222057D	ASL PROPERTIES INC		8539 MONROE RD	28212	NC	CHARLOTTE	
09223018	EUBANKS MARY SANDRA SHIRLEY		2033 WOODHAVEN RD	282112605	NC	CHARLOTTE	
09222005	MT OLIVE AME ZION CHURCH		PO BOX 3345	28111	NC	MONROE	

APO Map

1901 B Skyway Drive

Legend

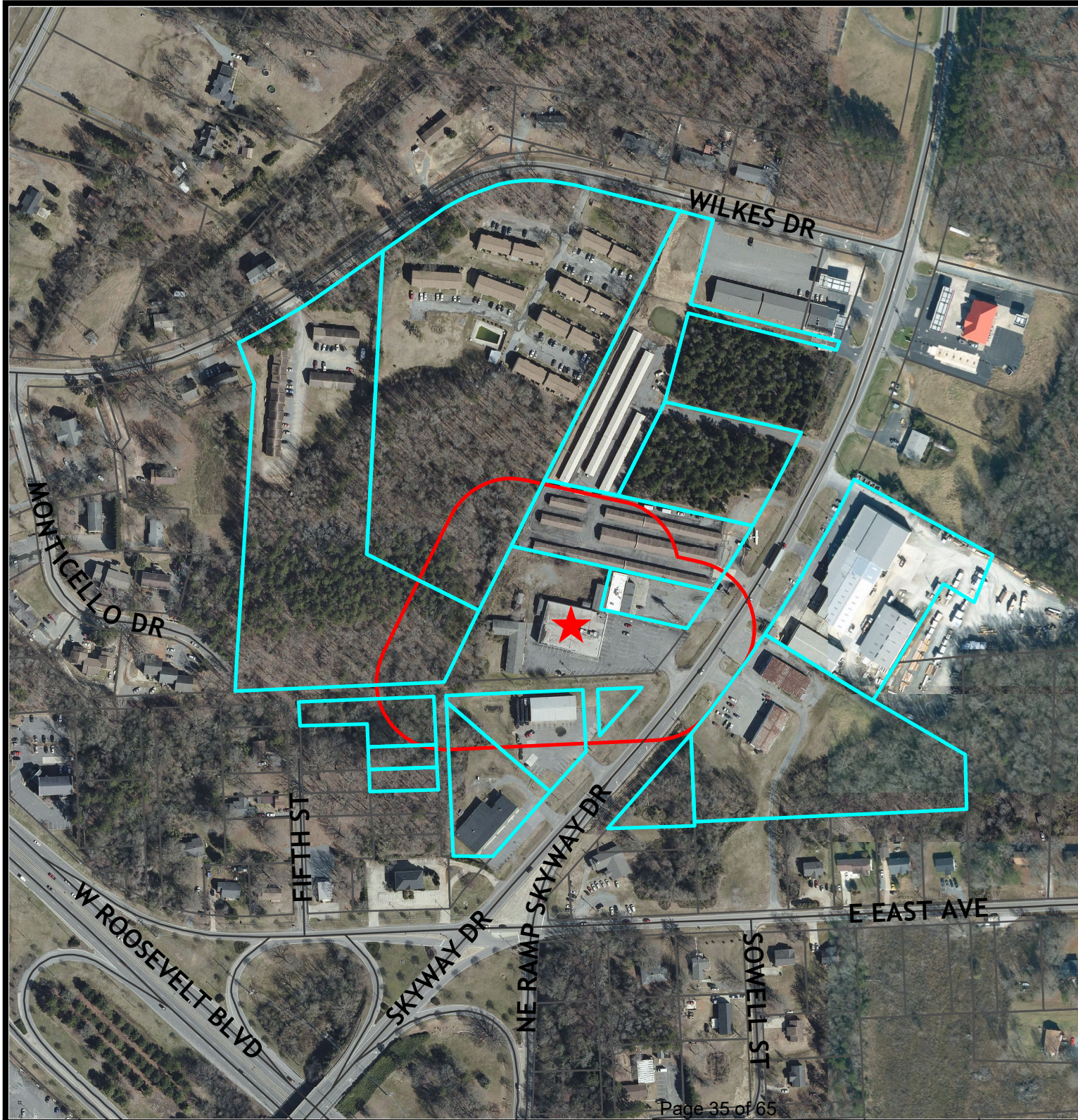
- Centerlines
- 150 Foot Buffer
- Parcels
- Notified Properties
- Subject Property



Owner: Fox's Alley, LLC

Acres:2.26

0 65 130 260 390 520
Feet





REVISED STAFF REPORT

Case # PLZNA 2023-00055

TO: Board of Adjustment Members

DATE: November 17, 2022

FROM: Doug Britt, Senior Planner

PREPARED BY: Megan Brightharp, Planner

SUBJECT: Variance request by LeNeal Austin Love for property located at 520 Craig Street

SUMMARY STATEMENT

LeNeal Austin Love is requesting a variance from minimum lot size of the Residential Medium Density District in order to subdivide the property located at 520 Craig Street.

