

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

AGENDA

- Item 1.** **Call to Order:**
- Item 2.** **Pledge of Allegiance and Moment of Silence**
- Item 3.** **Approval of Minutes – June 22, 2023**
- Item 4.** **Staff Notes from June 8, 2023- *For Informational Purposes Only***
- Item 5.** **Conflicts of Interest**
- Item 6.** **PLZONA-2023-00204- Appeal- The Board of Adjustment is requested to consider an appeal from Robert Yanacsek, regarding a zoning determination letter for 513 Everett Street. Parcel # 09-231-090.**
- Item 7.** **PLZONA-2023-00183- Appeal- The Board of Adjustment is requested to consider an appeal from Dana Mangum, regarding a zoning determination letter for 1402 Griffith Road. Parcel # 09-279-024A.- *Withdrawn***
- Item 8.** **PLZNA-2023-00196- Variance- The Board of Adjustment is requested to consider a variance request from Brice L. Dimitruk, on behalf of UC QOZB I, LLC, for 372 Acme Drive to deviate from section 157.8.4.3 of the Unified Development Ordinance that states that all parking, loading, and driveway areas should be paved with asphalt or concrete. Parcel # 09-122-001.**
- Item 9.** **Order of the City of Monroe Zoning Board of Adjustment Case PLZNA-2023-00184 (2600 Meadowood Court)**
- Item 10.** **Next Meeting: August 24, 2023**
- Item 11.** **Adjournment**

Attention: BOARD MEMBERS:

Please call Ashlyn Penegar at 704.282.4527 to confirm your attendance. Thank you!

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

MINUTES OF THE BOARD OF ADJUSTMENT MEETING

June 22, 2023, at 6:00 P.M.

Council Chambers

300 W. Crowell St.

Monroe, NC

To HR: 07/17/2023

Item 1. Call to Order

Chairman Kenneth Deal called the June 22, 2023, meeting to order at 6:00 p.m. and noted that there was a quorum present with 3 members. Ashlyn Penegar, Administrative Assistant, called the roll.

Members Present: Kenneth Deal, William Draper and George Smith

Members Absent: None

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

Guests: Colen & Sonya Garlick, Kelly McBryde, Kim Wetherall, Lewis Wetherall, High Wetherall, David Dotson

Item 2. Pledge of Allegiance and Moment of Silence

Item 3. Approval of Minutes – Minutes of April 27, 2023

Motion: George Smith made a motion to approve the minutes of the April 27, 2023, meeting.

Second: William Draper

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

George Smith said I had a guy come out and talk to me about doing some work on my house and he mentioned one of the cases and I told him to please be quiet and I don't want to hear about it. I think I stopped him before he had a chance to talk about any of the proceedings and I'm open to all evidence to be presented. Do the other two members accept that, I'm willing to go forward.

Chair said ok.

Item 5. PLZNA-2023-00184 Variance- The Board of Adjustment is requested to consider a variance request from Lewis Wetherall for 2600 Meadowood Court in order to deviate from the minimum front yard setback in the RMD, Residential Medium Density, District as written in Section 157.4.2.3 of the Unified Development Ordinance. (Parcel ID # 09-295-044)

Doug Britt, Megan Brightharp, Lewis Wetherall and Hugh Wetherall approached the dais and were sworn in by the Chair.

Megan Brightharp, Planner I, returned to the podium and introduced herself and she said, Lewis Wetherall is requesting a variance from the minimum front yard setback for the RR, Rural Residential, District in order to bring a house currently under construction into compliance with the District Development Standards as outlined in the City of Monroe's Unified Development Ordinance.

Proposed Findings:

1. The property located at 2600 Meadowood Court is owned by Lewis Wetherall and is zoned RR, Rural Residential. (Exhibits 1, 2, and 3)
2. In July 2022, a building permit application was submitted for the construction of a single family detached home at 2600 Meadowood Court that listed the owner, Lewis Wetherall, as the Contractor. An Owner Exemption Affidavit was simultaneously submitted in which the owner agreed to superintend and manage all aspects of the construction of the home. (Exhibits 4 and 5)
3. On May 8, 2023, the foundation survey review for the home was failed by planning staff after the foundation survey was submitted showing that the front setback measurements were taken from the center of the cul-de-sac and not the right-of-way, resulting in a front yard setback of 32.2'. (Exhibit 6)
4. A variance application was submitted on May 25, 2023, by Lewis Wetherall, requesting a variance amount of 17.8' from the minimum front yard setback of the RR, Rural Residential, District in order for the house under construction to meet the district's development standards. (Exhibit 7)
5. Table 4.2.4 RR District Development Standards Table of the Unified Development Ordinance (UDO) states in relative parts:

Setbacks: Front: 50'
(Exhibit 8)
6. All adjacent property owners have been notified of the proposed variance. (Exhibit 9 and 10)

Megan Brightharp said I am happy to answer any questions at this time and the applicant is here as well.

Chair asked did you find the application that was submitted to be accurate in all respects?

Megan Brightharp said yes.

Chair said I am going to correct my opening comments on Item 5. The agenda stipulated that the request was to deviate from a residential medium density, but looking at the actual Staff Report, we are dealing with a residential rural density.

Megan Brightharp said yes, I apologize about that error.

Chair said just to correct the record. Do we have any questions for Ms. Brightharp? At this time, if anyone wishes to give testimony in regard to this application can come forward. Please state your name and address for the record.

Hugh Wetherall approached the podium and introduced himself. He said Lewis is my brother and I live next door at 2606 Meadowood Drive. I just want to say that I have no issues with it whatsoever. He was given permission to go ahead with his Planning Permit and went ahead and built it. I have plans from a little bit before this and its showing 35 ft. from the circle and now they are saying 50 ft. My house is actually closer to the road than his, so it doesn't seem to make a lot of sense. But, that's it and I have no issue. Thank you.

Chair asked does the applicant have any information to add?

Lewis Wetherall approached the podium and introduced himself and said I am the property owner. I do have a letter here from a person actually on the right hand side saying something very similar to my brother. The property itself was built by me and my wife, actually. I followed what I thought was the correct setbacks, which was from the street. So, I measured 50 ft. to the front of the property from the street. Which is the cul-de-sac itself back, not knowing, obviously now I know, that there is some sort of setback...

Chair said the right-of-way?

Mr. Wetherall agreed and said then it was supposed to be 50 ft. from that. My other issue was during the stake out of the property, a gentleman named Sam Starnes, mentioned that the 100-year flood line, which is at the back of the property, and I needed to be at least 2 ft. above that flood line. The way that I staked it out, it was correct, it was at least 2 and a half ft. above the 100-year flood line, because of the river or stream that runs around the back. Once he was satisfied with that, he told me then to carry on building once they put it into the portal development thing.

Chair asked was that individual from the City Engineering Department?

Megan Brightharp said Sam Starnes.

Mr. Wetherall said he told me to carry on building, as long as you're over and that was the only issue that he had, as long as I was over the 100-year flood line. He saw the stakes and everything else and I thought I was in the right because I measured it from the cul-de-sac to the 50 ft. to the building. Obviously the house will be finished once the sheetrock is up kind of thing.

Chair said you've pretty much got the front porch completely built at this point.

Mr. Wetherall said right. I know obviously I've done wrong, but there are other neighbors in my same development that some of their garages are closer to the road. I know that's grandfathered in, I was kidding with Megan and said I could take a chainsaw and cut the porch off or whatever and she said no you have to go for a variance. I've had the worst month, sleepless nights and everything else with coming down here.

Chair asked what is the total amount of setback you are asking for a waiver on?

Mr. Wetherall said it is 17.8, I guess that's 15 ft. or a little bit more. This is probably going to be the only house that sits on the cul-de-sac, my brother shares just a driveway off that cul-de-sac because the property steps off pretty steeply at the beginning and then levels off at the back. It's very steep all the way down to the stream and it would be very difficult to put a house there in the future.

Chair asked so, there is a lot to the east.

Mr. Wetherall, yes, it belongs to the lady who you have a letter from. They bought it originally when the development first went in, in the 80's.

Chair said there is a possible property owner that is not here to speak to this.

Mr. Wetherall said yes. She said she would come, but she said I will write a letter.

Chair asked the Board, "Do you have any questions for the petitioner? Or any objections into accepting this letter as an exhibit?"

William Draper said I have no problem with it.

Chair said we will make this exhibit 11 and accept it into the record. Do we have anyone else that would like to speak for or against the granting of this variance on this property?

Mr. Wetherall asked can I say one more thing ?

Chair said certainly.

Mr. Wetherall said going back to when the first proposal with the stake out, everybody in the office said that I would need an as built sooner or later, because they are so busy, I guess from

the pandemic and everything else, because things are so busy. They couldn't get to my property for 4-5 months to actually do a survey. That's obviously why it's lead so far and it has been built. Chair asked if you passed your framing inspection, your electrical inspection, your plumbing inspection?

Mr. Wetherall said I haven't passed plumbing or electric. But, framing, yes. Footings and everything else and the flatwork. There is rough plumbing, which is in the lower half.

Chair said thank you very much. Do we have any comments or concerns on the Findings of Fact that were submitted on the Staff Report?

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

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

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

Chair asked do we want any further discussions before we move on to the Conclusions?

William Draper asked has something changed since we looked at this before ?

Chair said not that I know of.

George Smith said I think we looked at something similar, but not this one.

Chair said not this exact case. You are thinking of another one.

George Smith said it's another porch that was too close to the road.

Chair said this was more in the City and only 10 ft. off the front of the road. We will now move onto the Conclusions

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

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

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

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

Motion: William Draper made a motion that it is peculiar to the applicant's property.

Second: George Smith

Action: The motion failed with the following votes:

AYES: William Draper and George Smith

NAYS: Kenneth Deal

Chair said I don't think the hardship is peculiar to the property itself. It isn't a hardship, it's the way that the property that was laid out is the reason I'm voting against on this one.

Al Benshoff, Board of Adjustment Attorney arrives.

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

Motion: George Smith made a motion that it is not the result of the applicant's own actions because things were delayed because of the pandemic and not everything was done in an orderly fashion.

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

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

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

Second: George Smith

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

- (b) It is the Board's CONCLUSION, that in granting of the variance, the public safety (~~will~~/will not) be secured and substantial justice (~~will~~/will not) be achieved.

Motion: George Smith made a motion that in granting the variance, the public safety will be secured and substantial justice will be achieved

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Chair asked do I have a motion to approve or deny the variance?

George Smith said I make a motion that we approve the variance.

Al Benshoff said I believe the variance fails because you need a 4/5s super majority vote on each item and the item where the Chair dissented, did not pass by a super majority. So, this variance fails.

Chair said based on the advice of the lawyer and the NC Statute, the application for the variance 2023-00184 is denied.

George Smith said I don't think we have to vote on it.

Megan Brightharp asked can you clarify that for the room, please ? The part that Al was trying to explain, so that we can all be on the same page.

Chair asked what question are you asking?

Megan Brightharp said the part Al said before about why it fails. Can you explain that again?

Al Benshoff said I don't have my packet, but the vote when I came in, I think it was question number 2. There were 2 votes to say that the hardship was not peculiar to the applicants...

Chair said it was question number 2, in that the hardship is not a peculiar to the applicant's property. The applicant's property didn't manifest a reason to build out a variance. The property had ample space in the front to meet variance codes and ample space in the back to meet variance codes. So, the property itself.

Audience member said the 100-year flood line was the one we had problems with.

Al Benshoff said excuse me, the public hearing is closed and unless the Board wants to open it for more testimony.

