

**BOARD OF ADJUSTMENT  
MEETING  
WEDNESDAY, APRIL 27, 2023  
6:00 P.M.  
Council Chambers  
300 W. Crowell Street  
Monroe NC**

**REVISED AGENDA**

- Item 1.**            **Call to Order:**
- Item 2.**            **Pledge of Allegiance and Moment of Silence**
- Item 3.**            **Approval of Minutes – March 22, 2023**
- Item 4.**            **Conflicts of Interest**
- Item 5.**            **PLZONA-2023-00133 Appeal- The Board of Adjustment is requested to consider an appeal from Wendy Love, on behalf of Love Construction Company, regarding a zoning determination letter for 1411 Love Road. Parcel # 09-307-024- *WITHDRAWN***
- Item 6.**            **PLZNA 2023-00164 Variance- The Board of Adjustment is requested to consider a Variance application from Rachel Zelinsky for the property located at 4018 West Highway 74. The applicant is requesting a variance from Section 157.5.5.C of the Unified Development Ordinance from the maximum front and side setback in order to develop the property. (Parcel # 09-336-030-B01)**
- Item 7.**            **Next Meeting: May 25, 2023**
- Item 8.**            **Adjournment**

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

*cc:     Ashley Britt  
        Doug Britt  
        Keri Mendler  
        Megan Brightharp*

# **MINUTES OF THE BOARD OF ADJUSTMENT MEETING**

**March 22, 2023, 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 March 22, 2023, meeting to order at 6:03 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; Keri Mendler, Senior Planner, Megan Brightharp, Planner I; Al Benshoff, BOA Attorney; Ashley Britt, Assistant City Attorney; Ashlyn Penegar, Administrative Assistant

Guests:                            Tom & Helen Williams, Mike & Rita Murray, Richard Hutaff, Terry Richardson, William Dotson, Anna Dowdy, Dorian Jones, John Bird

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

Chair said everyone, please turn your cell phones on vibrate on airplane mode.

## **Item 3.        Approval of Minutes – Minutes of February 23, 2023**

**Motion:**                William Draper made a motion to approve the minutes of the February 23, 2023, meeting.

**Second:**                George Smith

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

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

**NAYS:**                None

**Item 4.**        **Conflicts of Interest**

Chair said the parties in these cases are entitled to an impartial board. A Board member may not participate in this hearing if she or he has a fixed opinion about the matter, a financial interest in the outcome, or a close relationship with an affected person. Does any board member have anything to disclose and a recusal to offer?

William Draper said no.

George Smith said no.

Chair said also, Board members must disclose any information they have received outside of this hearing, or any site visits. Information received is called an ex parte communication. Does any Board member have any ex parte communications or site visits to disclose?

George Smith said no.

William Draper said no.

Chair said at this time, I'm going to let the attorney explain the purpose and intent under the law as to what a quasi-judicial Board and hearing is.

Al Benshoff said this is a quasi-judicial hearing, that means it is like a court hearing. North Carolina law sets specific procedures and rules concerning how this board of adjustment must make its decisions. these rules are different from other types of land use decisions, such as rezoning's. this board's discretion is limited. this board must base its decisions on competent, relevant and substantial evidence in the record. a quasi-judicial process is not a popularity contest. it is a decision limited by the standards in the zoning ordinance and based on the facts presented. if you will speak as a witness, please focus on the facts and ordinance standards, not personal preference or opinion. participation is limited by state law. this meeting is open to the public. everyone is welcome to watch. parties with standing have rights to participate fully. parties may present evidence, call witnesses and make legal arguments. parties are limited to the town, applicant and individuals who can show that they will suffer special damages. other individuals may serve as witnesses when called by the chair. general witness testimony is limited to facts, not opinions. for certain topics, this board needs to hear opinion testimony from expert witnesses. these topics include impacts on property values and increased traffic. persons providing expert opinion must be qualified as experts and provide the factual evidence on which their opinions are based. witnesses may be cross-examined by parties with standing. Witnesses must swear or affirm their testimony.

Chair said thank you Mr. Attorney. At this point, we are up to item 5.

**Item 5.**        **PLZONA-2023-00133 Appeal- The Board of Adjustment is requested to consider an appeal from Wendy Love, on behalf of Love Construction Company, regarding a zoning determination letter for 1411 Love Road. Parcel # 09-307-024**

Chair said we have an affidavit from the applicant's attorney requesting a motion to continue. The continuance motion...

Board discusses.

Chair said we have a motion of continuance from Mr. Stephen M. Bennett, who is the attorney representing Love Construction Company, at this time I will entertain comments from anyone who is here to speak on behalf, either for or against a motion to continue.

Anna Dowdy stepped to the podium and said, if I may...

Chair said you have to step forward to be sworn in.

Anna Dowdy approached the dais and was sworn in by the Chair.

Anna Dowdy returned to the podium and introduced herself. She said, I am here from Helms Bennett on Mr. Bennett's behalf. He just asked me to come because he's been in mediation all day in Mecklenburg County, and he is unable to make it to this meeting and he is just asking for it to be set over to an appropriate time for all parties. That's all I have to say.

Chair said thank you. Anyone else here to speak for the continuance? Anyone here to speak against the matter being continued? At this time, I will entertain a motion...

Board discusses.

Chair asked is there a motion to accept or deny the petition for continuance?

**Motion:** George Smith made a motion to accept the petition to continue.

**Second:** William Draper

**Action:** The motion to continue for the next Board of Adjustment Meeting passed unanimously with the following votes:

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

**NAYS:** None

**Item 6.** **PLZNA- 2023-00122 Variance** The Board of Adjustment is requested to consider a variance request from Dorian Jones for 2913 Silo Court in order to deviate from Section 157.8.3.10 of the Unified Development Ordinance that requires fences in the rear and side yards of residential zoning districts to be a maximum of 6' in height. (Parcel# 09-216-181)

Chair said we now open the evidentiary hearings for case 2023-00122. the applicant has requested a variance of one foot in order to erect a seven-foot-tall fence.

Chair said that anyone who is going to give testimony in this case needs to be administered the oath. Megan Brightharp, Planner I, Dorian Jones, and John Bird, came forward and were sworn.

Megan Brightharp, Planner I, said this is a request from Dorian Jones who is requesting a variance from maximum fence height in a residential district in order to bring a recently built fence, at 2913 Silo Court, into compliance.

Proposed Findings:

1. The property located at 2913 Silo Court is owned by Dorian Jones and is zoned RLD (Residential Low Density). (Exhibit 1 and 2)
2. The City of Monroe became aware that work had been done to the home at 2913 Silo Court, including the instillation of a fence and that the fence had been built 7' tall and advised Mr. Jones to complete permit applications and apply for a variance.
3. Unified Development Ordinance (UDO) Section 157.8.3.10 entitled "Fences, Walls, and Berms" states in relevant parts: (Exhibit 3)
  - A. General Standards
    5. The maximum height of a fence within required rear and side yards shall be six (6) feet in residential zoning districts and maximum height of a fence within a front yard shall be five (5) feet.
4. A variance application was submitted on February 22, 2023, by Dorian Jones requesting a variance from the maximum fence height in a residential district in order to bring his fence into compliance. (Exhibit 4)
5. In order to bring the newly built fence into compliance, the applicant is requesting a variance of 1 foot.
6. All adjacent property owners have been notified of the proposed variance. (Exhibit 5 and 6)

Megan Brightharp said I will be happy to answer any questions and the applicant is here as well.

Chair asked is the application for the variance complete and accurate?

Megan Brightharp said yes.

Board discusses.

Chair asked are there any questions from the Board members for Staff?

Al Benshoff said Ms. Brightharp, the application is to increase the fence height by one foot. Is that that for the entire fence or is that just for part of the fence?

Dorian Jones stood up and said just a portion sir.

Chair said we will save that question for when he stands forward and advises himself. Are there any other questions for Staff?

Chair said at this time, I would like to invite the applicant to step forward. Give your name and address.

Dorian Jones stepped up to the podium and introduced himself. He said I reside at 2913 Silo Court, Monroe North Carolina. I have some photos here if I may introduce those into... Is that appropriate or not?

Al Benshoff said you certainly can, but we will need to keep the photos.

Mr. Jones said there are 10 photos there and in those photos, they are essentially why I'm looking for the fence and the height of the fence. In the first photo, you will see an archery target that is positioned at the left rear corner of my property. We have concerns about a rogue arrow scenario. Our neighbors are avid hunters, which I have no problem with. Where I do find issue with is a potential stray arrow coming through my backyard where my little girls play. The fence was constructed on top of a grade that was raised for that purpose for adding a layer of security and safety in our backyard. You will also see photos of two separate dogs on three different occasions. Those dogs belong to a neighbor, specifically the neighbor with the archery shooting lane in his backyard. Those dogs randomly find their way into my backyard, into my front yard and up and down the street. The fence is also there to protect our yard from stray dogs. You will also see photos of 50 lb. bags of deer corn being transported into the common area of the green space behind my home. Which I am certain is used for baiting deer. I don't know what the laws are for baiting deer, I really don't care. I just don't want it on my property. I don't want the byproduct of a hunter's arrow or stray bullet ending up in my backyard, in my child, my wife, or my animals. As far as the height on that fence, it is at 7 ft. between myself and that neighbor. At the front of my house, it does meet your standard requirements, below 5 ft. On the backside of my house where it ties back around into my storage building, the fence is reduced to a 5 ft. level. You will find that if you come to the property and walk the site, the 7 ft. is in between that target and my backyard.

Chair said for clarification purposes, this fence already exists. So, was this fence permitted and inspected before?

Mr. Jones said this fence was approved through our neighborhood HOA and it was after I built the fence that I found out from Megan Brightharp that a zoning application was required. I actually had gone onto the website to look for such application and did not find one for a fence. I actually found very little in relation to an application for building a fence in a residential capacity. When I went down to the office to address the letter Megan had sent me, she walked me through the process of filing a zoning application, which I have done and filed the hearing on the variance once I found out about my ability to do that as well.

Chair said ok, so standing in the cul-de-sac looking at your residence, the fence that's 7 ft. is on your left?

Mr. Jones said yes sir. It's between 2913, my residence, and 2909, my neighbor.

Chair asked the Board, questions for the applicant?

Al Benshoff asked and said Ms. Brightharp, can we have the Ortho photo back please? I think it is exhibit 1 on the monitor.

Megan Brightharp adds the Ortho map back to the screen.

Al Benshoff asked can you zoom that in a little bit, if possible? Mr. Jones, can you tell the Board exactly where you need the variance for the fence?

Mr. Jones said ok, so do you see the tan line coming off the left front corner of my house? It looks almost like a radius line between mine and my neighbor's house. That is actually a retaining wall. We have severe grade issues, so if you look at my house from the street level.

Megan Brightharp said it's perpendicular to the outline. The left arm on the outline is perpendicular to that and it looks like there is...

Mr. Jones said it's right here where the mouse is. So, that tan line, that's the top of the retaining wall. There is a grade difference of 4 ft. right now. This is another retaining wall and that's another 4 ft. drop there, at this point right here, the fence starts 7 ft. down this line. There is the archery target right there in question. My fence turns back this way and continues to here and then drops down to 5 ft. and continues on to the corner of this picture right here. This is the common area, where the corn is being taken in those photos. This is the tree that the deer feeder is hung on and the other target that you see dumped in the woods is right there. This is essentially....

John Bird stood up from his seat in the audience and said I want to stop you right there. You are the one who dumped that target.

Chair said excuse me. You will get your opportunity to speak.

Chair said to Mr. Jones, continue sir.

Mr. Jones said that's really the gist of the height of the fence.

Mr. Draper asked there is a 4 ft. berm, then a 7 ft. fence on top of that?

Mr. Jones said there is no berm. The grade difference between this yard and this yard is approximately 3 ft.

Mr. Draper asked 3 feet?

Mr. Jones said yes, sir.

Mr. Draper said so basically, the top of the fence, away from grade, would be 10 ft.

Mr. Jones said if you look at the very first picture (Exhibit 1), you can see the answer to that question. So, let me take you back in history a little bit. This whole area that I'm circling, when we purchased our homes, was the silt pond that the construction company left behind. However, it got left behind and signed off on, it did, and when we bought the house, they said hey, there is a problem with the silt pond. It's your problem. So, my neighbor and I, in concert, worked together overtime to fill that in. Because it was just a pond of standing water, a mosquito pit, if you will. Once we had that filled in, let me take you back a little bit further. When I bought the house, this was just a ski slope. This and this. Those walls were not put in by the grader, they were put in by the homeowners. So, you have street level grade here, you have a retaining wall that stretches from here to here, that little area is 4 ft. lower. This next retaining wall stretches from here to here, house corner to house corner and that's another 4 ft. drop there. The side of my yard and the side of his yard, are the same grade elevation. Due to the landscape and the lay of the land, his area here, is approximately 3 ft. lower than the area that we had established in our backyard.