SITE DATA

Type of Action: Variance

Date of Petition: October 25, 2022

Name of Petitioner: LeNeal Austin Love

Location: 520 Craig Street

Tax ID #: 09-273-200

Lot Size: .515 Acres

Current Zoning Classification: RMD (Residential Medium Density) Zoning District

PROPOSED FINDINGS

Proposed Findings:

1. The property located at 520 Craig Street is owned by United Church of Deliverance, Inc. and is zoned RMD (Residential Medium Density). (Exhibit 1 and 2)
2. A variance application was submitted on October 25, 2022 by Heather Miller, on behalf of the applicant, requesting a variance from the minimum lot size in order to subdivide the subject property. (Exhibit 3 and 4)

3. Unified Development Ordinance (UDO) Table 4.2.3 entitled “RMD- Residential Medium Density” states in relevant parts: (Exhibit 5)

Table 4.2.3.2 RMD District Development Standards Table

Lot: Area: 12,000 Square Feet Minimum (By Right)

4. In order subdivide the property, the applicant requests a lot area reduction from 12,000 sf to 10,433 sf. (Exhibit 6)
5. All adjacent property owners have been notified of the proposed variance. (Exhibit 7 and 8)

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.

THEREFORE, on the basis of all foregoing, IT IS ORDERED that the application Variance 2023-00055 be (**approved/denied**).

Exhibits:

Exhibit 1: Ortho Map
Exhibit 2: Zoning Map
Exhibit 3: Application
Exhibit 4: Letter from Church Secretary
Exhibit 5: UDO Section 157.4.2.3.2
Exhibit 6: Proposed Variance
Exhibit 7: APO List
Exhibit 8: APO Map