Chair said no, I am just clarifying why I dissented on number 2, is that I don't see that the hardship is peculiar to the property. The hardship was manifested by the fact that the residence was built before inspections discovered that it didn't meet the minimum setback requirements. So, as much as I would love to say yes on the variance, it's the legal question in a legal stance to say that its peculiar to the property when it's not peculiar to the property. It was a self-infected wound.

Al Benshoff said each and every one of the 5 questions has to pass by a majority vote, and they all have to pass for the variance to be granted and in this case, 1 of the 5 questions did not pass by a unanimous vote.

Chair said 4/5's majority.

Al Benshoff said in this case, it would be all 3 members. There was a dissenting vote, so because that question was not answered in the affirmative, the whole variance fails, and it is not granted.

Chair asked Megan, does that answer your question.

Megan Brightharp said yes.

Al Benshoff said I believe that the final motion is to grant or deny the variance and there was a motion to deny the variance and I don't think there was a second and a vote.

Chair said this needs to be reworded to where it is actually a motion to be made. It's more of a final order, it's not a motion.

Al Benshoff said ok, sorry.

Chair said therefore on the basis of the foregoing, it is ordered that the variance 2023-00184 be denied due to the failure of question 2.

Audience member said something inaudible.

Chair said sir, the hearing is closed. You can say something if you'd like.

Audience member said there was a 4-5-month delay for you guys to get down there to survey the property and the building on the property. The reason he is in the situation he is in is because you guys couldn't get down there to survey the plat.

Megan Brightharp said the City doesn't do the surveying.

Audience member said now you are saying that's not right, that's my problem. I'm the neighbor and I have no problem.

Chair said sir, just for clarity, we are not the City. We are appointees who are citizens in the City of Monroe. But, because this is a quasi-judicial proceeding, every ruling that we have has to be based on legal fact and those questions...

Audience member said something inaudible.

Chair said he will have to work that out with the Planning Department, it's not for us to decide.

Audience member said you decided this and said no, so it is up to you.

Chair said the variance request is up to us, not how the house is built, sir. We don't build houses; we make legal rulings on variance requests. If you want to talk statutes, you need to talk to the Planning Department.

Audience member said thank you.

Doug Britt walked out of the Council Chambers with the applicant to discuss the case.

Item 6. PLZNA-2023-00132 Variance- The Board of Adjustment is requested to consider a variance request from Kelly McBryde for 1727 Goldmine Road to deviate from Section 157.7.5 of the Unified Development Ordinance that prohibits the square footage of an accessory structure to exceed the square footage of the principle structure. (Parcel ID # 09-268-061)

Doug Britt, Megan Brightharp and Kelly McBryde approached the dais and were sworn in by the Chair.

Megan Brightharp, Planner I, returned to the podium and introduced herself and she said, Kelly McBryde is requesting a variance from the maximum accessory structure square footage in a residential district in order to bring into compliance a barn that was installed at 1727 Goldmine Road without permits.

Proposed Findings:

1. The property located at 1727 Goldmine Road is owned by Kelly and Barbara Ann McBryde and is zoned RMD, Residential Medium Density. (Exhibits 1, 2, and 3)
2. In February 2023, City of Monroe planning staff began correspondence with Ms. McBryde, informing her that her barn was constructed without permits and exceeded the allowable accessory structure square footage. The two pre-existing accessory structures were built prior to 1991 and are legally nonconforming. Together they measure approximately 2,027 square feet. The primary structure measures 1,300 square feet. The barn in question measures 720 square feet, bringing the total accessory structure square footage to 2,747 square feet. (Exhibit 4)
3. Section 157.7.5 *Accessory Uses and Accessory Structures* of the Unified Development Ordinance (UDO) states in relative parts:
 - A. General Accessory Use Standards
 5. Multiple structures are permitted; however, in no instance shall an accessory use and or structure exceed (in total) the heated square footage of the principle structure. (Exhibit 5)

4. A variance application was submitted on May 24, 2023, by Kelly McBryde, requesting a 720 square foot variance from the maximum accessory structure square footage in a residential district in order to bring her barn into compliance. (Exhibit 6)
5. All adjacent property owners have been notified of the proposed variance. (Exhibit 7 and 8)

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

Chair asked is the request for variance application filled out correctly ?

Megan Brightharp said yes.

Chair said if we are looking at 720 sq. ft., why wouldn't we actually be talking about trying to bring all of the structures into compliance?

Megan Brightharp said the other two structures are grandfathered in, so they're not required to meet the UDO as it is written today. So, our focus is on the barn that has been built since the adoption of the new code.

Chair said so, it's like they don't exist at that point, because they are grandfathered in.

Megan Brightharp said yes.

Chair said they count against the square footage of the house, they are being counted, but they don't have to be brought into compliance.

Megan Brightharp said yes.

Chair asked do we have any other questions for Ms. Brightharp? Hearing none, would the applicant like to speak forward and speak? Just give your name and address for the record.

Kelly McBryde approached the podium and introduced herself and said I live at 1727 Goldmine Rd. Monroe, NC 28110.

Chair said thank you. I see that you have a lot of property.

Ms. McBryde said yes, sir. I actually own the lot next to us, I didn't know where my parents would end up, so we bought that lot. So, it's actually closer to 11 acres.

Chair asked did you apply for a building permit to put this barn up?

Ms. McBryde said I do apologize about that. I followed my dad's advice. He wanted to get the barn built before he passed away from cancer. He actually passed away March 29th, so he kind of wanted it to be that last gift. He used to work for Blythe Construction and so he and some of his

friends started to put the barn together and they finished before the variance was filed. I do apologize for that and not getting the variance in before it was finished in February.

Chair asked even after the fact, there is still no building permit for it? No inspections made?

Ms. McBryde said no sir. I spoke with Keri, and she said that once I did the variance and the letters would go out, I would come to this meeting and then the building permit would be filed. I do apologize.

Megan Brightharp said in order for her to get a building permit that would be approved, she would need the variance that would give her permission to not meet those standards.

Chair asked do we have any questions for the applicant?

George Smith asked what is the purpose for this large structure?

Ms. McBryde said it is going to be a horse barn for just 2 horses and a simple little fence that has not been built, but we found out about the variance that we did it kind of too soon. We did not get the fence completed before my dad passed away. So, we will file for that variance, I think Keri said it would have to be separate. So, once variance for the structure in question and then another variance for the fencing.

George Smith asked does zoning allow horses to be kept in that area?

Megan Brightharp said she is not running a horse farm. She just has 2 horses, so she is allowed to have them for her own personal use.

Ms. McBryde said it's not going to be like a boarding barn, I won't teach lessons.

Chair asked does anyone else like to speak for or against the variance? Do we have any discussions from members? Ok, no discussions being indicated, we will move onto the conclusions.

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

Motion: George Smith made a motion that it would be an unnecessary hardship because the fact that it's already built, and it would have to come down and the fact that she purchased the property already.

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

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

Motion: George Smith made a motion that it is peculiar to the applicant's property because you have such a large parcel of land and such a small heated area that almost anything she would put up, would be in violation of the ordinance. It would be very hard for her to put up a barn for horses with that much land and such little heated space.

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

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

George Smith asked did she just buy this property?

Al Benshoff said there is a deed in the Exhibits and it says it was recorded on September 16th, 2015.

William Draper asked was the large barn there when you purchased the property ?

Ms. McBryde asked may I approach?

Chair said yes.

Ms. McBryde said the only ones that were on the original property were kind of like a green carport. The barn has been there since February of this year, 2023.

Motion: Kenneth Deal made a motion that it is not the result of the applicant's own actions because the property size and reasonable use of the property and the fact that this was built was for personal use and not a result of an attempt to set up any sort of business.

Second: George Smith

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

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

Motion: **George Smith made a motion that it is consistent with the spirit, purpose, and intent of the ordinance because of the size of the property and the intent.**

George Smith asked what is the intent of that ordinance? Why don't they want a structure larger than the heated area? Can anyone in Planning answer that question?

Megan Brightharp asked why wouldn't they want an accessory structure bigger than the actual house?

George Smith said yes.

Doug Britt said I think the primary use of the property is always going to be a house for residential structure. From a Planning standpoint, if that's the principal structure by definition, everything else on the property should be accessory, which is going to be minor or smaller. Every place I've ever worked at, it's pretty common.

Megan Brightharp said accessory means to accompany or to extenuate, not to overshadow.

George Smith said having a barn for horses does not overshadow the house. If you take out the other 2 structures, I don't think this is overshadowing the house in general.

Doug Britt said that's fine, that's why it's up to you all to decide. Because by the strict letter of the law, it's not allowed. That's why they are here tonight.

Chair said that's why a variance is necessary.

George Smith said I think in the spirit of the law; I think it should be allowed. Because again, this is not something that's really going to overtake the property.

Chair said I think part of the intent of the ordinance is so that you don't have multiple accessory buildings that can destroy the whole neighborhood feel of the neighborhood. So, the fact that it's a large piece of property and they only need a small home shouldn't be a detriment that they get punished for. Are we going to make them build this home 3 times what they need so that they can have a horse barn? It doesn't seem to be the purpose and intent of the ordinance to me.

George Smith said thank you for clarifying.

Motion: **George Smith made a motion that it is consistent with the spirit, purpose, and intent of the ordinance because of the size of the property and the intent.**

Second: **William Draper**

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

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

- (b) It is the Board's CONCLUSION, that in granting of the variance, the public safety (will/will not) be secured and substantial justice (will/will not) be achieved.

Motion: George Smith made a motion that in granting the variance, the public safety will be secured and substantial justice will be achieved because we aren't blocking the highway or taking away the right of way and it's rural. If you look around it, I think a lot of the parcels around it is industrial.

Second: William Draper

Action: The motion passed unanimously with the following votes:

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

Motion: William Draper made a motion to approve Variance 2023-00132.

Second: George Smith

Action: The motion passed unanimously with the following votes:

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

Richard Long said just to clarify, did you mean to adopt your proposed findings?

Chair said yes.

Richard Long said ok, I just wanted to make sure that was your intention.

Ashlyn Penegar asked who made that motion and second?

Al Benshoff said I don't think they moved to adopt the Findings.

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

Motion: William Draper made a motion to approve the Findings of Fact 1-5.

Second: George Smith

Action: The motion to approve the Findings of Fact 1-5 passed unanimously with the following votes:

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

Item 7. PLZNA-2023-00181 Variance- The Board of Adjustment is requested to consider a variance request from Glen Garlick for 1808 Carrollton Drive to deviate from Section 157.7.5 of the Unified Development Ordinance that states accessory structures in a residential district have a minimum setback of 10'. (Parcel ID # 08-267-024)

Doug Britt, Megan Brightharp, Glen, and Sonya Garlick approached the dais and were sworn in by the Chair.

Megan Brightharp, Planner I, returned to the podium and introduced herself and she said Glen Garlick is requesting a variance from the minimum accessory structure setbacks in a residential district in order to bring into compliance a shed that was installed at 1808 Carrollton Drive.

Proposed Findings:

1. The property located at 1808 Carrollton Drive is owned by Glen and Sonya Garlick and is zoned CD Poplin Grove. (Exhibits 1, 2, and 3)
2. A variance application was submitted on May 24, 2023, by Glen Garlick, requesting a seven-foot variance from the minimum rear yard setback for an accessory structure in order to bring his shed into compliance that was built in 2021 without proper permitting. (Exhibit 4)
3. Section 157.7.5 Accessory Uses and Accessory Structures of the Unified Development Ordinance (UDO) states in relative parts:
 - B. General Accessory Use Standards
 9. Setbacks
 - a. Within a residential district, shall not be located closer than ten (10) feet to a property line (Exhibit 5)
4. All adjacent property owners have been notified of the proposed variance. (Exhibit 6 and 7)

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

Chair asked is the request for variance application property submitted ?

