

**BOARD OF ADJUSTMENT
MEETING
THURSDAY, November 30, 2023
6:00 P.M.
Council Chambers
300 W. Crowell Street
Monroe NC**

REVISED AGENDA

- Item 1.** **Call to Order:**
- Item 2.** **Pledge of Allegiance and Moment of Silence**
- Item 3.** **Approval of Minutes** – October 26, 2023
- Item 4.** **Conflicts of Interest**
- Item 5.** **Quasi-Judicial Statement:**
- Item 6.** **PLZNA 2024-00094 Variance-** The Board of Adjustment is requested to consider a variance request from William and Melanie Carlson from the Accessory Uses Accessory Structures Standards to allow for a carport to be located in the front yard for the property located at 2900 Meadow Creek Lane. (Tax ID #: 09-105-171)-
Withdrawn
- Item 7.** **PLZNA 2024-00094 Variance-** The Board of Adjustment is requested to consider a variance request from James Rucker to modify the minimum lot size for car, boat, other vehicle sales and rental establishments in order to operate a vehicle sales lot for the property located at 1600 Lynn Street. (Tax ID #: 09-188-105)
- Item 8.** **Discussion:** Date of December Meeting
- Item 9.** **Adjournment**

Attention: BOARD MEMBERS:

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

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

MINUTES OF THE BOARD OF ADJUSTMENT MEETING

October 26, 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 October 26, 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; Patrick Blaszyk; Al Benshoff, BOA Attorney

Guests: Lou Philippi, Kenda McCoy, Richard McCoy, Kensley McCoy, Wendy Love, Emily Love, Max Haithcox

Item 2. Pledge of Allegiance and Moment of Silence

Item 3. Approval of Minutes – Minutes of August 24, 2023

Motion: William Draper made a motion to approve the minutes of the August 24, 2023, meeting.

Second: George Smith

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

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Item 4. Conflicts of Interest

Chair asked if there were any conflicts of interest?

George Smith said no.

William Draper said no.

Item 5. PLZNA 2024-00056 Variance- The Board of Adjustment is requested to consider a variance request from Kenda McCoy for the property located at 2109 Wilson Ave. The request is to deviate from the minimum side yard setback for the RLD, Residential Low Density, 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. (Tax ID #: 09-339050)

Chair said anyone who wishes to speak in regard to this item, please approach and be sworn in.

Doug Britt and Kenda McCoy approached the dais and were sworn in by the Chair.

Doug Britt approached the podium and said Kenda McCoy is requesting a variance from the minimum side yard setback for the RLD, Residential Low Density, District in order to bring a house currently under construction into compliance with the District Development Standards as outlined in the City of Monroe's Unified Development Ordinance.

Proposed Findings:

1. The property located at 2109 Wilson Avenue is owned by Kensley McCoy and is zoned RLD, Residential Low Density. (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 2109 Wilson Avenue that listed the owner, Kensley McCoy, 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. A plot plan for 2109 Wilson Avenue was also submitted by Kensley McCoy. (Exhibits 4, 5, and 6)
3. The Building Permit for the home was issued in July 2022 by the City of Monroe Permit Center. In this permit, all building setback information was listed under a Miscellaneous Condition. (Exhibit 7)
4. In March 2023, the Planning and Zoning review for the home was failed by planning staff after the foundation survey was submitted showing that the left side yard setback was only 7.3' and not the required 15' required by the RLD Zoning District. (Exhibit 8)
5. A variance application and variance letter of support was submitted in August 2023 by Kenda McCoy, requesting a variance amount of 7.7' from the minimum side yard setback of the RLD, Residential Low Density, District in order for the house under construction to meet the district's development standards. (Exhibit 9 and 10)
6. Table 4.2.2. RLD District Development Standards Table of the Unified Development Ordinance (UDO) states in relative parts:

Setbacks: Side: 15'
(Exhibit 11)

7. All adjacent property owners have been notified of the proposed variance. (Exhibit 12 and 13)

Doug Britt said that concludes Staff's presentation and I will be glad to answer any questions that you might have and the applicant is here as well tonight.

Chair said I have one question Doug, on the letter of support that you received from the neighbor, is that the neighbor to the left that's being impacted by this?

Doug Britt said yes, it is in fact that neighbor.

Chair asked are there any other questions for Doug?

Chair said I am going to take a pause real quick because there is a statement that we need to read before we actually stated, but we just kind of got going.