Prepared by: MB 10-26-2022

Ortho Map

520 Craig Street

Legend

- Centerlines
- ▭ Parcels
- ▭ Subject Property



Owner:
United Church of Deliverance, Inc.
Acres: .515

0 20 40 80 120 160
Feet



Zoning Map

520 Craig Street

Legend

— Centerlines

▭ Parcels

Zoning

▭ RMD

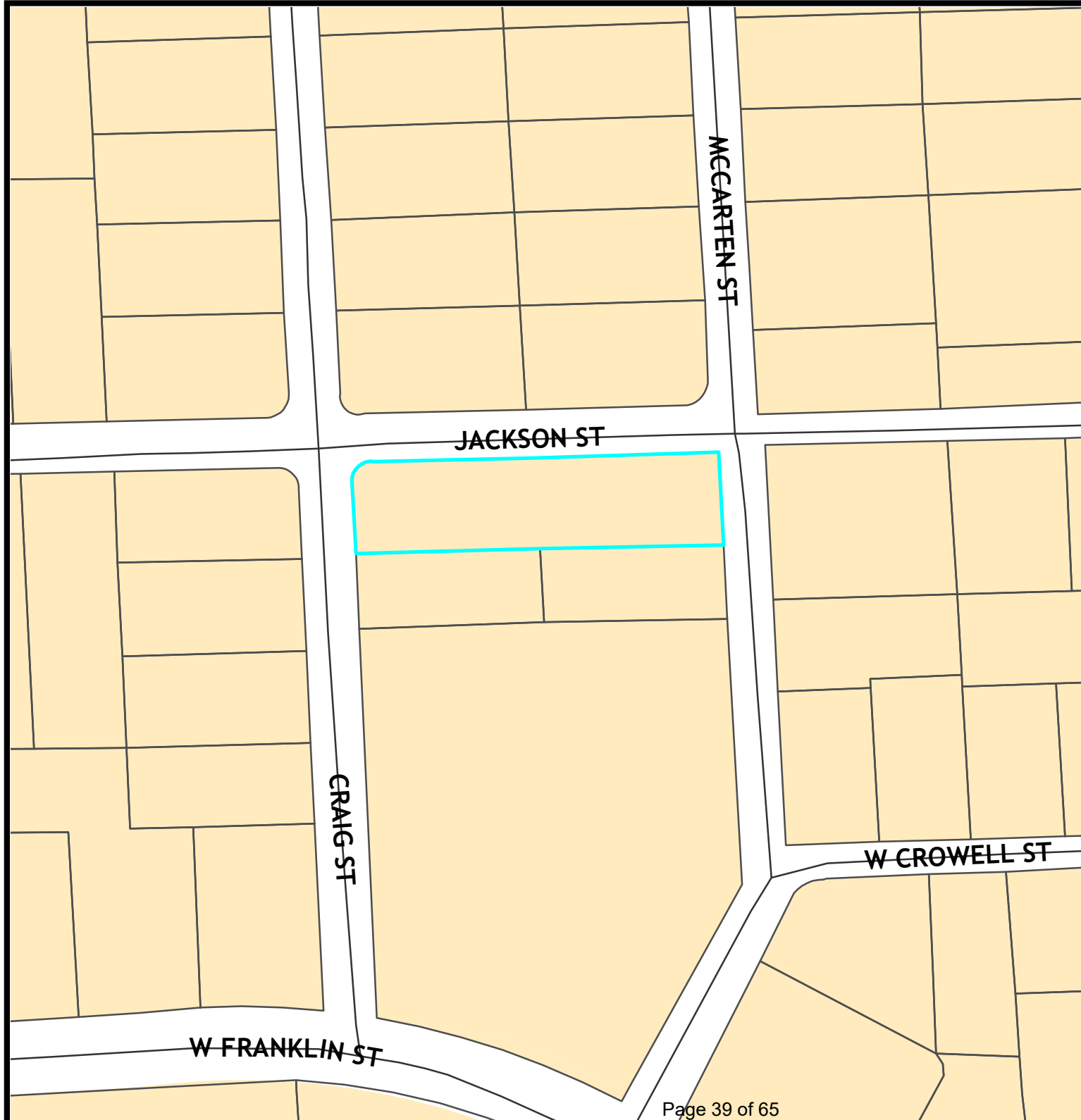
▭ Subject Property



Owner:
United Church of Deliverance, Inc.

Acres: .515

0 2040 80 120 160
Feet



City of Monroe

Variance Application Form

Applicant's Name: LeNeal Austin Love

Applicant's Mailing Address: P.O. Box 54

Mineral Springs 28108

Property Owner: United Church of Deliverance

Property Owner's Address: P.O. Box 54

Legal Relationship of Applicant to Property Owner: Secretary/Treasurer

Contact Person Name and Phone Number: Heather Miller 704 291 1832

Existing Use of Property: Church and vacant house

Property Location: 0 Jackson St 520 Craig St Parcel # 0927322

Tax Map Number: - - - Lot Size: .515ac Zoning District: R-10 RMD

Ordinance section number to which a variance is being sought:

Proposed variance description: This lot to be subdivided into 2 lots.

The church to have 12,000 sf lot & home to have remaining sf. (approx. 10,433sf) 71

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.]

For Staff Use Only	
Application #:	<u></u>
Date Submitted:	<u></u>
Approved:	<u></u>
Denied:	<u></u>

to subdivide this lot into 2 lots to be able to sell the
home on the lot - one lot would be under the required
12,000 sf.

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]

The property is peculiar in that it is located in a neighborhood
and this property has a church as well as a home. The home can
no longer be used by the church & would lose tax exempt status or
the home if they couldn't sell.

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] The home was used by the church at
one time ~~that~~ and Ms. Love has been trying to take care of it
as much as possible (mowing grass, neighbors checking in). Due to
COVID, much of the attendance w/ church has departed and services
have not been regular. Therefore, there has been less traffic to see
strangers. The past few yrs. have been hard keeping out squatters,
and people breaking in to steal something.

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.** Selling this home to
someone who is readily available & capable to do the
necessary repairs to make this home habitable would be beneficial
to the neighborhood aesthetically as well as remove the
safety concern w/ the vagrant traffic that continuously comes to

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

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.

Applicant (printed): LeNeal Austin Love

Applicant's Signature: LeNeal Austin Love

Date: 10/24/22

Property Owner: United Church of Delaware

By: LeNeal Austin Love

Title: Secretary / Treasurer

Owner's Signature: United Church of Delaware

Date: 10/24/22

****If you are signing on behalf of a business (such as an LLC), you must include your title with the company****

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: _____

United Church of Deliverance

1974 - Purchased the church property on the corner of Jackson and Craig - Opened Church

1979 - Began taking attendance records

2004 - David Petty Austin died , Mary Ford was voted in as Pastor , Laneal Love was made an authorized signer, LaNeal Love was made POA for father David Austin

Previous:

Pastor: David P Austin (1974 - 2004)

Mary Ford Assistant Pastor: (? - 2004)

Trustees:

Mack McCaver (1974 - 2003)

Henry Spittle (1974 - 1998)

Ormand Austin (1974 - 1985)

Current:

Pastor: Mary Ford (2004 - present)

Secretary: Laneal Love (1985 - present)

Trustees: Steve Love (1985)

Ann Parker (1998)

Brian Ford (2003)

Constitution and Bylaws of United Church of Deliverance

Article I

Name and Incorporation

The name of this congregation shall be United Church of Deliverance, a nondenominational church. For the purpose of this constitution and bylaws, the United Church of Deliverance shall be referred to as “this congregation” and shall be incorporated under the laws of the State of North Carolina.

Article 2

Statement of Purpose

We are gathered, constituted, and exist to exalt Jesus Christ as Lord and proclaim His name above every name¹ to the exclusive glory of God² and to enjoy Him forever³ by submitting to, obeying, and fulfilling all that the Lord Jesus Christ calls us to throughout His Word as corporately pledged to one another in church covenant.

Article 3

Statement of Faith

A. Scripture

We believe that the entire Bible is the Word of God , written perfectly under the inspiration of the Holy Spirit , and is to be strictly and reverently⁷ understood according to the author’s original intent. Taken as such, we believe the Bible is sufficient to have supreme authority (superseding even this document) in all matters of life and faith.