Megan Brightharp said yes.

Chair asked did you receive any notification from any of the people on the notification list?

Megan Brightharp said I did not.

Chair asked do we have any questions for Ms. Brightharp?

George Smith said looking at the aerial map, it looks like the adjacent property had a shed.

Megan Brightharp said they do. Unfortunately, that house has burnt down and is currently under construction, so we are going to wait for the inspections to come in. What is happening is that there have been things being built in some of our newer subdivisions without the proper zoning permits, so we have had to notify the homeowners. In most cases, they were given permission by their HOA, so both of these are a result of that.

Chair asked have you issued a letter to the HOA explaining that they do not have that authority?

Megan Brightharp said I have made lots of phone calls to lots of HOA's.

Chair said thank you. Do we have any other questions for Ms. Brightharp? Hearing none, would the applicant like to step forward? Please give your name and address for the record.

Glen Garlick approached the podium and introduced himself. He said I live at 1808 Carrollton Dr. Indian Trail, NC 28079. With that being said, we did receive a letter. I bought the house in 2020 and the fence was put up not long after that and the whole time I talked to the builders and everybody about the fence and the shed. No one ever said anything. Even in the letter from the City, it actually states that please note that while this address has an Indian Trail mailing address, the Poplin Grove subdivision is within the City of Monroe City Limits. Another point of this letter is about my fence, it's not about my shed. I told on myself about my shed. When I was getting my permit for the fence, I noticed there was something about the shed and I asked if I could just add the shed onto that or did I need a separate application. They said you can do it on this, but you also need to make sure that it's 10 ft. away and that puts it right in the middle of my yard. Basically, the whole time I was unaware, and I followed it to a T, as far as the HOA requirements. It matched the house, painted, same shingles, hardy board. It's behind the house where you can't see it from the yard. I had some pictures that I also wanted to show on the screen. Because of the slope, the back of the shed would have been that high off the ground and the HOA requires a 100 ft. or smaller square footage. Mine is 96, so it's even smaller than what I need or what was required. (Mr. Garlick shows several photos of the slope of the property) Its 3 ft. off the fence and it's a 12 ft. by 8 ft. so basically it puts the back of it pretty much like it at the front of where that's at, so it puts it right behind the house. So, it makes it to where you wouldn't be able to get anything out of it. Right behind me is a common, open space and all the way around is the same as the open space.

George Smith asked is there more to be developed?

Mr. Garlick said it's not going to be developed. There is no body there. I reached out to the builder to see if there were any plans and if it was going to stay wooded. Over by the mailboxes, the put pine needles and make it look real nice and there is another trail somewhere else in the

neighborhood. But, there is nothing else going here. The big thing is, its several feet from this side to this side and it's just the back one. No time did I ever think that I would have to check and look at Monroe to do this. I wouldn't have spent this much money on a shed to put it in the middle of the yard for it to be wrong. I just wanted to come up and be upfront. I knew once the fence got put in and the permit got put in, they were going to find the shed. I knew I needed to fix this to make sure I do the right thing and come up. There is a lot of other people in the neighborhood that has gotten letters. We are maybe the 4th people to maybe move into the neighborhood and how things got to us today in 2023, who knows. But, that's kind of where it's at.

Chair asked so, all this time, you didn't know who the escrow was paying you property taxes to?

Mr. Garlick said I'm not sure what exactly you are asking me.

Chair said you are in Monroe and not Indian Trail.

Mr. Garlick said I lived in Mint Hill before I came to Indian Trail and when they told me that my power is going to be Monroe, I just said ok. When I lived in Mint Hill, my power was Union Power and the people across the street from me was Duke. I still had to follow the Mint Hill ordinances and stuff like that, but did no time did I think that it was that way there. It's 3 ft., but that's pretty much it.

Chair asked do we have any questions for him?

Al Benshoff said if you want the Board to consider the letter you read, you will need to submit it to the Board for part of the record? Also, was that your wife that spoke?

Sonya Garlick approached and introduced herself. She said I like at 1808 Carrollton Dr. Sorry about that.

Chair asked if there were any questions for the applicant. Do we have anyone else here that would like to speak for or against the variance in this case?

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

Al Benshoff said if I could ask a clarifying question, does that include accepting the applicant's photographs that he showed.

Chair asked wouldn't that be part of the Staff Report since Staff presented it in the computer? How many were there?

George Smith said 5.

Chair said we will make the 7 exhibits 8-12 and the letter presented by Mr. Garlick will be exhibit 13.

Motion: George Smith made a motion to approve the Findings of Fact 1-5 and the exhibits 1-13.

Second: William Draper

Action: The motion to approve the Findings of Fact 1-5 passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

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

Motion: George Smith made a motion that it would be an unnecessary hardship because of how much it would cost him to move it and making him have to put it in the middle of the yard and making it almost useless.

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

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

Motion: Kenneth Deal made a motion that it is peculiar to the applicant's property based on the photos submitted by the applicant, which were submitted into the record, shows that the typography of the yard, slope and placement required by the HOA not to be seen by the road and the fact that property itself is mostly taken up by the residence

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

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

Motion: George Smith made a motion that it is not the result of the applicant's own actions because of the bad information that was given to him at the time the structure was being built and the fault lies with the HOA.

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

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

Motion: George Smith made a motion that it is consistent with the spirit, purpose, and intent of the ordinance because of the common use area behind them and it's not really up against a neighbor's property line and it really doesn't impinge on the neighbor's property.

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

- (b) It is the Board's CONCLUSION, that in granting of the variance, the public safety (~~will~~/will not) be secured and substantial justice (~~will~~/will not) be achieved.

Motion: George Smith made a motion that in granting the variance, the public safety will be secured and substantial justice will be achieved because there is no way that this interferes with public safety where the structure is going and the fact that the applicant did everything with the best of intentions and all the information he was given, even though it was incorrect, he faithfully followed.

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Motion: George Smith made a motion to approve Variance 2023-00181.

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Item 8. Next Meeting: July 27, 2023

Item 8. Adjournment

Motion: William Draper made a motion to adjourn the meeting.

Second: George Smith

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

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

Al Benshoff said before you adjourn, I would like to apologize to the Board, the Staff and the citizens that are still here for coming in late. Also, to Ashlyn Penegar who had to call me, I don't have a good excuse, I just lost track of time.

The meeting was adjourned at 7:21 p.m.

Respectfully submitted,

Kenneth Deal
Chair

Ashlyn Penegar
Clerk of the Board

June 22, 2023



To whom it may concern,

This letter is in

regards to the variance
concerning 2600 Meadows Dr in
Monroe, N.C. I have no issue
with the variance and will
have no problem when it is
granted.

Sincerely,

Joan E. Barnaby
3112 Meadows Dr

Monroe, N.C.

28110

CASE # PLZNA
2023-00184
EXHIBIT 1f

EXHIBIT 13
CASE #
2023-00181

March 16, 2023

Glen Garlick
Sonya Garlick
1808 Carrollton Drive
Indian Trail, NC 28079

Re: 1808 Carrollton Drive, Indian Trail, NC 28079

To Whom It May Concern,

This is a courtesy letter to inform you that your property located at **1808 Carrollton Drive** (Parcel ID # **08-267-024**) is currently in violation of the City of Monroe Code of Ordinances. It has come to staff's attention that a fence was built at this address without obtaining a fence permit.

Please note that while this address has an Indian Trail mailing address, the Poplin Grove subdivision is within the City of Monroe City Limits. Per the City of Monroe's Unified Development Ordinance Section 157.3.4.20.A: Fences are required to be issued a zoning permit.

In order to remedy this situation, **you will need to contact the permit Center no later than March 30, 2023** to bring the fence into compliance. Failure to remedy this violation by that date, the City will move forward with the zoning violation process.

If you have any questions, please contact me in the Planning Department at 704-282-4554 or mbrightharp@monroenc.org to discuss the requirements. You may also contact the permit center at 704-282-4524 or by email at permitcenter@monroenc.org to apply for the necessary permits.

Sincerely,



Megan Brightharp,
Planner

1. The hardship for me to carry out the strict letter of the ordinance would cost me over \$1,000. I would have to take the time to empty everything out of the shed and store in a safe spot. I would have to remove several sections of my fence and have someone come and move the shed the distance needed. I would then need to reinstall the fence. Then there would be the time and cost of redoing the yard where the shed was because the grass is all dead now. Also hoping the whole time that nothing breaks with the fence or the shed during the moving process.
2. A lot of new residential construction have tiny lots compared to just 10 years ago. My lot is 0.24 acres. It is 26 feet from the concrete patio to the back property line. The back yard has a slope front to back and with a slope of left to right. With 10 feet setback for the shed, it literal puts my 12x8 shed in the middle of the yard. That gives me less than 10 feet to get my mower, ATV and anything else I have in the shed out to use. Having the slope front to back will make the back of the shed be over 15 inches above the ground.
3. When I bought the house in September 2020, we were told we were in Indian Trail. I followed all requirements per my HOA for the shed. The shed is behind the house, painted same color, has same shingles, and has hardee board on the sides to match the house. It is 3 feet from the back property line, 23 feet from the left side of the property line and over 52 feet from the right property line. There was no mention in the HOA handbook about any need to ask or check with the City of Monroe about zoning permits. I would not have spent over \$3,000 on a shed for it to be in the wrong spot.
4. My request is that only it be okay that my shed is 3 feet from my back property line. The space behind my house is a wooded common open space. I finished my shed in June 2021, it has been its spot for 2 years now. I was sent a letter in March of this year that only mentioned I was in violation of City of Monroe for a fence permit. I am the one that asked about my shed needing a permit because I knew it was the right thing to do.

**CITY OF MONROE
BOARD OF ADJUSTMENT
JUNE 8, 2023
STAFF NOTES FOR INFORMATION PURPOSES ONLY**

The Board of Adjustment of the City of Monroe, North Carolina, was scheduled to meet on June 8, 2023. Due to the lack of a quorum, Chairman Kenneth Deal proceeded with the Agenda for information purposes for those attending. Staff Notes were prepared *for information purposes only*.

Present: Chairman Kenneth Deal

Absent: George Smith, William Draper

Staff: Doug Britt, Senior Planner; Megan Brightharp, Planner I; Richard Long, City Attorney

Item No. 1. Quasi-Judicial Board Workshop with UNC School of Government

Training was held via webinar with the UNC School of Government.



STAFF REPORT

Case # PLZONA-2023-00204

TO: Board of Adjustment Members

DATE: July 27, 2023

FROM: Lisa Stiwinter, Planning and Development Director

PREPARED BY: Keri Mendler, Senior Planner

SUBJECT: Appeal Request by Robert Yanacsek for property located at 513 Everette Street.

SUMMARY STATEMENT

Staff has received an appeal application from Robert Yanacsek regarding staff's zoning determination of a new gravel driveway installed at 513 Everette Street.