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

Al Benshoff said this is a quasi-judicial hearing, which means it is like a court hearing. North Carolina law sets specific procedures and rules concerning how this board of adjustment must make its decisions. these rules are different from other types of land use decisions, such as rezoning's. This board's discretion is limited. This board must base its decisions on competent, relevant and substantial evidence in the record. A quasi-judicial process is not a popularity contest, it is a decision limited by the standards in the zoning ordinance and based on the facts presented. If you will speak as a witness, please focus on the facts and ordinance standards, not personal preference or opinion. Participation is limited by state law and this meeting is open to the public. Everyone is welcome to watch and 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 and witnesses must swear or affirm their testimony.

Chair said at this time, if the petitioner would like to step forward and present your case.

Kenda McCoy approached the podium and introduced herself, she said my address is 1003 Woodhurst Drive in Monroe, NC. I am outside of the City's limits, but in the County. Thank you for your time and consideration, the information that Doug had presented, Kensley McCoy is my daughter and that's what my involvement is. She has the house under construction that she is

acting as General Contractor. She is young to be doing this and my involvement has been heavy. Basically, we most of the time meet with folks together with all of the Subs to come up with this. I have done this one time previously on my current house, so that's the extent of my involvement and my experience in that. This is land that has been in our family for some time and the right side of this land is still owned by my mother. The left side is owned by Max and Connie Haithcox, who have lived there for many years. When we decided to build this property there, my mother didn't want a house built there when she lived there. She liked my dad using it as a garden and stuff like that. My daughter got married last October, so that's why we put her house there and because my mother no longer lives there. We have been trying our best to follow the guidelines set forth by you guys and I even came up before we applied for the building permit and went to the Register of Deeds office and took pictures of the original deed, when Helms Park was first developed, so we could see what the requirements were for that area back then. In no way are we trying to get around the system by the placement of this house, the house is probably 90-95 % complete at this point. Doug spoke with whoever in the inspection department, so we could continue to build as we worked through the setback on this side. The error occurred and we had hired a professional surveyor to lay the foundation plot and everything has been inspected along the way. He laid the plot with consideration for the large, beautiful oak trees that are on the property, so that may have been or a speculation that that may have been his confusion in moving his house around to set it properly on the land. It would have allowed us to cut down the least amount of trees. It is positioned from the aerial view right in the center of the two houses that are existing. So, it by no means looks crowded or anything like that. When we received the first indication that there was a problem, I thought maybe its presented improperly on the paperwork, so I called the surveyor and he went back out and did intensive surveying. He said whenever those older lots were surveyed, their equipment wasn't as good and they could be a couple feet or up to a foot off on their stakes when they were putting them in the ground. So, he had to do two or three properties before he could, with absolute certainty, come up with a property line. He did mention that recently, as early as last year, he believed that there were some changes to the Residential Low Density housing setbacks and so maybe at that point, he didn't know about them whenever he laid out the property. I don't really know. At any rate, Connie and Max Haithcox, had preferred not to sell us the properties there because it's easier if the lot line is straight and its cleaner, they think, when their property is handed down to their children. It just remains as it is. That's why I am before you tonight, asking for an allowance to allow us to continue building this house and get us in.

Al Benshoff said I have to ask you a few questions so we can make sure that the Board is doing this right according to the law. The application is signed by Kensley McCoy and Kensley McCoy is the applicant?

Kenda McCoy said Kensley McCoy is my daughter.

Al Benshoff said Ms. McCoy, I have to ask you some questions. Would you please step forward and be sworn in?

Kensley McCoy approached the dais and were sworn in by the Chair.

Al Benshoff asked can you state your name and address for the record?

Kensley McCoy said my name is Kensley McCoy Baucom and I live at 1003 Woodhurst Drive.

Al Benshoff said you've heard the testimony from your mother about this matter.

Kensley McCoy said yes.

Al Benshoff said you are the applicant and your mother is not the applicant, so I have to ask you if you affirm that what your mother said is correct and that is what you would say had you have gone first and made the testimony.

Kensley McCoy said absolutely. My mother is a whole lot better with words and being in front of a crowd than I am. I have a very big fear of public speaking, so she came up here for me on my behalf to reiterate my own feelings towards this variance.

Al Benshoff asked is the surveyor here?

Kenda McCoy said he is not.

Al Benshoff said I will turn it back over to the Chairman. But, I will have further remarks to make at the end of the testimony phase.

Chairs said you might just want to stay up there with your mom, since she is going to be answering for you. You had indicated that the surveyor had been confused about the old and new ordinance requirements, but I have to point out to you that the current measurement from the pin is less than the old standards requirements. Looking at your drawing that you submitted on the County letterhead, you had originally said you were going to place the property far from the and it looks to be about 23 feet from that property line. This is not the survey example that you submitted, I understand, but once you got the actual survey, did you not notice a significant difference in what you submitted with your building permit?