Mr. Draper asked has your neighbor done anything to curtail stray arrows from going onto your property?

Mr. Jones asked, Curtail? No, there is no provision for anything on his property to stop an arrow. What you see here is what is currently there. This is an older photo and I'm not sure what the date on this was. But, it looks like it was probably within the last couple of years. But, this is still all open. He has a white, vinyl picket fence that runs right here on his yard, but there is no fencing on his. My fence exists on this line essentially and that is the only fence between that target and my backyard.

Mr. Draper asked since your fence has gone up, has any arrows came in your backyard?

Mr. Jones said no, sir.

Chair asked how many arrows prior to that were found in your yard?

Mr. Jones said I'm sorry.

Chair asked how many arrows prior to you putting up the fence?

Mr. Jones said none to my knowledge. I have not found an arrow in my backyard.

Chair asked your reason for building the fence was a preventative measure? Not a reactive measure of something that happened?

Mr. Jones said correct.

Board discusses.

Al Benshoff said I need to ask you about these photos if you want these to be accepted into evidence. Could you step up here to tell us when that photo was taken?

Mr. Jones said approximately a month ago. This was during the construction of the fence.

Al Benshoff asked who took the photo?

Mr. Jones said I did.

Mr. Benshoff asked if the fence is 7 ft. high there or is it unfinished?

Mr. Jones said the fence at this point right here is 7 ft. Those 4 x 4's have been cut down and the top rails have been put on it. I've got finished photos of the fence in my phone, I just didn't have enough ink cartridge to print out any more than what I did.

Mr. Benshoff asked, this photo?

Mr. Jones said this is a photo from December of 2019. Before our backyards were finished and this is the deer corn I was talking about that gets taken out to the back. That's a deer feeder.

Mr. Benshoff asked did you take that photo?

Mr. Jones said yes, sir. I did.

Mr. Benshoff said ok. We have to do this for each one. Tell us about that photo.

Mr. Jones said all I can tell you is that I'm not a hunter, but I know that's a deer feeder. I know what deer feeders are used for. That tree is not on my property, it's not on my neighbor's property. It's on the common green space in our subdivision, directly behind his property.

Mr. Benshoff asked you took the photo when?

Mr. Jones said it's been some time ago. I took this photo, but it's probably been when he put the feeder up and I don't remember when it was, but it's been some time ago. It's been there quite some time.

Mr. Benshoff said maybe you should take these and tell us about them in the order that makes sense.

Mr. Jones said these photo actually came from a video that I took while this was taking place and that was in December in 2019. I just happened to remember that because I just looked at the date, just the other day when I was screen captioning these off the video.

Mr. Benshoff asked what do they show?

Mr. Jones said they show two 50 lb. bags of corn being taken off into, this is the easement or sewer line easement right of way, the common green space.

Chair said the common area green space you are referring to, is that owned by the HOA?

Mr. Jones said HOA, sir. Ok, so this is kind of how these two would go, but this is a picture taken of my neighbor's backyard. They stand about here on the far side of his yard, and they would shoot across to this target, which is near the back corner of my property.

Mr. Benshoff asked you took those photos?

Mr. Jones said yes I did; those were taken just recently.

Mr. Benshoff asked just recently?

Mr. Jones said within the last three weeks. If you go there, this is what you will see now.

Mr. Benshoff asked is it the white fence that you see?

Mr. Jones said that's his vinyl fence on top of the retaining wall.

Mr. Benshoff asked where is your property line?

Mr. Jones said my property, I'm taking this picture from my property. I'm taking this picture from that wooded, common area.

Chair said I have to ask an obvious question. He asked, have you asked your neighbor about reorienting their target range to where the arrows would fly in the direction of the common area or wooded area?

Mr. Jones said unfortunately, we are not on civil speaking terms. Our last conversation resulted in me having to call the police because my life was threatened, as well as the lives of employees.

Mr. Benshoff asked are there anymore photos to identify?

Mr. Jones said these are just the photos of his dogs, up until recently, have just wandered at will. He has recently installed a shock collar system, so we haven't had any issues. I just feel that it's necessary. Because the one picture is actually, this picture is actually in my backyard, the day that we were building the fence, this dog was running around. The dogs, I don't want to penalize the dogs because their owner can't keep them in, so we don't call Animal Control. We try to deal with things as civil as we can. But, I've got two-year-old twin girls and as far as I'm concerned, no dog is welcome in my backyard, unless it's mine.

Mr. Benshoff asked ok, so you took these pictures?

Mr. Jones said yes, sir.

Mr. Benshoff asked when did you take these pictures?

Mr. Jones said these pictures were taken within the last three weeks.

Mr. Benshoff said ok, thank you.

Chair asked are there any other questions for the applicant? There were none.

Chair said unless I have an objection, I'm going to accept the photos as exhibits 7-16 and enter them into the record. Do I have any objections?

Mr. Draper said no objections from me.

Chair said thank you Mr. Jones.

Mr. Jones said thank you gentlemen.

Chair asked is there anyone else here who would like to speak in favor of granting the variance? Is there anyone here who would like to speak in favor of denying the variance? Please come forward and state your name and address for the record.

John Bird approached the podium and introduced himself. He said I am at 2909 Silo Court, which is to the left of Mr. Jones' house. To start with, the archery target that is in question, that he is talking about is beyond the very back corner of his property. I stand over here and shoot towards the common area, away from his house. The arrows do not fly anywhere; can I approach that over there to show how I shoot at that target? (Ed. Note Exhibit 1 displayed on monitor.)

Al Benshoff said whichever one is easier.

Mr. Bird said the target is right here where the green comes to a point, the target is right there. I stand over here at the back of my house, up against the wall and shoot back at these woods. So, there is no chance of an arrow going into his backyard. With that being said, we are not really here to talk about the bow and arrow target. We are here to talk about the fence that has been constructed, not only at 7 ft., but in places, it's 8 ft. The main reason, actually I'm not in objection to the fence, the fence looks better than what I used to have to look at. The fence has been built, he's been told that he can't have a construction company on the property in this cul-de-sac. He has built this fence to the height that when you come into the cul-de-sac, you cannot see into the back where he has all of his construction equipment. About the dogs, the dogs are two puppies that are only 4 months old. Within the last month, I've put shock collars on them, and they are in an enclosed circle, and they can't get to his property. Once again, I apologize for the dogs being on his property. I don't have anything that I can say about that, the dogs ran, we got them back. I put shock collars on them so they can't do it again. Once again, we're not really here for that. We are here to talk about the fence that has been constructed to not only 7 ft., but to 8 ft. in some places. Also, that 8 ft. is as one of you gentlemen asked, is on top of a 3 ft. berm. There is a 3 ft. grade different where the dirt comes up 3 ft. then it's 8 ft. to the top of the fence. What this does to me, I built a \$30,000 addition to the right side of my house that overlooked on to the farmer's field, which is beyond the back of his house. He's built his fence so I can see nothing out my windows now, but the top of his fence. Because not only is it 7-8 ft. tall in places, it's on top of a berm,

which makes it 3 ft. higher. That's really all I had to say, my wife had a whole list of things here for me to read off, but I'm not going to get into it. I'm just going to tell her how it is, that's why I'm here. If you have any questions for me, I will answer them. If not, I'm done.

Chair asked can you explain at what point, I mean the City apparently inspected the fence and that's when they issued the letter. Where is it above the 7 ft. mark? (ed. Note: Referring to Exhibit 1.)

Mr. Bird said right where the curser is right now, that whole area right there. I don't know, I haven't gone down his property. I'm going to say, I'm a construction person and I'm going to say approximately the last 12-16 ft. on this side is 8 ft., when it turns the corner, it also goes to 8 ft., then it comes back over to where it's convenient for him to where it doesn't affect his view, he dropped it back down to 5 ft. This was also the same guy who is on the Homeowners Association and denied the people across the street from having the same type of fence because he didn't want to look at it. That's all I have to say.

Chair asked are there are questions?

Mr. Draper said no questions.

Al Benshoff said Mr. Jones is allowed to cross examine.

Chair asked and said Mr. Jones, did you have any questions?

Mr. Jones said the accusations as far as my involvement in denying somebody else a fence....

Mr. Bird said he's the president of the Homeowners Association.

Mr. Jones said actually, I'm not.

Mr. Bird said the people bought all of the fence and had it sitting there, then they were told it was denied because one of the neighbors didn't want to look at the fence.

Chair said unfortunately sir, that really has no relevance to what we are here to discuss. We don't have any authority to get into how a HOA is managed or how they approve and disapprove items. That's a matter for the court system.

Mr. Bird said I'm just stating the fact.

Chair asked are there any other questions? There were none.

Chair said thank you sir.

Chair said Ms. Brightharp, when you issued the letter of non-conformance on the fence, was it inspected and measured in its full length.

Megan Brightharp said the letter about the fence, was about the fence not having a permit. They had already built it before we were notified of its existence, it wasn't until Mr. Jones came in and told us that it was built to 7 ft. that we were notified of it not being the appropriate height. We don't enter the rear the yards of the homes to do inspections of a fence, so the 7 ft. is based off of him notifying us of that.

Chair said thank you. Any additional questions? Is there anyone else here to speak in against approval of a variance? Is there any discussion amongst members on the issues? Any points of interest?

Mr. Draper said he's asking for a variance to 7 ft., but he's got 8 ft.

Chair said if he were to be granted a variance of 7 ft., it's now permitted, so it would be inspected and anything out of compliance, he wouldn't a completion certificate.

Mr. Smith asked did you say they inspect fences?

Chair said they will inspect a fence once it's done. You have to call back to get a final inspection on the fence. If 7 ft. is allowed, anything over 7 ft.

Mr. Smith said there are sections that are 8 ft.

Chair said they would have to take another foot off.

Chair asked is that it?

Chair said as a reminder, this Board is tasked with deciding if, based on the evidence presented, this proposal meets the standards of the zoning ordinance. This decision cannot be based on the personal preference of board members. rather it is based on the standards, and substantial, competent and material evidence in the record. The applicable standards are listed in the agenda. for this case, the staff proposed 6 findings of fact and we have accepted additional evidence of photos.

1. The property located at 2913 Silo Court is owned by Dorian Jones and is zoned RLD (Residential Low Density). (Exhibit 1 and 2)
2. The City of Monroe became aware that work had been done to the home at 2913 Silo Court, including the instillation of a fence and that the fence had been built 7' tall and advised Mr. Jones to complete permit applications and apply for a variance.
3. Unified Development Ordinance (UDO) Section 157.8.3.10 entitled "Fences, Walls, and Berms" states in relevant parts: (Exhibit 3)

#### A. General Standards

5. The maximum height of a fence within required rear and side yards shall be six (6) feet in residential zoning districts and maximum height of a fence within a front yard shall be five (5) feet.
4. A variance application was submitted on February 22, 2023, by Dorian Jones requesting a variance from the maximum fence height in a residential district in order to bring his fence into compliance. (Exhibit 4)
5. In order to bring the newly built fence into compliance, the applicant is requesting a variance of 1 foot.
6. All adjacent property owners have been notified of the proposed variance. (Exhibit 5 and 6)

Chair asked for a motion to adopt, amend or deny the Findings of Fact.

**Motion:** Mr. Smith made a motion to approve the Findings of Fact 1-6.  
**Second:** Mr. Draper  
**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

Chair said for this variance, the Board is asked to decide: does the record include competent, relevant and substantial evidence about the Findings of Fact that:

- (a) Unnecessary hardship would result from strict application of this ordinance because the applicants desire is to block the possibility of stray arrows from the neighboring archery range.

Chair asked do I have a motion?

Mr. Draper said I make a motion that it is a hardship peculiar to this applicant's property.

**Motion:** Mr. Draper made a motion that it is a hardship peculiar to this applicant's property.

Chair asked do I have a second?

**Second:** Mr. Smith

Chair asked do we have any discussions before we vote?

Mr. Draper said no.

**Action:**           **The motion passed unanimously with the following votes:**

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

**NAYS:**     **None**

Chair said next we have:

(b) The hardship is or is not peculiar to the applicant's property because grade of the property feet from side to side so that a six-foot-tall fence would not block the neighbor's arrows.

Mr. Smith asked can you read that again?

Chair said the hardship is or is not peculiar to the applicant's property. That is the question.

Chair asked do we have any discussions on that?

Chair asked do we have any questions or concerns?