SITE DATA

Type of Action: Appeal

Date of Petition: June 28, 2023

Name of Petitioner: Robert Yanacsek

Location: 513 Everette Street

Tax ID #: 09-231-090

Lot Size: .19 Acres

Current Zoning Classification: RMD (Residential Medium Density)

REVIEW

1. The property located at 513 Everette Street is owned by Robert Yanacsek and is zoned RMD (Residential- Medium Density). (Exhibit 1-3)
2. On May 26, 2023, staff received a call regarding a new awning installed at 513 Everette Street. During the inspection of the awning, staff also noticed a new gravel driveway was installed on this parcel. (Exhibit 4)

3. On May 30, 2023 Planning staff sent a courtesy email to Mr. Yanacsek regarding the violations on the property including the installation of a new gravel driveway. Staff explained that per section 8.4.3.B of the UDO, new driveways must be paved, furthermore, this property is located in the Historic District and a Certificate of Appropriateness (COA) is required for new driveways as well per section 6.3.D of the Unified Development Ordinance. (Exhibit 5-6)
 4. Mr. Yanacsek contends there was an existing gravel driveway in this area in the past. Section 10.1.B of the Unified Development Code states: “The burden of establishing that a nonconformity lawfully exists shall be the responsibility of the person who owns or rents the property upon which the nonconformity exists. Evidence that may be used to prove the legal status as a lawful nonconformity may include approved permits, construction plans, and records of previously approved regulations.” Mr. Yanacsek has not provided sufficient evidence to staff to prove a gravel driveway was in this location prior to installing the gravel on or about May 30, 2023. (Exhibit 7-8)
 5. While Section 10 of the Unified Development Ordinance places the burden of proof on the property owner or tenant, Planning staff utilized various documents to identify if a driveway was in this location including past aerial images and Google Street View images; however, staff was unable to find documentation of a gravel driveway in this location. Furthermore, there is no driveway curb-cut at the location of the new driveway. As such, Planning staff prepared a zoning determination letter regarding the new gravel driveway that was installed and emailed a copy to Mr. Yanacsek on June 21, 2023. (Exhibit 9-10)
 6. On June 28, 2023, Mr. Yanacsek submitted an appeal application to appeal staff’s determination of this property. (Exhibit 11)
 7. All adjacent property owners and those within 150-feet of the subject property have been notified of this appeal application via first class mail and a sign has also been on the property for 10 days. (Exhibit 12-13)
-

RECOMMENDATION

Based on the evidence submitted, the Board of Adjustment shall make the determination to affirm, reverse, or modify Planning Staff’s determination.

Exhibit:

1. Ortho Map
2. Zoning Map
3. Property Deed
4. New Driveway
5. UDO Sections 8.4.3.D & 6.3.D
6. Courtesy Email sent to Mr. Yanacsek
7. Email Chain with Mr. Yanacsek’s claim
8. UDO Section 10.1

9. Documents Staff utilized to determine if claim had validity
10. Zoning Determination Letter
11. Application
12. APO List
13. APO Map

Prepared By: KM 7-14-23

Ortho Map

PLZONA-2023-00204

Legend

- Centerlines
- Parcels

Existing: RMD
(Residential Medium Density)

Owner: Robert Yanacsek

Acres: .19



0 20 40
Feet

EVERETTE ST

Zoning Map

PLZONA-2023-00204

Legend

Centerlines

Parcels

Zoning Districts

RMD

Existing: RMD
(Residential Medium Density)

Owner: Robert Yanacsek

Acres: .19



0 20 40
Feet

EVERETTE ST

FILED
UNION COUNTY, NC
CRYSTAL CRUMP
REGISTER OF DEEDS

FILED Dec 31, 2012
AT 12:27 pm
BOOK 05905
START PAGE 0764
END PAGE 0766
INSTRUMENT # 42506
EXCISE TAX \$120.00
MKH

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$120.00
Parcel Identifier No. 09231090

Mail/Box to: Property Address

Instrument prepared by: *Brady & Kosofsky, PA, 13850 Ballantyne Corporate Place, Suite 500, Charlotte, NC 28277*

This instrument was prepared by Kenneth R. Hutchins II (Kip), a duly licensed North Carolina Attorney. Delinquent taxes, if any will be paid by the closing attorney from the closing proceeds as shown on the settlement statement. File 1230606

Brief Description for the Index:

THIS DEED made this 28th day of December, 2012 by and between

GRANTOR	GRANTEE
<i>American Community Bank, a division of Yadkin Valley Bank and Trust Company</i>	<i>Robert S. Yanacsek, legally separated</i> <i>Property Address: 513 Everett Street Monroe, NC 28112</i>

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in FEE SIMPLE, all that certain lot or parcel of land situated in the City of Monroe, Union County, North Carolina and more particularly described as follows:

SEE ATTACHED EXHIBIT "A"

The property hereinabove described was acquired by Grantor by instrument recorded Book 5365 Page 646.

A map showing the above described property is recorded in Plat Book **METES AND BOUNDS**.

All or a portion of the property herein conveyed _____ includes or ☒ does not include primary residence of a Grantor.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in FEE SIMPLE.

And the Grantor covenants with the Grantee, that Grantor is seized of the premise in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

ALL EASEMENTS, COVENANTS AND RESTRICTIONS OF RECORD, AD VALOREM TAXES FOR THE CURRENT YEAR WHICH MAY NOT BE DUE AND PAYABLE.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

Title Insurance Company:
Chicago Title Insurance Company - Charlotte

American Community Bank, a division of
Yadkin Valley Bank and Trust Company

William Clewis (Seal)

By: William Clewis

Its: SVP

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

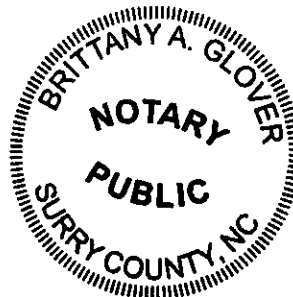
I, Brittany A. Glover, a Notary Public for SURRY County, North Carolina, do hereby certify that William Clewis (name of corporate officer), personally appeared before me this day and acknowledged that he (or she) is SVP (title of corporate officer) of American Community Bank, a division of Yadkin Valley Bank and Trust Company (name of corporation), a corporation, and that he/she, as SVP (title of corporate officer) being authorized to do so, executed the foregoing on behalf of the corporation.

Witness my hand and official seal this 28 day of December, 2012.

Brittany A. Glover
Notary Public

Notary Seal

My Commission Expires: 6/24/17



"Exhibit A"

BEGINNING at a point in the northerly edge of Everett Street (40 feet wide) evidenced by a Found Iron, a common corner with the southernmost corner of the Katherlean B. Chambers lot (Book 567 Page 869, Union County Registry), and running thence from the beginning with the northerly edge of Everett Street, S. 64-52-49 E. 79 feet to another point in the northerly edge of Everett Street, evidenced by another Found Iron, a common corner with the southernmost corner of the land conveyed to Harold Rushing and wife, Jennifer Rushing (Book 788, Page 888); thence with the western line of the Rushing land, N. 24-57-30 E. 108.36 feet to a point, Catherine W. Cooley's property evidenced by a Found Iron, a common corner with the Rushing land; thence with the southern line of the Cooley property, N. 64-52-49 W. 79 feet to a point evidenced by another Found Iron, another corner of the Chambers lot; thence with the eastern line of the Chambers lot, S. 24-57-30 W. 108.36 feet to the **BEGINNING**, and being a lot 79 feet by 108.36 feet by 108.36 feet in size, known as 513 Everett Street, Monroe, North Carolina.



Exhibit 4

8.4.3. PARKING DESIGN STANDARDS

B. Paving.

1. **Applicability.** Paving shall be required per the standards of this Section for:
 - a. All new parking, loading, driveways and drive aisles, serving new construction, including expansions to existing uses;
 - b. All parking, loading, and driveways and drive aisles, existing and new, serving any use expanded in lot coverage/square footage by more than twenty percent (20%) after the effective date of this ordinance; and
 - c. All existing parking, loading, and driveways and drive aisles, serving a use discontinued for a period of 180 days or longer.
2. **All Uses (Except Single family Residential).** All parking, loading, and driveway areas shall be paved and maintained with asphalt or concrete. Single family residential uses are not required to meet this standard.
3. **Single Family Residential Uses.** Single family residential shall be required to have a paved driveway off of a public street which provides a continuous paved surface from the edge of pavement or curb line of the public street to the attached or detached garage or carport, if provided, or front building line of the dwelling, if not provided. Such partial pavement shall not in any event be required to extend more than one-hundred (100) feet beyond the edge of pavement or curb line of the public street, except as otherwise stated in the UDO or approved by a variance. All driveways must be at least ten (10) feet in width at their narrowest point.

6.3. HISTORIC DISTRICTS

- D. Certificate of Appropriateness (COA).** A Certificate of Appropriateness (COA) shall be required when applicable in accordance with Section 3.4.12: Certificate of Appropriateness, whether a building permit is required or not. All requests for a COA shall be in compliance with N.C.G.S. § 160D -947. No exterior portion of any building or structure (including walls, fences, light fixtures, steps, pavement or other appurtenant features) may be erected, altered, restored, moved or demolished without approval of a COA by the HDC.

From: Keri Mendler
Sent: Tuesday, May 30, 2023 10:05 AM
To: 'bobformonroenc@gmail.com'
Subject: Violation 513
Attachments: [IMG_1794.jpg](#); [IMG_1795.jpg](#); [HD Application.pdf](#); [513 Everett St. Site Plan.pdf](#)

Good morning,

This email is a courtesy regarding violations at 513 Everett St. I received a call about the awning that has been added to your house. Awnings require an approved Certificate of Appropriateness (COA) from the Historic District Commission. Additionally, while I was inspecting the awning concern, I noticed you've added a new gravel driveway. While you may refresh gravel that is already on site, new gravel driveways are not permitted by the unified development code and new driveways require a staff level certificate of appropriateness.

In order to remedy these violations, you will need to apply for a COA for the above items and the driveway will need to be paved with asphalt or stained concrete. You can apply for both items together on one application, which is attached. You will also need to provide a site plan showing the location of the driveway and provide details about the awning. I have attached a tax map that you can utilize for the site plan. The application fee is \$75 and can be paid with exact cash or a check made out to the City of Monroe.

If the items above are not removed or a COA application is not submitted by June 9, 2023, I will proceed with the official zoning violation process.

If you have any questions, please let me know.

Thank you,

Keri Mendler, AICP, CZO
Senior Planner
City of Monroe
300 W. Crowell Street/ P.O. Box 69
Monroe, NC 28112-0069
(704)-282-5797 p
(704)-283-7704 f
kmendler@monroenc.org



E-mail correspondence to and from this address may be subject to North Carolina's public records laws and if so, may be disclosed.

From: Keri Mendler
Sent: Friday, June 2, 2023 12:58 PM
To: 'Bob For Monroe NC'
Subject: RE: Violation 513

Bob,

The other property I assume you're talking about is 517 Everette St. As mentioned in an earlier email, this house had an existing gravel driveway, which is grandfathered. The existing gravel was refreshed with gravel, which is permitted. As long as gravel is maintained, it can be refreshed with new gravel, but once gravel is no longer maintained and cannot be easily identified onsite, it loses its grandfathered status and anything new would have to be in compliance with the code.

Hi Bob,

Regarding your new driveway, from all sources available to us, the area where you added gravel to the right of your home had grass. While I am not disputing that gravel existed at one time in its history, it was not maintained and cannot be easily identified onsite. Therefore, if you would like to have a driveway in that location, it will have to be in compliance with the current code, which requires single family residential driveways to be paved with asphalt or concrete. Being in the historic district, if you choose concrete, per the design standards, it must be stained an earth tone color. Staff can approve new driveways in the district, provided they are located to the side or rear of the home as yours is, but it must meet the ordinance and design standard requirements listed above.

Regarding the awnings, the image you provided shows two awnings over the lower roof. I did see those awnings in the Sweet Union book, but what you've added is a different type of awning on a different part of the house. As such, a COA is required for the new awning and requires approval by the Historic District Commission

Regarding your latest email about the timing, as we often work with individuals as much as possible to comply with requirements, I can allow you additional time to apply for the COA's. Since you'll be gone until the 14th, I will allow you until Monday, June 19th to apply for the COA before starting the official violation process.

