

**BOARD OF ADJUSTMENT
MEETING
THURSDAY, AUGUST 24, 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 – July 27, 2023**
- Item 4.** **Conflicts of Interest**
- Item 5.** **PLZNA-2023-00184 Variance- The Board of Adjustment is requested to reconsider a variance request from Lewis Wetherall for 2600 Meadowood Court in order to deviate from the minimum front yard setback in the RR, Rural Residential, District as written in Section 157.4.2.3 of the Unified Development Ordinance. This is a reconsideration of the second Finding of Fact from the hearing that took place on June 22, 2023. No new evidence will be presented. (Parcel ID # 09-295-044)**
- Item 6.** **Next Meeting: September 28, 2023**
- Item 7.** **Adjournment**

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

*cc: Richard Long
 Doug Britt
 Keri Mendler
 Megan Brightharp
 Patrick Blaszyk*

MINUTES OF THE BOARD OF ADJUSTMENT MEETING

July 27, 2023 at 6:00 P.M.

**Council Chambers
300 W. Crowell St.
Monroe, NC**

To HR:

Item 1. Call to Order

Chairman Kenneth Deal called the July 27, 2023 meeting to order at 6:02 p.m. and noted that there was a quorum present with 3 members. Ashlyn Penegar, Administrative Assistant, called the roll.

Members Present: Kenneth Deal, William Draper and George Smith

Members Absent: None

Staff Present: Doug Britt, Senior Planner; Keri Mendler, Senior Planner; Megan Brightharp, Planner I; Patrick Blaszyk; Brady Herman, BOA Attorney; Richard Long, City Attorney; Ashley Britt, Assistant City Attorney; Ashlyn Penegar, Administrative Assistant II

Guests: Tom Crouch, Scott Hunsucker, Mickey Tonelli, Robert Yanacsek, Eileen Grunthanger, Kim Wetherall, Lewis Wetherall, Brooks Durham, Joe Sabatino, Melanie Cox

Item 2. Pledge of Allegiance and Moment of Silence

Item 3. Approval of Minutes – Minutes of June 22, 2023

Motion: William Draper made a motion to approve the minutes of the June 22, 2023 meeting.

George Smith said I have a question about the notes section, I wasn't here physically, but I was online, does that part as being present or count as being absent?

Chair said I think that is just a filler to indicate the thing, but we will talk about it when we get to it.

Second: George Smith

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

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Item 4. **Staff Notes from June 8, 2023-** *For Informational Purposes Only*

Chair asked does anyone from Staff want to speak to that? Nope.

George Smith said that's the question I had. I was online listening to the meeting; I did not show up because my back was bothering me pretty bad. Does that count that I was at the meeting or does that mean that I wasn't?

Ashlyn Penegar said I will defer to the attorneys on that.

Richard Long said you can't attend meetings virtually anymore. The statutes have been changed, so we don't have that provision anymore to attend them virtually. We appreciate you listening and being part of it.

George Smith said so I was absent, thank you very much. I appreciate you clarifying that.

Chair said I think the intent of the Staff was to make an indication for records only because it was advertised and with a quorum not being present, we just moved into the training session. So, we will make that a part of next month's record.

Item 5. **Conflicts of Interest**

Chair asked does anyone have any conflicts of interest with any of the cases tonight? With that being said, I do have a statement that I want to read on that. I would like to take this opportunity to enter a statement into the record and feel that it is my duty to do so. I am currently serving on my 3rd nonconsecutive term on the Monroe Board of Adjustment, I also serve on the Monroe Planning Board. Many of our city and county residents are aware that I serve on these boards, with regards to the next item on the agenda, Item 6, I want to acknowledge that I have been approached by several members of the public regarding this issue. In each instance, once I am aware that they wish to talk to me about a matter before this board, I have stopped them in conversation and explained to them that I cannot discuss any details about any pending matter outside this public proceeding. It is not always clear to me if they are wanting to express a position for or against any matter before this board and after I explained to them that the legalities associated with this board and that I cannot participate in any ex parte communications, the conversations are ended. I want my fellow board members and the public to be aware that I have been approached on this matter. But, I also want to be very clear that I hold no preconceived opinions on any matter before this board. I also feel that I have no conflicts of interest, as always, I remain impartial. Provided there are no objections from my fellow board members, any Monroe Staff member presenting a case before this board, the City Attorney, or the petition for Item 6, I see no reason for me to recuse myself or ask to be recused from this session of the Monroe Board of Adjustment. If members concur, we will continue.

George Smith said I concur.

William Draper said I concur.

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

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 Everette Street. Parcel # 09-231-090.

Chair said any and all parties that wish to provide testimony for this case, please come forward and be sworn in.

Keri Mendler and Robert Yanacsek approached the dais and were sworn in by the Chair.

Mr. Yanacsek approached the dais and said I am going to hand out a few things and I'll go through them. (Photo Exhibits 12-22) He said I am Robert Yanacsek and I am at 513 Everette Street and I purchased that house, I think it was February 2012 and at that time, if you look at the pictures, there is a driveway on the left side. But, actually that's on 511 Everette Street, 511 and 513 Everette Street were built by the same family in 1910 and 1914, they were family members and apparently shared the driveway that was on 511. 511 was built first and so over the years, the sisters basically shared a driveway and overtime, obviously over 100 years, the property has fallen into different hands and whatnot. Both of them were rental properties for a while and at some point, there was a dispute over using that driveway, because its technically not on 513. So, the residents of 513 installed a driveway on the right side of the property. If you look at picture number 1, the red line is basically just the property line. Obviously on 511, there driveway cut and all the driveways on 511, the yellow lines on page 2 are actually the utilities, which would indicate that there is a water meter there also. So, I could theoretically never install a driveway on my own on that side of the property. When I purchased the house, there is a gate on the left side and there is a gate on the right side and there is a quasi-gravel driveway there that they had been using to pull around to the back of the house. I never used that side because the 511

driveway is Ms. Kathy and the owner of that house use it and they didn't drive. So, I use that the majority of the time. If I need to change the oil on my car or whatever, I would use the right side driveway and go behind the house. If you look at the one, you can see circled in red, you can see some of the marks from the gravel that never quite got grown over. So, that driveway was being used. Fast forward to this year at 517 and being a good resident of the Historic District, I noticed that a rental property that had been vacant for 2 years all of a sudden had gravel in their front yard and cars were literally parked in their front yard, in violation to the Historic District Standards, which say that you shouldn't have a driveway directly in front of the house. So, I called the City and said hey, I'm not sure if a COA was approved for this and could you advise. They investigated and said since at some point there was gravel in that spot, they could refresh it. I'm thinking great, I'm about to sell the house and it's very difficult to sell a property without a driveway, so basically 513 will have no driveway. So, I'll just refresh the one I have and make it look a little nicer and get ready to sell it. That's when I got the notice that said I was in violation. My question was, I thought we could refresh a driveway and it was stated that I hadn't used it within 180 days, which is incorrect, because I do change the oil in my car and park the scooter back there and we use the gate and the driveway, you can see it still marked in the yard. So, that's why I was surprised when I couldn't refresh the driveway, when they could at 517. I also included some other pictures throughout the Historic District, I took those pictures today. Right around the property, there are numerous driveways that people are just parking in the yards and created their own, with mud. 517 actually has a driveway that goes behind their property and it's through the yard, I guess my concern is, are we there to make the property better and I refresh my driveway, or should I just park in the grass and it wouldn't be in violation. So, I guess my loss is that I spend money to install a driveway over an existing driveway and had the same standards set at my neighbors at 517, but now I'm being told that it has to be approved and either concrete or asphalt. Obviously a house without a driveway, the property values are much, much lower than if I did have one. I have the deeds for both properties and there is nothing saying anything about right of way or shared or mutual driveway at all. If you have any questions, I will be more than happy to answer them.

Chair asked are you aware that anytime you make an improvement or changes to your property, you are supposed to apply for a Certificate of Appropriateness?

Mr. Yanacsek said correct, that's why when they did 517 and basically installed gravel and I have the email from the City, they just installed gravel over the existing driveway, I clarified it with the City and they said yes, you can do that. So, they aren't in violation because they put it over an existing driveway, so I did the same thing without a COA because they didn't need a COA at 517 to put gravel over an existing gravel driveway. It says the burden of proof is on me to prove that I've used it within 180 days and I'm not really sure how I can prove that other than the marks in the yard where you can see a little bit of the existing gravel was before I put the first gravel on top of it.

Chair asked does anyone else have any questions for Mr. Yanacsek?

Brady Herman, BOA Attorney, asked I'm assuming that you want to enter these pictures into the record?

Mr. Yanacsek said yes, sir.

Brady Herman said just go ahead and state that.

Mr. Yanacsek said I would like to enter the 3 packets (photos) into the record. I know that the City will state that there isn't a curb cut there and that's correct, but there isn't a curb cut in many, many driveways in the Historic District where they have existing driveways, so like I said, I was just going on good faith that there was already gravel there and it had been used and I was just refreshing as they did at 517.

William Draper asked is there a curb cut on the right side?

Mr. Yanacsek said there is not, no sir. There is not a curb cut on my property at all, this is a rare situation where there is no curb cut at all because it was a family property back in the 20's, when it was installed. There's multiple driveways in the Historic District that don't have a curb cut either, just because the roads are so shallow, you aren't really, putting a curb cut, it's just basically a half inch lip of curb from the asphalt.

Chair asked for a motion to accept the photos as exhibits?

Motion: George Smith made a motion to approve photos as exhibits 12-22.
Second: William Draper
Action: The motion to approve the photos as exhibits passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Chair said ok, we might call you back up for a couple questions.

Richard Long, City Attorney, said I have a couple questions.

Chair said certainly.

Richard Long asked Mr. Yanacsek, you are equivocating your property with 517, is that correct?

Mr. Yanacsek said I'm sorry, sir.

Mr. Long repeated the question and said you are equivocating your property with 517 Everette Street, this is your property we are talking about and not 517, is that correct?

Mr. Yanacsek said I was going by the advice from the City about 517.