Mr. Draper said the applicants fear of arrows coming into his backyard is not based in actuality because he justified that no arrows have ever come into his backyard. So, he is taking and making a hypothesis that if somebody is shooting arrows, sooner or later somebody is going to have one go haywire.

Chair asked can you form that into the form of a motion to the question?

Mr. Draper said I don't know, the problem is that the berm makes the fence, really 4 foot...

Mr. Smith said out of bounds.

Mr. Draper said yes.

Chair said the berm, the ordinance and we have the Planning Staff here that can correct me if I'm wrong, is the 6 ft. fence size is based on grade, at 6 ft. above grade. So, if you have a 4 ft. berm, you can put a 6 ft. fence on top of that berm and still be in compliance. The berm has no relevance on the size of the fence.

Mr. Draper said I agree with that part of it, but I'm saying that adds to it. If somebody built a house, obviously his neighbor built his house before this one was constructed. So, now the fence wipes out his view. I'm trying to think of the fairness of that.

Mr. Smith said that's kind of where I'm stuck too.

Mr. Draper asked where are you stuck?

Mr. Smith said the fact that you have no history of arrows going to the property and you have a neighbor who now has this fence is now built higher than recommended, ruins his view. So, I'm trying to balance it too.

Mr. Draper said tough to do.

Mr. Bird raised his hand to speak.

Mr. Draper said the neighbor wants to speak again.

Chair said we've already closed that. Unless you want to open it back up for deliberations.

Mr. Smith said this is...

Chair said unfortunately you have no right to a view over your neighbor's yard. Looking at the orientation of the houses on this cul-de-sac, the only thing you are going to see looking in that direction is the neighbor's house. I understand the objections about possibly operating a business and all that.

Mr. Smith said but that's also one of the reasons why you have a limited height of a fence. So you do not block neighbor's views and things of that nature. So, do you have a right, you probably have a right to not be constructed higher than the ordinance allows a fence.

Chair said the UDO gives you that right.

Mr. Bird raised his hand to speak.

Chair said sir, we've already closed the comments section. We can't go back for more comments.

Mr. Smith said I would say it is unique to the property.

Chair said that's the question that's being asked.

**Motion: Mr. Smith made a motion that it would be unique because that property has been there and no one else is asking for a higher than allotted fence in the area.**

Al Benshoff said the standard has to be based on facts in the record and the question is, is the hardship peculiar to the applicant's property?

Mr. Smith said no. Because everyone is going to have the same restrictions of the fence, right?

Chair said yes, the UDO applies to all the residents in the neighborhood.

Mr. Draper said there is really no hardship, as far as an arrow because we've heard that arrows don't actually go there.

Al Benshoff said that goes to the next standard, I believe.

Chair said yes, that's the safety standard. We will get to that one.

Mr. Bird said I can remove the target.

Chair said not that it's a matter for our deliberations, but the neighborly thing to do would be to reorient the target so that it would be impossible for an arrow to fly in that direction.

Mr. Bird said it already is that way.

Chair asked do I hear a motion? We are still on "B," the hardship is or is not peculiar.

Mr. Draper asked what if I think there is not a hardship?

Chair said we will get to that question.

Mr. Draper said ok.

**Motion: Mr. Draper made a motion that the hardship is not peculiar to the applicant's property.**

**Second: Mr. Smith**

Chair asked based on?

Mr. Draper said based on he's got quite a bit of height. If the guy is practicing for hunting, he would have to be almost, you know with the berm and the height that it is now, he's up pretty high.

Chair said ok, let's remember that we are talking about a fence. The fence is the question. So, the hardship is or is not peculiar to the applicant's property. The motion has been made and seconded that the hardship is not peculiar to the applicant's property because the actual grading and height of the fence is not what is in question. Does that sound right?

Mr. Smith said yes.

Mr. Draper said yes, that sounds right.

**Action: The motion passed unanimously with the following votes:**

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

**NAYS: None**

(C) the hardship is not the result of the applicant's own actions because the applicant's testimony indicated that he suffers from the actions or perceived actions, possible actions, of his neighbor.

**Motion:** Mr. Smith made a motion that the hardship is the result of the applicants own actions.

**Second:** Mr. Draper

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

Al Benshoff said if I can make a correction here to the next, sorry, that would be the last question, E is left out of here. Just go ahead, please.

(D) The variance request is or is not consistent with the spirit, purpose and intent of the unified development ordinance because it promotes the peaceful use of a single family residential backyard.

Al Benshoff said I have to tell you that the small case, that's my guess as to a reason. That's not the standard.

Chair said let's leave those off in the future.

Al Benshoff said yes, sir.

Chair said as we muddle through this new script here. Again, the question is:

The variance request is or is not consistent with the spirit, purpose and intent of the unified development ordinance

**Motion:** Mr. Draper made a motion that it is not consistent with the spirit, purpose and intent of the Unified Development Ordinance.

**Second:** Mr. Smith

**Action:** The motion failed with the following votes:

**AYES:** Kenneth Deal and William Draper

**NAYS:** George Smith

Al Benshoff said this one will be in denying instead of granting this variance.

Chair said right.

(E) In granting this variance request, public safety will or will not be secured and substantial justice will or will not be achieved.

**Motion:** Mr. Smith made a motion to deny this variance request because, public safety will be secured, and substantial justice will be achieved.

**Second:** Mr. Draper

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

Chair said therefore, on the basis of all foregoing, it is ordered that the application Variance 2023-00122 be denied.

**Motion:** Mr. Smith made a motion to disapprove the variance.

**Second:** Mr. Draper

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

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

**NAYS:** None

Chair said the board's attorney will draft and I will sign a final written decision to reflect the vote and reasoning for this decision. that written decision is called an order. the written decision will be sent to the applicant and other parties and anyone requesting a copy. Parties have 30 days to appeal this decision to the superior court of Union County. Thank you all for attending.

Chair said that the hearing is now closed.

**Item 7.** **PLZNA 2023-00123 Variance-** The Board of Adjustment is requested to consider a Variance application from Lewis Fisher for property located at the corner of N. Rocky River Road and James Hamilton Road. The applicant is requesting a variance from Section 157.5.5.C of the Unified Development Ordinance for the maximum front and rear setback, Section 157.8.3.5.B and Section 157.8.3.7.A of the Unified Development Ordinance for the required street yard buffer, Section 157.8.8.3.D of the Unified Development Ordinance for the required open space, and Section 159.303 (B) of the Stormwater Management Ordinance for the stormwater treatment system in order to develop the property. (Parcel # 09-336-030)

Chair said we now open the evidentiary hearings for case 2023-00123. The owners Thomas and Helen Williams have requested six variances for property at the intersection of Rocky River and James Hamilton roads. All those giving testimony on this case, please come forward and be sworn in. (Doug Britt, Lewis Fisher, Rita Murray, Justin Church and Luke Strickland)

Lewis Fisher said Mr. Chair, the property owners are here, and I will you that they may want to say something, but we will have to see how that goes. They are elderly and I will be presenting for them.

Chair said ok, just make sure if they do have something to say, they consult with you first and then we can swear them in, if necessary.

Mr. Fisher said certainly.

Chair said thank you.

Doug Britt, Senior Planner, approached the podium and said this is a variance request by Lewis Fisher on behalf of Teramore Development, LLC. Mr. Fisher is requesting a variance to the maximum front, side and rear setbacks, the street yard buffer, the open space, and the storm water control measures for the property located at the intersection at North Rocky River Road and James Hamilton Road. At this time, I will proceed to entering the proposed findings into the record.

**Proposed Findings:**

1. The property located at the intersection of James Hamilton Road and Rocky River Road is owned by Thomas J. and Helen H. Williams and is zoned CC-MX1 (Community Corridor Mixed-Use 1. (Exhibits 1 and 2)
2. The North Carolina Department of Transportation (NCDOT) is currently preparing for a road realignment that will align James Hamilton Road and Myers Road. The realignment will create a safer intersection of the two roads with North Rocky River Road. (Exhibit 3)
3. As a result of the road realignment project NCDOT will obtain a portion of the subject property owned by Thomas J. and Helen H. Williams.
4. A variance application was submitted on February 15, 2023 by Lewis Fisher, on behalf of Teramore Development, LLC, requesting a variance from the maximum front yard setback along North Rocky River Road and James Hamilton Road, the maximum rear setback, the street yard buffer, the open space requirement for development in the Community Corridor Mixed-Use 1 zoning district and the storm water measure design for the removal of total suspended solids in order to construct a Dollar General on the site. (Exhibit 4)
5. According to UDO Section 157.5.5.C titled Community Corridor Mixed-Use 1 District Development Standards Table of the Unified Development Ordinance the maximum front/street setback is 30 feet, and the maximum rear setback is 50 feet. (Exhibit 5)
6. A building is proposed to constructed that will be located 94.89 feet from the right-of-way of North Rocky River Road and 84.96 feet from the right-of-way of the existing James Hamilton Road and the applicant is requesting a 64.89-foot variance along North Rocky River Road and a 54.96-foot variance along existing James Hamilton Road from

the maximum front setback requirement. Additionally, the building is proposed to be located 130.07 feet from the rear property line and an 80.07-foot variance is being requested from the maximum rear setback. (Exhibit 6)

7. According to UDO Section 157.8.3.5.B titled Perimeter Buffer Types, Table 8.3.1 Perimeter Buffer Types Table and Section 157.8.3.7.A titled Street Yard Buffer of the Unified Development Ordinance the required street yard buffer is ten (10) feet. (Exhibit 7)
8. The applicant is proposing for the street yard buffer along North Rocky River Road to be 7.45 feet wide and is requesting a 2.55-foot variance from the required street yard buffer. (Exhibit 6)
9. According to UDO Section 8.8.3.D titled Open Space Percentage Requirements of the Unified Development Ordinance developments within a mixed-use zoning district shall require the greater of .50 acres (21,780 square feet) or fifteen percent (15%) of the total development size which in this case would be .50 acres (21,780 square feet) of open space. (Exhibit 8)
10. The applicant is proposing to provide 0.049 acres (2,148 square feet) of open space and is requesting a 0.45 acre (19,632 square foot) variance from the open space requirement. (Exhibit 6)
11. According to Section 159.303 (B) titled Structural Stormwater Control Requirements of the Stormwater Management Ordinance all structural stormwater treatment systems used to meet these requirements shall be designed to have a minimum of 85% average annual removal for Total Suspended Solids (TSS). (Exhibit 9)
12. The applicant is proposing construct the detention facility in order to remove no less than 20% of Total Suspended Solids (TSS) and is requesting a 76.5% variance of the Total Suspended Solids (TSS) requirement of the Stormwater Management Ordinance which is a reduction of 65%. (Exhibit 6)
13. All adjacent property owners have been notified of the proposed variance. (Exhibit 10 and 11)

Doug Britt said I will be glad to answer any questions and Mr. Fisher is here to make a presentation as well.

Chair asked from the water runoff quality standards, is that primarily due to the fact that this property is kind of landlocked with the way the roads are going to circle it?

Doug Britt said it's due to the fact that there is not enough room.

Chair said right, it's landlocked.

Doug Britt said I don't think it has to do with being landlocked, I think it could be landlocked and be 3 acres and they could meet it, but the problem is, for them having a 10,000 sq.ft. building and having parking, having landscaping, they run out of space.

George Smith said it's almost like a square peg in a round hole.

Doug Britt said one could say that, yes sir.

George Smith said try to fit that in a piece of land.

Chair asked are there any questions for Staff? Thanks, Doug.

Al Benshoff asked and said Mr. Britt, could we look at the survey, where you showed the requested variances to the maximum setback requirements?

Doug Britt said sure.

Al Benshoff said you had those highlighted in yellow.

Doug Britt said ok.

Al Benshoff asked is there any way that a building could be put on the site that meets the maximum setback requirements?

Doug Britt said probably not. Because if you fill up the entire building, the maximum setback, that would take away all the parking.

Al Benshoff said I believe you testified that this is in a Commercial District. Is this in a water supply/water shed overlay district?

Doug Britt said to my knowledge, I don't believe it is. No, sir.

Al Benshoff said I am going to have some questions for the Engineer later. That's all I have Mr. Chair.

Chair said give me a minute, it's a lot to study.

Doug Britt said I know, it's a lot to digest.

Al Benshoff said while we are waiting, isn't this 6 variance requests and I will ask the applicant the same thing.

Doug Britt said yes, if you could both the front yard setbacks, you have 1, 2, 3 right here, based on the setbacks. Open space would be 4, the street yard buffer would be 5, and the Stormwater feature would be 6. Yes, sir, a total of 6.

Chair said thanks Doug. Do we have any discussion other than the public comments?

Chair said at this time, I will recognize the applicant's attorney for a presentation.