Thanks,

Keri Mendler, AICP, CZO
Senior Planner
City of Monroe
300 W. Crowell Street/ P.O. Box 69
Monroe, NC 28112-0069
(704)-282-5797 p
(704)-283-7704 f
kmendler@monroenc.org



E-mail correspondence to and from this address may be subject to North Carolina's public records laws and if so, may be disclosed.

From: Bob For Monroe NC <bobformonroenc@gmail.com>

Sent: Tuesday, May 30, 2023 6:58 PM

To: Keri Mendler <khutchins@monroenc.org>

Subject: Re: Violation 513

Image referenced is attached as Attachment A
(This was the attachment in Mr. Yanacsek's email reply)

Thanks for the reply. So just for clarification, A rental property on the same street can have non approved gravel added to a non approved driveway and that is ok, but an owner occupied property that adds gravel to an existing driveway is not ok?

The house actually had two awnings, one below and one above. Unfortunately slumlords allowed the awnings to be destroyed and when I had funding and time replaced them. Also in the photo you can see the gravel driveway actually circled the house and came out where I added to the existing gravel. I am all about being compliant, I just want to make sure the guidelines are being applied evenly to all properties.

On Tue, May 30, 2023, 4:45 PM Keri Mendler <khutchins@monroenc.org> wrote:

Good afternoon,

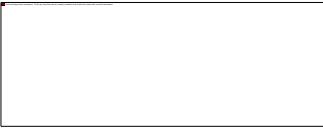
Based on imagery, there was grass in the area of the new gravel, the gravel that has been added is a new driveway. If gravel is maintained it can be refreshed, but once you stop maintaining it's considered new. The fact that grass is present indicates the gravel was not being maintained in the past. This is a new driveway and you must apply for a COA and pave it with asphalt or stained concrete or remove the gravel.

Regarding your other email about the awning, I don't see where an awning was affixed to the house. I see an umbrella, but that is not an attached awning. A COA will need to be applied for and approved for this awning.



Keri Mendler, AICP, CZO
Senior Planner

City of Monroe
300 W. Crowell Street/ P.O. Box 69
Monroe, NC 28112-0069
(704)-282-5797 p
(704)-283-7704 f
kmendler@monroenc.org



E-mail correspondence to and from this address may be subject to North Carolina's public records laws and if so, may be disclosed.

From: Bob For Monroe NC <bobformonroenc@gmail.com>

Sent: Tuesday, May 30, 2023 10:44 AM

To: Keri Mendler <khutchins@monroenc.org>

Subject: Re: Violation 513

Thanks Keri,

I'll see about the awing coa..

There was an existing gravel driveway there prior, much like the one two homes down. I could never get grass to grow because of the gravel so I was pleased when you informed me it was ok since it was existing.

On Tue, May 30, 2023, 10:04 AM Keri Mendler <khutchins@monroenc.org> wrote:

Good morning,

This email is a courtesy regarding violations at 513 Everette St. I received a call about the awning that has been added to your house. Awnings require an approved Certificate of Appropriateness (COA) from the Historic District Commission. Additionally, while I was inspecting the awning concern, I noticed you've added a new gravel driveway. While you may refresh gravel that is already on site, new gravel driveways are not permitted by the unified development code and new driveways require a staff level certificate of appropriateness.

In order to remedy these violations, you will need to apply for a COA for the above items and the driveway will need to be paved with asphalt or stained concrete. You can apply for both items together on one application, which is attached. You will also need to provide a site plan showing the location of the driveway and provide details about the awning. I have attached a tax map that you can utilize for the site plan. The application fee is \$75 and can be paid with exact cash or a check made out to the City of Monroe.

If the items above are not removed or a COA application is not submitted by June 9, 2023, I will proceed with the official zoning violation process.

If you have any questions, please let me know.

Thank you,

Keri Mendler, AICP, CZO
Senior Planner
City of Monroe
300 W. Crowell Street/ P.O. Box 69
Monroe, NC 28112-0069
(704)-282-5797 p
(704)-283-7704 f
kmendler@monroenc.org

E-mail correspondence to and from this address may be subject to North Carolina's public records laws and if so, may be disclosed.



c.de

Attachment A



3



Go to website



Exhibit 6



SECTION 10 NONCONFORMITIES

10.1. GENERAL APPLICABILITY

- A. **Intent.** Due to the establishment of this UDO, there exists uses of land, structures, lots of record, and site features that were lawfully established prior to the adoption of this UDO that may not be conforming. The purpose and intent of this Section is to allow and regulate the continued existence of such instances that do not conform to the provisions of this UDO.
- B. **Determination of a Nonconformity.** The burden of establishing that a nonconformity lawfully exists shall be the responsibility of the person who owns or rents the property upon which the nonconformity exists. Evidence that may be used to prove the legal status as a lawful nonconformity may include approved permits, construction plans, and records of previously approved regulations.
- C. **Ownership Changes.** No change of title or possession of property shall be construed to prevent the continuance of a nonconformity.
- D. **Increases in a Nonconformity.** A nonconformity shall not be expanded, intensified, or enlarged except as provided by this Section.

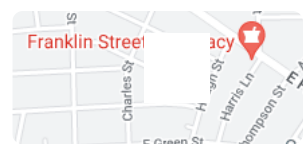


Exhibit 8

2015 GIS Aerial Imagery
Source: NCOneMap

EVERETTE ST

Exhibit 8

2019 GIS Aerial Imagery
Source: NCOneMap

EVERETTE ST

Exhibit 8

June 21, 2023

Robert Yanacsek
513 Everette St.
Monroe, NC 28112

RE: 513 Everette St. (Parcel ID: 09-231-090)

Mr. Yanacsek,

The subject property is zoned RMD (Residential Medium Density). Section 157.8.4.3.B requires new parking, loading, and driveways to be paved. Section 10 addresses nonconforming uses and permits nonconforming uses to continue provided they have been established and not abandoned for more than 180 days. The burden of establishing that a nonconformity lawfully existed shall be the responsibility of the property owner. While you have provided previous images of the area in which you have added gravel, it is staff's determination that what you have provided is not sufficient to determine that a gravel driveway was present in the last 180 days.

As you have not provided documentation that a gravel driveway was in this location for at least 180 days prior to the installation of new gravel on or about May 30, 2023, the new driveway with gravel is not considered nonconforming. Therefore, the driveway must come into compliance with the code requirements, which requires a staff level Certificate of Appropriateness and paving of the driveway. Otherwise, the gravel will need to be removed.

If you disagree with the information presented in this formal zoning verification letter, you may appeal the decision to the Board of Adjustment within thirty (30) days of today, June 21, 2023. Planning staff can provide you with the appropriate information and application. If you have any questions, you may contact staff at 704-282-5797 or by email at kmendler@monroenc.org.

Thank you,



Keri Mendler
Senior Planner



City of Monroe Appeal Application Form

CITY OF MONROE

JUN 28 2023

DEPT OF PLANNING
AND DEVELOPMENT

Applicant's Name: ROBERT YANACSEK

Applicant's Address: 513 EURETTE ST

Property Owner's Name: ROBERT YANACSEK

Property Owner's Address: 513 EURETTE ST

Existing Use of Property: SINGLE FAMILY HOME

Property Location: 513 EURETTE ST.

Tax Map Number: - - Lot Size: Zoning District:

Date of Zoning Officer's decision: 5/30/23

Summary of Zoning Officer's decision:

Reason for appeal of decision: DRIVEWAY IN QUESTION WAS IN
EXISTANCE AND WAS USED WITHIN 180 DAYS
OF THE VIOLATION.

ROBERT YANACSEK
Applicant-Printed

[Signature]
Applicant-Signature

Keri Mendler
Signature of Zoning Officer

6/28/23
Date

6/28/23
Date

FOR STAFF USE ONLY

(PLEASE DO NOT WRITE BELOW THIS LINE)

Adjoining property owners 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: _____

ACCTNO	OWNERNAME1	OWNERNAME2	OWNERADDRE	OWNERCITY	OWNERSTATE	OWNERZIP
09231078	PARKER LAWRENCE JARMARK	PARKER CRYSTAL A	512 EAST TALLYRAND AVE	MONROE	NC	28112
09231080	HERNANDEZ JESUS DIAZ		506 E TALLEYRAND AVE	MONROE	NC	28112
09231098	EG&T CAPITAL LLC		PO BOX 78372	CHARLOTTE	NC	28271
09231082	MCGINNIS ELEANOR		505 E TALLEYRAND AVE	MONROE	NC	28112
09231086	COVINGTON ROSIE LEE	COVINGTON EARNEST	1211 AUSTIN CHANEY RD	WINGATE	NC	28174
09231093	BLACKMON WILLIE		521 EVERETTE ST	MONROE	NC	28110
09231099	DMS CAPITAL LLC		2316 WENSLEY DR	CHARLOTTE	NC	28210
09231101B	NADELIN ROBERT E	C/O JAMES MILLER & ASSOCIATES	PO BOX 3341	MONROE	NC	28111
09231089	CHAMBERS KATHERLEAN B HEIRS		511 E EVERETTE ST	MONROE	NC	28112
09231100	MENA ALEJANDRO MORAN		512 EVERETTE ST	MONROE	NC	28112
09231096	KARAGOUNIS JOHN	KARAGOUNIS OLGA-MARIA	6505 CRANBORNE CHASE CT	CHARLOTTE	NC	28210
09231088	CASTREJON COATLICUE S	MENDOZA JOSE JUIS	509 EVERETTE ST	MONROE	NC	28112
09231090	YANACSEK ROBERT S		513 EVERETT ST	MONROE	NC	28112
09231077	PLYLER AARON	BAISDEN JENNIFER	514 EAST TALLEYRAND AVE	MONROE	NC	28112
09231081	HIGHSTONE CAROLYN	HIGHSTONE TIMOTHY J	504 E TALLEYRAND AVE	MONROE	NC	28112
09231091	TEDESCO PAUL		515 EVERETTE ST	MONROE	NC	28112
09231097	POTTS MEGHAN	POTTS CHRISTIAN	520 EVERETTE ST	MONROE	NC	28112
09231101A	WM HOMES LLC		4106 LAWRENCE DANIEL DR	MATTHEWS	NC	28104
09231079	MCGINNIS EMILY M	MCGINNIS MICHAEL D	508 E TALLEYRAND AVE	MONROE	NC	28112
09231092	WIGGINS CLARA P		408 W ROOSEVELT BLVD	MONROE	NC	28110
09231102	BURGESS JEAN C		8123 PINE HILL RD	MINT HILL	NC	28227
09231087	GARCIA JOSE JAVIER	DE GARCIA NOHEMI CORDOVA	4202 RUNAWAY CIR	MONROE	NC	28110
09231100A	LIFESTYLE RENTALS LLC		7206 MORGAN MILL RD	MONROE	NC	28110

APO Map

513 Everett St.

Legend

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



Exhibit 12



STAFF REPORT

Case # PLZNA 2023-00196

TO: Board of Adjustment Members

DATE: July 27, 2023

FROM: Doug Britt, Senior Planner

PREPARED BY: Megan Brightharp, Planner

SUBJECT: A variance request by Brice L. Dimitruk, on behalf of UC QOZB I, LLC for 372 Acme Drive to deviate from section 157.8.4.3 of the Unified Development Ordinance that states that all parking, loading, and driveway areas should be paved with asphalt or concrete.

SUMMARY STATEMENT

Brice L. Dimitruk, on behalf of UC QOZB I, LLC is requesting a variance for 372 Acme Drive to deviate from section 157.8.4.3 of the Unified Development Ordinance that states that all parking, loading, and driveway areas should be paved with asphalt or concrete in order to pave a commercial parking lot in gravel.