Mr. Long asked I'm asking you, how does 517 have anything to do with 513 today?

Mr. Yanacsek said because when I enquired about refreshing gravel at 517, I was told that they could do that because there is existing gravel there.

Mr. Long asked was there an existing driveway there?

Mr. Yanacsek said there is, well, no not actually.

Mr. Long asked did you not present a copy of a photo on 517?

Mr. Yanacsek said I did.

Mr. Long said I'm going to show you that photo.

Mr. Yanacsek said the gravel part is not the driveway that they refreshed.

Mr. Long said this is 517 and asked is that 517?

Mr. Yanacsek said no that 513 Everette.

Mr. Long asked where is that driveway?

Mr. Yanacsek said this is the mutual driveway between the two. There is no fence there.

Mr. Long asked where is your picture of 517's driveway?

Mr. Yanacsek said they probably have it in the packet.

Mr. Long asked can you identify that?

George Smith said something inaudible.

Mr. Yanacsek said that's 517, where they are parked in the front yard, there's no driveway there.

Mr. Long said ok, but there is gravel there.

Mr. Yanacsek said there is now, because I just refreshed it. It looked like this before, so it was just dirt because it was vacant for 2 years, so they didn't use it for more than 180 days.

Mr. Long said it's a parking area.

Mr. Yanacsek said it wasn't before.

Mr. Long asked when you bought your house in 2012, was there gravel straight out there or was it grass?

Mr. Yanacsek asked which side?

Mr. Long said the side you put your new driveway.

Mr. Yanacsek said yes.

Mr. Long asked there was grass or gravel?

Mr. Yanacsek said both, it was kind of like it stood before I repaved it.

Mr. Long asked was it grown over?

Mr. Yanacsek said partially.

Mr. Long asked is this an accurate representation of what the property looked like?

Mr. Yanacsek said yes, as you can see there's some gravel right there.

Mr. Long said this is part of the Staff proposal of that showing what the driveway looked like before.

Mr. Yanacsek said right, I gave them the same picture, circled with the marks.

Mr. Long asked can you tell me where the gravel was laid out?

Mr. Yanacsek said there's one spot and another spot, because I continued to use it. There's gravel under the grass. It's been since 2012, so the grass tends to grow.

Mr. Long asked how many times since 2012 have you refreshed that driveway?

Mr. Yanacsek said none.

Mr. Long asked how many times in the last 180 days have you refreshed that gravel?

Mr. Yanacsek said once.

Mr. Long asked is that the time you just did it?

Mr. Yanacsek said yes.

Mr. Long said before you got this notice of violation, that was the first time, so it hadn't been used consistently as a parking area for 180 days.

Mr. Yanacsek said no, it has. Consistently, it has. Your evidence is what?

Mr. Long said you don't get to ask me questions.

Mr. Yanacsek said I'm telling you it's my word, I swore on the bible that I used that.

Mr. Long asked when you purchased the property, when did the City fill in the curb cut?

Mr. Yanacsek said they never did.

Mr. Long asked there has never been a curb cut there on your property at all?

Mr. Yanacsek said 513 does not have a curb cut.

Mr. Long asked how did you access your property before you put in this gravel, in the last month?

Mr. Yanacsek said as I stated, my neighbor, Ms. Kathy, before she passed away, I would borrow their driveway. There was only disputes every now and then because she was the only driver, but had family come over and I would have to park on the street, because it was their driveway.

Mr. Long asked have you ever sought to get an easement from your neighbors about the driveway?

Mr. Yanacsek said no because I had the driveway on the right side. So, it wouldn't make sense to just use the one on the right side, if the left side became disputed.

Mr. Long said your relevance today is that there has never been a curb cut, you've never had a driveway, except for the one you shared.

Mr. Yanacsek said no, that's not true.

Mr. Long said you never refreshed the driveway that you just did, that you claim is a driveway, you never refreshed it in the 11 or 12 years that you've owned the property.

Mr. Yanacsek said I've drove on it. The curb cut is irrelevant because there are multiple properties in the Historic District without a curb cut. I refreshed my driveway because it looked like my neighbor was going to sell and if they decide to put up a fence or not let me use that driveway or if they got children or more cars or whatever, my house value would plummet, because I wouldn't have a driveway for that property. The City actually says that every house must have a driveway, so I was like that is probably why they put in the driveway on the other side, because there was a dispute at one point over the one that's on the left side.

Chair asked for a motion to adopt, amend or deny the Findings of Fact. So, that's why I've been using the one of the right to park cars or change oil, because there is a gate right there.

Mr. Long said to be clear, Mr. Yanacsek, in the time that you've owned the property, you've never attempted to clarify the fact of the use of an established driveway that was shared with your neighbors, is that correct?

Mr. Yanacsek said no, why would I need to? Because I have a driveway on the right side. If I have an existing driveway on the right side that's on my property and there is a driveway on the left, why would I ask them and go through the hassle for an easement, because I don't want an easement. Because again, that would reduce the value of my property, so I would much rather have the driveway that existed on the right and just refresh it. Now that I'm getting ready to sell it, it would be like ok, its much nicer. Again, the only time I refreshed it was after the City said 517 could do it, so I'm like ok, so I own an existing driveway and I want to refresh it and I won't have to go through the hassle of getting a COA, so I did it.

Chair asked do you have the name of the individual with the City that told you that it was ok?

Mr. Yanacsek said she is sitting there, Keri Mendler. The email, I think is in your packet. They still didn't really refresh their driveway, they basically just created a new parking lot directly in front of their house. If you look at the picture, the driveway for 517 actually goes along the edge of the house, they actually just graveled in the front yard and then they created a dirt driveway on the side and I'm not sure if they are getting cited for that or not, they are just parking in the yard. I never would have put grave down if an existing driveway was there, it would be re-graveled.

William Draper asked did you get the rules of, because it's an Historical District.

Mr. Yanacsek said I sat on the Historic District Commission, yes sir. So, I understood the rules and that's why I never would have messed with it because Ms. Kathy had always let me use it. She passed away and they are getting ready to sell the house and I was getting ready to go through whole process of a COA for the Historic District and everything else and since I sat on the Historic District Commission, I understand that they just can't gravel in the front yard. So, I sent a notice to check on whether they had obtained a COA for re-graveling their little section or filling in their front yard. They said they did not, but when they went and looked at it, it was after the fact and they said since there was already gravel there and some Google pictures, that they would gravel in their front yard. So, as a good citizen, I was like well, if there is an existing driveway in my property, that's what I'll do to avoid any hassle of trying to get an easement or anything like that. I will just increase the value of my property by having my own driveway.

William Draper said this house is....

Mr. Yanacsek said in the Historic District, no this is totally separate. I just gave some examples of what's accepted in the Historic District right now.

William Draper said it looks like a used car lot.

Mr. Yanacsek said but, I'm in violation. Ultimately what I'm trying to do is bring up the neighborhood and make it better and make my property values worth something. As much as I could look, all the deeds and titles, there's no mention of a shared driveway. Ms. Kathy mentioned at one point that there was an argument over the driveway, so that's why the other side was being used. When I first moved in, I just started using the wider one with the gravel and would only use the other one for just random car parking or changing the oil in the backyard because I go through the gate.

Chair said you made a statement earlier that all the homes are supposed to have a driveway?

Mr. Yanacsek said all new homes are supposed to have a driveway.

Chair asked when your house was built, there wasn't a said requirement.

Mr. Yanacsek said true, but again my appeal to the Board of Adjustment would be basically the fact that I don't have a driveway and the value of my home is diminished and the reason why I rejuvenated the one that I had there is because it was done 2 houses down and it was okayed through the City.

Chair said Mr. Long or Ms. Mendler, could you state for the record the definition of conforming a nonconforming and what justified the continuation of a nonconforming standard?

Chair said why Ms. Mendler is looking that up for the recorder, the petitioners exhibits into the record as exhibit 12-22.

Keri Mendler said section 10 outlines "Nonconformities". The intent of the nonconforming section is due to the establishment of this UDO, there exists uses of land, structures, lots of records, 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.

Keri Mendler said there are additional sections that outline how something is conforming or not and the determination of a Nonconformity would be the burden of establishing 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.

Chair said thank you.

Chair asked for discussions and asked the Board what do you think?

Brady Herman said Staff has to go.

Keri Mendler approached the podium and proceeded to present her presentation. She said I am here to present an appeal of Staff's determination by Robert Yanacsek for the property located at 513 Everette Street. At this time, I will introduce the findings of the record.

Proposed Findings:

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 Everett 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)

Keri Mendler said I am happy to answer any questions that you might have.

Chair said let us have a couple minutes to digest. Do we have any questions for Keri? Hearing none, does anyone that had standing wanted to speak, you are welcome to step back up.

Mr. Yanacsek said back to the email, I sent this and said 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? Then she responds based on the imagery... Basically what she said was that it since it was existing...517 as mentioned earlier, the house had an existing gravel driveway, which was grandfathered. Existing gravel was refreshed with gravel, which is

permitted and that's what I did. As long as the gravel is maintained, it can be refreshed with new gravel, but once the gravel is no longer maintained, it cannot be clearly identified. 517, they haven't lived in for over 2 years and just because they had...

Mr. Long said its irrelevant.

Mr. Yanacsek said its relevant.

Mr. Long said its completely irrelevant.

Mr. Yanacsek said I was taking advice from City staff.

Mr. Long said for 517.

Mr. Yanacsek said I am basing my actions on what I'm told by a City representative, correct? If she said you cannot refresh a gravel driveway and I would not have refreshed a gravel driveway. They didn't even actually refresh the gravel driveway, they basically graveled in the whole front yard to park on it, from the pictures, you can see that. As far as the curb cut, if you go back to the one item entered in, all the houses on the other side of the street don't even have curb cuts. They just drive in. So, my conclusion would be curb cuts are irrelevant, unless 50 houses are in current violation. The 180-day thing seems irrelevant also, I've used it more than a handful of times within a 180 days. There are numerous houses within a block, as you can see from the packets I submitted, that I'm not sure I'll ever been able to have a driveway based on that estimation because all the driveways are covered in grass and they've been vacant for 2 or 3 years. You are required to have asphalt or concrete since their driveways are covered now. My driveway wasn't nearly as covered on some of the vacant houses that are now for sale, so the question would be, will they be required to have asphalt or concrete or be able to use their driveway at all. I never would have done any of this if I hadn't got approval.