Mr. Fisher said thank you Mr. Chairman. Actually, all of our presentation is going to be Mr. Britt and I would like to say to the Board that I truly appreciate Mr. Britt's work on this variance request. It's been quite a challenge. I would like to give the Board, if I may, a history, because I think it's very important.

Mr. Fisher asked and said Mr. Britt, are you familiar with this request for this variance.

Doug Britt said yes.

Mr. Fisher asked it's been an extended endeavor, has it not?

Doug Britt said yes, it has.

Mr. Fisher said it actually predates the current Unified Development Ordinance. Is that right?

Doug Britt said that is correct.

Mr. Fisher said if you would, relate to the Board, there is a term in the Ordinance entitled "Vested Right," would you in laymen's terms explain what that is?

Doug Britt said "Vested Right" is a legal term for basically grandfather status. Typically, I just use grandfathered. But, legally, it's called "Vested Right."

Mr. Fisher said with respect to this particular piece of property, had the applicant submitted a site plan before April 12, 2022, which is when the ordinance was enacted. Would they be entitled to a "Vested Right"?

Doug Britt said they would. They would submit it under the old code, and it will be reviewed under the old code. The only variance request they would have had to ask for would have been because the street yard buffer now is 10 ft. under the new code, under the old code it was 8 ft., so they would not have met that by 0.55 ft., nor based on the layout they probably would not have met the Stormwater requirements as well, but everything else would have been grandfathered or "Vested Right".

Mr. Fisher said if we can look at this Exhibit 6 that you have here. Let's scroll down to where you say under the old ordinance, what the setback variance that they would have to seek.

Doug Britt said they would've had to seek this right here, it says 2.55 feet in there now, because it's 10 ft. but, under the old code, it was 8 ft. So, they would have gone into that 8 ft. street scape buffer, that we called it then, by 0.55 ft. So, that would have been the variance request a zoning standpoint. Obviously, there is a Stormwater issue.

Mr. Fisher said essentially, under the old ordinance, if we were here today, we would be seeking a simple variance of half a foot off of the front and all of these other variance requests would not be, except for Stormwater, of course.

Doug Britt said that's correct.

Mr. Fisher said you have been very kind in working with me through this and I believe in September, we had some discussion about...Well, let's go back, regarding the site plan (Exhibit 6), do you have knowledge of the what they are calling the James Hamilton Road Extension, when that was first designed or first discussed. Let's talk about discussion first.

Doug Britt asked for the James Hamilton Road project? That's been on the books for years. Because that's a DOT project, but it's a project that the City contributed funds to that project. It's probably been on the books for at least 10 years.

Mr. Fisher said the City is actually participated in funding of that right of way, correct?

Doug Britt said funding of that project.

Mr. Fisher said funding of the project. But, to your knowledge, when was the actual design of that extension done?

Doug Britt said I'm not sure about that. Not 100% sure about that.

Mr. Fisher said for clarity purposes, you indicated early on that the requested variance pertained to a 3.90-acre track, but if fact, this variance pertains to that peculiar looking piece there (Exhibit 3) Do you know what size that is?

Doug Britt said that tract is 1.44 acres.

Mr. Fisher asked in that right of way for the proposed James Hamilton Road, is actually splitting Mr. and Mrs. Williams property, is that correct?

Doug Britt said that is correct. There is a remnant to the North of the road.

Mr. Fisher said with respect to the ordinance itself and when we were talking in September, I believe you shared with me that Staff was reviewing the new Unified Ordinance because of some technical concerns, and you felt that those technical revisions would help address some of the concerns for this project. Is that correct?

Doug Britt said that is correct.

Mr. Fisher asked were those technical corrections actually passed by the Monroe City Council?

Doug Britt said they were.

Mr. Fisher asked did that remove a number of the setback for variance concerns?

Doug Britt said it removed some of them, yes.

Mr. Fisher said let's talk if you can, about this front setback. I think you mentioned that there is, in the ordinance, the minimum and maximum front setback, is that correct?

Doug Britt said that is correct.

Mr. Fisher asked is the purpose of that section of the ordinance typically related to a stretch or a piece of property that spans in a fairly sizable road frontage?

Doug Britt said it does, because you are trying to get the buildings where they are going to be closer to the road and you need a kind of harmony where they line up.

Mr. Fisher asked so, if you have a piece of property or pieces of property along that are adjoining each other, you will want them to appear in a coordinated fashion?

Doug Britt said yes, or uniform, yes.

Mr. Fisher asked that's the purpose of that front setback, correct?

Doug Britt said correct.

Mr. Fisher said with respect to this particular piece of property, it is bounded on all sides by streets, is it not? (Exhibit 6).

Doug Britt said it is.

Mr. Fisher said in actually, north of this roadway, is Piedmont Natural Gas is what I would call caged piping. So, there is not going to be another improvement to that side, to your knowledge, correct?

Doug Britt said no.

Mr. Fisher with respect to that maximum setback, lets return for a moment. The entrance to this property, is off of the current James Hamilton Road.

Doug Britt said correct.

Mr. Fisher said I think you said that the current James Hamilton Road and this is going to be confusing, is not going to be closed, but that the new road is going to be called James Hamilton as well.

Doug Britt said I don't know about the road names, but I know when DOT does a project, what

we call the current James Hamilton Road, will remain. They are going to modify the access on to Rocky River Road, it's going to be a right in, right out. But, the road is still going to remain.

Mr. Fisher asked and said so that entrance, into this property, whether it's this design or any other design, is dictated by the NC DOT, correct?

Doug Britt said that is correct.

Mr. Fisher asked it has to come off of this existing James Hamilton Road, correct?

Doug Britt said that, I can't say for sure. The only thing I've seen, is this one right here (Exhibit 6).

Mr. Fisher asked every design you've seen has been this one right here?

Doug Britt said yes.

Mr. Fisher said to a large degree, that dictates how this property can be developed, would you agree with that?

Doug Britt said yes.

Mr. Fisher said I guess, let's start in a clockwise motion (Exhibit 6). Starting with the entrance to the property, you have parking there to the left, you have to have a certain amount of space for cars to both enter and exist out of the property, correct?

Doug Britt said correct.

Mr. Fisher said that design or location of the building is oriented so it's to permit sufficient room for vehicular traffic, coming in or off of the property. Would that be correct?

Doug Britt said that's correct.

Mr. Fisher said you would need a certain amount of room in order to accomplish that and that's what that side setback is there for.

Doug Britt said correct.

Mr. Fisher said similarly, that's (let's) keep the clock running. On the front, with respect to parking, there has to be parking for commercial development. That setback, how many spaces are considered there, Doug? Is that 35 spaces and they are back to back?

Doug Britt said that is correct.

Mr. Fisher said you have to allow enough room for cars to pull in, back out. Two cars doing the same type of motion, right?

Doug Britt said right.

Mr. Fisher said that would explain why that setback has to be, or is generous as it should. Would that be fair?

Doug Britt said yes.

Mr. Fisher said there has been some speculation, what about if we reduce the size built, but in fact, if foot printed buildings reduced as the attorney for the Board has observed, that would make those variances even greater, right?

Doug Britt said that is correct.

Mr. Fisher said if you reduce the footprint, you would have to have more to have the front setback maximum by a greater amount, and the rear as well.

Doug Britt said correct.

Mr. Fisher said with respect to the rear, I think you had an Exhibit showing, there is planned a water detention pond here, isn't the reason for the rear setback is that the maximum has to be allowed is because that is where the Stormwater detention pond has to be located?

Doug Britt said based on the way they designed the site, that's where its located, yes.

Mr. Fisher said in the course of our work together, I asked you about the wisdom of a maximum rear and side setback and I think you shared with me Staff was looking at that and there was some language being worked on to eliminate the maximum rear and side setbacks. Is that correct?

Doug Britt said right, we had an amendment drafted that's going to keep the minimum and maximum in the front, but we are going to remove the maximum in the rear and sides. Regardless of whether it's adjacent to a street or adjacent to another property, we are going to remove the maximum.

Mr. Fisher said if that would've happened, then....

Chair said excuse me. You are stating an intent, but there has been no formal document or approval of that change?

Doug Britt said that is correct.

Chair said thank you.

Mr. Fisher said if it were approved, 2 of those variances would go away. With respect to the open space question, and you indicated that you're reading of the ordinance is that they would have to be dedicated the less of a greater of a half-acre, or 15% of the site, correct?

Doug Britt said correct.

Mr. Fisher asked this site is how large.

Doug Britt said 1.44 acres

Mr. Fisher said a half-acre is over a third of the site and it would have to be dedicated for open space.

Doug Britt said correct.

Mr. Fisher asked is that a bit punitive?

Doug Britt said on this site, I think one could probably say it may be, yes.

Mr. Fisher said we are finally talking Stormwater. There were 4 criteria that has to be met and you and I are not Stormwater experts. Is it your understanding that 3 of the 4 indeed will be met?

Doug Britt said that is correct, there is only 1.

Mr. Fisher said there is only 1 for which a variance is being requested for.

Doug Britt said right.

Mr. Fisher said one of the findings that the Board would have to make, is the nature of this area and it would have to be in harmony with the area. This area is zoned?

Doug Britt said CC-MX1, which stands for Community Corridor Mixed-Use 1.

Mr. Fisher said it actually has a provision for community retail, does it not?

Doug Britt said it does.

Mr. Fisher said I think you are familiar with the property, correct?

Doug Britt said correct.

Mr. Fisher said you've lived in that area for a pretty good period of time. Can you tell me, to your knowledge, is there a community based retail store between the Walmart in Monroe and the Walmart in Indian Trail? On the north side of US 74?

Doug Britt said to my knowledge, no.

Mr. Fisher said so this would fit within the category of this commercial mixed use?

Doug Britt said right because retail is allowed in this particular zoning district.

Mr. Fisher said as far as you know, there are no public health or public safety concerns, other than, if we may, let's go back to Exhibit 6. Which has to do with the entrance into the property, that is the sole entrance, correct?

Doug Britt said correct, that I'm aware of, yes.

Mr. Fisher said NC DOT would not permit an entrance off of Rocky River Road, correct?

Doug Britt said that I can't speak to entirely.

Mr. Fisher said that is really the reason James Hamilton Road Extension, correct?

Doug Britt said to help alleviate traffic that backs up on Rocky River Road there at 74.

Mr. Fisher said to the rear of the property, so that we are clear, is just the confluence of James Hamilton Road and the proposed James Hamilton Road Extension?

Doug Britt said correct.

Mr. Fisher said Mr. Britt, again, I want to thank you for your hard work on this project. I'm going to hound you for a little harder work if you would. I did a PowerPoint, and I am 73 years old, I did it with the help of my son-in-law, but I don't know how to access it. So, I am going to ask Mr. Britt to help me as we walk through it Exhibit 12).

Doug Britt said ok, that's fine.

Mr. Fisher said I'm not going to ask you any more questions.

Doug Britt said that's fine.

Mr. Fisher said the first thing I want to do is introduce you to Mr. and Mrs. Williams, if you folks could stand up for me, please. They are the owners of this property and their attorney, Richard who is here. When you hear and see this evidence, one thing I would like for you to do, is to understand their plight. Put yourselves in their position and understand that this hardship is not created by Mr. and Mrs. Williams, they are trying to deal with the situation that's being presented to them. The first slide (Exhibit 12) here comes out of the UDO and the 2 areas in pink, the first one is and you gentlemen are familiar with Monroe, it's where Roosevelt Blvd. and Secrest Short Cut comes into that strange angle at Burger King, it's a small area. Then, I want to orient you to this property, it's where North Rocky River Road is where there is a BP station that has a truck stop, it's at the corner of N. Rocky River Road and US 74. The area we are talking about is that area. Next, (Exhibit 15) this is right out of the April 12, 2022, new UDO, the ordinance. It shows that entire tract of land and I will ask you Mr. Britt, if a site plan had been submitted to your department for that tract as its' configured, would it have been accepted by the City of Monroe?

Doug Britt said probably not, based on the potential road going through the middle of the property.

Mr. Fisher said but it is not depicted in the ordinance itself, as late as April of 2022, is that correct?

Doug Britt said that is correct.

Mr. Fisher said this is from Union County (Exhibit 12, page 4), and I compiled this, this is the Union County GIS map, today, of the Williams property. There is no right of way for James Hamilton Road Extension, shown here. I will point out where Myers Road is coming in there, that is essentially where the extension is going to do. So, the Williams are going to own what's north of that. The parcel ending in 30-C, is depicted and if you will notice, the tract is the Williams property and that gives you some perspective and here comes Myers Road (Exhibit 6) trucking right through the heart of that property. This is what the Williams are faced with. (EX 12, pages 8-10, 12-16, 18-21, Photos shown of surrounding properties). Mr. Britt, let me ask you this, on James Hamilton Road (Exhibit 12, page 5), the orientation of the entrance to the subject property is consistent with, am I correct, the orientation of this property, it's going to be oriented to exit onto that James Hamilton Road?.