Kenda McCoy said yes, we actually discussed that because that property over the years has been surveyed several times and basically the first drawing came from us going out there and using existing stakes with the pink flags on them, to the best of our ability, to come up with this. The one major difference is that the back of the 153 ft., the property is more rectangular than what was initially represented here. Basically, we thought, based on the stake I found at the back, went beside the driveway and followed the driveway next door. But, it doesn't and its more perpendicular to the street. I'm not making an excuse for the surveyor in any way or form. Ultimately, it's our responsibility, but that's why you hire a professional with many years of experience to do these things for you. They are supposed to be the ones that know the regulations and know how to do it. So, those of us who have paid them, rely on them to do what they say they are going to do.

William Draper asked when was the foundation poured?

Kenda McCoy said the foundation was poured around last September or October.

William Draper said something inaudible.

Chair asked did you have a question to go along with that.

William Draper said they knew the restrictions before that foundation was poured.

Chair said it is pretty well laid out in the permit application on exactly what the restrictions were. As the General Contractor, you are ultimately responsible, not the surveyor, to make sure that it complied with. That's why we are here tonight. Up until this was pointed out to you by the foundation inspector, were you aware that you were in violation of that 15 ft.

Kenda McCoy said absolutely not. Actually when I got an email that there was a problem with the plot plan, I called the surveyor and asked him to print me copies. I even went back to the permit office and I think what was turned into was incorrect was because I was very confident that he had done it properly, until I had called him to have him meet me out there to go over what the issues were. I think that he thought he did it properly as well.

Chair asked if the Planning Department advised you to continue on with the construction while you worked it out?

Kenda McCoy said they did. Because at that point, by the time it had been discovered, the exterior of the house was pretty much complete and the interior is what we have been working on. Not as diligently as we would've done, if everything was ok.

Chair asked so the construction was pretty much complete and you were in the finishing stages and outfitting stages, at that point.

Doug Britt said Staff did allow construction to continue, because initially when she came in, we talked about doing a lot line revision. A lot line revision was basically going to move that property line closer to the adjacent property and a lot line adjustment has to be agreed on by two parties. I said if you are doing a lot line adjustment, that's perfectly fine, then you can continue with it, but we won't issue a CO or sign off on the City Planning permit until the lot line has been revised or recorded and the setback complied with. Sometimes that does happen where it works out and we don't do a whole lot of lot line revisions for houses under construction, but in this case, they did ask if they could continue. But, I said yes, just so you know, if you continue, Planning will not sign off on the CO of the house until the lot line revision has been approved and recorded with the Register of Deeds. Initially that was the plan, but that plan was altered along the way and now they are applying for a variance.

Kenda McCoy said yes, it has taken several more months than we anticipated.

Doug Britt said I first started dealing with you all with the issue of not meeting the setbacks was 4 or more months ago.

Kenda McCoy said March maybe.

Doug Britt said it was thought that they were going to get a lot line revision and then that didn't happen, so that's why they are here now.

Chair asked what was the reason the lot line revision didn't happen?

Kenda McCoy said Connie and Max, who own the property beside of it, they had rather keep their lot lines straight and where it is. It basically doesn't alter the looks of anything, and I'm just speaking for them and they are welcome to come up and speak for themselves. But, they we approached that and they... Max, would you like to come up and speak?

Max Haithcox said I can if you want me to.

Chair said he has to be sworn in if he wants to step forward and speak.

Al Benshoff said I think at this point; I would like to advise the Board that you should not base your decision on any testimony you have heard about what the surveyor thought or what the surveyor intended or what he may have believed. That's because he is not here and that is hearsay. The same rule applies to the neighbors, the Haithcox's, that if you are going to base your decision on anything that the Haithcox's may believe or represent, they need to put it in the record after they are sworn or you cannot consider it when making a decision.

Chair said correct.

Max Haithcox said I will be happy to.

Chair said please step forward to be sworn in.

Max Haithcox approached the dais and was sworn in by the Chair.

Mr. Haithcox approached the podium and introduced himself. He said I am here with my wife, Connie, we are at 2105 Wilson Avenue here in Monroe. On the previous plan, we are the black roofed house to the left of the property.

Chair said you heard Kenda McCoy's testimony earlier that one of the options that she had been given was a lot line adjustment and you being the adjacent property owner, what were your thoughts on the adjustment?