Mr. Long said can we finish our evidence? Keri, step back on up there.

Mr. Long said just for the purpose for the record, how long have you been working for the City?

Keri Mendler said about 8 years.

Mr. Long asked what is your job status?

Keri Mendler said Senior Planner.

Mr. Long asked are you familiar with the Monroe UDO?

Keri Mendler said yes.

Mr. Long asked is this a full copy of the full UDO?

Keri Mendler said yes.

Mr. Long asked is it certified by the Clerk as a true and correct copy?

Keri Mendler said yes.

Mr. Long said we would introduce that into the record so that you have that. Mr. Long said Ms. Mendler, when you hear Mr. Yanacsek talking about this, it's not true that he can't have a driveway, he can have a driveway, can't he?

Keri Mendler said yes.

Mr. Long said the way he can have a driveway, is by doing what?

Keri Mendler said he would need to apply for a Certificate of Appropriateness. It would be Staff level approval and then he would need to pave it with either asphalt or concrete that is tented. The tented part is a requirement of the Historic District.

Mr. Long said the UDO also requires that any new driveway be paved, is that correct?

Keri Mendler said yes.

Mr. Long said what we are really talking about here is grandfathered, is that correct?

Keri Mendler said yes.

Mr. Long said if he grandfathered something under our UDO, it has to be in use at least within 6 months of the date that they are asking for approval, is that right?

Keri Mendler said correct.

Mr. Long said they have to approve to you that it has been in use and used for at least 6 months prior.

Keri Mendler said yes.

Mr. Long asked was any evidence of that driveway ever being re-graveled within 6 months of his request?

Keri Mendler said no.

Mr. Long asked was there any evidence within a year?

Keri Mendler said no.

Mr. Long asked was there any evidence within 2 years?

Keri Mendler said no.

Mr. Long asked was there any evidence within 5 years?

Keri Mendler said no.

Mr. Long said that is a grass area, it is a yard at this point. Is that correct?

Keri Mendler said yes.

Mr. Long said that's all the questions I've got.

Chair asked Mr. Yanacsek, do you have a cross examination question?

Mr. Yanacsek said it's not really a cross examination, but the difference between use, I think the argument is that they are saying that it has to be reconditioned within 180 days, instead of use. I can swear on a bible, strike me down that I've definitely used that driveway numerous times within 180 days. I've used it numerous times in the past years. Is it totally covered how it is now, no, is there gravel down in the grass, yes. If you go down any of those streets, mine is in much better condition even before I put the gravel down than most of them in the district. So, again, I'm going on the advice of the City and now I'm being penalized for following that advice to where 517 was said they could do it because there's an existing driveway there. There's an existing driveway there and I'm not sure how the City is expecting me to provide proof, other than sworn testimony and the fact that there is gravel in that spot. I would almost argue that Google aerial maps and Google Street view is probably not the most accurate representation of my property. As far as the Board of Adjustment, it's costing me depreciation of my house if I can't have a driveway and the fact that I refurbished one under the guidelines of the City's advice, then I am being penalized further.

Chair said I don't see anything here that denied you to have a driveway, the issue is what type of driveway that you put in at this time.

Mr. Yanacsek said I think the issue is that I had a driveway and I just refurbished it. I don't think the issue is whether I even had one, just like the 517, they didn't even gravel the driveway, they just graveled the front yard. If you look at some of those other pictures, the standard operating procedure, all of those pictures were taken today and they were within a block of the house, is that they just don't have gravel at all and they park wherever they want and they aren't in violation. Would that be considered a new driveway, if they just drive over the dirt for a while?

Chair said I don't have all of that and that is not a matter before the Board, so there is no....

Mr. Yanacsek said that's what I'm saying, the argument isn't whether I have a driveway, the argument is that I put gravel on top of it. My argument is that I was following the guidelines set forth by the City's recommendation.

William Draper said but you were on the Historical Commission, over any other citizen, you should have known what material you could put...

Mr. Yanacsek said absolutely, that's why there is existing gravel there and I put gravel back on it.

William Draper asked did you come up here before you put that gravel down?

Mr. Yanacsek said no, because the City said I could gravel back over it. That's what the dispute was, since 517 and I was the one that actually called because I'm trying to turn the neighborhood around and I didn't think it was appropriate since it was in violation of the Historic guidelines to park or have a driveway directly in front of the house. I called up and said is there a COA for doing that, they said no and we'll look into, then they said since there was already some gravel there, they just refreshed it. So, I'm like ok, so when it comes time to sell the house, I will refresh my driveway and make it look a lot better. A lot comes down to time and money and everything else, something a lot of us don't have tons of, so after retiring from the Police Department, I had a little bit of both and decided to do it.

William Draper said you had adequate knowledge that you needed to put in, I don't see any gravel on that side.

Mr. Yanacsek said if you look at, that's why Google Earth, I mean Google street view is terrible and I didn't take pictures. I could have taken pictures of my cars parked there and I don't have any evidence or the City doesn't have any evidence of my cars either being there or not being there either. All I can tell you is that I've parked there and used that side for years and the ones with the circled lines and the circles, you can still see the marks in the yard where the gravel is still exposed. It's obviously all covered with gravel now. But, at the time, it was just that one side and to use the gate to park cars on the other side of the gate, change the oil and park the scooter so it doesn't get stolen.

Mr. Long said I would like to ask Ms. Mendler one further question. Ms. Mendler, did you tell Mr. Yanacsek that he could re-gravel that driveway or were you referring to 517.

Keri Mendler said correct, I never mentioned anything about 513 Everette Street. Any conversations about refreshing grave were in reference to 517 Everette and not 513 Everette, which is Mr. Yanacsek's house.

Mr. Long said that's all I have. He gets the last crack at it, per the court rules.

Chair asked is there anything else?

Mr. Long said briefly, the burden here is upon Mr. Yanacsek and I'm not telling the man that he doesn't have a driveway, every house needs a driveway. He has the opportunity put in a driveway and he had the opportunity to put in a driveway by applying for a Certificate of Appropriateness and putting it in. The issue is not that he doesn't get a driveway, the issue is, was that driveway there, had it been used within the last 180 days as a driveway that he could visibly demonstrate to you. The burden is on him, so the question is, has he presented to you competent material and substantial evidence here and it's just his testimony. I'm not calling into question his veracity at all, but if had other people in there and he said he's lived in this

neighborhood for a while, where are the neighbors to say, “Yes, that was a driveway, I’ve seen that driveway and I’ve always seen it being used”. That’s evidence he could have presented to you, but he did not. He has the burden; did he meet that burden that it was grandfathered? I would say to you, he has not. On the other hand, if you look at what we have presented to you in the evidence that the City has brought to you, there is a picture, it’s a yard, its covered in grass. Maybe there was a driveway there, but there certainly hasn’t been a driveway there that’s been used as an active, visible, usable driveway in at least the last 5-7 years, but our own aerial photographs. That’s the issue, had he refreshed his driveway and he may have had to deal with this 10 years ago, but had he been constantly refreshing that driveway and using that? We wouldn’t be here today.

Chair said thank you Mr. Long.

Mr. Yanacsek said I would like to say something in response to that. The argument isn’t whether or not I had a driveway there, now its whether or not I refreshed it to a standard that the City has. I would argue that the City has no standard for gravel driveway, because looking at the pictures, most people in that area just drive in their yard until it turns to mud, then it becomes their driveway. Like I said, I argued that the curb cut evidence is not evidence because directly across the street, none of those driveways have a curb cut. The curb is so short that the driveways are just driveways, it’s probably less than a half an inch. As far as having neighbors, if your familiar with that neighborhood, I’ve had 7 homicides within 2 blocks of my house. I’m not sure I could convince a lot of my neighbors to come in and even show up in court at City Hall, so the City says the burden is on me to prove it, all I can say is that I’ve used it in the past 180 days. If they think that’s a standard moving forward, then I would like to see the other houses, for the good of the City, all be held to the same standard. So, all the houses I’ve showed you should be in violation and not continue to use their driveways. If they are grown over with grass, obviously they need them to become concrete and asphalt. The City even said it’s not an argument over whether the driveway was there, now it’s an argument over whether or not I want to money into keeping it refreshed. Driving my car back and forth over it, I guess didn’t refresh it enough, but there was definitely a driveway there. Thank you.

Chair said I am going to close those deliberations, so we have a chance to discuss this.

George Smith said I don’t think there has ever been a driveway there.

Board discusses.

William Draper said if you park your car regularly on grass, it will eventually show.

Audience member says something inaudible.

Mr. Long said you all need to speak up so that the audience can hear your deliberations.

Chair said ok, sorry about that.

William Draper said to me, there is no driveway there.

Chair said I think what both of my colleagues are indicating, we are looking at all these different photos provided both by the City and by the applicant, we are looking for evidence of traffic. If you drive consistently across grass in the same area, you are going to get trail marks of the tires. The only gravel that we can see in the photos provided by anyone is some spill over gravel that looks like it could have been knocked up by traffic going by. But, to actually see, even a small patch of gravel where that grass is at, leaves me the impression that the grass has been growing over that gravel for a long time and the gravel ceased to exist, some time ago. The gift photos, while not the greatest in the world, still show a good part of this area for 2015 and 2019, which would lend me to believe that it's been a very long time since that gravel has been refreshed to maintain that nonconformity. As much as I would like to say, it looks a whole lot better now that it's been refreshed, it doesn't take away the issue of whether or not it was a preexisting driveway.

George Smith said the gate that goes to the backyard, it looks like it's a drive gate/

Audience member said yes, sir. Its big enough for cars, it's been there since I've owned the house.

George Smith asked have you taken the car around and through there?

Audience member said I do the maintenance on the vehicles on the other side of the gate...inaudible.