Doug Britt said I don't know for certain. We are in discussion somebody about developing that site and I haven't seen the site plan of it yet. But, to say whether they are going to have access off of Highway 74, I don't know, if they would have any, it would be right in, right out. But, yes, I'm sure they are going to take access off of the back of James Hamilton Road.

Mr. Fisher said which is another reason why James Hamilton Road cannot be closed, correct?

Doug Britt said yes.

Mr. Fisher showed several photos from his PowerPoint presentation of surrounding properties and explained their orientation to the subject property. (Exhibit 12)

Mr. Fisher asked and said Mr. Britt on January 30<sup>th</sup>, of this year, I came to your office to submit the application, do you recall that?

Doug Britt said yes, sir.

Mr. Fisher said my wife was about to have surgery and I was about to submit it and on that date, you and I spoke, and we decided to wait on the submission.

Doug Britt said correct.

Mr. Fisher said to the Chair, I've made copies for all you of the of the January 31, 2023 letter Mr. and Mrs. Williams received regarding their property (Exhibit 13). This is the NC DOT finally notifying them that they are taking this property. So, we have been sitting and wondering, and not knowing how to proceed. Now we know, they are going to lose a big portion of their property. I would like to enter those photographs (Exhibit 12) into the record.

Al Benschhoff asked do we have that PowerPoint?

Doug Britt said yes, we do.

Mr. Fisher said I have another article for you all, this is the communication log (Exhibit 14).

Mr. Fisher called up Justin Church and asked him, could you state for the record, your name?

Justin Church introduced himself and said I'm a licensed professional engineer in North Carolina and I've been practicing for 15 years.

Chair asked business address, please?

Mr. Church said I'm sorry. It's 1520 Meadow View Drive, Wilkesboro, North Carolina. I've been doing these designs for Teramore for a number of years, and I've done probably 150 Dollar Generals in my career. So, we've got a lot of experience in trying to make these work. Do you want me to talk about stormwater?

Mr. Fisher said let's just talk about this site. How long have you been engaged with this site?

Mr. Church said I think I first learned of this site in the summer of 2021. In the June or July timeframe.

Mr. Fisher asked did you have opportunities to interact with the representatives of the City of Monroe?

Mr. Church said we did. Our main concern at that time was the proposed right of way and how that was going to impact what residual property would be left, and of course, we followed that up with a conversation with the City.

Mr. Fisher asked did you in fact developed plans and submitted them to the NC DOT at this time?

Mr. Church said yes. So, we didn't make a formal driveway permit submission, we were going back and forth with the DOT a lot to establish, and we were really trying to nail down where this right of way was going to be. Because without knowing that, we didn't know what property we had to work with, so it took several months to sort of work through some inconsistencies that we were seeing between our survey and what they had proposed.

Mr. Fisher asked in the course of that, you also interacted with the City of Monroe? Trying to keep them abreast of what you were doing and the progress you were making and the obstacles you were running into trying to get clarity on that right of way, would that be correct?

Mr. Church said that would be correct.

Mr. Fisher said Mr. Church, you are the designer of this site plan, in your interactions with the City of Monroe, you've heard me talk with Mr. Britt about what's called "Vested Right," were

you ever made aware that if you could submit a site plan based on an old ordinance, that that site plan would be grandfathered or Vested?

Mr. Church said I never had that discussion with anybody.

Mr. Fisher said with respect to the site plan, we talked about the orientation of the building. Let's talk about the driveway first of all.

Mr. Church said ok.

Mr. Fisher asked how did that come about?

Mr. Church said we had talked to DOT and obviously they want to limit access onto major roads, so connecting to Rocky River Road was not an option and of course the northern portion doesn't exist yet, so we were left with James Hamilton.

Mr. Fisher said it was the NC DOT that dictated whether it's this site plan or any other site plan, that has to be orientated so that access...?

Mr. Church said that's correct. Anything built on this site, under today's conditions, would certainly have to connect to James Hamilton.

Mr. Fisher asked that was a key, was it not? As to how you could design it.

Mr. Church said it was definitely a limitation, yes.

Mr. Fisher asked with respect to the stormwater issue, if you could relate to the Board what you've done and what you've attempted to do to alleviate any concerns there.

Mr. Church said sure. (Monitors show Exhibit 9, Stormwater Ordinance §159.303). He said I think Mr. Britt had shown this Exhibit earlier. There are basically five elements to stormwater control requirements listed in the ordinance. I'm just going to run through them, one by one right quick. So, the first element is that the draw down from the first inch of rainfall, it has to be in that 48 to 128-hour window as far as how long we retain that water. We are able to do that with no issue. The next item is the treatment sets a minimum of 85% of removal for total suspended solids and that's the reason for our variance request. I'm going to come back to that one. The third item basically requires and sets guidelines for general engineering practices for the design, and we meet that. The fourth element would be to discharge the storage volume, basically we would call this peak continuation, other words, we can't discharge water at a greater rate than the pre-construction condition for the one-year storm and we meet that. So, I want to expand on that one a little bit, so during the review and us working with [City engineers] Mrs. McAlister and Mr. Huda, part of Mr. Huda's comments issued in February were suggested that in light of the fact that we were asking for a variance, that we also attenuate and treat the volume from the two-year six-hour and the ten-year six-hour storm, so those are requirements that are above and beyond what's listed in the ordinance. But, we are likewise able to do that also. Letter (E) basically is talking about the fact that we are certainly aware that deed restrictions and other means of protecting this area from

future development will need to be in place, it's not an issue. Circling back to letter (B), the reason that we are having a little bit of difficulty with that particular requirement is that when we design stormwater, we have a number of stormwater control measures that we can select from to install and the measures that typically provide this level of treatment of total suspended solids almost always have some sort of component that is below ground, that you don't see. So, if you can imagine, we have to create some depth in our grading to create the retention area and then below that you would have additional depth and so that creates a sort of tall profile that you have to have on some of them on site to be able to discharge the water out from the bottom of that. That's our limiting factor, that's why we are here requesting that particular variance. That all of the stormwater control measures that would meet that, just require more depth than what we have available for an outlet on the site. Mr. Benshoff might have some questions about that, I believe he mentioned that earlier that he might have some stormwater questions related to that.

Al Benshoff asked the Chair, is this the time Mr. Chairman?

Chair said if you have a question, go ahead.

Al Benshoff asked is there any other design criteria or engineered stormwater control structure or best management practice that could be put on the site that would remove more total suspended solids than the 20% you've proposed?

Mr. Church asked is that a question for me?

Al Benshoff said that's for you.

Mr. Church said not that I'm aware of, no. Anything that would do that, would require some subsurface depth that we just really can't provide. I feel like the 20% is a conservative number because if you think about it, there are two methods or two means that any of these stormwater control measures have of removing suspended solids. One is just detention time, you stop water and solids fall to the bottom and we would call that sedimentation. The other means is the fact that these media or these subsurface components of these other measures have basically sand or some kind of engineered soil that binds particles to it. That's the other means of removing suspended solids, so I think the 20% is very conservative number. Because mostly what you are going to see it sites highly impervious, you are going to see a lot of metals or things like that from a parking lots. There is not going to be a lot of sediment, or there shouldn't be. Those clays and things that stay forever that are really hard to remove, that's where these other type of measures that have some sort of special media really shine and do a good job. But, I don't think that's a huge concern here, given how impervious our site is.

Al Benshoff said thank you.

Mr. Church said that's all I've got to say about stormwater, I'm happy to answer any other questions.

Mr. Fisher asked does the Board have any other questions regarding the design of the stormwater?

Chair asked the Board, do you have any questions for this witness?

Mr. Smith said no.

Mr. Draper said no.

Mr. Fisher said I have one more. How many years have you been doing this?

Mr. Church said a long time, about 15 years.

Mr. Fisher asked have you ever met a site as challenged as this site?

Mr. Church said its very challenging. I've seen sites where you have rights-of-way on multiple sides, I don't know that I've seen one where I have right-of-way on all four sides and I have a minimum and maximum setback line. The only building you can possible design to meet that requirement would have to be the exact shape of the parcel, itself. That's a very unique challenge that I haven't seen before.

Mr. Fisher said I appreciate the Board's attorney making that observation.

Mr. Fisher said I would like to share with you this section of the ordinance (Exhibit 15) and I wanted to emphasize, this is a Neighborhood Mixed –Use Center character area and its intended to act as a transitional mixed-use district from the US-74 commercial corridor and may service multiple neighborhoods (i.e. community retail). Dollar General is, if someone were to say to you Community Retail, you would think Dollar General. You can buy diapers, you can buy detergent, you can buy food. They will not be selling petroleum products. It's to permit a community level trail area for areas in a greater radius than the immediate neighborhood. To that, I would like to ask Mr. Strickland to come up.

Luke Strickland approached the podium and introduced himself. He said my business address is 214 Klumac Road in Salisbury, NC. I work for Teramore in a real estate capacity, and this is originally my project.

Mr. Fisher said if you would, relate to you Board how you came to this site and why Teramore, in particular Dollar General found this site.

Mr. Strickland said absolutely. So, I originally came upon this site by driving the 74 area of Monroe, I stopped at the BP station to fill up and I noticed the Typar realty sign and it caught my eye, it was kind of a diamond in the rough. I was surprised that it was readily available and the nature of the property was quite expensive because it had a lot off inherent value. To the people in my profession, you see the property and its surrounded by other national stores, Goodwill, BP, few other. It's a very commercial corridor, yet still in fairly close proximity to households and a store like a Dollar General is ultimately a neighborhood like store. Generally, the pool of customers are from around the area, in that very close mile to mile-and-a-half area. It met all of those surface level criteria and digging a little deeper with the traffic, the visibility, what seemed to be the access at the time, kind of all passed that rudimentary check and as we dug deeper in it, it seemed like a

pretty no brainer, homerun situation for my firm. If we were able to contract the property and successfully develop a store at this location, we would predict that it would be quite popular and very successful.

Mr. Fisher asked did you do a demographic study of the area?

Mr. Strickland said yes, so we looked at households, I already mentioned traffic, proximity to competition, proximity to other complimentary uses, which we found quite a myriad of examples of complimentary uses. Basically all of the rules of thumb, this met every single one of those and was actually a project that we were quite excited about. It was not a fringe decision to try to move forward and try to develop the site because it was so evident that from our perspective, it matched all the criteria that we were looking for. It was truly a homerun if you would.

Mr. Fisher asked the Board, does the Board have any questions for this gentleman?

Mr. Smith said no.

Mr. Draper said no.

Mr. Fisher told Mr. Strickland thank you. He said, gentleman, I'd like to conclude by just sharing with you what you already know. But, I'd like to turn to the conclusions that you have to make. Mr. and Mrs. Williams are literally between a hard and a harder place. They were not placed there on their own, they were placed there because of the NC Department of Transportation and frankly by the City of Monroe, and I'm not casting aspersions here. They could not come forward with a developed plan for all of the Williams property, you heard Mr. Britt state that they would have rejected it because they knew that the road was coming. So, the Williams were forced then and with their prospective purchaser to develop a site plan based on what was going to happen and that's what they were doing in good faith, not without the state of North Carolina and actually taken the property. The state hasn't actually started that process and didn't start that process until January 31, the Williams were hamstrung. So, with respect toward the conclusion that an unnecessary hardship would result from the strict application from this ordinance, is imminently clear. That front setback is designed for if you go down a road and you see buildings, you want them to be somewhat uniform. There is no adjoining building, there's streets, this is an orphaned piece of property that was created by the State of North Carolina's Department of Transportation. A hardship would result from the strict application, your attorney correctly observed. What if they moved the profile of the building in, it created a greater variance, so we were told where we had to enter the property, we were told the requirements of setbacks from the City and if we changed the design of the building, we are even in greater noncompliance and still need to seek a variance. Which would be a greater variance than the one we are seeking tonight, on all counts. With respect to the hardship is peculiar to this property, gentlemen I define you to find another piece of property in the City of Monroe that has this profile, there isn't any. Would you agree with that Mr. Britt? That this is an unusual and peculiar piece of property?

Doug Britt said it's definitely unusual.