B. God’s Deity

We believe that there is one living and true God , eternally existing in three persons; as Father, Son, and Holy Spirit. These three are equal in every divine perfection and execute distinct but harmonious offices in the work of creation, providence, and redemption.

C. God’s Sovereignty

We believe in the perfect sovereignty of God in creation, providence , revelation, redemption, and final judgment.

D. The Person and work of Jesus Christ

We believe in Jesus Christ; that He is truly God and truly man, God’s eternally begotten Son, and that He was conceived by the Holy Spirit. We believe in His virgin birth, His sinless life, His atoning work on Calvary, His bodily resurrection from the dead, His glorious ascension into heaven, His sole mediatorial intercession, His endless reign, and His future personal, visible return to the earth.

E. The Person and work of the Holy Spirit

We believe in the Holy Spirit; that He is truly God and manifests the active presence of God in the world and especially the church. He enlightens the minds of sinners and brings about regeneration through the finished work of Christ. He then permanently indwells every believer to become the source of assurance , strength, and wisdom, as He uniquely endows each believer with gifts for the building up of the Body of Christ and produces His fruit to the glory of God in Christ Jesus.

F. Mankind

We believe that mankind was created in the image of God, male and female; they were created, for distinct but complementary roles in the church, home, and marriage. We believe that Adam and Eve sinned and thereby incurred not only physical but also spiritual death. Having been separated from God as a result of our fall in Adam (our representative head⁴¹), all mankind exists in a state of total depravity as guilty sinners in thought, word, and deed.

G. Salvation

We believe that all sin is ultimately against God alone and that any transgression can only be atoned for by the blood of Jesus Christ. Faith in Jesus Christ is the only saving grace, whereby we receive Him alone for salvation as He is offered to us in the gospel as defined by God's Word. Those who are forgiven in Christ Jesus (in this or those in past generations) therefore can have no proper condemnation from man or God, as he is no longer condemned by God. This new life of salvation from the wrath of God, forgiveness of sin, and eternal life cannot be earned, deserved, inherited, or bought. The fruit of the new life in Christ is not exemplified in the adherence to the law of the Old Covenant but in fruits of the law of the Spirit under the freedom of the New Covenant.

H. Baptism and the Lord's Supper

We believe that water baptism is a symbol of the work of Christ on the cross and is an outward picture of the inward baptism of the Holy Spirit, and, therefore, is done by immersion for those who are walking in fellowship with Jesus Christ and who have publicly professed faith in Him. We believe that the communion of the Lord's Supper is to be eaten corporately, by those who are walking in fellowship with the Lord Jesus Christ, as a reminder of His sacrificial work on the cross⁵⁴ and proclamation of His certain return.

I. The Church

We believe that the people who make up the members of Christ's body are His Church—designated as both the bride and body of Christ on earth, empowered by the Holy Spirit, and exists to evangelize the lost and to edify the saved to the glory of God alone. The members of Christ's body, who make up United Church of Deliverance and those who comprise the Body of Christ outside this congregation are united to Jesus Christ our Head and, by nature, will cooperate with one another as His members and Partners in the exaltation of Jesus Christ, to the glory of God alone.

Article 4

Partnership and Covenant

4.01

Partnership Requirements

Individuals desiring to join this church shall first meet with a trustee and/or pastor two or more times to discuss and verify agreement to the fundamental beliefs of United Church of Deliverance as stated in the constitution. Any youth who has reached the age of 16 may participate in this process.

4.02

Conditions for Removal of Partnership

Partners may be removed from the roll of this church by the action of the trustees when the following conditions apply:

a. The partner has not attended services for one year. Any partner who has not been worshipping regularly will be contacted by a partner of the Body to see if any help is needed.

b. The partner is in violation of the Partnership Covenant, has been interviewed by the trustees following the principles of Matthew 18:15-20, there is no positive response, and therefore the decision to remove the partner from the rolls has been made. The procedure in Matthew 18 is as follows:

1. One member of the Trustee Board will speak personally with that person regarding the violation to the Covenant.

2. If the behavior continues, the person will be brought before the entire Board.

3. If the violation continues to occur, the person will be brought before the church; the church will have an opportunity to speak with and question the person; the church will then vote on whether or not to remove this person who will then be notified in person and in writing of the decision.

Article 5

Powers of the Congregation

The powers of this congregation are vested in the Congregational Meeting, called and conducted as provided in this constitution and bylaws. Specific authority is delegated to the Trustee Board or other organization units in this document; all remaining authority is retained by the Congregation, who has the authority to:

a. call a pastor

b. terminate the call of a pastor

c. adopt amendments to the constitution and bylaws

d. approve the annual budget e. acquire real and personal property by gift, will, purchase or other lawful means f. hold title to and use its property for any and all activities consistent with its purpose

g. sell, mortgage, lease, transfer, or otherwise dispose of its property by any lawful means

h. approve the Trustees and require that they carry out their duties in accordance with the constitution and bylaws

i. vote on any other matter before the congregation at the annual meeting or any special congregational meeting called in accordance to the provisions in this constitution and bylaws

Article 6

The Pastor

6.01 Authority to call a pastor shall be in this congregation by at least a two-thirds majority ballot vote of partners present and voting at a meeting legally called for that purpose.