George Smith said looking at that gate, that might say end of driveway.

Board members discuss.

Audience member says something inaudible.

Chair said I understand, but we are deliberating amongst ourselves at this point, but thank you.

George Smith said that's a drive through gate.

Chair said it gives you the capacity to drive through.

George Smith said yes, but that's something you put at the end of the driveway to close off your property, so people aren't doing donuts in your backyard. That's the only thing that says driveway to me, everything else, it's hard.

Chair said first order of business, I want to ask for a motion on whether to accept the Staff report findings 1-7.

Motion: William Draper made a motion to approve the Findings of Fact 1-7.
Second: George Smith
Action: The motion to approve the Findings of Fact 1-7 passed unanimously with the following votes:

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

Chair said now we can move to the questions, as soon as I can find them.

Brady Herman said I will just go ahead and remind the Board that the motion before you is whether to affirm, reverse or modify City Staff's decision. Which here is a notice of violation and as Mr. Long indicated, once the City establishes that a decision is made, it's on the applicant to produce substantial competent material evidence that an error was made. So again, your options are affirm, reverse or modify the decision and whatever the decision you all decide upon, in your motion, try to refer to some of the facts and evidence that was entered into the record and testimony today in support of the motion.

George Smith asked the rest of the neighborhood is irrelevant to this, we are just concentrating on his property?

Chair said we can only deal with the case before us, not the neighbor. So, I am looking for...

William Draper said that's not really the case because it is an Historical District and what the intent is to keep it looking good and upgrading over the years. So, I think the neighborhood is involved in it, to some degree.

George Smith said now the question is....

Chair said that's not the decision on his specific driveway.

William Draper said exactly.

Chair said as the attorney so apply pointed out, what I need is a recommendation or a motion to affirm the Staff decision, reverse the Staff decision in the petition's favor or possibly to modify the Staff determination on the driveway. What are your thoughts on that?

George Smith said I don't think the burden was met to say that a driveway was there by the evidence presented. I would say we affirm.

William Draper said second.

Brady Herman asked are you making a motion on that? Ok, just state that.

Motion: George Smith made a motion to affirm the decision made by the Staff, based upon the burden of proof has not been met by the house owner.
Second: William Draper
Action: The motion that the preexisting nonconformity was left to lapse and that none of the evidence presented today shows any indication of an existing driveway in that location, prior to the applicant refreshing it passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

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.

Chair said anyone wanting to provide testimony regarding this case needs to be sworn in.

Megan Brightharp, Doug Britt and Tom Crouch approached the podium and were sworn in.

Chair said I am officially opening the public hearing on Item 8.

Megan Brightharp, Planner I; approached the podium and proceeded to enter the Findings of Fact.

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)

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

Chair asked was the application submitted accurate and correct?

Megan Brightharp said yes.

Chair said thank you. Do we have any further questions for Ms. Brightharp? Hearing none, would the applicant like to step forward?

Tom Crouch approached the podium and introduced himself. He said I am representing the applicant QOZB1, LLC and the business address is 231 Post Office Drive, Suite B-8, Indian Trail, NC. As you can see by the application we submitted, this is a variance requesting based on timing. Our plan when we originally bought this back in 2020 was to have an RV and boat storage and since then, the growth around 74 and specifically that area has just exploded. Which you saw on the zoning map is actually across the street, it's not neighborhood business, it's a residential housing development going in across the street. Also, up the road, there is a couple developments going in as well, so we don't think that an RV and boat storage is going to be the final use for this site in the next 5 years. We think it will be something industrial, commercial, retail, something along those lines, based on the growth happening in that area. So, we are requesting this variance so that we can have a temporary use in the interim, until we get that demand built up from the housing developments going in around it. If you look at the board, directly south of the gravel lot is shown, that's where the housing development is going in. It's currently being developed and if you've driven up 74, you've seen all the grading and everything happening there.

Chair said I know that East Roosevelt Blvd. is our main commercial corridor, I guess I'm not clear on what you're trying to do here.

Mr. Crouch said what we are trying to do is have a temporary use of an RV and boat storage, as you can see from the gravel lot. We don't believe that that's the highest and best use for the property in the long term, so we would want to do something commercial, retail, or industrial in that space later on and by paving it now, it really limits out ability to develop that property later on. It's more of a temporary use.

George Smith asked what you are saying is long term, this will not be a gravel driveway?

Mr. Crouch said yes, sir.

George Smith said in the bigger picture, it will be something else. But, that something else hasn't been determined yet.

William Draper asked are you going to use the gravel driveway, that's indicated, in that section?

Mr. Crouch said we would use it temporarily, because it's going to be an RV and boat storage, so we would use it temporarily to let people store their RV's there temporarily. It will be fenced in and it would be a temporary use. So, it would be used, yes sir.

Chair asked how temporary are we talking?

Mr. Crouch said we expect to change that plan within the next 3-5 years.

Chair asked you said you had another project that you planned to go in there when you bought it?

Mr. Crouch said no sir, when we bought it, we thought it was going to be an RV and boat storage. But, the growth in the last 3 years has really exploded around there and we've seen such a growth in the area that we don't think this is the highest and best use anymore.

George Smith asked what you are saying is the value of the land has gone up so much, that it will not support an RV storage area.

Mr. Crouch said a paved RV and boat storage. Because you would have to invest so much cost into that.

William Draper asked can we put a time limit?

Brady Herman asked can I ask you something real quick? This is just a general principle of the law for variances. What North Carolina law says is that you can't get a variance to change the use of your property.

Mr. Crouch said correct.

Brady Herman asked with that being said, would you help explain to the Board why that's not what you're asking for here?

Mr. Crouch said certainly. So, currently it's zoned GI and outside storage is allowed in GI. There is also a plethora of other uses allowed in GI that would make more sense in the long term on this site. So, we are asking a temporary use for one of the uses, an RV and boat storage for the next 3-5 years and then in the future, we would build one of the other uses allowed in GI. We aren't changing or requesting...

Brady Herman asked is boat and RV allowed in that district?

Mr. Crouch said yes, sir.

Brady Herman said thank you for that clarification.

Chair said I just don't know if we can put a time limit on a request like this, to put you on the clock to ensure that this doesn't wind up into a long term thing. There is a lot going in there adjacent to you as well.

George Smith asked if you had to throw out a number of years that you can guarantee that this would be switched over, would you be willing to sign something?

Mr. Crouch said we would. This is currently an opportunity zone, which is a very complication tax designation that you get on certain sites that are slated for growth. So, when we submitted our original plan to the opportunities and authorities, we said this was going to be an RV and boat storage, so it has to stay that until 2030, then after that, you can do whatever you'd like with it.

George Smith asked basically you are asking for this for 7 years?

Mr. Crouch said correct.

Brady Herman said you can put reasonable conditions related to the property on variances, but I put that caveat that we would also need to have a consent from the applicant on any sort of proposed conditions.

Chair said of course.

George Smith said that's why I asked the question.

William Draper asked should we table it until we get something in writing from him?

Chair said we can place it on it and he can stand here and agree to it and it becomes binding.

William Draper said oh, ok.

Chair asked when did you say you purchased the property again?

Mr. Crouch said December 31, 2020.

Chair asked you're thinking of putting this in there in 2023?

Mr. Crouch said I'm sorry, say that one more time?

Chair asked you are thinking about putting this in pretty quick, in 2023? Pending permits and all that?

Mr. Crouch said yes, sir.

Chair asked your anticipated use is for how long?

Mr. Crouch said we can't do anything else until 2030.

Chair said ok, 7 years. He said the gravel is basically lot 3 and the lot 2 is your storage buildings?

Mr. Crouch said yes, sir. Those are warehouse/office buildings on lot 2.

Chair asked those are going to be paved?

Mr. Crouch said yes, sir.

William Draper said this doesn't show any parking for any people that come and look.

Chair said they are all around the permanent storage units, it's basically an open gravel lot.

Chair asked you are showing parking lanes in the gravel, is it your plan to actually establish something in the gravel that shows the parking areas?

Mr. Crouch said yes, sir. We have a similar product in Indian Trail with gravel lots and we refresh the lines periodically and we have numbers on the spots. So, everyone is in a designated spot.

George Smith said I think if we put a Cinderella date on it, I don't think there will be a problem with it.

Mr. Crouch said thank you.

Doug Britt approached the podium and said this is an active site that we've been reviewing, so we've gone a couple rounds. They've submitted erosion control plans to grade the site and they've applied for a variance now. Whatever direction the Board goes, if you all go with the gravel variance, that's perfectly fine, but Staff will probably want something in writing or something. Obviously with a storage facility, it's just a gravel parking lot, so there is no CO tied to this site. It's basically a gravel parking lot with lined parking spaces. Enforcement is something that comes to mind, as far as whether it be 5-7 years down the road to basically pull it back out to so they know when the time lapses. We would want something there stamped on the plan or some type of documentation that the applicant agrees to in writing, outside of this meeting tonight, with whatever you all decide, if you go that path. This is just to make sure that the City is covered from an enforcement standpoint down the road. Obviously with something that far out and people change positions in work places, we would want to make sure that nothing falls through the cracks.

Chair said good point, thank you. Does anyone else want to speak towards this variance request? Hearing none, I will entertain a motion on whether or not to accept the Findings of Fact 1-4.

Motion: William Draper made a motion to approve the Findings of Fact 1-4.
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 have any additional discussions?

William Draper asked do we get something in writing before we vote or do we get something in writing after we vote?

Chair said I would put a condition on me signing the variance in receipt of the signed document, indicating concurrence with any conditions we place on it. So, as you go through the questions, you need to make sure that you put your conditions in the proposed conclusions. Are you ready to move forward? At this time, I will go ahead and close the public hearing and we will move on to 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 an unnecessary hardship would result from the strict application of the ordinance because it's only temporary.
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 the hardship is peculiar to the applicant's property because of the market shift and anticipated short term and long term use of the property.
Second: George Smith
Action: The motion passed unanimously with the following votes:

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

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

Motion: George Smith made a motion that the hardship is not the result of the applicants own actions because of the market shift and the original anticipated use at the time of purchase and it's now not a logical, long term use of the property. The applicant is looking for a temporary variance to make use of the property until a better commercial option can be realized.