Mr. Fisher said the other conclusion that we have to reach is that it wasn't as a result from the applicants own actions. I think that's pretty clear, it was dictated to them, just as all of this has been dictated to them without their ability to do anything other than the best they can do, through these experts to comply as best as they can with the ordinance. Finally, that it's consistent with the spirit, purpose and intent of the ordinance. You heard Mr. Britt testify that a store similar to Dollar General, located on this property, would provide the neighborhood retail establishment that is missing from the Walmart. I'm sure you gentlemen have driven from the Walmart in Monroe to the Walmart in Indian Trail, those folks in that area, deserve an opportunity to go somewhere other than a big shopping center to meet their needs. You heard Mr. Britt testify that to his knowledge, this won't compromise the public safety of anybody and that is dictated by the NC DOT. So, that is where your access point is going to be, to keep it away from Rocky River Road. In conclusion, I want to again ask you to put yourselves in the position of Mr. and Mrs. Williams and understand that they didn't create this problem for themselves. It was created and they are trying to deal with it. This is their only avenue out and I would point out something else, this road creates from the north side a completely unusable parcel of real estate that these folks are going to have to continue to live with because of the configuration of the road. This is truly unfortunate, and they shouldn't be victims. Your gentleman can help them, at least salvage some of what they have and they've owned it for years, if you grant this variance. Thank you.

Chair asked do we have any other questions for this witness?

Mr. Draper asked eminent domain, wouldn't they be compensated for it?

Al Benshoff said yes.

Chair said yes, they will receive compensation at fair market value.

Al Benshoff asked do you want me to ask Mr. Fisher about it?

Al Benshoff said I think we have a question.

Mr. Fisher said yes.

Mr. Draper asked will the Williams be compensated for eminent domain on that piece of property?

Mr. Fisher said arguably, they will be compensated for the taking of the roadway, whether or not they will be able to demonstrate any other damages, I don't represent the Williams, I can tell you sir that if I did, I would be seeking some type of compensation. But, I can't speak to the degree to which the State of North Carolina might in their generous disposition would pay to Mr. and Mrs. Williams. I don't want to speculate on what that may or may not be. But, it's a good question. Yes, I would expect that they would be compensation for the taking of the right of way. Thank you.

Chair said normally it is assessed value. Is there anyone else present that wants to speak in favor of an approval of the variance? Now, I am ready to accept any rebuttals. Do we have anyone here to speak against the approval of the variance that is being requested? Does anyone want to cross examine of the witnesses that has testified tonight?

Al Benshoff said I would like to question the City Engineers.

Chair said will the City Engineer come forward and state your name and business address. Is he still here, Doug?

Sarah McAllister stepped forward and introduced herself. She said my business address is 300 West Crowell Street.

Al Benshoff said you haven't been sworn.

Chair said you will have to come up and get sworn.

Sarah McAllister stepped forward and was sworn by the Chair.

Al Benshoff said I didn't hear any of that, could you repeat yourself?

Sarah McAllister returned to the podium and said my name is Sarah McAllister with Engineering. My business address is 300 West Crowell Street

Al Benshoff asked what is your position with the City?

Sarah McAllister said Director of Engineering.

Al Benshoff asked are you a North Carolina P.E?

Sarah McAllister said yes, sir.

Al Benshoff said I am trying to understand the stormwater variance and I know it's a variance from the UDO, section.

Sarah McAllister said not the UDO, it's the Stormwater Management Ordinance.

Al Benshoff said right, the Stormwater Management Ordinance, so we've heard testimony that this property is not in a storm watershed.

Sarah McAllister said that is correct.

Al Benshoff said so it's not subject to an MS4 permit?

Sarah McAllister said no, it is subject to an MS4.

Al Benshoff said it is subject to an MS4 permit. We've heard testimony that there were no recommended engineered stormwater control structures or best management practices that could remove more than a conservative 20 % TSS. Is that true, in your opinion?

Sarah McAllister said we didn't evaluate the site for all measures, the 20% is very conservative, in my opinion. It's hard to quantify TSS removal if you don't meet the State's minimum design criteria.

Al Benshoff asked are they asking for a variance from the State's minimum design criteria?

Sarah McAllister said no, they are using a dry pond. They are meeting most of the requirements of the minimum design criteria for a dry pond. Just one little tweak to what their engineer said, it's not an additional requirement for them to do the two and the ten-year storm, that falls under section 159.308, that's additional water quality control standards. They are meeting that. But, that's not beyond anything we require of anybody else.

Al Benshoff asked the only thing that they aren't meeting is the TSS removal, because that's the only variance they've requested?

Sarah McAllister said correct.

Al Benshoff said ok, thank you.

Chair asked are there any other comments or discussions?

Chair said at this point, hearing no additional questions or presentation of relevant facts, the Board will now begin deliberation. the evidentiary hearing remains open so that the Board may ask clarifying questions, if needed. The Board will not hear any more testimony not made in response to questions from the Board. As a reminder, this Board is tasked with deciding if, based on the evidence presented, this proposal meets the standards of the zoning ordinance. This decision cannot be based on the personal preferences of Board members. rather it is based on the standards, and substantial, competent and material evidence. For this case, the staff proposed 13 Findings of Fact. Do I have a motion to adopt, amend or deny the Findings of Fact?

**Motion: Mr. Smith made a motion to adopt the Findings of Fact.**

**Second: Mr. Draper**

**Action: The motion to adopt the Findings of Fact passed unanimously with the following votes:**

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

**NAYS: None**

Chair said does any member wish to propose any new Findings of Fact? Hearing none, for Variance 1...

Al Benshoff said Mr. Chairman, I'm sorry to interrupt, if I could, I am suggested to the Board that you take each variance, 1-6 in order and rule on it separately because you are permitted to approve or deny anyone of the 6 variances. So, it's not necessarily a package, I think the record would be a lot clearer if you considered them and ruled on each variance request and that would certainly

simplify things if there was an appeal. The appellant would not have to appeal the whole thing, but just a specific variance request. But, that's just a suggestion.

Chair asked are there any objections to that suggestion?

Mr. Smith asked could we take a vote as a package and if that fails, break it up?

Al Benshoff said each variance would be based on different facts.

Mr. Smith said ok, the answer is no. Thank you. That's all.

Chair said we are dealing with two different ordinances also.

Mr. Smith said ok, very good. I had to ask.

Chair said ok, lets deal with the first variance then. Reduce the setback on Rocky River Road by 30 feet), the Board is asked to decide: does the record include competent, relevant and substantial evidence about the Findings of Fact that:

(a) Unnecessary hardship would or would not result from strict application of this ordinance.

Al Benshoff said if I can make a suggestion, I believe the requested variance...

Chair said is 2.55 ft.

Al Benshoff said well that is the landscape variance. There is a setback variance where they actually want to have an 84 ft. variance from the maximum building setback.

Doug Britt said you have the first one, which is the variance of 64.894 ft. for the maximum setback requirement along Rocky River Road. Then you have the 54.96 ft. variance to exceed the 30 ft. maximum building setback from James Hamilton Road. Then you have the 80.07 ft. variance from the maximum setback of 50 ft. from the rear property line. So, those are all the setbacks there. All those setback ones are in my finding number 6.

Chair said let's take this in counter clockwise order. In regard to the 64.894 ft. beyond the 30 ft. maximum requirement variance request. Let's deal with that one first. The question is, if granting the variance for this:

(a) Unnecessary hardship would or would not result from strict application of this ordinance as to variance request

**Motion:** Mr. Draper made a motion that an unnecessary hardship would result from the strict application the ordinance as it pertains to this variance because it makes the property virtually unusable if they have a strict interpretation of the ordinance.

**Second:** Mr. Smith

**Action:**           **The motion passed unanimously with the following votes:**

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

**NAYS:**     **None**

Chair said on the second variance of 54.96 ft. beyond the 30 ft. requirement for the side variance:

- (a) Unnecessary hardship would or would not result from strict application of this ordinance as to variance request based on the topography of the land.

**Motion:**       **Mr. Draper made a motion that an unnecessary hardship would result from the strict application the ordinance as it pertains to this variance**

**Second:**      **Mr. Smith**

**Action:**       **The motion passed unanimously with the following votes:**

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

**NAYS:**     **None**

Chair said on the third setback on the rear of 80.07 ft. beyond the 50 ft. requirement. Again, based on the topography of the new street easement coming through:

- (a) Unnecessary hardship would or would not result from strict application of this ordinance as to variance request based on the topography of the new street easement coming through.

**Motion:**       **Mr. Draper made a motion that an unnecessary hardship would result from the strict application the ordinance as it pertains to this variance**

**Second:**      **Mr. Smith**

**Action:**       **The motion passed unanimously with the following votes: [I am not sure what they did here, but it does not matter? AB]**

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

**NAYS:**     **None**

Chair said ok, going back to the first one, on the second question. The 64.894 ft. beyond the 30 ft. requirement:

The hardship is or is not peculiar to the applicant's property

Chair said strike that, I think I can very easily put all three of these in the one question for this one. On the three variance requests for setbacks:

The hardship is or is not peculiar to the applicant's property.

**Motion:** Mr. Draper made a motion that the hardship is peculiar to the applicant's property based on the topography of the property.

**Second:** Mr. Smith

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

Chair said again, as it pertains to all three of the setback variance requests. The question is:

The hardship is or is not the result of the applicant's own actions.

**Motion:** Mr. Smith made a motion that the hardship is not the result of the applicants own actions due to the fact that DOT has acquired a significant swath of the property.

**Second:** Mr. Draper

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

Chair said as to the three variance requests, as they pertain to setback requirements. The question is:

The Variance requests is or is not consistent with the spirit, purpose and intent of the unified development ordinance.

**Motion:** Mr. Smith made a motion that it is consistent with the spirit, purpose and intent of the unified development ordinance.

**Second:** Mr. Draper

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

Chair said again, as it pertains to all three variance requests:

In granting variance requests, public safety will or will not be secured and substantial justice will or will not be achieved.

**Motion:** Mr. Smith made a motion that public safety will be secured, and substantial justice will be achieved.

**Second:** Mr. Draper

**Action:** The motion passed unanimously with the following votes:

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

Chair said now, let's get to the Stormwater question.

Doug Britt asked do you want to do them in order? Because the next one would be the street yard buffer?

Al Benshoff said it's number 4. [3 in the Order AB]

Doug Britt said it's my finding number 8.

Chair said for variance number 4, reduce the street yard buffer by 2.55 ft. The Board is asked to decide: does the record indicate competent, relevant and substantial evidence about the Findings of Fact that:

- (a) An unnecessary hardship would or would not result from strict application of this ordinance.

**Motion: Mr. Draper made a motion an unnecessary hardship would result from the strict application of this ordinance based on the topography and restrictions of the site.**

**Second: Mr. Smith**

**Action: The motion passed unanimously with the following votes:**

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

- (b) The hardship is or is not peculiar to the applicant's property.

**Motion: Mr. Draper made a motion that the hardship is peculiar to the applicant's property.**

**Second: Mr. Smith**

**Action: The motion passed unanimously with the following votes:**

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

- (c) The hardship is or is not the result of the applicant's own actions as indicated by the DOT seizure of a good part of the property.

**Motion: Mr. Smith made a motion that it is not the result of the applicants own actions.**

**Second: Mr. Draper**

**Action: The motion passed unanimously with the following votes:**

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

- (d) Variance request is or is not consistent with the spirit, purpose and intent of the unified development ordinance.

**Motion: Mr. Smith made a motion that it is consistent with the spirit, purpose and intent of the unified development ordinance.**

**Second: Mr. Draper**

**Action: The motion passed unanimously with the following votes:**

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

- (e) In granting variance request, public safety will or will not be secured and substantial justice will or will not be achieved.

**Motion: Mr. Draper made a motion that public safety will be secured, and substantial justice will be achieved.**

**Second: Mr. Smith**

**Action: The motion passed unanimously with the following votes:**

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

Doug Britt said now the Open Space is my finding number 10.

Chair said for Variance request number 5, the reduction of the open space requirement. The Board asked to decide if the record include competent, relevant and substantial evidence about the Findings of Fact:

- (a) An unnecessary hardship would or would not result from strict application of this ordinance.

**Motion: Mr. Smith made a motion that an unnecessary hardship would result from the strict application of the ordinance.**

**Second: Mr. Draper**

**Action: The motion passed unanimously with the following votes:**

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

- (b) The hardship is or is not peculiar to the applicant's property based on the DOT seizure of property.

**Motion:** Mr. Draper made a motion that the hardship is peculiar to the applicant's property.

**Second:** Mr. Smith

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

- (c) The hardship is or is not the result of the applicant's own actions.

**Motion:** Mr. Draper made a motion that it is not the result of the applicants own actions.

**Second:** Mr. Smith

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

- (d) Variance request is or is not consistent with the spirit, purpose and intent of the unified development ordinance

**Motion:** Mr. Draper made a motion that it is consistent with the spirit, purpose and intent of the unified development ordinance.