6.02 Consistent with the faith and practice of the church, every pastor shall:

a. Lead this church in stating its mission, to do long-range planning, to set goals and priorities, and to evaluate its activities in light of its mission and goals.

b. Preach and teach the Word

c. Administer baptism and communion

- d. Conduct public worship
- e. Provide pastoral care: visit the sick and distressed, counsel those in need or refer them to a qualified counselor
- f. Perform marriages and funerals
- g. With the Trustee Board, administer discipline
- h. Seek out and encourage qualified persons to prepare for the ministry of the Gospel
- i. Equip and encourage people for leadership roles within the church
- j. Impart knowledge of this church and its wider ministry through distribution of its periodicals and other publications (e.g., church newsletter and local newspapers)

6.03 The specific duties of the pastor, compensation, and other matters pertaining to the service of the pastor shall be included in a letter of call.

6.04 The call of this church, when accepted by a pastor, shall constitute a continuing mutual relationship and commitment which, except in the case of the death of the pastor, shall be terminated for the following reasons:

- a. mutual agreement to terminate the call
- b. resignation of the pastor, which shall become effective, unless otherwise agreed, 30 days after the date on which it was submitted
- c. the physical or mental incapacity of the pastor
- d. disqualification of the pastor through discipline on grounds of doctrine, morality, or continued neglect of duty
- e. the dissolution of the church

6.05 At a time of pastoral vacancy, an interim pastor may be appointed by the Trustees.

6.06 An associate pastor may be called to serve and elected by a majority vote from the church and board of Trustees.

6.07 Pastors shall ensure accurate parochial records are kept. The pastor shall be responsible to assign the task or to keep accurate parochial records of all baptism, marriages, 5 burials, partners received, dismissed or excluded from this church, and shall submit a summary of such statistics annually to the church.

6.08 The pastor shall be a partner of this church.

Article 7

Trustees

7.01 Any partner of this church may be elected to be a Trustee, subject only to the quality of their character (1 Timothy 3:8-13). A person's place on the Trustee Board shall be declared vacant if the person (a) ceases to be a partner of this church, or (b) is terminated as an Trustee due to reasons noted in [7.11].

7.02 Trustee candidates shall be nominated by the current trustee Board and voted on by the congregation at the Annual Meeting.

7.03 The Trustee Board shall have general oversight of the life and activities of this church, and in particular its ministry life, to the end that everything be done in accordance with the Word of God. The duties of this board shall include the following:

- a. To assist and give direction to this church in stating its mission, to do long-range planning, to set goals and priorities, and to evaluate its activities in light of its missions and goals.

- b. To seek to involve all partners of this church in worship, learning, witness, service and support.
 - c. To oversee and provide for the administration of this church to enable it to fulfill its functions and perform its mission.
 - d. To maintain supportive relationships with the pastor(s) and staff and help them annually to evaluate the fulfillment of their calling, appointment, or employment.
 - e. To be examples individually and corporately of the life and ministry expected of all baptized followers of Jesus Christ.
 - f. To promote a church climate of peace and goodwill and, as differences and conflicts arise, to endeavor to foster mutual understanding.
 - g. To arrange for pastoral service during the sickness or absence of the pastor.
 - h. To seek out and encourage qualified persons to prepare for the ministry of the Gospel.
- 7.04 The Trustees shall see that the provisions of this constitution/bylaws are carried out.
- 7.05 The Trustees shall provide for an annual review of the partnership roster.
- 7.06 The Trustees shall be responsible for the appointment and supervision of the salaried staff and lay workers of the church.
- 7.07 The Trustees shall set the date and time of the Annual Meeting.
- 7.08 Special meetings may be called by the Pastor. Notice to each special meeting shall be given to all who are entitled to be present.
- 7.09 A quorum for the transaction of business shall consist of a majority of the trustees, including the pastor or interim pastor, except when such person requests or consents to be absent and has given prior approval to an agenda or routine matter which shall be the only business of the meeting.
- 7.10 A Trustee's position may be terminated for the following reasons:
- a. the physical or mental incapacity of the elder
 - b. disqualification of the trustee through discipline on grounds of doctrine, morality or continued neglect of duty
 - c. the dissolution of the church
- 7.12 A Trustee must be a partner of this church.

Article 8

Church Meetings

- 8.01 The Annual Meeting of this church shall be held typically during the month of January each year at a date and time to be determined by the Trustees, subject to proper notice requirements of this constitution. It's purpose is to celebrate the work the church has accomplished to advance the Kingdom of God, to share our vision, and communicate plans for the future.
- 8.02 Only active partners will be allowed to vote at official meetings of the church.
- 8.03 A special church meeting may be called by the pastor, or the Trustees of this church, and shall be called at the written request of ten percent of the partners. The call for each special meeting shall specify the purpose for which it is to be held and no other business shall be transacted at the special meeting.
- 8.04 Notice of all meetings of this church shall be given at the services of worship on the preceding two consecutive Sundays and/or by mail to all voting partners at least 10 days in advance of the date of the meeting. The posting of such notice in the regular mail, with the

regular postage affixed or paid, sent the last known address of such partners shall be sufficient.