Mr. Haithcox said a couple of things, for sure. Number one, the surveyor that did the plot adjustment, I didn't really trust him too much because of what happened here. Number two, I did hire a realtor to take a look at this and she actually did a little bit of research for this, her name is Heather Thompson, and she is not here. So, that may be hearsay as well, but I can get that into record, if need me. She was looking at our Helms Park land and how it was set up originally and with all the lots set up as one acre in size, if we adjusted our lot, we would be just under that acre. That brought up a little concern for us, should we decide to sell in the future. One of the reasons I was supporting the variance is because on that side of our property, our house is way over, so she isn't encroaching on us at all. We have a driveway on that side, with a little pad, so

it's really not an inconvenience for us. We've lived here for 25 years beside her mother, who lived there much longer than us. So, we've known the family for forever and it's a great neighborhood and that's one of the reasons why we are supporting it.

Chair asked are there any questions?

George Smith asked the comment about the trees on the property? The aesthetics from your property to that property, what do you think about the situation with the trees?

Mr. Haithcox said we had these big, beautiful oaks in this neighborhood and it's an old neighborhood that's been there for a really long time, so some of them are really huge trees. It looks great and they took down as few trees as they could when they built the house. It looks like they shifted it a bit to try to save some, but I'm just guessing. It does look fine.

George Smith asked you are telling me that its aesthetically pleasing with how they set it up?

Mr. Haithcox said yes, sir. It's a beautiful house.

Chair said just for the record and this is the last question, you have no objections to them receiving a variance to build a home closer to your property than the ordinance allows?

Mr. Haithcox said correct.

Chair said thank you, sir. Do we have any further questions, discussion or concerns as a Board? We can move on to the next stage, if I can have a motion to accept or not the Staff Findings of Fact, 1-7 that were listed in the Staff Report.

Motion: George Smith made a motion to approve the Findings of Fact 1-7.
Second: William Draper
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 moving onto the Conclusions section, the Conclusions must be supported by fact or matters entered into the record. So, when making your motions, please expand as to why you support a particular motion and citing said fact or testimony.

Motion: George Smith made a motion to approve the Findings of Fact 1-7.
Second: William Draper
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

1. It is the Board's CONCLUSION, that unnecessary hardship would 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 high percentage of the house has been completed and it would be a real hardship on the owners to move the house, now that it's that far done.

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Al Benshoff said I hate to bring this up, but there is no Finding of Fact that says the house is 90% complete. We've heard testimony to that effect, but someone will have to make an 8th Finding of Fact about that.

Chair said the testimony as of today is 90-95% complete, so we will need a Finding of Fact 8. The physical exterior construction is complete, it's the finishing of the interiors that is currently being accomplished. So, I need a motion and a second to add that as a Finding of Fact.

Motion: George Smith made a motion to add a Finding of Fact #8.

Second: William Draper

Action: The motion to approve the Finding of Fact 8 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 peculiar to the applicant's property.

Motion: William Draper made a motion that the hardship is peculiar to the applicant's property because based on the testimony that was heard and the drawings and items that were presenting and also based on the fact that the house is 90-95% complete.

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 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 the applicants were relying on the survey to be correct and...

Al Benshoff said Mr. Chairman, before we go ahead, would it be possible to say which exhibit supports this conclusion? Because we don't have anything that shows where the surveyor put the plot lines, except for 8, the foundation survey.

Chair said it's under Finding of Fact 4, Exhibit 8.

William Draper asked are we saying that everybody is at fault here? From the surveyor to the guy that poured the foundation? Everybody had warning when they submitted the application and the City came back and gave them all of the parameters that they were supposed to build on.

Chair said they were also advised to continue construction.

William Draper asked yeah, is that normal?

Al Benshoff said you will have to ask Doug.

William Draper asked Mr. Smith to repeat his motion.

Motion: George Smith made a motion that the hardship is not the result of the applicants own actions based on Finding of Fact 4, Exhibit 8.

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 consistent with the spirit, purpose, and intent of the ordinance.

Motion: George Smith made a motion that the variance is consistent with the spirit, purpose, and intent of the ordinance.

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 be secured and substantial justice will be achieved.

Motion: George Smith made a motion that in granting the variance, the public safety will be secured and substantial justice will be achieved based on there are no apparent safety concerns with the layout of the property and justice is in the alternative of the large costs that it would great to relocate the home on the property.

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Motion: William Draper made a motion to approve Variance PLZNA 2023-00056.