SITE DATA

Type of Action: Variance
Date of Petition: June 16, 2023
Name of Petitioner: Brice L. Dimitruk
Location: 372 Acme Drive
Tax ID #: 09-122-002
Lot Size: 10.2 Acres
Current Zoning Classification: GB, General Business

PROPOSED FINDINGS

Proposed Findings:

1. The property located at 372 Acme Drive is owned by UC QOZB I, LLC and is zoned GB, General Business. (Exhibits 1, 2, and 3)

2. A variance application was submitted on June 16, 2023 by Brice L. Dimitruk of Eagle Engineering on behalf of UC QOZB I, LLC, requesting a variance from section 157.8.4.3 of the Unified Development Ordinance that states that all parking, loading, and driveway areas should be paved with asphalt or concrete in order to pave a commercial parking lot in gravel. (Exhibit 4 and 5)
3. Section 157.8.4.3 *Parking Design Standards* of the Unified Development Ordinance (UDO) states in relative parts:
 - 8.3.4 Parking Design Standards
 - B. Paving
 2. All Uses (Except Single Family Residential). All parking, loading, and driveway areas shall be paved and maintained with asphalt or concrete. (Exhibit 6)
4. All adjacent property owners have been notified of the proposed variance. (Exhibit 7 and 8)

Conclusions:

1. It is the Board's CONCLUSION, that unnecessary hardship (would/would not) result from the strict application of the ordinance.
2. It is the Board's CONCLUSION, that the hardship (is/is not) peculiar to the applicant's property.
3. It is the Board's CONCLUSION, that the hardship (is/is not) the result of the applicant's own actions.
4. (a) It is the Board's CONCLUSION, that the variance (is/is not) consistent with the spirit, purpose, and intent of the ordinance.
 - (b) It is the Board's CONCLUSION, that in granting of the variance, the public safety (will/will not) be secured and substantial justice (will/will not) be achieved.

THEREFORE, on the basis of all foregoing, IT IS ORDERED that the application Variance 2023-00196 be (**approved/denied**).

Exhibits:

Exhibit 1: Ortho Map
Exhibit 2: Zoning Map
Exhibit 3: Deed to Property
Exhibit 4: Application
Exhibit 5: Site Plan

Exhibit 6: UDO Section 157.8.3.4
Exhibit 7: APO List
Exhibit 8: APO Map

Prepared by: MB 7/19/2023

Ortho Map
PLZNA-2023-00196

Legend

- Centerlines
- Parcels
- Subject Property

Owner:
UC QOZB I, LLC

Acres: 10.2



0 405 810 Feet



Zoning Map
PLZNA-2023-00196

Legend

Centerlines

Parcels

Zoning Districts

GB

GI

NB

OM

RMD

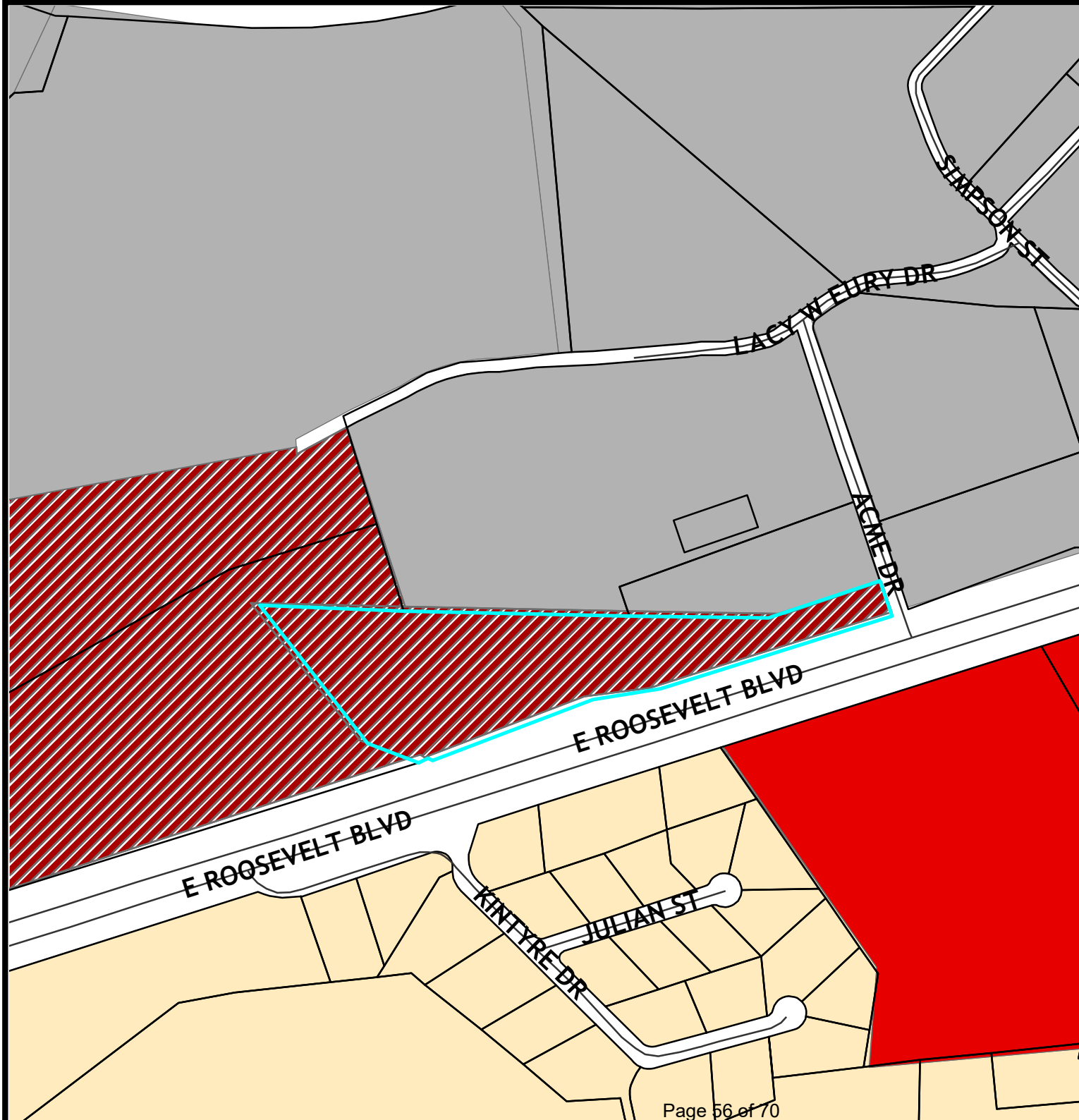
Subject Property

Owner:
UC QOZB I, LLC

Acres: 10.2



0 405 810
Feet



FILED May 18, 2021
AT 11:44:00 AM
BOOK 08104
START PAGE 0696
END PAGE 0698
INSTRUMENT # 23529
EXCISE TAX \$850.00

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: **\$850.00**

Parcel Identifier No. 09-122-002 By _____ County on the ____ day of ____, 20____
By: _____

Mail/Box to: **John T. Burns, PO Box 904, Monroe, NC 28112**

This instrument was prepared by: **John T. Burns / eb**

TITLE SEARCH NOT REQUESTED, NOR PERFORMED

Brief description for the Index: **10.27 acres, more or less**

THIS DEED made this 17th day of May, 2021 by and between

GRANTOR	GRANTEE
E & O LesMarChris Family Limited Partnership A South Carolina Limited Partnership 7109 Anchorage Lane Tega Cay, SC 29708	UC QOZB I, LLC A North Carolina Limited Liability Company c/o The Moser Group, Inc. 231 Post Office Group, Suite B-8 Indian Trail, NC 28079

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the **Monroe Township, Union County, North Carolina** and more particularly described as follows:

See Attached Schedule A.

The property hereinabove described was acquired by Grantor by instrument recorded in **Book 4941, page 748.**

Submitted electronically by "Hinson Faulk, P.A."
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Union County Register of Deeds.

A map showing the above described property is recorded in Plat Cabinet _____, File _____.
TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

All right of ways of roads and utilities that border or cross said property.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

E & O LesMarChris Family Limited Partnership

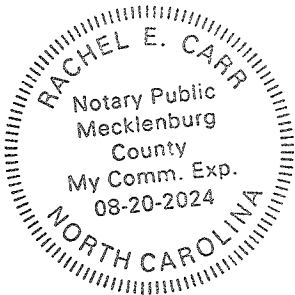
Lewis W. Bartles (SEAL)
Lewis W. Bartles, Managing Partner

State of North Carolina - County of UNION

I, the undersigned Notary Public of the County and State aforesaid, certify that **Lewis W. Bartles, as Managing Partner of E&O LesMarChris Family Limited Partnership** personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 17 day of

May, 2024
My Commission Expires: 8-20-24

Rachel E. Carr
Notary Public



Schedule A
PIN# 09122002

BEING all that certain piece, parcel of tract of land lying and being in the City of Monroe, Union County, North Carolina and being more particularly described as follows:

BEGINNING at a concrete R/W monument on the northern right of way of Roosevelt Blvd. (US Highway 74) having North Carolina State Plane coordinates of North: 449,568.48, East 1549207.08 (NAD 83/2011) and being the Point and Place of Beginning.

Thence, along said right of way the following two (2) course and distances, (1) N 66-14-07 W 14.65 feet to a concrete R/W monument, (2) S 68-45-28 W 26.83 feet to a 5/8" Iron Rod being the southeastern corner of the Sutton Timber Farm, LLC property as recorded in Book 3329, Page 174.

Thence, leaving said R/W, and running with the Sutton Timber Farm, LLC property the following three (3) courses and distances, (1) N 70-22-42 W 159.89 feet to a 5/8" iron rod, (2) N 39-03-07 W 518.90 feet to a 1/2" iron rod, (3) S 88-40-14 E 425.93 feet to a 3/4" iron pipe, being the southwestern corner of the GM Nameplate Inc. property as recorded in Book 263, Page 599.

Thence, with the GM Nameplate, Inc. property the following two (2) courses and distances, (1) S 88-40-14 E 351.23 feet to a 3/4" iron pipe, (2) S 88-40-14 E 302.32 feet to a 3/4" iron pipe being the southwestern corner of the Sutton Timber Farm, LLC property as recorded in Book 3329, Page 174.

Thence, with the Sutton Timber Farm, LLC property the following two (2) courses and distances, (1) S 88-40-14 E 409.55 feet to a 1/2" iron rod, (2) N 72-20-10 E 366.50 feet to a 5/8" iron rod located on the westerly right of way of Acme Drive, a 60' public R/W as recorded in Book 262, Page 87.

Thence, along the westerly right of way of Acme Drive S 18-43-58 E 109.37 feet to a 1/2" iron rod set at the northerly right of way of Roosevelt Blvd. (US Highway 74).

Thence, along the right of way of Roosevelt Blvd. (US Highway 74) the following three (3) courses and distances, (1) S 72-36-18 W 717.00 feet to a concrete R/W monument, (2) S 80-57-41 W 203.14 feet to a concrete R/W monument, (3) S 69-10-15 W 505.25 feet to the point and place of BEGINNING.

The property as described contains 10.221 acres, more or less. All as shown on a Boundary Survey prepared by Eagle Engineering, Inc. (Russell L. Whitehurst, PLS) and dated May 11, 2021.