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: Kenneth Deal made a motion that the variance is consistent with the spirit, purpose, and intent of the ordinance based on the fact that this is a temporary request, so to afford the owner use of this property while seeking a better commercial option for the property. Also, in completing the spirit, purpose, and intent of the ordinance that upon receipt of a written agreement from the property owner, this temporary use will not exceed past 7 (seven) years from date of approval.

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: Kenneth Deal made a motion that in granting the variance, the public safety will be secured and substantial justice will be achieved because it will allow for existing use of the property until a better commercial option can be obtained.

Second: George Smith

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Motion: Kenneth Deal made a motion to approve Variance 2023-00196 as a temporary approval, expiring on July 27, 2030 and that said variance will not be signed and finally approved until a written agreement is provided to the Chairman of the Board of Adjustment.

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Item 9. Order of the City of Monroe Zoning Board of Adjustment Case PLZNA-2023-00184 (2600 Meadowood Court)

Chair said the attorney is requesting a formal review of the order, due to the fact that he was late to the proceeding. All this is, is a review of the document to ensure that it meets what the Board's final determinations were and the Conclusions of Law, as stated in the record.

Brady Herman said that's what's before this Board, is to review and adopt the order from the Variance request from the last meeting, for the Wetherall's. I believe they have retained an attorney, who is requesting this Board to reconsider that decision, so I will let Ms. Melanie Cox go and explain that to you all. I just want to be clear to the Board and I've discussed this with the City Attorney and the Assistant City Attorney. If you all were to entertain that reconsideration, then that would be heard again at the next meeting in August, so notification requirements could go and be satisfied. At that time, it would be evidence limited to what was presented at the June meeting. I will let Ms. Cox go.

Chair said please state your name and address for the record. Have you been sworn in?

Melanie Cox said no sir, I'm an attorney and I represent the applicants, but I am happy to be sworn in.

Chair said you're still going to be sworn in for this.

Melanie Cox approached the dais and was sworn in by the Chair.

Ms. Cox introduced herself and said I am an attorney with Cox Law Firm in Waxhaw, North Carolina. I've been retained to represent the Wetherall's regarding their application for a Variance that took place in June before this Board. Under the Board of Adjustment's rules, 3.3.D, I am asking the Board tonight to respectfully reconsider your decision for the Finding as to whether or not the hardship is peculiar to the applicant's property. I'm not going to introduce any new evidence that was not already presented at the hearing, my goal tonight is just to highlight some of the documents and evidence that was submitted to you and is part of the record, as well as make some legal arguments to the Board, as to why we contend that the

property has a hardship, that's no fault of my clients. Looking at the minutes of the meeting, I understand I saw was a draft and there appears that there was not a final vote as to whether or not approve or to disapprove the Variance. My understanding is that Finding of Fact number 2 failed, but it would be my contention to this Board that this should be reconsidered, because there was not a final vote on the matter. If I may approach, I have some documents prepared of the evidence that is all part of the record. (Ms. Cox hands out packets to each of the three Board members and to the City Attorney, Richard Long)

Ms. Cox said the first document and I apologize because it is small, this is the survey of the property. One of the conditions of this parcel that is very peculiar, is the fact that the property line runs all the way to the center of the cul-de-sac, if you turn to page 2, this is Monroe's UDO. The definition of setback, is the required distance measured from both the property line and the street right of way, to the nearest part of the building, structure or sign. What the issue is, in this, if you look at the highlighted portion, this corner in the middle of the cul-de-sac, that is their property line. Then, I have highlighted WRW, within right of way, and you can see the surveyor's notes that they have 2,060 square feet of property that is in the right of way, I believe there might have been testimony that the house they were building was around 2,000 or a little bit more square feet, so that is an extremely large portion of their property that is in the cul-de-sac. I believe the evidence that was presented is that my client testified and he measured from the property line all the way to the front of the house and that's where he got the 50 ft. measurement. Whereas the surveyor measured from the dotted line, the right of way, because of that discrepancy, he was instructed to come before this Board and request a Variance. I have a different legal opinion as to whether or not that's necessary, but we are past that and that's not why we're here tonight. If you also look, the highlighted middle of the property is a 100-year flood line. Note 7, states that and this is on the side where the surveyor has the notes. This property is subject to a FEMA special flood hazard zone, as per firm and it has the map number. So, the entire back portion of their property is in the flood zone, therefore, they cannot put any structures, at all per FEMA regulations and Monroe Ordinances and the State Building Code, you cannot build in a flood zone. We content that those two items are a peculiar to the property. The other hardship I wanted to point out is that they applied for a permit on July 29th of 2022. A building permit was issued and that's the following document. On September 19, 2022 for a single family dwelling with a walk out basement, front porch and back porch. If you turn to that second page, the permits included on the application include building permit, mechanical permit, electrical permit, plumbing and zoning. So, it's out contention that my clients detrimentally relied on the City Staff and the City of Monroe giving them a permit and permission to go out and build the property. I believe that there was evidence that City Staff went out there, the property was staked, the foundation was laid. Throughout this entire process, they were told to keep building, keep building, keep building, everything is fine. It wasn't until there was some sort of delay with the as built survey and it wasn't until that came months and months later, that this discrepancy was issued. The next document I presented in the packet is an article and it's old. It's from May 27, 2017, but it's from Adam Lovelady, who is still employed by the UNC School of Government. He is a government professor and he advises local municipal attorneys and I anticipate your attorney, if asked, would content that this article is still accurate and relevant. On the third page I have highlighted a hardship that is peculiar to the property. It states, "The unnecessary hardship much be peculiar to the property, not general to the neighborhood or community. Such peculiar characteristics might arise, for example, from location of the property,

size or shape of the lot, the topography or water features on the site.” So, we would content that the water features on the site and the shape and size of the lot all contribute to this hardship that is in fact peculiar to the property. On the second page, it talks about whether or not there was a self-created hardship. It states, “What if the owner relied on good faith on a seemingly valid surveys and obtained building permits? After construction began, a neighbor objected, citing a new survey and arguing that the foundation wall is within the setback. Is the owner’s hardship self-imposed? Our North Carolina courts have held that hardships resulting from such good faith reliance on suggest and permits are eligible for a variance (Turik v Town of Surf City, 185 N.C App. 427, 642 S.E. 2d 251 (2007)).” It is not present for this Board today, but we would contend that our clients had a vested right, a common law vested right, as well as the discussion of the vested rights in the Monroe Ordinance, in the fact that they did not construct anything or build anything after they had obtained a permit. They detrimentally relied on that permit, they didn’t get the permit, then move the property stakes. If you see the highlighted language in the Surf City case, this is where the Board of Adjustments approved a Variance, a group of other property owners appealed and it went to the Court of Appeals. The Variance would allow the owners to continue their construction project, that was started after only obtaining a legitimate construction permit. The court found that the owners followed the necessary procedures to obtain a building permit before they began construction on the property and the hardship that they faced was not one of their own making. So, for all of these reasons, the fact that the hardship is not self-imposed, and that this property is very peculiar in the fact that the flood zone is the entire second half and they still have 1.63 acres and this is in the RR district with one house, per acre. So, this is a very, very large lot and we are respectfully requesting that you revisit your decision on that Finding and grant the Variance.

Chair asked are there any questions for the attorney? (there were none) Chair said thank you, very well presented. I can actual read these things, so give me a minute to take it in, okay?

Chair said as the individual that originally couldn’t seem to find a peculiar fault with the property, I am now having second thoughts on that. I am open to reconsider.

Motion: **George Smith made a motion to reconsider a Variance request by Lewis Wetherall at the next meeting.**

Second: **William Draper**

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

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

NAYS: **None**

Chair said we will see you next month.

Item 8. **Next Meeting: August 24, 2023**

Item 8. **Adjournment**

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

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

The meeting was adjourned at 7:51 p.m.