**Second:** Mr. Smith

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

In granting variance request, public safety will or will not be secured and substantial justice will or will not be achieved.

**Motion:** Mr. Draper made a motion that public safety will be secured, and substantial justice will be achieved.

**Second:** Mr. Smith

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

Doug said the last one is the Stormwater, which is my finding number 12.

Chair said for variance #6, the reduction of the requirement to remove total suspended solids from the storm water. The Board is asked to decide: does the record include competent, relevant and substantial evidence about the findings of fact that:

- (a) An unnecessary hardship would or would not result from strict application of this ordinance as to variance request.

**Motion:** Mr. Draper made a motion that an unnecessary hardship would result from the strict application of the ordinance because of the restrictive size of the available property and the testimony from the experts that the sediment is a very conservative estimate.

**Second:** Mr. Smith

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

- (b) The hardship is or is not peculiar to the applicant's property.

**Motion:** Mr. Smith made a motion that the hardship is peculiar to the applicant's property based on the size and the ability of the property to sustain the water that existed before and after development, as testified.

**Second:** Mr. Draper

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

- (c) The hardship is or is not the result of the applicant's own actions.

**Motion:** Mr. Draper made a motion that it is not the result of the applicants own actions, but that of the NC DOT.

**Second:** Mr. Smith

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

(d) Variance request is or is not consistent with the spirit, purpose and intent of the unified development ordinance.

**Motion:** Mr. Smith made a motion is consistent with the spirit, purpose and intent of the unified development ordinance.

**Second:** Mr. Draper

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

In granting variance request, public safety will or will not be secured and substantial justice will or will not be achieved.

**Motion:** Mr. Draper made a motion that public safety will be secured, and substantial justice will be achieved.

**Second:** Mr. Smith

**Action:** The motion passed unanimously with the following votes:

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

**NAYS:** None

Chair said at this time, I will entertain a motion to approve all 6 variances.

**Motion:** Mr. Smith made a motion to approve all 6 variance requests.

**Second:** Mr. Draper

**Action:** The motion to approve all 6 variance requests passed unanimously with the following votes:

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

**NAYS:** None

Chair said the Board attorney will draft and I will sign a final written decision to reflect the vote and reasoning for this decision, that written decision is called an order. The written decision will be sent to the applicant and other parties and anyone requesting a copy. Parties have 30 days to appeal this decision to the Superior Court of Union County

**Item 8.**        **Next Meeting: April 27, 2023**

**Item 8.**        **Adjournment**

**Motion:**        **Mr. Smith made a motion to adjourn the meeting.**

**Second:**       **Mr. Draper**

**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 8:52 p.m.

Respectfully submitted,

Kenneth Deal  
Chair

Ashlyn Penegar  
Clerk of the Board



## STAFF REPORT

*Case # PLZNA 2023-00164*

**TO:** Board of Adjustment Members

**DATE:** April 27, 2023

**FROM:** Doug Britt, Senior Planner

**PREPARED BY:** Megan Brightharp, Planner

**SUBJECT:** Four variance requests by Rachel Zelinsky for property located at 4018 West Highway 74.

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### SUMMARY STATEMENT

Rachel Zelinsky is requesting a variance from the maximum building setbacks of the Community Corridor- Mixed Use 1 (CC-MX1) District in order to accommodate all required site provisions for future development at the property located at 4018 West Highway 74.

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### SITE DATA

|                                       |                                                          |
|---------------------------------------|----------------------------------------------------------|
| <b>Type of Action:</b>                | Variance                                                 |
| <b>Date of Petition:</b>              | March 17, 2023                                           |
| <b>Name of Petitioner:</b>            | Rachel Zelinsky                                          |
| <b>Location:</b>                      | 4018 West Highway 74                                     |
| <b>Tax ID #:</b>                      | 09-336-030B01                                            |
| <b>Lot Size:</b>                      | 3.42 Acres                                               |
| <b>Current Zoning Classification:</b> | Community Corridor- Mixed Use 1 (CC-MX1) Zoning District |

### PROPOSED FINDINGS

Proposed Findings:

1. The property located at 4018 West Highway 74 is owned by Tyson Land Investments, LLC and is zoned CC-MX1 (Community Corridor- Mixed Use 1). (Exhibit 1 and 2)

2. A variance application was submitted on March 17, 2023 by Rachel Zelinsky, on behalf of the Zarembo Group, requesting variances from the maximum building setback in order to accommodate all required site development standards for a proposed development. (Exhibit 3)
3. Table 5.5 titled *CC-MXI District Development Standards* of the Unified Development Code (UDO) provides minimum and maximum building setbacks as follows:

|                                    |              |         |
|------------------------------------|--------------|---------|
| Building<br>Placement<br>(min/max) | Front/Street | 15'/30' |
|                                    | Side         | 5'/25'  |
|                                    | Rear         | 10'/50' |

(Exhibit 4)

4. In order to move forward with the site plan review process, the applicant requests a 102-foot variance from the maximum front setback at Highway 74, a 79-foot variance from the maximum front setback at Rocky River Road, a 57-foot variance from the maximum front setback at James Hamilton Road, and a 151-foot variance from the maximum side setback. (Exhibit 5)
5. All adjacent property owners have been notified of the proposed variance. (Exhibit 6 and 7)

#### 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 2023-00164 be (**approved/denied**).

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Exhibits:

Exhibit 1: Ortho Map  
Exhibit 2: Zoning Map  
Exhibit 3: Application  
Exhibit 4: UDO Table 5.5  
Exhibit 5: Site Plan  
Exhibit 6: APO List  
Exhibit 7: APO Map

Prepared by: MB 4/20/2023

**Ortho Map**  
**4018 West Highway 74**

**Legend**

- Centerlines
- ▭ Parcels
- ▭ Subject Property

**Owner:**  
**Tyson Land Investments, LLC**  
**Acres: 3.42**



0 100 200  
Feet



**Zoning Map**  
**4018 West Highway 74**

**Legend**

— Centerlines

▭ Parcels

**Zoning Districts**

▭ CC-MX1

▭ Subject Property

**Owner:**  
**Tyson Land Investments, LLC**  
**Acres: 3.42**



0 100 200  
Feet

# City of Monroe

## Variance Application Form

Applicant's Name: Rachel Zelinsky

Applicant's Mailing Address: 621 Hillsborough Street, Suite 500

Raleigh, NC 27603

Property Owner: Tyson Land Investments, LLC

Property Owner's Address: PO Box 748, Monroe, NC 28111

Legal Relationship of Applicant to Property Owner: Engineering consultant

Contact Person Name and Phone Number: Rachel Zelinsky 919-287-0910

Existing Use of Property: NC DOT Staging Area

Property Location: 4018 W HWY 74 NC

Parcel Number 09336030B01

~~Tax Map Number:~~                      Lot Size: 3.42 AC Zoning District: C GMX1

Ordinance section number to which a variance is being sought: Section 5.5C

Proposed variance description: We are proposing to meet minimum building setbacks but not maximum building setbacks. Please see attached comment letter for more detail.

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.]

Please see attached response letter for our comments.

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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]

Please see attached response letter for our comments.

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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]

Please see attached response letter for our comments.

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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.**

Please see attached response letter for our comments.

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

Please see attached response letter for our comments.

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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): Rachel Zelinsky

Applicant's Signature: Rachel E. Zelinsky

Date: 2/28/2023

Property Owner: TYSON LAND INVESTMENTS, LLC

By: C. MARK TYSON

Title: MANAGING MEMBER

Owner's Signature: C. Mark Tyson

Date: 2/27/23

**\*\*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: \_\_\_\_\_

April 19, 2023

Keri Mendler, AICP, CZP  
Senior Planner, City of Monroe  
300 West Cromwell Street  
Monroe, North Carolina 28112

**RE: 4018 West Highway 74  
Monroe, North Carolina  
Response to Variance Application Comments  
ZBG22003**

The following are the response comments for the above-mentioned project. Our response comments are in **bold**.

Proposed variance description: **Per Section 5.5C of the City of Monroe UDO, we are required to meet a maximum front setback of 30 feet, side setback of 25 feet, and rear setback of 50 feet. We are proposing to meet minimum building setbacks but not maximum building setbacks. To meet the maximum setback on all three sides, a very large and impractically shaped building would be required and not feasible. Additionally, the maximum building setbacks would restrict the amount of useable area for open space, landscaping, parking, stormwater management controls, or drive aisles. The proposed maximum building setbacks are shown in the table below:**

|                               | Existing Maximum<br>Building Setback (FT) | Proposed Maximum<br>Building Setback (FT) |
|-------------------------------|-------------------------------------------|-------------------------------------------|
| <b>FRONT (HWY 74)</b>         | 30                                        | 132                                       |
| <b>FRONT (Rocky River)</b>    | 30                                        | 109                                       |
| <b>FRONT (James Hamilton)</b> | 30                                        | 87                                        |
| <b>SIDE (East)</b>            | 25                                        | 176                                       |

## **APPLICATION QUESTIONS**

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.]

**McAdams Response:** The subject parcel is located along W Hwy 74, N Rocky River Road, and James Hamilton Road. Each property line has a maximum build-to building setback of 30 feet, 25 feet, or 50 feet for front, side, and rear property lines, respectfully. This regulation would require a 107,900 SF building and not allow space for open area, landscaping, parking, stormwater management controls, or drive

aisles. A literal application of the ordinance would be unnecessarily burdensome and deprive the Owner from practical and reasonable use of the property.

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.]

**McAdams Response:** The 3.42 acres property is located along three rights-of-way which is a unique property characteristic. This results in a practical difficulty to design a layout since the property is unusually shaped with significant street frontages. The combination of parcel area and maximum building setbacks prevents development of typical commercial uses which are permitted within the CC-MX1 zoning district.

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.]

**McAdams Response:** The recently adopted ordinance is unnecessarily burdensome and was not the result of actions from the applicant or property owner. The hardship arose from buildable area being restricted to only a structure without any typical supporting features required for commercial development, e.g., parking, landscaping, stormwater management, etc.

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.

**McAdams Response:** The requested variance is consistent with the spirit, purpose, and intent of the ordinance. The variance will provide public safety with the building location further off of the roads and proper circulation throughout the parking lot. This request will allow for open area and landscaping as part of the development. With the parcel being located along a highway, the use will serve the area with purpose and will be in harmony with the Future Land Use Plan. In contrast, development of the property in accordance with the setback requirements would increase density, traffic congestion, and negatively impact adjacent properties and the community. The requested variance would allow the property to be designed in a manner consistent in scale with existing development within the surrounding area.

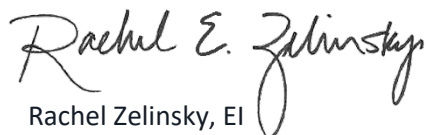
5. The variance will neither result in the extension of a nonconforming situation in violation of § 156.90, nor authorize the initiation of a nonconforming use of land.

**McAdams Response:** No, the variance will not result in extension of a nonconforming situation or authorize the initiation of a nonconforming use of land. The proposed use will comply with the current zoning of CC-MX1 of the parcel and with the Future Land Use Plan of Community Corridor.