Second: George Smith

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Item 6. **PLZNA 2024-00076 Variance-** The Board of Adjustment is requested to consider a variance request from Wendy Love for the property located at 304 S. Charlotte Ave. The request is to deviate from the minimum front yard setback for the OM, Office Medical, District in order to bring a building currently under construction into compliance with the District Development Standards, as outlined in the City of Monroe's Unified Development Ordinance. (Tax ID #: 09-232-151)

Chair said anyone who wishes to speak in regard to this item, please approach and be sworn in.

Patrick Blaszyk, Doug Britt and Wendy Love approached the dais and were sworn in by the Chair.

Wendy Love is requesting a variance from the minimum front yard setback for the OM, Office Medical, District in order to bring a house currently under construction into compliance with the District Development Standards as outlined in the City of Monroe's Unified Development Ordinance.

Proposed Findings:

1. The property located at 304 South Charlotte Avenue is owned by Love Construction Company Inc. and is zoned OM, Office Medical. (Exhibits 1, 2, and 3)
2. In June 2023, a building permit application was submitted for the construction of a single family detached home at 304 South Charlotte Avenue that listed, Love Construction

Company Inc. as the Contractor. A plot plan for 304 South Charlotte Avenue was also submitted by the Love Construction Company Inc. (Exhibits 4, 5, and 6)

3. The Building Permit for the home was issued in July 2023 by the City of Monroe Permit Center. In this permit, all building setback information was listed under a Miscellaneous Condition. (Exhibit 7)
4. In September 2023, the applicant contacted the Planning Department after the foundation survey was conducted. It displayed that the front yard setback was only 14.2' and not the required 15' required by the OM Zoning District. (Exhibit 8)
5. A variance application was submitted in September 2023 by Wendy Love, requesting a variance amount of 10" from the minimum front yard setback of the OM, Office Medical, District in order for the house under construction to meet the district's development standards. (Exhibit 9)
6. Table 4.3.1. OM District Development Standards Table of the Unified Development Ordinance (UDO) states in relative parts:

Setbacks: Front: 15'
(Exhibit 10)
7. The applicant has submitted photos of the current conditions of the site. (Exhibits 11 & 12)
8. The applicant submitted maps displaying the setback distances of the adjoining lots. (Exhibits 13 & 14)
9. All adjacent property owners have been notified of the proposed variance. (Exhibit 15 & 16)

Patrick Blaszyk said that concludes my presentation and I am happy to answer any questions that you might have and the applicant is here as well.

Al Benshoff said I have a few questions for Mr. Blaszyk, if that's alright.

Chair said alright.

Al Benshoff said, please turn back to Exhibits 11 and 12. I believe you testified that these show the construction of the site.

Patrick Blaszyk said yes, these depict the existing conditions.

Al Benshoff asked can you tell us when these pictures were taken?

Patrick Blaszyk said these photos were submitted by the applicant, so I would have to defer to the applicant.

Al Benshoff said ok, you cannot tell us about these pictures.

Patrick Blaszyk said no, I did not take these photos.

Al Benshoff asked can you turn to the zoning map? You said something about a Historic District?

Patrick Blaszyk said yes, this property is located in the Monroe Historic District.

Al Benshoff asked is that a UDO Historic District or is it a National Register Historic District?

Doug Britt said it's in our local Historic District.

Al Benshoff asked if it's a UDO overlay Historic District?

Doug Britt said it is, the applicant went before the Historic District Commission to get a COA to construct the house.

Al Benshoff said the Historic District does not appear on the zoning map, is that correct?

Doug Britt said that is correct. We have the layer there, but for the purposes of this exercise for a Variance, we didn't include that this property was in the Historic District.

Al Benshoff asked is it your testimony that a Certificate of Appropriateness has been granted?

Doug Britt said yes, it has.

Al Benshoff asked was the Certificate of Appropriateness granted before the Variance application was made?

Doug Britt said yes, it was.

Chair said that would have had to be granted before the building permit was issued.

Doug Britt said correct, we will not issue a zoning permit since it was a new house is major construction. They are required to get the Certificate of Appropriateness granted before we would issue the building permit for the house.

Al Benshoff asked were any of these exhibits presented to the Historic District Commission?

Doug Britt said the only exhibit that I'm aware of and I will probably defer to the applicant, but I know the hand drawn plot plan, which was presented to the Historic District and that's my understanding.

Wendy Love said that was part of our package for the Historic District.

Doug Britt said I think that's the only thing that's in this packet before you tonight, this would be the only exhibit that was presented at the Historic District, as well. Other than Exhibit 1, which was the Ortho Map, Exhibit 2 which was the Zoning Map. So, the first 3 exhibits would have been the same for the Historic District.

Al Benshoff said I would like to make a suggestion that in the packets, the exhibits be labeled 1-X.