8.05 Two thirds of all partners shall constitute a quorum.

8.06 Voting by proxy or by absentee ballot shall not be permitted.

8.07 All actions by this church shall be by majority vote except as otherwise provided in this constitution.

Article 9

Officers of the Church

09.01 The Trustee Board officers shall be chosen, by mutual agreement, by the Pastor and the existing trustees. The offices are as follows:

- a. Chairman: presides at the Annual Meeting and all congregational meetings, and as appropriate, signs necessary documents and reports
- b. Vice Chairman: presides at all meetings of this church in the absence of the Chairman
- c. Secretary: keeps accurate minutes of all Elder Board meetings and congregational meetings, seeing that these are prepared and printed for distribution

09.02 The Treasurer of this church shall:

- a. receive and disburse all monies of this church as dictated by this church's budget,
- b. oversee the ledger of all transactions
- c. report as requested to the Trustees and to the annual meeting of this church

09.03 The Financial Secretary of this church shall:

- a. keep an accurate record of all donations given by the individual partners and visitors of this church through the offering envelopes
- b. send individual giving reports to the members at the beginning of each year
- c. report to the trustees and the annual meeting

Article 10

Church Committees

10.01 Ad Hoc Committees (e.g. Constitution, Anniversary, etc.) may be established as needed by the Trustees; such committees normally would be disbanded after the purpose for which they were established has been accomplished.

10.02 When a pastoral vacancy occurs, the Trustees shall use one of the following two procedures:

- a. The Trustees shall function as the Search Committee, in the process of securing a new pastor, if the appointed Search Committee is unable to complete the process.
- b. Any pastoral candidate selected by the Search Committee must personally visit the United Church of Deliverance and preach before that candidate may be put before the church for a vote.

Article 11

Amendments

11.01 Amendments to this constitution may be proposed by at least 10 voting partners or by the Trustees. Proposals must be filed in writing 60 days before the formal consideration by the church at its regular or special meeting called for that purpose. They shall notify the partners of this church of the proposal with their recommendations at least 30 days in advance of the meeting.

11.02 A proposed amendment to this constitution shall:

- a. be approved at a properly called meeting according to this constitution by a two thirds vote of those present and voting;
- b. be ratified without change at a church partner meeting held not less than 90 days after perceiving preliminary approval as in by a two-thirds vote of those present and voting;
- c. have the effective date included in the resolution and noted in the constitution.

11.03 The amendment shall become effective at the completion of the meeting at which there was a vote.

Article 12

Continuing Resolutions

12.01 The Trustees may enact continuing resolutions which describe the function of the various committees or organizations of this church.

12.02 Continuing resolutions shall be enacted or amended by a two-thirds vote of all voting members of the Trustee Board.

11-3-22

UNITED PRAYER CHAPEL

UNITED CHURCH OF DELIVERANCE JOHN 3:16 FOR GOD SO
LOVED THE WORLD, THAT HE GAVE HIS ONLY BEGOTTEN
SON, THAT WHOSOEVER BELIEVETH IN HIM SHOULD NOT
PERISH, BUT HAVE EVERLASTING LIFE.

United prayer chapel
United Church of Deliverance
1305 Jackson St. Monroe NC 28112

Pastor Mary Ford.

To the City of Monroe, Variance Committee

I am Pastor Mary Ford of United
Church of Deliverance and this letter
is to Acknowledge Authorization that
Leneal Austin Love has Authorization
to Request, Submit and sign for the
Variance application and any other
documents concerning the Church or
Church property. She is Church
Secretary + Treasurer, Care taker and
Overseer. Overall Church business
and ministry

Mailing Address
5040 Pleasant Gr. Rd
Waxhaw NC 28173

Pastor
Mary Ford
704-438-1889

UNITED PRAYER CHAPEL

UNITED CHURCH OF DELIVERANCE JOHN 3:16 FOR GOD SO
LOVED THE WORLD, THAT HE GAVE HIS ONLY BEGOTTEN
SON, THAT WHOSOEVER BELIEVETH IN HIM SHOULD NOT
PERISH, BUT HAVE EVERLASTING LIFE.

TO: City of Monroe
Variance Committee

Authorization letter for signing and
submitting of Variance Application and
all documents concerning United Church
of Deliverance Church business affairs
and property.

Authorized Person Leneal Austin Love
Title Secretary, Treasurer, Overseer of
Church and Care taker for all Church
Business Affairs ~~and~~ property.

I BRIAN FORD Board Trustee / Deacon
have Authorized Leneal Austin Love to
sign, submit any business matter on
behalf of United Church of Deliverance
and property.