Respectfully submitted,

Kenneth Deal
Chair

Ashlyn Penegar
Clerk of the Board

EX
12





EX 13



EX 15



Ex 16



EX 17

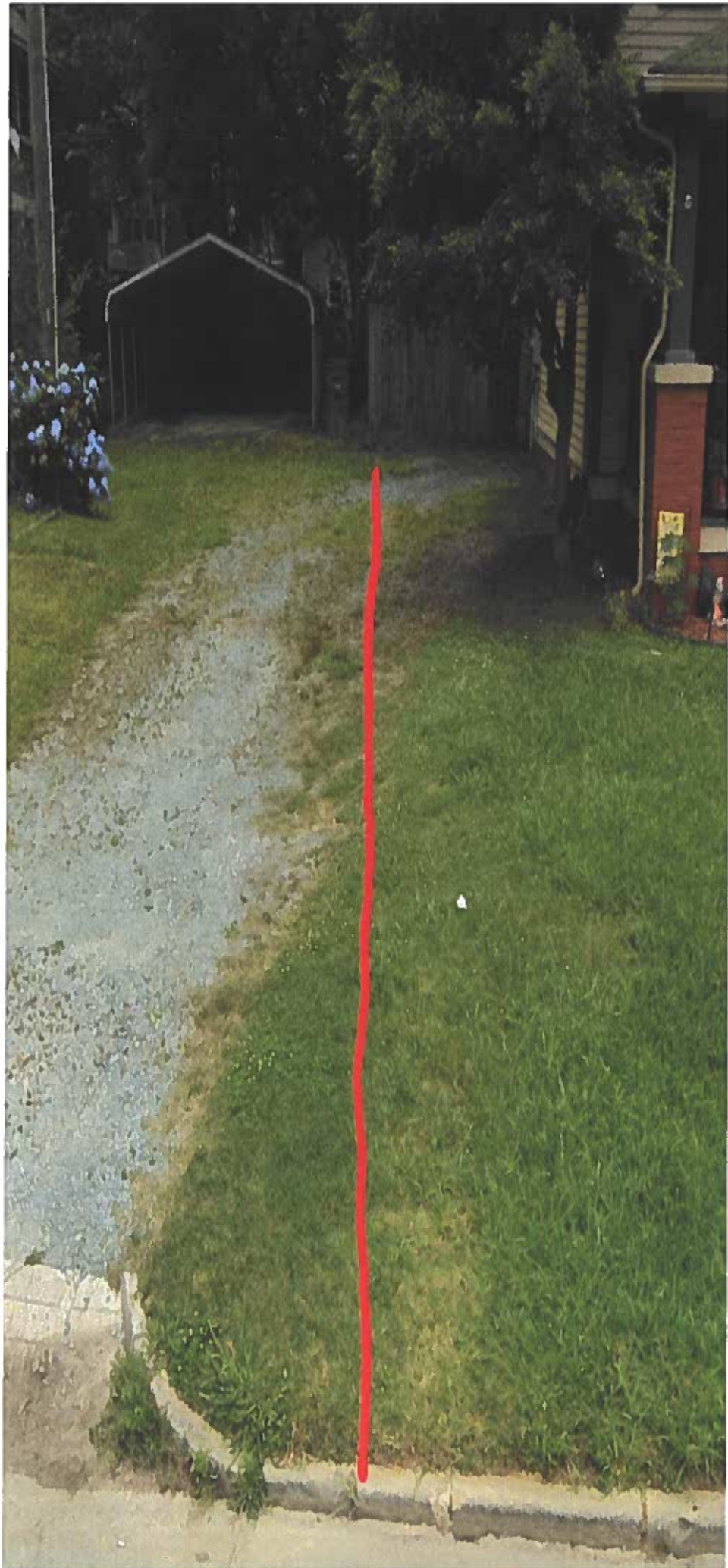








EX
20



EX
21

ADDRESS:
511/512



EX
22



STAFF REPORT

Case # PLZNA 2023-00184

TO: Board of Adjustment Members

DATE: August 24, 2023

FROM: Doug Britt, Senior Planner

PREPARED BY: Megan Brightharp, Planner

SUBJECT: A rehearing request by Lewis Wetherall for a variance from the minimum front yard setback for the RR, Rural Residential, District for property located at 2600 Meadowood Court.

SUMMARY STATEMENT

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. This case was originally heard on June 22, 2023. A request was made by the applicant at the July 27, 2023 meeting for this case to be reconsidered which was agreed to by unanimous vote from the Board of Adjustment. No new information will be presented.

SITE DATA

Type of Action: Variance
Date of Petition: May 25, 2023
Name of Petitioner: Lewis Wetherall
Location: 2600 Meadowood Court
Tax ID #: 09-295-044
Lot Size: 1.68 Acres
Current Zoning Classification: RR, Rural Residential

PROPOSED FINDINGS

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-du-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)

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 2023-00184 be (**approved/denied**).

Exhibits:

Exhibit 1: Ortho Map
Exhibit 2: Zoning Map
Exhibit 3: Deed to Property
Exhibit 4: Building Permit Application
Exhibit 5: Owner Exemption Affidavit
Exhibit 6: Foundation Survey
Exhibit 7: Application
Exhibit 8: UDO Table 4.2.4
Exhibit 9: APO List
Exhibit 10: APO Map

Prepared by: MB 8/17/2023

Ortho Map
2600 Meadowood Court

Legend

-  Centerlines
-  Parcels
-  Subject Property

Owner:
Lewis Wetherall

Acres: 1.68



0 90 180
 Feet

MEADOWOOD DR

CREEKWOOD DR

Zoning Map
2600 Meadowood Court

Legend

-  Centerlines
-  Parcels
- Zoning Districts**
 -  RR
 -  Subject Property

Owner:
Lewis Wetherall

Acres: 1.68



0 90 180
 Feet

MEADOWOOD DR

CREEKWOOD DR

FILED Jul 22, 2022
AT 04:13:00 PM
BOOK 08531
START PAGE 0790
END PAGE 0791
INSTRUMENT # 26190
EXCISE TAX \$0.00

Excise Tax \$0.00

Recording Time, Book and Page

Tax Lot No. _____ Parcel Identifier No. 09295044

TITLE SEARCH NOT PERFORMED OR REQUESTED

Mail after recording to Law Offices of Michelle Vereckey, PLLC

212 N Main Street, Monroe, NC 28112

This instrument was prepared by Law Offices of Michelle Vereckey, PLLC

Brief description for the Index

Lot 12 of Meadowood Subdivision

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 21st day of July, 2022, by and between

GRANTOR

GRANTEE

Hugh E. Wetherall and wife,
Angela C. Wetherall

Lewis E. Wetherall, married

Property Address:
3202 Meadowood Court
Monroe, NC 28110

Property Address:
3202 Meadowood Court
Monroe, NC 28110

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 City of _____ Township, Union _____ County, North Carolina, and more particularly described as follows:

BEING ALL OF LOT 12 AS SHOWN ON A MAP OF MEADOWOOD SUBDIVISION, WHICH MAP IS RECORDED IN PLAT CABINET B, FILE NO. 140-A, IN THE UNION COUNTY PUBLIC REGISTRY, REFERENCE TO WHICH IS HEREBY MADE FOR A MORE PARTICULAR DESCRIPTION.

Submitted electronically by "Law Offices of Michelle Vereckey, PLLC" in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the Union County Register of Deeds.

The property hereinabove described was acquired by Grantor by instrument recorded in Deed Book 6732 Page 289

A map showing the above described property is recorded in Plat Cabinet B File 140-A

All or a portion of the property herein conveyed does not include the 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 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 except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

APPLICABLE ZONING; ANY EASEMENTS AND RIGHTS OF WAY FOR SERVICE LINES, ROADS AND UTILITIES AS MAY BORDER OR CROSS THE PROPERTY, INCLUDING THE SUBDIVISION STREETS AS SHOWN ON RECORDED PLAT; ANY EASEMENTS RESERVED IN THE RESTRICTIVE COVENANTS, INCLUDING HOMEOWNERS ASSOCIATION PROVISIONS; APPLICABLE RESTRICTIVE COVENANTS OF RECORD AND STREET ASSESSMENTS; 2022 REAL PROPERTY TAXES; SUBJECT TO MATTERS THAT COULD BE REVEALED BY AN ACCURATE AND CURRENT PHYSICAL SURVEY AND BOUNDARY SURVEY OF THE PROPERTY.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

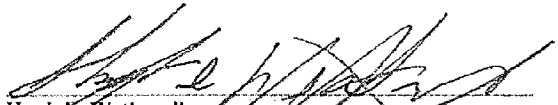
(Corporate Name)

By: _____

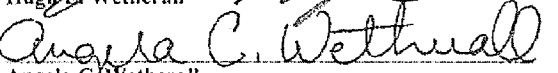
President

ATTEST:

Secretary (Corporate Seal)



Hugh E. Wetherall (SEAL)



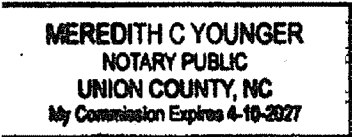
Angela C. Wetherall (SEAL)

(SEAL)

(SEAL)

USE BLACK INK ONLY

SEAL-STAMP



State of NC Union County.
I, a Notary Public of the County and State aforesaid, certify that
Hugh E. Wetherall and Angela C. Wetherall
personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my
hand and official stamp or seal, this 22 day of July, 2022.
My commission expires: 4-10-27 Meredith C. Younger Notary Public

The foregoing Certificate(s) of _____

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

REGISTER OF DEEDS FOR Union COUNTY

By _____ Deputy/Assistant – Register of Deeds



Building Standards Department
BUILDING PERMIT APPLICATION

For Permit Center Use Only
Submittal Date: _____
Permit #: _____
Parcel: _____ - _____ - _____

Project Address: 2600 MEADOWOOD CT MONROE 28110 LOT 12
Total Project Cost: \$ 98,000 Subdivision Name: MEADOWOOD Lot: 12 Phase: _____
Owner/Tenant: LEWIS WETHERALL (living with brother)
Address: 3202 MEADOWOOD DR. City: MONROE
State: NC Zip Code: 28110 Phone No. 980209590

Property Use: RESIDENTIAL SINGLE FAMILY HOME/GARAGE/DRIVEPORT

Description of Proposed Work: TO CONSTRUCT A SINGLE FAMILY HOME

Heated SQ FT: 2250 Unheated SQ FT: 128 BACK PORCH
258 FRONT PORCH/756 BASEMENT

UTILITIES: ☒ New ☐ Existing

Power Company: UNION POWER

Gas Company: PIEDMONT NATURAL GAS

Electric Appliances: _____

Gas Appliances: _____

All residential inspections for dwellings covered by the NC Building and Residential Code will include verification of the presence of carbon monoxide alarms as required by City of Monroe Ordinance 150.10 (C)(1).

Flood Plain: ☐ YES ☒ NO Historic District: ☐ YES ☒ NO Acreage: 1.68 No. of Stories: 1
with walk-out basement
Downtown: ☐ YES ☒ NO Site Improvement: ☐ YES ☐ NO
Water Supply: ☒ City ☐ County ☐ Private Well ☐ Community Sewer Type: ☒ City ☐ County ☐ Septic Permit

RESIDENTIAL

☒ Single Family ☐ Modular ☐ Duplex ☐ Apartment ☐ Accessory Building ☐ Addition ☐ Renovations ☐ Accessory
☐ Mobile Home: Year: _____ Make: _____ Size: _____
Serial #: _____

COMMERCIAL

Type of Construction: ☐ I-A ☐ I-B ☐ II-A ☐ II-B ☐ III-A ☐ III-B ☐ IV ☐ V-A ☐ V-B
Group: ☐ Assembly ☐ Business ☐ Educational ☐ Mercantile ☐ Factory/Industrial ☐ Institutional ☐ Storage
☐ Utility/Misc _____

LOT #12
PARCEL #09295044
2600 MEADOWOOD CT.