Doug Britt said that's understood. We've done that in the past and it's not a big deal at all.

Al Benshoff said that's all I have.

Chair asked does any Board member have any questions for Staff?

George Smith asked the map drawing, it says 1 inch and it goes to 1 ft. I guess this isn't to scale anymore? It says 1 inch equals 1 ft.

Doug Britt said what we are referring to have the seal.

George Smith said if I'm looking at the other, the scale is obviously wrong.

Wendy Love said it is to scale and I've got my scale.

George Smith said if we go back to that drawing, that's 31 ft. 6 inches, so that should be 31 and a half inches across there.

Wendy Love said you are right, but when we do it, we use the scale with ten, but everyone in the business does it like that. But, you are right.

George Smith said ok, it's a ten to one scale on an engineering ruler. It just confuses me.

Chair asked do you have any questions for Staff? Hearing none, would the applicant like to step forward and address the request for the Variance?

Wendy Love said I appreciate you all taking the time to hear this, first of all, I want to talk about this. We are the owner of the lot and the General Contractor and when we get this finished, we will be selling this to my niece, Emily Love, this will be her first house and she is really excited to be living in the Historic District and be close to Downtown. This is a very unusual site.

Al Benshoff said so we don't have to backtrack, the application says that you are the Vice President, but you did not sign in any capacity except as an individual. What is your relationship to the Love Construction Company?

Ms. Love said I am the Vice President of Love Construction and have authority to sign for them and sell and buy for them.

George Smith asked do we need her name and address?

Wendy Love introduced herself and said I live at 1507 Love Road in Monroe. The site is very unusual and it is L-shaped and it has what we call a dog leg. It's very small to begin with and it's a 0.166-acre lot and when you take the dog leg off, that only leaves you with 9/100th's of an acre of what we can build on. What we had left was 48 ft. wide and 82 ft. deep, so it was 3,936 square feet that we would have to work with, which makes it a very difficult site to work on. It's been very challenging to get our equipment in there and to get it built. It's really been something else. We intentionally pushed the house up close to the front setback in the planning, because the two houses on either side of it, one of them is 8.68 and the other is 8.1 ft. So, normally when you're building a house, you kind of like to line the fronts of the houses up. It looks better than to have 3 houses in a row and with this being in the Historic District, we are wanting to keep up with the Craftsman spirit of the other houses on either side. Also, we needed room and there's no room beside the house to park, even two cars. So, that's why we had planned on having their driveway come around beside it and park in the back. We also needed room for parking back there. We just had a hard time with the size constraints of that lot. We also had the planners who were wanting us to protect some trees back there and that's why on my layout of what the driveway is going to look like, it doesn't go straight back, it goes over and back. Because we were trying to miss those trees and we actually had to go back to get another Certificate of Appropriateness, because we lost one of the trees. The house got so close to it and we were trying to stay away from it, but we just didn't have any room. We made a good faith effort to do all of the setbacks like we were supposed to do. We had the surveyor come and do the plot plan before we started construction, then we had the surveyor come out and do the foundation survey, right after we finished the foundation. It was finished one week and the surveyor was out the next week, so it was very quickly after. Before we started, we had the surveyor to stake the house site off, so we engaged them to do the survey beforehand and had them lay out the house site, then the foundation survey right away. I saw when I got an email from the surveyor, I looked at it and noticed that we are over. It wasn't actually the Planning Department that turned us down, I got in touch with them and told them that we were at 14.2 instead of 15 feet, which makes us 10 inches too close to the street. So, we made immediate action and stopped construction. All we've done since then is we filled in a little around the front, because we didn't want anyone falling in. But, if we aren't granted the Variance, it will be difficult to remedy and of course there will be a cost issue of going in there and taking it out. But, this is a basement house, so the porch columns, they actually come from the grade that you're at on the porch, they have to go down to the basement level. They are about 6 ft. tall and it's going to be hard for us to get back in there and get them out of there because of the site constraints and with them being so deep down. Not only will it cost a lot, but it's actually physically difficult to do it. Also, the houses on either side that were built a good bit closer to the street than we are and I have some photos of both of the houses on either side and you can see how much closer to the street they are. I don't think it really affects their values or safety or anything like that, because they are actually a lot closer than we are.

Al Benshoff said it's up to you to put your evidence on for the Board, so if you would like the Board to look at those pictures, you will have to submit them and they will have to stay here with the City. Then, they will be evidence.

Ms. Love said you all have the ones where I measured it off on GIS, so you can see that one of the houses is about 5 and a half feet closer to the front setback and the street than we are. The other one is about 6 ft. than we are.