Brian Ford
16326 Big Bear Rd
Albemarle NC

28001 Thank you

Signed
BRIAN Ford

Authorized Person
Leneal Austin Love
Church Secretary Treasurer
OVERSEER and Care Taker
Long Standing member
1305 JACKSON ST.
MONROE, NC 29112
5040 Pleasant Grove Rd
Waxhaw 28173

UNITED PRAYER CHAPEL

UNITED CHURCH OF DELIVERANCE JOHN 3:16 FOR GOD SO
LOVED THE WORLD, THAT HE GAVE HIS ONLY BEGOTTEN
SON, THAT WHOSOEVER BELIEVETH IN HIM SHOULD NOT
PERISH, BUT HAVE EVERLASTING LIFE.

To City of Monroe
Variance Committee

Authorization Letter for signing and
submitting of the Variance application and
all document concerning United Church of
Deliverance Church Business and Property.

Authorization Person: LeNeal Austin Love, title
Secretary - Treasure and overseer of Church
(United Church of Deliverance) business and
Property.

I Ann Parker Board Trustee authorized
LeNeal Austin Love to sign, submitted and
business matters on behalf of United Church
of Deliverance Church and Property.
Ann Parker / Board Trustee
5014 Pleasant Grove Rd
Waxhaw, N.C. 28173
10-3-22

Thank you:
Ann Parker

Authorization Person
LeNeal Austin Love
5040 Pleasant Grove Rd
Waxhaw, NC 28173

1105 JACKSON ST.
MONROE, NC 28112

Business Meeting

Jan 6, 1985

United Church of Delmar

Meeting opened

Meeting called to fill a trustee position

Pastor ^{recommends} ~~recommends~~ Steve Love to fill position of trustee, members raised hands on agreeing to vote.

Position was vacant because of a death of former trustee.

Meeting was closed without further business needed.

All other positions will stay in place.

All other deacons were present and voted in agreement.

Records taken by Secretary Li Neal Love

Business Meeting

Jan 3, 1998

United Church of Delmar

meeting called to open

Members + Trustees Present to vote
on new trustee, recommended by
Pastor David Petty, Austin

Ann Parker was voted in with
a raising of hands of members + trustees
to fill position of trustee that was
vacant because of sickness and death of
former trustee.

All trustees were present

Done & one 2nd the vote

Pastor closed meeting

meeting was recorded by Secretary
L. Neal Austin Lane

March 15

2003

Special Business Meeting

United Church of Deliverance

meeting called to open

Members and trustees called to vote

Brian Ford was recommended to fill position of trustee by Pastor David Petty Austin.

Members voted yes by raising of hands

Trustees present

Position was vacant because former trustee could no longer fulfill obligations

Pastor closed meeting

meeting was recorded by

Secretary LeNeal Austin Lane

Special Business Meeting July 18th 2004 United Church of Deliverance

meeting open at end of Morning Service

Pastorship was given to Mary Ford
assistant Pastor by Pastor David Petty Austin.

Arising of hands of the members in the
congregation to agree with the new
assignment of Pastor because the standing
Pastor was sick and with his passing she
became Pastor.

The 3 trustees/deacons were
in attendance and 100% in agreement

Steve Lane	Trustee since 1985
Ann Parker	Trustee since 1998
Brian Ford	Trustee deacon since 2003

Everything else is to stay the same until
Change is needed

Pastor said all hearts clear? Then
dismissed meeting by prayer

A call to close meeting
and a second person 2nd it

LeNeal Austin Page 5 of 65 Secretary recorded the minutes

Special Business Meeting Oct 1, 2027

United Church of Deliverance

meeting called to open (via telephone)

Discussion took place regarding selling the home on church property. 520 Craig St. Home has been vacant for several years and has had a problem with squatters. It would be beneficial to church to be relieved of the homes upkeep. House would be subdivided into a separate lot.

Members voted yes by raise of hands

trustees present

Steve Love

Ann Parker

Brian Ford

Pastor closed meeting

Meeting recorded by

LeNock Love - Secretary

Variance Decision to Subdivide Property

Hello my name is LeNeal Justin Love
I am the Secretary / Treasurer to United
Church of Deliverance at 1305 Jackson St.

This letter is in regard to the property
owned by church at 1305 Jackson, and
house on the corner of 520 Craig St &
Jackson St.

This house at 520 Craig St has
been used for years for housing for
a assistant pastor until 2017 and she
passed away and then used for church
business, Sunday school & storage.

For 3 months after her passing her
grandson & daughter didn't pay power bill
left 4 months of unpaid utility bills
for church to pay finally they had
eviction papers and they finally left.

They left the house with damaged
and garbage for church to have to take
care of, and they took all appliances
so, they were living rent free as long as
they took care of their mother after she
passed they took advantage of our kindness
and caused hardship on the church, since
February 2018 when they left, The House
needed much repair and was used for church
storage etc. Then when Covid came
and the churches were considered nonessential
services were put on hold till 2021 with
a big drop in attendance and finances it was
a hardship to restore the house for someone to

live there, it has been broken into many times doors, doorfacings + windows damaged. At least 3 times this year it was broken into the last one 2 weeks ago where when entering property we found some ones belongings where they had been staying there. They had covered up the windows so no one could see some one was in there, they left bags of Garbage etc for the church to clean and doors busted and doorfacings damaged.