CONTRACTOR(S):

BUILDING: LEWIS WETHERALL (OWNER)
Address: 3202 MEADOWOOD DR
City/St: MONROE Zip: 28110
Phone: 980 290 9590 Email: jklwetherall@gmail.com

Contract Cost

\$ _____

NC License #: _____

ELECTRICAL: ☒ No ☒ Yes
LW

MECHANICAL: ☒ No ☒ Yes
LW

PLUMBING: ☒ No ☒ Yes
LW

Sub contractors must complete their own application/sub contractor forms.

- ALL INFORMATION MUST BE COMPLETED PRIOR TO APPLICATION BEING PROCESSED.
- WORK PERFORMED ON STRUCTURES USED FOR COMMERCIAL USE MAY REQUIRE PLANS OR MORE INFORMATION PRIOR TO ISSUING A PERMIT.
- THIS APPLICATION BECOMES A PERMIT ONLY UPON APPLICATION APPROVAL AND PAYMENT OF ALL FEES.

If permits are granted, I hereby certify that all information in this application is correct and that all work will comply with the North Carolina State Building Code and all other applicable city ordinances, local laws and regulations of the State of North Carolina regulating such work and the specifications or plans submitted. The Building Standards Department will be notified of any changes in the approved plans and specifications for the projects permitted herein. I hereby affirm that the foregoing statements are accurate and correct to the best of my knowledge.

PRINT APPLICANT'S NAME: LEWIS WETHERALL
APPLICANT'S SIGNATURE: [Signature] DATE: 7/27/22
ADDRESS: 3202 MEADOWOOD DR CITY: MONROE STATE: NC ZIP: 28110
PHONE: 980 290 9590 MOBILE: SAME FAX: N/A
EMAIL: jklwetherall@gmail.com

METHOD OF PAYMENT: Cash ☐ Check ☒ Credit ☐ Existing A/R Account ☐

Permit Center
P.O. Box 69 Monroe, NC 28111
300 W. Crowell Street, Monroe, NC 28110
Telephone: (704)282-4524 Fax: (704)282-4735 Email: PermitCenter@monroenc.org

STATE OF NORTH CAROLINA

OWNER EXEMPTION AFFIDAVIT
PURSUANT TO G.S. 87-14 (a) (1)

COUNTY OF UNION

MONROE Inspection Department

Parcel Identification Number and address where the building is to be constructed: PIN 09295044

Address 3202 MEADOWOOD DR MONROE LOT #12

Type of construction: ☒ Residential ☐ Commercial ☐ Industrial ☐ Other

Intended use after completion (e.g. Personal residence): PERSONAL RESIDENCE

Building permit number associated with this application: _____

I, LEWIS WETHERALL (980) 290 9590
(Print Full Name) (Phone Number)

hereby claim exemption from licensure under G.S. 87-1(b)(2) by initialing the relevant provision in paragraph 1 and initialing paragraphs 2-5 below attesting to the following:

1. LW ✓ I certify I am the owner of the property set forth above on which a building is to be constructed or altered and for which application for a building permit is hereby made;
OR
_____ I am legally authorized to act on behalf of the firm or corporation that is constructing or altering this building on the property owned by the firm or corporation as set forth above:

(Name of Firm or Corporation)

2. LW ✓ I will personally superintend and manage all aspects of the construction or alteration of the building and that duty will not be delegated to any person not duly licensed under the terms of Article 1, Chapter 87 of the General Statutes of North Carolina.
3. LW ✓ I will be on site regularly during construction and I will be personally present for all inspections required by the North Carolina State Building Code, unless the plans for the construction or alteration of the building were drawn and sealed by an architect licensed pursuant to Chapter 83A of the General Statutes of North Carolina.
4. LW ✓ I understand that by executing this licensing exemption AFFIDAVIT pursuant to G.S. 87-1(b)(2), I am required by law to occupy the building for which the licensing exemption is granted for twelve months after completion, during which time it may not be offered for rent, lease or sale.
5. LW ✓ I understand a copy of this AFFIDAVIT will be transmitted to the North Carolina Licensing Board for General Contractors for verification I am validly entitled to claim an exemption under G.S. 87-1(b)(2) for the building construction or alteration specified herein. I further understand if the North Carolina Licensing Board for General Contractors determines I am not entitled to claim this exemption the building permit issued for the construction or alteration specified herein shall be revoked pursuant to G.S. 153A-362 or G.S. 160A-422.

[Signature] 27/7/22
(Signature of Affiant) (Date)

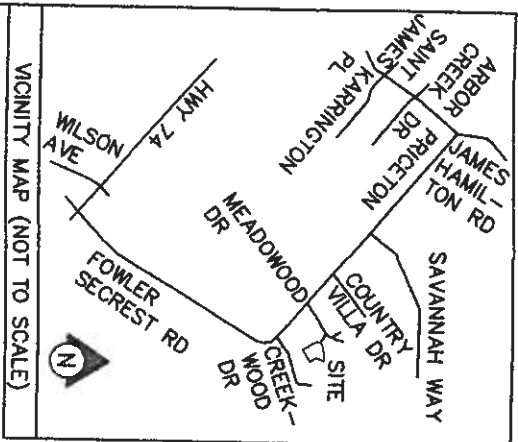
Sworn or affirmed and subscribed before me this the 27 day of July, 2022

[Signature]
(Signature of Notary Public)

Heidi J. Bumgarner
(Printed Name of Notary Public)

HEIDI J BUMGARNER
Notary Public, North Carolina
(Notary Stamp or Seal on County
My Commission Expires
January 23, 2027)

(NOTE: It is a class F felony to willfully commit perjury in any affidavit taken pursuant to NC G.S. 14-209)



EHUC - EXISTING HOUSE UNDER CONSTRUCTION
SS - SANITARY SEWER MANHOLE
EOP - EDGE OF PAVEMENT
R/W - RIGHT OF WAY
WRW - WITHIN R/W
FR - FRONT RIGHT
SF - SQUARE FEET
CP - COMPUTED POINT
PG - PAGE
PL - PROPERTY LINE

PSSE - PERMANENT SANITARY SEWER EASEMENT
CP - COMPUTED POINT
GLM - GAS LINE METER
PC - PLAT CABINET
IRS - IRON ROD SET
RS - REBAR SET
GL - GAS LINE
N - NET

FEL - FEMA FLOODWAY LINE
FSC - FEMA CROSS SECTION
AKA - ALSO KNOWN AS
GLP - GAS LINE PIPE
WM - WATER METER
RF - REBAR FOUND
DB - DEED BOOK
T - TOTAL
APX - APPROXIMATELY

LINE TABLE		
LINE	LENGTH	BEARING
L1	50.00	N58°15'15"E
L2	42.32	S01°42'42"W
L3	33.21	S85°44'21"W

SETBACKS:	
PC B FILE 140 A	CURRENT ZONING RR
FRONT - 40'	FRONT - 50'
	REAR - 25'
	SIDE - 20'

NORTH CAROLINA, UNION COUNTY

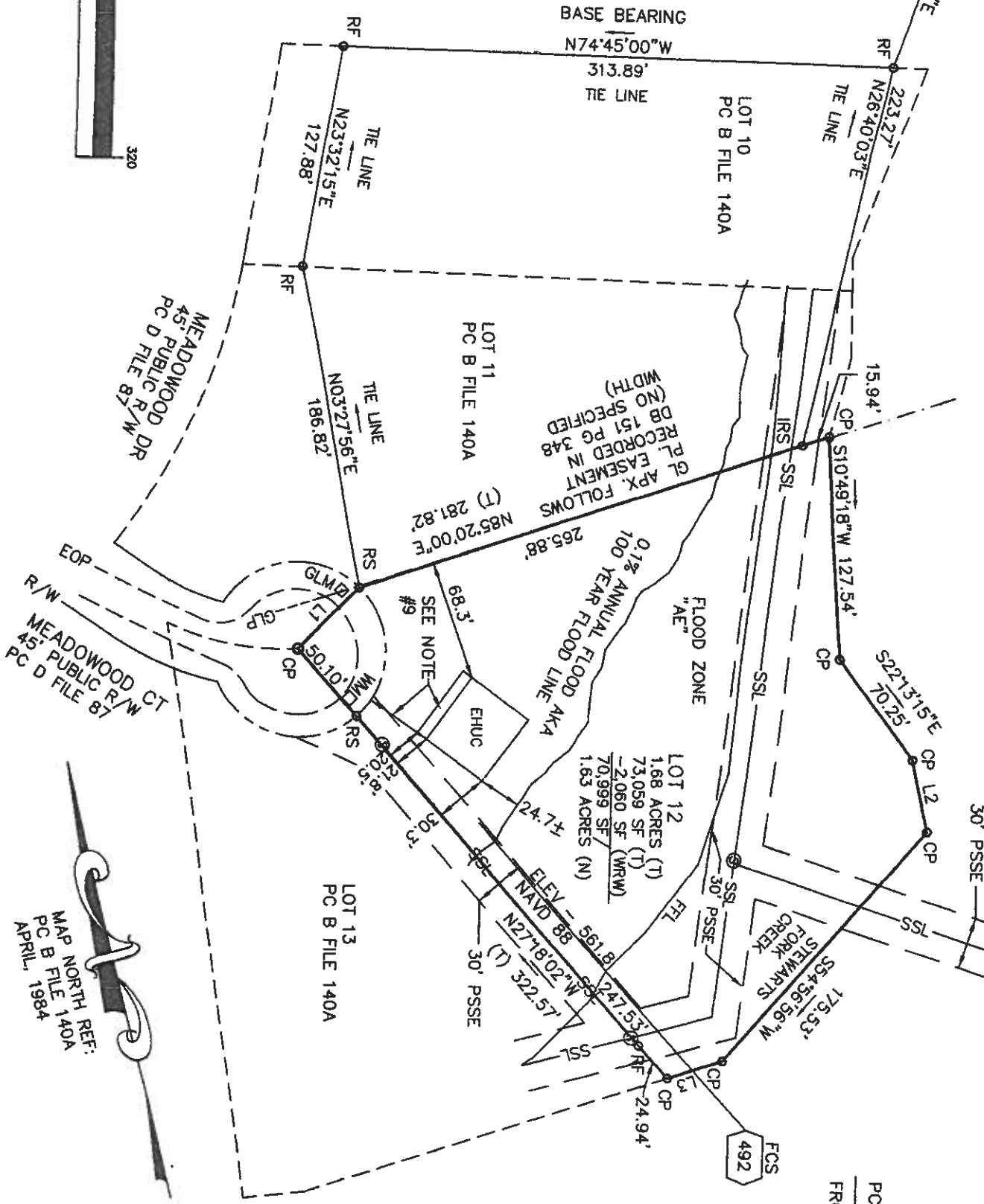
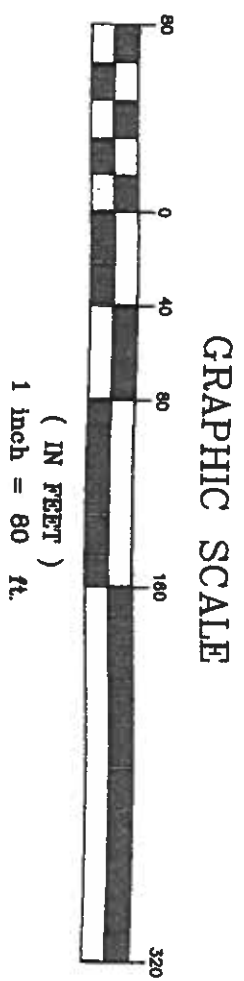
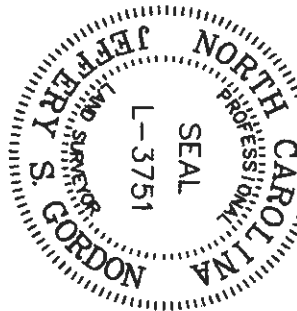
I, Jeffery S. Gordon, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed descriptions recorded in Deed Book 8531, Page 790.) that the boundaries not surveyed are clearly indicated as drawn from information found in Book _____, Page _____; that the ratio of precision as calculated is 1: 10,000 +; that this map meets the requirements of standards of practice for land surveying in North Carolina (21 NCAC 56-1600).