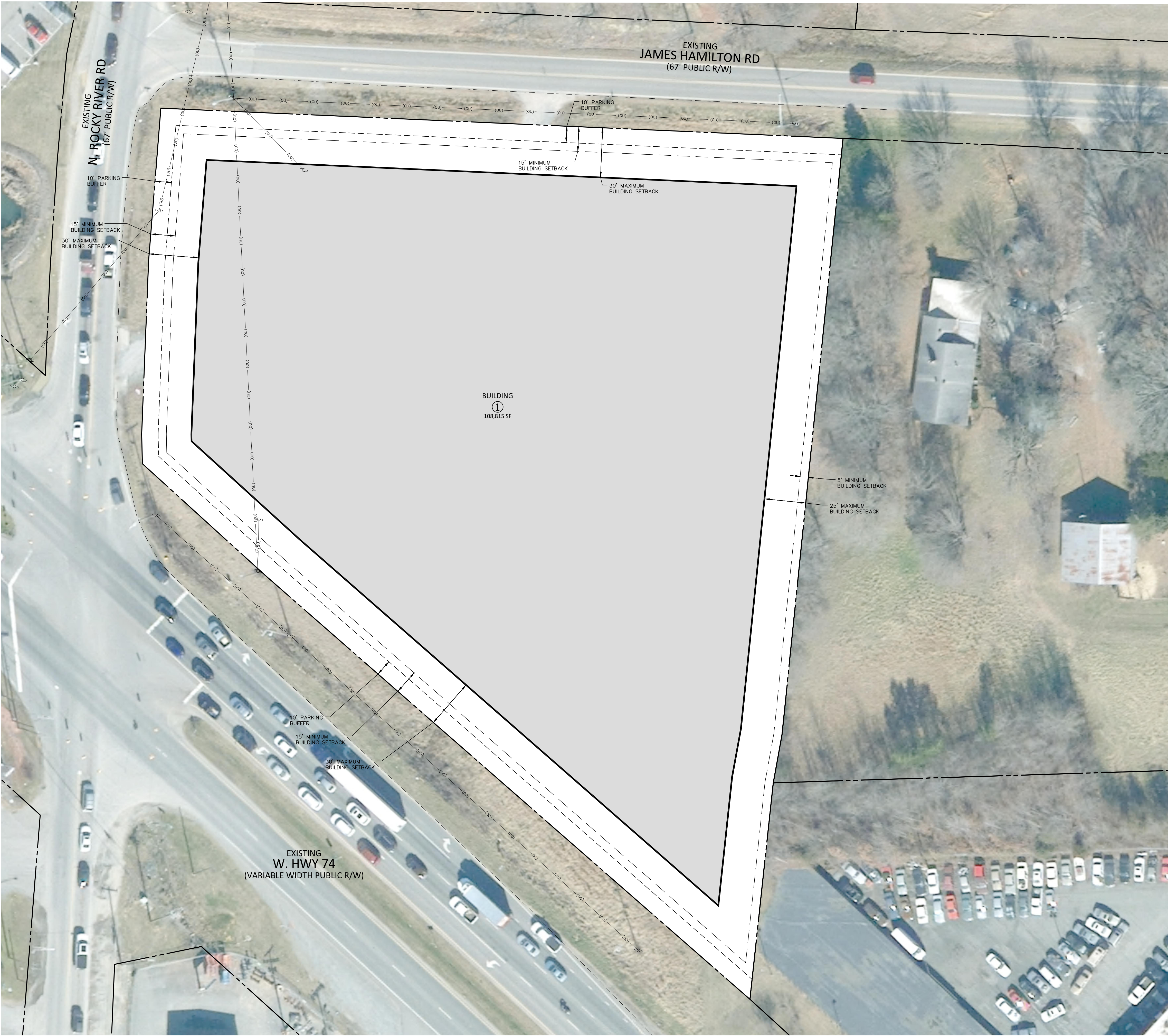
Consideration of this response is greatly appreciated. If you should have any questions or require additional information, please do not hesitate to contact me at 919. 361. 5000.

Sincerely,

**MCADAMS**

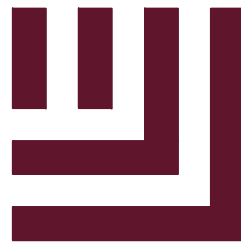


Rachel Zelinsky, EI  
APM, National Brands



GENERAL NOTES

THE PURPOSE OF THIS SITE SKETCH IS TO VISUALIZE THE REQUIRED BUILDING SIZE THAT COMPLIES WITH THE CITY OF MONROE UDO SECTION 5.5C. THIS SITE SKETCH IS NOT DISPLAYING THE PROPOSED DEVELOPMENT.



McAdams

The John R. McAdams Company, Inc.  
2905 Meridian Parkway  
Durham, NC 27713

phone 919. 361. 5000  
fax 919. 361. 2269  
license number: C-0293, C-187

www.mcadamsco.com

CLIENT

ZAREMBA GROUP  
14600 DETROIT AVE, SUITE 1500  
LAKEWOOD, OH 44107  
PHONE: 216.226.2140

VARIANCE REQUEST LOCATION

SITE SKETCH  
401 W HWY 74  
MONROE, NORTH CAROLINA

REVISIONS

NO. DATE

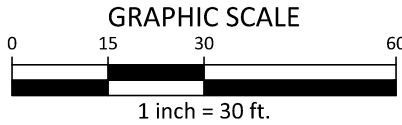
PLAN INFORMATION

PROJECT NO. ZBG22003  
FILENAME ZBG22003-SK1  
CHECKED BY XXX  
DRAWN BY MG  
SCALE 1"=30'  
DATE 01. 13. 2023

SHEET

SHEET TITLE

EXHIBIT



**C. Community Corridor Mixed-Use 1 District (CC-MX1) Development Standards Table.**

Table 5.5. CC-MX1 District Development Standards

| CC-MX1 District Development Standards |                           |                                                                                                               |
|---------------------------------------|---------------------------|---------------------------------------------------------------------------------------------------------------|
| Building Height                       |                           | <p>Maximum 4 Stories</p> <p>Buildings above 3 stories shall be situated closer to US 74 where practicable</p> |
| Density                               |                           | <p>8 Units/Acre (By Right)</p> <p>10 Units/Acre Maximum (See Section 5:10 for Incentives)</p>                 |
| Building Placement (min/max)          | Front/Street <sup>1</sup> | 15'/30'                                                                                                       |
|                                       | Side <sup>2</sup>         | 5'/25'                                                                                                        |
|                                       | Rear <sup>3</sup>         | 10'/50'                                                                                                       |
| Lot                                   | Length (min)              | 100                                                                                                           |
|                                       | Width (min)               | 50                                                                                                            |
|                                       | Coverage (min/max)        | 50%/85%                                                                                                       |



license number: C-0393, C-187

[www.mcadamsco.com](http://www.mcadamsco.com)

## CLIENT

ZAREMBA GROUP  
14600 DETROIT AVE, SUITE 1500  
LAKEWOOD, OH 44107  
PHONE: 216.226.2140

**RACETRAC**  
SITE PLAN  
4018 W HWY 74  
MONROE, NORTH CAROLINA

## REVISIONS

| NO. | DATE |
|-----|------|
|-----|------|

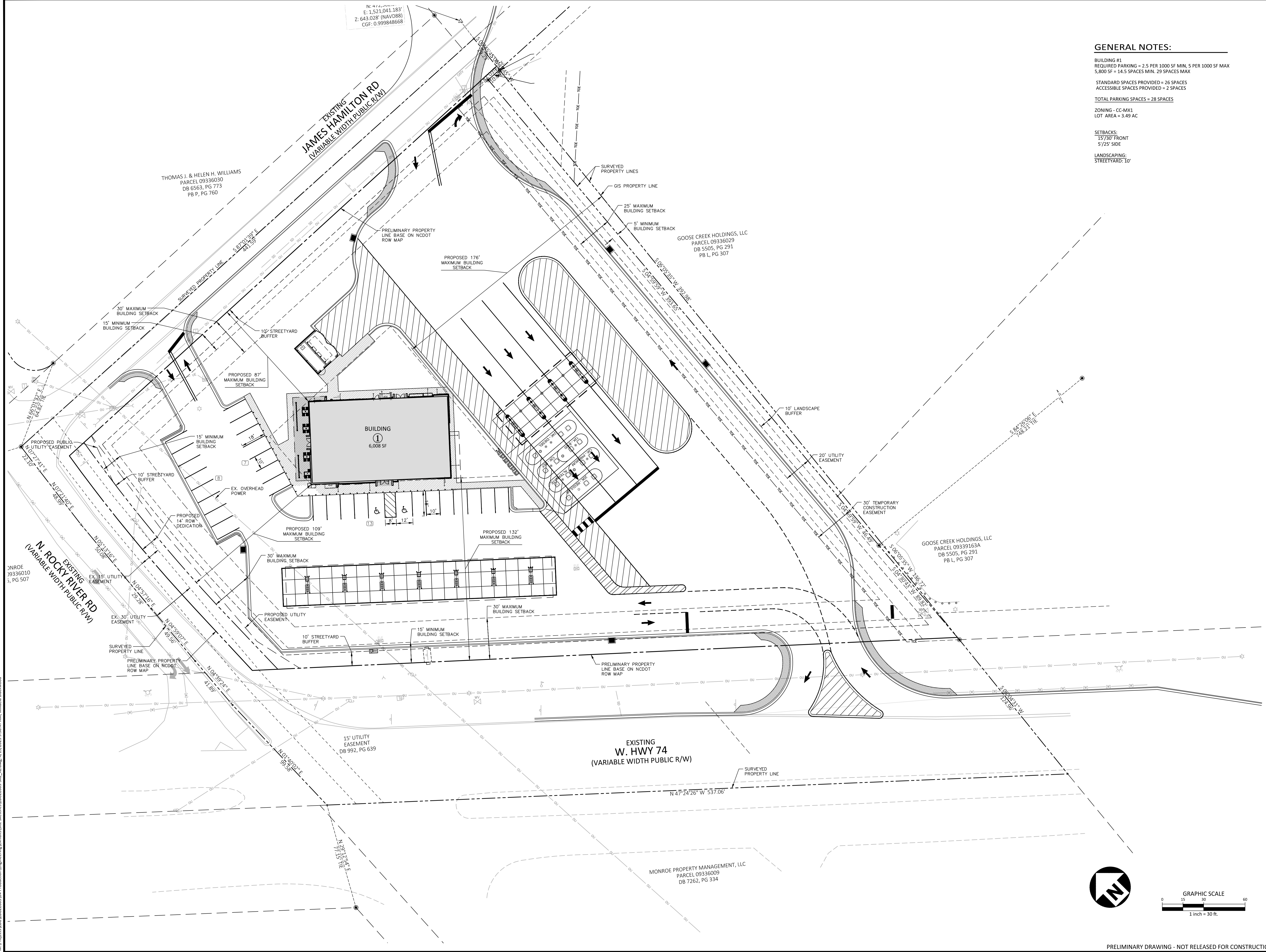
## PLAN INFORMATION

|             |              |
|-------------|--------------|
| PROJECT NO. | ZBG22003     |
| FILENAME    | ZBG22003-SK2 |
| CHECKED BY  | XXX          |
| DRAWN BY    | MG           |
| SCALE       | 1"=30'       |
| DATE        | 04. 19. 2023 |

**SHEET**

**SHEET TITLE**

# SK-2



PRELIMINARY DRAWING - NOT RELEASED FOR CONSTRUCTION

| ACCTNO    | PIN       | OWNERNAME1                                       | CURR_ADDR2                | OWNERADDRE                  | OWNERZIP  | OWNERSTAT | OWNERCITY      | OWNERNAME2          |
|-----------|-----------|--------------------------------------------------|---------------------------|-----------------------------|-----------|-----------|----------------|---------------------|
| 09336006A | 09336006A | INVESTMENTS INC                                  | PO BOX 52085              | C/O CIRCLE K STORES         | 85072     | AZ        | PHOENIX        | MCCAULEY & MCDONALD |
| 09336029D | 09336029D | MOSER HALL I LLC                                 | 231 POST OFFICE DR STE B8 | %THE MOSER GROUP            | 28079     | NC        | INDIAN TRAIL   |                     |
| 09339162  | 09339162  | RR/74 LLC                                        |                           | 2593 ROOSEVELT BLVD STE 201 | 281100459 | NC        | MONROE         |                     |
| 09339162A | 09339162A | MONROE PROPERTY MANAGEMENT LLC                   |                           | 440 OCEANA WAY              | 28428     | NC        | CAROLINA BEACH |                     |
| 09336029  | 09336029  | GOOSE CREEK HOLDINGS LLC                         |                           | 4000 W HWY 74               | 281108446 | NC        | MONROE         |                     |
| 09336009  | 09336009  | MONROE PROPERTY MANAGEMENT LLC                   |                           | 440 OCEANA WAY              | 28428     | NC        | CAROLINA BEACH | WILLIAMS THOMAS J   |
| 09336006B | 09336006B | O'REILLY AUTOMOTIVE INC                          | 233 S. PATTERSON AVE      | CO THOMSON REUTERS PTS      | 65802     | MO        | SPRINGFIELD    |                     |
| 09339163A | 09339163A | GOOSE CREEK HOLDINGS LLC                         |                           | 4000 W HWY 74               | 28110     | NC        | MONROE         |                     |
| 09336030  | 09336030  | WILLIAMS HELEN H                                 |                           | 2031 MASSY CLARK DR         | 28105     | NC        | MATTHEWS       |                     |
| 09336006C | 09336006C | GOODWILL INDUSTRIES OF THE SOUTHERN PIEDMONT INC |                           | 5301 WILKINSON BLVD         | 28208     | NC        | CHARLOTTE      |                     |
| 09336010  | 09336010  | GX MONROE LLC                                    | SUITE 470                 | 1575 NORTHSIDE DR NW        | 30318     | GA        | ATLANTA        |                     |
| 09339162  | 09339162  | RR/74 LLC                                        |                           | 2593 ROOSEVELT BLVD STE 201 | 281100459 | NC        | MONROE         |                     |

**APO Map**  
**4018 West Highway 74**

**Legend**

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

**Owner:**  
**Tyson Land Investments, LLC**  
**Acres: 3.42**



0 455 910  
Feet