This house was built in the 1950's and we have owned property since early 1970's so we have been a part of community for almost 50 years way before the subdividing rule was made. Much repair from damage is needed and church just doesn't have resources to do now.

A Gentleman has offered a fair price as is, to buy the property this would be a great way to solve the current problem solved and a asset for the community

So ~~we need~~ we need a Variance for a subdivide for these 2 properties that would allow one of the properties preferably the 520 Craig St house to be less than 12,000 sq ft This would be a win win for all properties involved and for all parties the church would be saved from hardship, buyer would have his home and

County would soon have a beautiful safe
house in community and neighborhood would
have a safer beautiful addition.

Please consider all this, we appreciate a yes
decision.

Thank you for your time
and consideration
United Church of Delmar
De Neal Austin Love
Secretary / Treasurer
704-363-1949

4. **Buffering.** See Section 8.3.

Table 4.2.3.2. RMD District Development Standards Table

RMD District Development Standards Table		
Building Height		Maximum 3 Stories
Density		Maximum 3 Units / Acre (By-Right) Maximum 4 Units / Acre (Cluster)
Setbacks ¹	Front (Street)	20' May be reduced to 15' where a common parking area is provided (no driveway/garage)
	Side	10' (interior lot) 15' (corner lot)
	Rear	10' (interior lot) 20' (through lot)
Lot	Width ²	75' Minimum
	Area	12,000 Square Feet Minimum (By-Right) 5,000 Square Feet Minimum (Cluster) (Refer To Table 4.2.2.1)

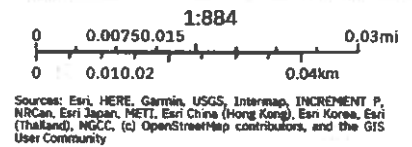
GoMaps



October 25, 2022

Current Tax Records indicate the lot size to be 22,433sf.

Keeping the lot that will remain with the church 12,000 will leave the remaining lot with the home to have 10,433sf.



*If the survey comes back with a different # than the current records, we can either divide with church having 12,000sf as required and we having any remaining OR if we are required to give a value right now for the lot we are applying the variance to, we can safely say that lot to be 10,000sf and the church can have the remainder - which would be over the minimum 12,000sf requirement.

PIN	OWNERNAME1	OWNERADDRE	OWNERZIP	OWNERSTAT	OWNERCITY	OWNERNAME2
09273145	EK REAL ESTATE FUND I LLC	215 PARK AVENUE SOUTH STE 1713-1718	10003	NY	NEW YORK	
09273202	CRUZ MAURICIO EDGARDO SANTA	5324 WALES ST	28269	NC	CHARLOTTE	
09273154	SISK JOHNNIE RUTH	601 CRAIG ST	28110	NC	MONROE	
09273142	ANNEUS JEAN ROLAND	511 CRAIG ST	28112	NC	MONROE	ANNEUS PATRICIA RUSHING
09273143	HELMS TODD A	2905 MEADOW CREEK LN	28110	NC	MONROE	HELMS DENISE M
09273187B	MUSSEN KEVIN RILEY	604 MCCARTEN ST	28112	NC	MONROE	MCNEELY BRITTANY MICHELLE
09273199	MERRY ROBIN E	600 CRAIG ST	28110	NC	MONROE	
09273203	GIBSON ELIZABETH H	1300 W FRANKLIN ST	28112	NC	MONROE	GIBSON JAMES ROBERT
09273213	ROSS TAMMY A	3322 OLD CAMDEN RD	28110	NC	MONROE	
09273212B	FRANCO ABEL A	3419 WAXHAW HWY	28112	NC	MONROE	
09273187	FLORES EUSTAQUIO G	1208 JACKSON RD	28110	NC	MONROE	
09273198	SANTANIELLO LAWRENCE	1509 SCHUSTER CT	28105	NC	MATTHEWS	
09273144	DAY ANTHONY	515 CRAIG ST	28112	NC	MONROE	
09273188	HESS JESSICA	601 MCCARTEN ST	28112	NC	MONROE	
09273201	COSS JORGE	309 WALNUT ST	28110	NC	MONROE	
09273212	RICHARDSON CHARLES LARRY	508 MCCARTEN ST	28112	NC	MONROE	
09273213A	MILLS ANNAGRET K	1204 CROWELL ST	28112	NC	MONROE	MILLS DAVID A JR
09273155	BAYNES DARVI S	603 CRAIG ST	28112	NC	MONROE	
09273189	KIKER BOBBIE M	3437 GREENE RD	281109290	NC	MONROE	KIKER GENE A

APO Map

520 Craig Street

Legend

-  Centerlines
-  150 Foot Buffer
-  Parcels
-  Notified Properties
-  Subject Property



Owner:
United Church of Deliverance, Inc.
Acres: .515

0 20 40 80 120 160
 Feet