City of Monroe Variance Application Form

Applicant's Name: UC QOZB I, LLC

Applicant's Address: 231 Post Office Dr., Suite B-8
Indian Trail, NC 28079

Property Owner's Name: UC QOZB I, LLC

Property Owner's Address: 231 Post Office Dr., Suite B-8
Indian Trail, NC 28079

For Staff Use Only

Application #: _____

Date Submitted: _____

Approved: _____

Denied: _____

Legal Relationship of Applicant to Property Owner: Member Manager

Contact Person Name and Phone Number: Dennis W. Moser - 704-882-1700

Existing Use of Property: Vacant Land

Property Location: 372 Acme Drive, Monroe, NC 28110

Tax Map Number: 09 - 122 - 001 Lot Size: 24.32 AC Zoning District: GI

Ordinance section number to which a variance is being sought. 02.02.05

Proposed variance description: Proposed Parking Facilities shall be constructed of stone instead of asphalt or concrete.

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.]

The temporary use of property and the timing required to pave are causing the

unnecessary hardships.

2. **The hardship results from conditions that are peculiar to the property, such as location, size, or topography.** [Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance]

The highest and best use has changed since we started this development for the positive to more retail and restaurant. We would like to utilize the space as outdoor storage with fencing and stone until we can develop the future highest and best use.

3. **The hardship did not result from actions taken by the applicant or the property owner.** [The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship]

The hardship originated from a global pandemic and the highest and best use has changed for the positive.

4. **The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

The request for a variance to make the project feasible for a temporary use.

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.

UC QOZB I, LLC

Printed name of Applicant



Signature of Applicant

6/16/23

Date

UC QOZB I, LLC

Printed name of Owner

DM
Signature of Owner

6/16/23
Date

****If you are signing on behalf of a company, please include your title within 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 _____

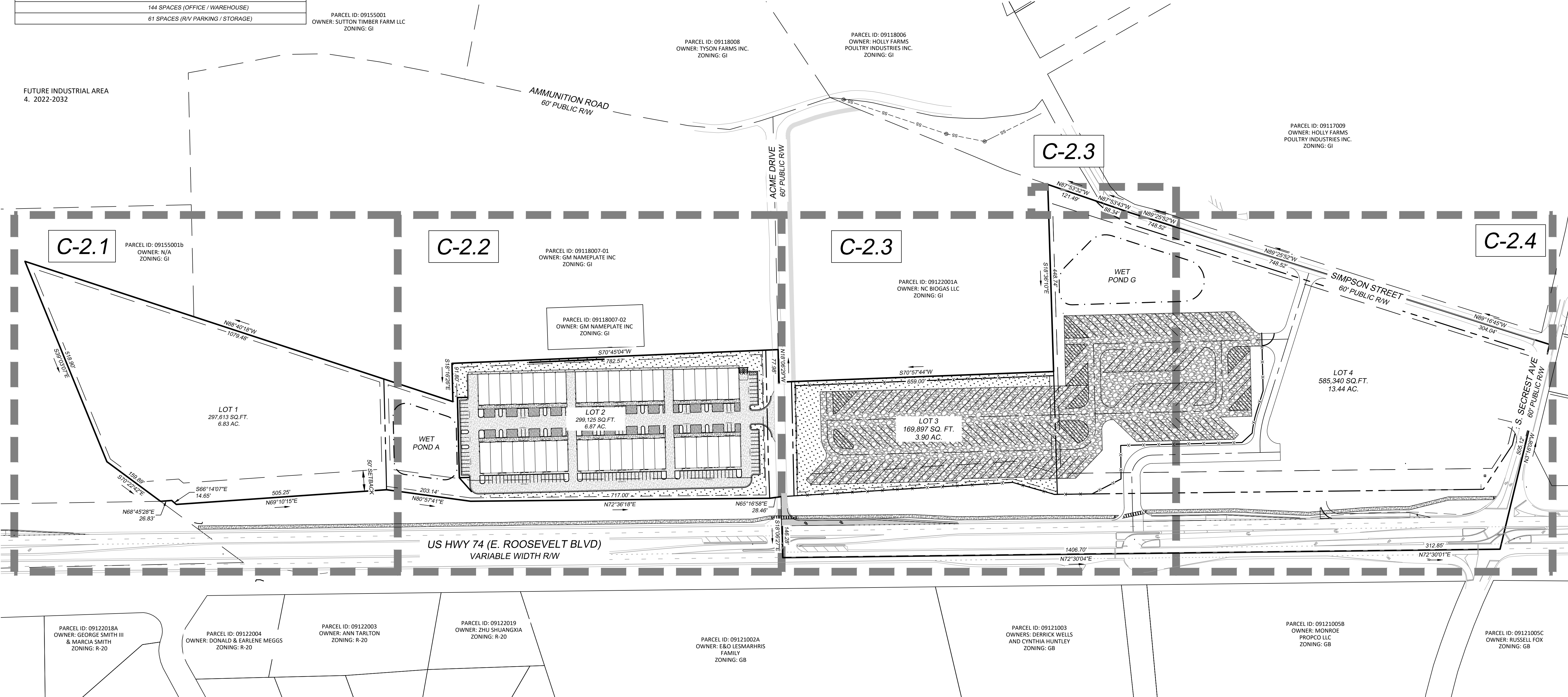
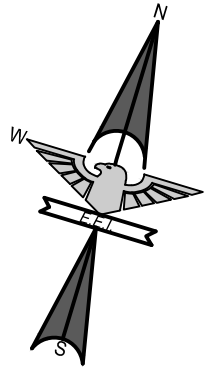
Public hearing date: _____

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

Action taken by the Board of Adjustment: _____

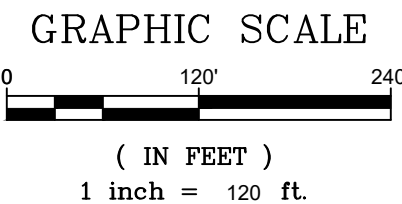
Notification of Action Mailed to applicant on: _____

SITE AND DEVELOPMENT DATA	
JURISDICTION	MONROE, NC
TAX PARCEL(S)	09122001, 09122002, & 09117008
SITE ADDRESS	372 ACME DRIVE
ZONING	GI
USE CLASSIFICATION	OFFICE / WAREHOUSE AND R/V PARKING / STORAGE
TOTAL AREA	1,675,376 SF. (38.46 ACRES)
AREA IN LOTS	1,675,376 SF. (38.46 ACRES)
LOT 1	297,613 SF. (6.83 ACRES)
LOT 2	299,125 SF. (6.87 ACRES)
LOT 3	169,897 SF. (3.90 ACRES)
LOT 4	585,340 SF. (13.44 ACRES)
COMMON AREA	0.00 ACRES
RIGHT-OF-WAY	323,400 SF. (7.42 ACRES)
HWY 74	260,806 SF. (5.99 ACRES)
ACME DRIVE	18,718 SF. (0.43 ACRES)
S. SECREST AVENUE	13,182 SF. (0.30 ACRES)
SIMPSON STREET	30,694 SF. (0.70 ACRES)
MINIMUM FRONT SETBACK	50'
MINIMUM CORNER/SIDE SETBACK	10'
MINIMUM REAR SETBACK	10'
DISTURBED AREA	23.91 ACRES
PROVIDED PARKING	144 SPACES (OFFICE / WAREHOUSE) 61 SPACES (R/V PARKING / STORAGE)



GENERAL NOTES

- ALL ROADWAY CONSTRUCTION METHODS SHALL BE IN ACCORDANCE WITH THE CITY OF MONROE STANDARD SPECIFICATIONS AND DETAIL MANUAL, AND THE NC DOT STANDARD SPECIFICATIONS FOR ROADS AND STRUCTURES, LATEST EDITION EXCEPT WHERE OTHERWISE NOTED.
- DEVIATIONS FROM THE CITY OF MONROE STANDARD SPECIFICATIONS AND DETAIL MANUAL MUST BE CLEARLY NOTED ON THE PLAN AND LISTED BELOW. (THE DEVELOPER MUST REQUEST ANY DEVIATION FROM THE DETAIL MANUAL IN WRITING ALONG WITH JUSTIFICATION FOR REVIEW AND RECOMMENDATION BY STAFF.)



EAGLE ENGINEERING

FIRM LICENSE # C-0873
2013A Van Buren Avenue
Indian Trail, NC 28079
(704) 882-4222
www.eagleonline.net

NO.	DATE	BY	ISSUE
1	01/04/22	SAP	REVISED PER CITY OF MONROE COMMENTS
2	03/09/22	MMH	REVISED PER CITY OF MONROE COMMENTS
3	05/06/22	JPC	REVISED PER CITY OF MONROE COMMENTS
4	08/02/22	NCM	REVISED PER CITY OF MONROE COMMENTS
5	08/25/22	DPH	REVISED PER NC DOT DW PERMIT COMMENTS
8	03/09/23	NCM	REVISED SANITARY SEWER & DUMPSTER RELOCATION
9	03/29/23	NCM	REVISED SANITARY SEWER LOD