Al Benshoff said it would be very helpful if you would put the pictures up when you identify them.

Ms. Love explained the different photos on the screen.

Al Benshoff said I have to ask you a few questions so this can be admitted into evidence. Did you make this drawing?

Ms. Love said it's from the County GIS website and they have on the County website where you can pull a tape on there and their system calculated it. It's just straight from the GIS website.

Al Benshoff said right, but someone wrote 306 S. Charlotte and the other writing at the top, did you do that?

Ms. Love said the hand writing is mine, but the rest of it was generated automatically by the Union County GIS website. But, I wrote at the top, that's me and where I put the address, so you all would know which house was which.

Al Benshoff asked when did you do that?

Ms. Love said I did that around October 1st. I didn't have a lot of time to prepare, because when I realized that we were over, the survey was done on September 25th, so he sent that to me within a couple of days of that. Then, I had to get that turned in. So, I did that at that time, so I could turn it in with the application.

Al Benshoff said I have the same question for the other picture, "The house on right".

Ms. Love said the handwriting is mine, but the rest was from the Union County GIS website. Go Maps is what it's called.

Al Benshoff asked you did that on October 1st?

Ms. Love said yes, the date on that is October 1st. The surveyor did it on the 25th, so I would have gotten it in the next couple of days after that and I let Planning know right away that we were over 10 inches.

Al Benshoff asked do you have anything else for the Board? Then, let's take a look at the construction pictures. Can you tell us when these photographs were made?

Ms. Love said those would have been taken right around the time I made this application for the Variance. It's still exactly like that, we haven't done anything else, except fill in some soil up against the one spot so no one would fall.

Al Benshoff asked this one is take from what direction?

Ms. Love said I am standing at the lot like beside 302 S. Charlotte. I am standing to the right hand side of the house and even from that view, the house from the other side, you can see the porch and how its closer to the street that we are. I took this picture myself to turn in with the application. You can see the fronts of the columns is what is going over and you can see that they go down in the ground quite a bit.

Al Benshoff asked Patrick to switch to the other foundation photo.

Ms. Love said you can see there are 4 column bases there and they go down and you can see where there is no concrete in it, but what you see over to the right hand side is the foundation for the basement. So, it's on a lower level and those column bases have to go way down to there because they are going down to the basement level. But, there are 4 columns and 10 inches on the front of them are over the setback line.

Al Benshoff asked you if you took the photo on October 1st?

Ms. Love said it was on or around October 1st. It was in between when I found out about the foundation survey and that was done on September 25th and I would've gotten it from the surveyor within a couple of days after it. Then, I got in touch with Keri Mendler and she said you have to have this turned in on the first of the month. It was in the days between September 25th and I turned it in on October 1st.

Al Benshoff said I am not trying to give you a hard time, I'm just trying to lay the evidentiary foundations.

Ms. Love said I understand.

Chair said just for clarify, the adjacent homes were built before the current ordinance took effect. So, they had no requirement back then to be 15 ft. setbacks. So, the aesthetics, I understand and the alignment and character of the neighborhood that you are building in. But, the question that we are faced with today, is we have a 10-inch discrepancy in the front setback based on the current Unified Development Standards, which Staff has presented. So, to cut through the inertia, what would you say is the number one contributing factor that put you ten inches off?

Ms. Love said we have an extremely constrained site that was a big part of the problem. Honestly, I couldn't say exactly how it happened, but we were having communication barrier with the brick masons and that could have been how it happened. But, we had it staked off, we had the surveyor come, we did the things that we needed to do and should have done. We made a very good faith effort to stay within those setbacks, even though it was incredibly hard with what

we were dealing with on that lot. But, obviously we didn't and as soon as I was aware of it, I came forward right away and stopped. We made every good effort we could to do what we were supposed to do and it just didn't happen that way.

Chair said it was no direct intent, just a calamity of several factors involved.

Ms. Love said absolutely not. I would never.

Chairs said what I am trying to lay out in my mind is the difficulty in the lot creating the problem as well, because of all the factors had to be figured in.

Ms. Love said we would never done it on purpose because, like I said, its Emily's house and I would have never intentionally messed up my niece's house. We were shocked when we received the survey.

Chair asked are there any other questions or discussions? Thank you.

Chair asked Doug, can you confirm that it was in fact Love Construction that brought the discrepancy to Planning Staff's attention?

Doug Britt said yes, they did.

Chair said thank you. I will add that as Finding of Fact number 10.

10. Applicant brought forth nonconformity to Staff to make them aware.

Chair said at this point, I will entertain a motion to accept the Findings of Facts 1-10 into the record.