Witness my original signature, registration number and seal this 26th day of April, A.D., 2023.

Jeffery S. Gordon
Professional Land Surveyor

Seal or Stamp

Registration Number



- NOTES:
1. TAX I.D. #09-295-044
 2. AREA CALCULATED BY COORDINATES.
 3. NO NCOS MONUMENT FOUND WITHIN 2000'.
 4. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES, MEASURED WITH ELECTRONIC METERS.
 5. ADJOINING PROPERTY OWNERS NAMES WERE TAKEN FROM UNION COUNTY TAX OFFICE RECORDS, AND ARE CONSIDERED AS NOW OR FORMERLY.
 6. PROPERTY MAYBE SUBJECT TO OTHER EASEMENTS AND/OR RIGHTS OF WAY, EITHER RECORDED OR IMPLIED.
 7. THIS PROPERTY IS SUBJECT TO A FEMA SPECIAL FLOOD HAZARD ZONE AS PER FIRM, MAP NO. 3710542700J, PANEL 5427, EFFECTIVE DATE: OCTOBER 16, 2008.
 8. ALL CURRENT EASEMENTS SHOWN ARE TAKEN FROM PC D FILE 87.
 9. FUTURE COVERED PORCH UNDER CONSTRUCTION. NO FOUNDATION AT TIME OF THIS SURVEY BUT THE HANGEROVER ROOF & POST TO HOLD ROOF ARE BUILT. THE FROM OUTSIDE OF FR POST PERPENDICULAR TO 45' R/W IS 32.2'. THE FROM FR OF CURRENT HOUSE CORNER PERPENDICULAR TO 45' R/W IS 38.6'.
 10. LOTS 10, 11, & 13 SHOWN FOR ILLUSTRATIVE PURPOSES ONLY.
 11. FEMA FLOOD LINE IS TAKEN FROM FIRM, MAP NO. 3710542700J AND IS NOT FIELD LOCATED.

Jeffery S. Gordon Surveying
1394-B WALKUP AVENUE
Monroe, N.C. 28110
PH. (704) 283-9726
frontiersurvey@carolina.rr.com

BOUNDARY/PHYSICAL SURVEY FOR:
LEWIS WETHERALL

Property of: Lewis Wetherall

Legal Ref: DB 8531, PG 790; PC B, File: 140A

Monroe Township, Union County, North Carolina

Date: 26 April 2023

Scale: 1" = 80'

Surveyed by: Jeffery S. Gordon, NCPLS, L-3751

Dwg. File: MEADOWOODRL12-MONROE.dwg

REVISION BLOCK

NO.	DATE	DESCRIPTION	BY

City of Monroe Variance Application Form

Applicant's Name: LEWIS WETHERALL

Applicant's Mailing Address: 3202 MEADOWOOD DR

MONROE, NC, 28110

Property Owner: LEWIS WETHERALL

Property Owner's Address: 3202 MEADOWOOD DR, MONROE, NC, 28110

Legal Relationship of Applicant to Property Owner: MYSELF

Contact Person Name and Phone Number: LEWIS WETHERALL 980 2909590

Existing Use of Property: BUILDING LOT

Property Location: 2600 MEADOWOOD CT, MONROE, NC 28110

Tax Map Number: 09-295-044 Lot Size: 1.68 Zoning District: 4.2.1. RR

Ordinance section number to which a variance is being sought: 157.4.2.1, RR -

Proposed variance description: Location of house on property.

Requiring a variance of 17.8 feet

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.]

Followed guidelines of RR District Dev. Standards Table (pg 97) & given the greenlight to start construction making sure we were above 100yr floodline. 5 months later surveyor report shows we are over front setback.

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

The property is on a hill above Stewart's Creek, with 100yr flood line with strict guidelines that property was 2' above, min. According to RR Table setback was 50' from street.

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]

Following the guidelines of RR Table, I was within the boundary & receiving the approval to build (as a self build)

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 home is w/in keeping of the other properties on Meadowood & after submitting clear plans, getting approval to start & following guidelines in RR Table, I was shocked to see the report we were over the boundary.

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

This is a residential home in a residential street w/ homes varying front setbacks.

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

1. The boundaries of the lot(s) in question,
2. The size, shape and location of all existing buildings, parking facilities and accessory buildings,
3. The size, shape and location of all proposed buildings, parking facilities and accessory uses,

4. The location of all setbacks and front lot widths as measured at the front setback,
5. The location and type of screening and buffering proposed; and
6. Other information deemed by the Zoning Officer necessary to consider the application complete.

Applicant (printed): LEWIS WETHERALL

Applicant's Signature: [Signature]

Date: 5/25/23

Property Owner: LEWIS WETHERALL

By: [Signature]

Title: _____

Owner's Signature: [Signature]

Date: 5/25/23

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

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

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

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

Public hearing date: _____

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

Action taken by the Board of Adjustment: _____

Notification of Action Mailed to applicant on: _____

Table 4.2.4. RR District Development Standards Table

RR District Development Standards Table		
Building Height		Maximum 3 Stories
Density		Maximum 1 Unit / Acre
Setbacks ¹	Front (Street)	50'
	Side	20' (interior lot) 40' (corner lot)
	Rear	25'
Lot	Width	100' Minimum
	Area	40,000 Square Feet Minimum
	Coverage	30% Maximum
Open Space		N/A
Additional Standards	¹ In any area that is located outside of a designated floodplain, but where a stream is located, no building or fill may be located within a distance of the stream bank equal to five times the width of the stream at the top of the bank, or 35 feet on each side, whichever is greater.	

4.2.2. RLD – RESIDENTIAL LOW DENSITY

- A. **Intent.** The Residential Low Density (RLD) district is intended to implement the rural land use character area as defined in the Forward Monroe plan. This district is designed

ACCTNO	PIN	OWNERNAME1	OWNERADDRE	OWNERZIP	OWNERSTATE	OWNERCITY	OWNERNAME2
09295036	09295036	HELMS HORACE NEAL JR	3109 MEADOWOOD DR	28110	NC	MONROE	HELMS JO ANN
09295039	09295039	OWNBEY GEORGE W SR	3203 MEADOWOOD DR	28110	NC	MONROE	
09295044	09295044	WETHERALL HUGH E	3202 MEADOWOOD COURT	281109264	NC	MONROE	WETHERALL ANGELA C
09298150	09298150	WALK DEBORAH	3117 CREEKWOOD DR	28110	NC	MONROE	WALK PHILIP H
09295036A	09295036A	RISDON BRIAN K	3113 MEADOWOOD DR	28110	NC	MONROE	RISDON SANDRA
09295042	09295042	WETHERALL HUGH	3206 MEADOWOOD DR	28110	NC	MONROE	WETHERALL ANGELA
09295046	09295046	BARNABY JOAN ELLEN	3112 MEADOWOOD DR	28110	NC	MONROE	
09298080B	09298080B	SCHRADER HOWARD E JR	3103 CREEKWOOD DR	281100000	NC	MONROE	SCHRADER KATHY M
09298151	09298151	POOVEY HARRY E	3111 CREEKWOOD DR	28110	NC	MONROE	POOVEY VIVIAN D
09295043	09295043	WETHERALL HUGH E	3202 MEADOWOOD COURT	281109264	NC	MONROE	WETHERALL ANGELA C
09298148	09298148	PETTERSON HEIDI	3125 CREEKWOOD DR	28110	NC	MONROE	PETTERSON KYLE M
09295045	09295045	BARNABY JOAN ELLEN	3112 MEADOWOOD DR	28110	NC	MONROE	
09298149	09298149	MALANCHUK NELLY	3121 CREEKWOOD DR	28110	NC	MONROE	
09298152	09298152	POPLIN DAVID LEE	3107 CREEKWOOD DR	28110	NC	MONROE	POPLIN TAMMI LYNN

APO Map 2600 Meadowood Court

Legend

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

Owner:
Lewis Wetherall

Acres: 1.68



0 200 400
Feet