CAMP SUTTON MIXED USE
MONROE, NC

UC QOZBI, LLC
231 POST OFFICE DRIVE, STE B8
INDIAN TRAIL, NC 28079

DESIGNED BY	SAP	CHECKED BY	SAP
AS SHOWN			
DATE	08/16/2021	JOB NUMBER	7367

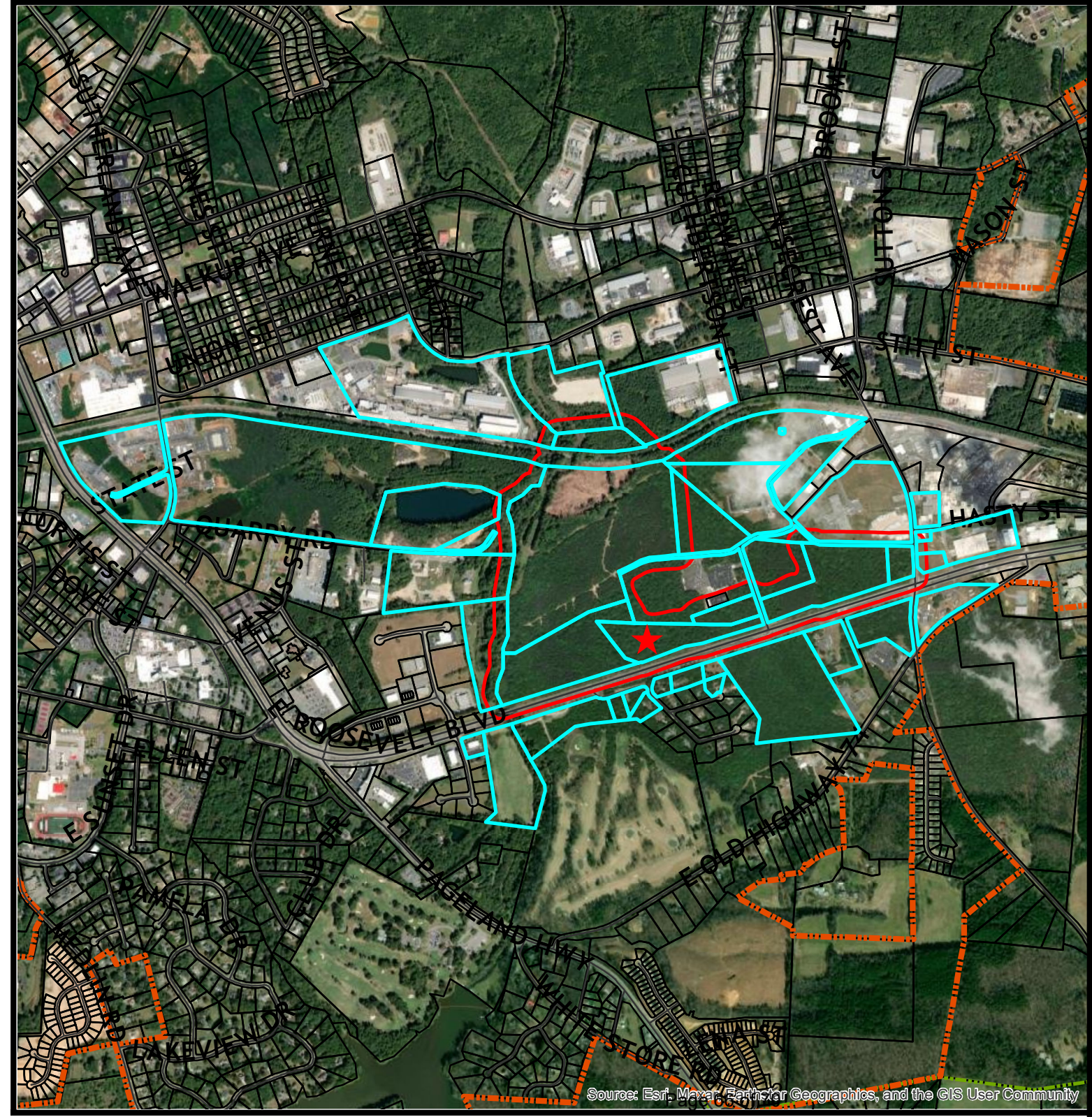
Sheet

C-2.0

B. Paving.

1. **Applicability.** Paving shall be required per the standards of this Section for:
 - a. All new parking, loading, driveways and drive aisles, serving new construction, including expansions to existing uses;
 - b. All parking, loading, and driveways and drive aisles, existing and new, serving any use expanded in lot coverage/square footage by more than twenty percent (20%) after the effective date of this ordinance; and
 - c. All existing parking, loading, and driveways and drive aisles, serving a use discontinued for a period of 180 days or longer.
2. **All Uses (Except Single Family Residential).** All parking, loading, and driveway areas shall be paved and maintained with asphalt or concrete. Single family residential uses are not required to meet this standard.
3. **Single Family Residential Uses.** Single family residential shall be required to have a paved driveway off of a public street which provides a continuous paved surface from the edge of pavement or curb line of the public street to the attached or detached garage or carport, if provided, or front building line of the dwelling, if not provided. Such partial pavement shall not in any event be required to extend more than one-hundred (100) feet beyond the edge of pavement or curb line of the public street, except as otherwise stated in the UDO or approved by a variance. All driveways must be at least ten (10) feet in width at their narrowest point.
4. **Vehicles, Boats, Manufactured Home, and Equipment Sales, Service, and Leasing Sites, Storage and Display.** All storage and/or display areas shall be paved with asphalt or concrete.
5. **Exceptions to Paving Requirements.** These paving requirements shall not apply to the following uses, however, a Zoning Permit in compliance with Section 3.4.20: Zoning Permit, must be obtained for each of the following parking uses:
 - a. Temporary parking areas used for seasonal or special events.
 - b. Areas of manufacturing and industrial uses which are used for parking and storage of heavy machinery, equipment, and vehicles, provided these areas are constructed with gravel or another comparable all-weather compacted surface.

ACCTNO	OWNERNAME1	OWNERNAME2	OWNERADDRE	CURR_ADDR2	OWNERCITY	OWNERSTATE	OWNERZIP
09121001	CITY OF MONROE		PO BOX 69		MONROE	NC	281110069
09118009	DOWN-LITE NORTH CAROLINA LLC		%JOSH WERTHALSER CFO	8153 DUKE BLVD	MASON	OH	45040
09121002A	E & O LESMARCHRIS FAMILY	LIMITED PARTNERSHIP	7109 ANCHORAGE LN		TEGA CAY	SC	29708
09117004A	FIAT COMPANY		11013 KEMPSFORD DR		CHARLOTTE	NC	28262
09121005C	FOX RUSSELL		STE G	16507 NORTH CROSS DR	HUNTERSVILLE	NC	28078
09152001	G MOTUS LLC		721 SEYMOUR ST		MONROE	NC	28110
09118007 01	GM NAMEPLATE INC		2040 W 15TH AVE		SEATTLE	WA	98119
09122020	HAALAND KRISTEN		2509 JULIAN DR		MONROE	NC	28112
09118006	HOLLY FARMS POULTRY INDUSTRIES INC		%TYSON FARM	PO BOX 2020	SPRINGDALE	AR	727652020
09117004	MAC LLC		PO BOX 985		MONROE	NC	28111
09122004	MEGGS DONALD R	MEGGS EARLENE H	501 KINTYRE DR		MONROE	NC	28112
09121005B	MONROE PROPCO LLC		440 SYLVAN AVE STE 240		ENGLEWOOD	NJ	07632
09122001A	NC BIOGAS LLC		8601 SIX FORKS RD		RALEIGH	NC	27615
09152002	NORTH CAROLINA STATE HWY COMM		%NC DEPT ADMIN	116 W JONES ST	RALEIGH	NC	27603
09155002B	SANDMARK HOLDINGS LLC		8807 ROSSLARE VILLAS CTY		CHARLOTTE	NC	28226
09122018	SMITH GEORGE MARVIN III	SMITH MARCIA HILL	502 KINTYRE DR		MONROE	NC	28112
09118004 70	SUTTON SITE PROPERTY LLC		ATTN: JEFFREY L MAHON CFO	600 SOUTH MAIN ST 3RD FLOOR	GREENVILLE	SC	29601
09122003	TARLTON ANN T	TARLTON KENNETH C	1822 E ROOSEVELT BLVD		MONROE	NC	28112
09153001	TDY INDUSTRIES LLC		1000 SIX PPG PL		PITTSBURGH	PA	15222
09118008	TYSON FARMS INC		2200 DON TYSON PARKWAY		SPRINGDALE	AR	72762
09155001B	UC QOZB II LLC		C/O THE MOSER GROUP INC	231 POST OFFICE GROUP STE B-8	INDIAN TRAIL	NC	28079
09121003	WELLS DERRICK	HUNTLEY CYNTHIA	9200 EDWARDS WAY SUITE 808		ADELPHI	MD	20783
09122018A	WOW HOMES LLC		1230 W ROOSEVELT BLVD		MONROE	NC	28110
09122019	ZHU SHUANGXIA		1838 E ROOSEVELT BLVD		MONROE	NC	28112



Legend

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

Owner:
UC QOZB I, LLC

Acres: 10.2



Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



STAFF REPORT

Case # PLZNA 2023-00184

TO: Board of Adjustment Members

DATE: July 27, 2023

FROM: Doug Britt, Senior Planner

PREPARED BY: Megan Brightharp, Planner

SUBJECT: Consideration for a denial order for setback variance at 2600 Meadowood Court.

SUMMARY STATEMENT

This is a request to consider a denial order for a variance request by Lewis Wetherall from the minimum front yard setback for the RR, Rural Residential, District in order to bring a house currently under construction into compliance with the District Development Standards as outlined in the City of Monroe's Unified Development Ordinance.

REVIEW

The Board of Adjustment Attorney, Al Benshoff, has requested that a denial order be considered for the variance request by Lewis Wetherall that was denied by the Board of Adjustment at the June 22, 2023 Board of Adjustment hearing. Said variance was a request to deviate from the minimum front yard setback for the RR, Rural Residential, District in order to bring a house currently under construction into compliance with the District Development Standards as outlined in the City of Monroe's Unified Development Ordinance.

RECOMMENDATION

The Board of Adjustment Attorney requests that the Board of Adjustment consider a denial order for a variance request by Lewis Wetherall from the minimum front yard setback for the RR, Rural Residential, District in order to bring a house currently under construction into compliance with the District Development Standards as outlined in the City of Monroe's Unified Development Ordinance.

Attachments:

1. Order for PLZNA 2023-00184

Prepared by: MB 7/19/2023

**NORTH CAROLINA
UNION COUNTY**

**ORDER OF THE CITY OF MONROE
ZONING BOARD OF ADJUSTMENT CASE PLZNA-2023-00184**

Subject Property: 2600 Meadowood Court
Tax ID No.: 09-295-044
Total Lot/Tract Size: 1.68 Acres
Property Owner: Lewis E. Wetherell
Applicant/Petitioner: Lewis E. Wetherell

This matter, concerning a petition to obtain a Variance came before the Board of Adjustment on June 22, 2023. Applicant Lewis E. Wetherell requested a variance from Unified Development Ordinance (UDO), Table 4.2.4. to the minimum front yard setback of 50 feet in the Rural Residential (RR) District. The Board, having considered the application and heard the evidence presented by the Applicant, the Applicant's witnesses and the staff, all duly sworn, makes the following:

Findings of Fact

1. The property located at 2600 Meadowood Court (the "Property") is owned by Lewis Wetherall and is zoned RR, Rural Residential as shown by Exhibit 1: Ortho Map, Exhibit 2: Zoning Map, and Exhibit 3: Deed to the Property recorded in the Union County Registry at Deed Book 8531 at Page 790. Planner Megan Brightharp introduced all three Exhibits.
2. In July 2022, a building permit application was submitted for the construction of a single family detached home at 2600 Meadowood Court that listed the owner, Lewis Wetherall, as the Contractor. See Exhibit 4: Building Permit Application. An Owner Exemption Affidavit was simultaneously submitted in which the owner agreed to superintend and manage all aspects of the construction of the home. See Exhibit 5: Owner Exemption Affidavit. Planner Megan Brightharp introduced Exhibits 4 and 5.
3. On May 8, 2023, the foundation survey review for the home was failed by planning staff after the foundation survey was submitted showing that the front setback measurements were taken from the center of the cul-du-sac and not the right-of-way, resulting in a front yard setback of 32.2'. See Exhibit 6: Foundation Survey, introduced by Planner Megan Brightharp.
4. A variance application was submitted on May 25, 2023, by Lewis Wetherall, requesting a variance amount of 17.8' from the minimum front yard setback of the RR, Rural Residential, District in order for the house under construction to meet the district's development standards. See Exhibit 7: Application, submitted by Planner Megan Brightharp.

5. Table 4.2.4 RR District Development Standards Table of the Unified Development Code (UDO) states in relative parts:

Setbacks: Front: 50'

(See Exhibit 8: Table 4.2.4. of UDO as introduced by Planner Megan Brightharp.)

6. All adjacent property owners have been notified of the proposed variance. See Exhibit 9: Adjacent Property Owners ("APO") list and Exhibit 10: APO Map, introduced by Planner Megan Brightharp.
7. Lewis Wetherell introduced Exhibit 11, a letter from Joan Barnaby at 3112 Meadowood Dr.
8. The Board or Chair accepted all 11 Exhibits into evidence.

Conclusions of Law

1. It is the Board's conclusion that unnecessary hardship would result from the strict application of the UDO's standards, specifically outlined in Table 4.2.4. as more fully described above and in the Record because the house would have to be moved or modified in order to meet the required 50 foot setback.
2. It is the Board's conclusion that the hardship does not result from conditions peculiar to the Property because the Applicant failed to properly measure the front setback and the Applicant testified that he continued to build the house after being notified that the property failed the foundation survey.
3. It is the Board's conclusion that the hardship did not result from actions taken by the Applicant or Owner because City inspections and foundations surveys were delayed due to the COVID pandemic. Developmental approvals did not proceed in an orderly fashion.
4. It is the Board's conclusion that the requested variance is consistent with the spirit, purpose, and intent of the UDO such that public safety is secured and substantial justice is achieved.

ACCORDINGLY, based on the foregoing, the Board of Adjustment hereby **DENIES** the requested Variance by a vote of **3-0** because Conclusion number 2 was not met.

Signed, this the ____ day of _____, 2023.

Kenneth Deal, Board Chair

ATTEST:

Ashlyn Penegar, Clerk to the Board of Adjustment