Motion: George Smith made a motion to approve the Findings of Fact 1-10.
Second: William Draper
Action: The motion to approve the Findings of Fact 1-10 passed unanimously with the following votes:

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

Chair said we are moving on to the Conclusions and I will remind the Board members again, that motions that you make must be based on testimony or information with documentation provided during this hearing.

1. It is the Board's CONCLUSION, that unnecessary hardship would 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 due to the de-construction and reconstruction costs.

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 peculiar to the applicant's property.

Motion: George Smith made a motion that the hardship is peculiar to the applicant's property because the columns are already set and the lot size constraints.

Second: William Draper

Action: The motion passed unanimously with the following votes:

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

3. It is the Board's CONCLUSION, that the hardship is 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 the fact that the discrepancy is something that was found after the fact and it was reported to Planning Staff, supported by Finding of Fact #10.

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 consistent with the spirit, purpose, and intent of the ordinance.

Motion: William Draper made a motion that the variance is consistent with the spirit, purpose, and intent of the ordinance based on the fact that Historical District's significance and the way the home is being constructed to fit in with the neighborhood.

Second: George Smith

Action: The motion passed unanimously with the following votes:

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

- (b) It is the Board's CONCLUSION, that in granting of the variance, the public safety will be secured and substantial justice will be achieved.

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

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Motion: George Smith made a motion to approve Variance PLZNA 2024-00076

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

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

Doug Britt mentioned to the Board that the upcoming November meeting falls on Thanksgiving and the meeting date will need to be changed. November 16th and November 30th were brought forth as potential dates and the Board agreed on November 30th as a whole. There were no conflicts with any of the Board members or the Board of Adjustment Attorney, Al Benshoff.

Motion: George Smith made a motion to hold the November 2023 meeting on November 30, 2023.

Second: William Draper

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, William Draper and George Smith

NAYS: None

Doug Britt also said, while you all are here, the December meeting falls on December 28. The City is closed from December 22 to December 26. We will open back up on the 27th. We can further discuss it in November, but just keep it in the back of your mind. If we are having the November meeting on the 30th, the deadline will be December 1st for the December meeting. So, we should know if we are having a meeting or not. But, we can bring it up then.

Chair agreed and said it will be on the agenda next time and we can talk about it then. Let's just throw it on the agenda and discuss it then.

Doug Britt said ok, we are set for November 30th for the next Board of Adjustment meeting.

Chair said I have a request. On all future agendas, right after Conflicts of Interest, make the next item be the Quasi-Judicial Statement, so we will remember to say it before we move into testimony. That's more for me to remember it.

Item 8. **Adjournment**

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

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

The meeting was adjourned at 7:30 p.m.

Respectfully submitted,

Kenneth Deal
Chair

Ashlyn Penegar
Clerk of the Board

STAFF REPORT

Case # PLZNA 2024-00094

TO: Board of Adjustment Members

DATE: November 30, 2023

FROM: Doug Britt, Senior Planner

PREPARED BY: Patrick Blaszyk, Planner

SUBJECT: Variance request by William and Melanie Carlson from the Accessory Uses Accessory Structures Standards to allow for a carport to be located in the front yard at 2900 Meadow Creek Lane.

SUMMARY STATEMENT

William and Melanie Carlson are requesting a variance to allow for a carport accessory structure to be located in the front yard due to erosion problems on the lot in order to bring the existing accessory structure into compliance with the Accessory Uses Accessory Structures Standards as outlined in the City of Monroe's Unified Development Ordinance (UDO).

SITE DATA

Type of Action: Variance
Date of Petition: October 27, 2023
Name of Petitioner: William & Melanie Carlson
Location: 2900 Meadow Creek Lane
Tax ID #: 09-105-171
Lot Size: 1.223 Acres
Current Zoning Classification: RR, Residential Rural

PROPOSED FINDINGS

Proposed Findings:

1. The property located at 2900 Meadow Creek Drive is owned by William and Melanie Carlson and is zoned RR, Residential Rural. (Exhibits 1, 2, and 3)
2. A variance application and variance letter of support were submitted in October 2023 by William and Melanie Carlson, requesting a variance to allow a recently construction carport to be located in the front yard in order to bring the structure into compliance with the Accessory Uses Accessory Structures Standards as outlined in the City of Monroe's Unified Development Ordinance. (Exhibit 4 and 5)
3. Section 7.5 titled Accessory Uses and Accessory Structures Standards of the Unified Development Ordinance (UDO) states accessory structure location in relative parts:

“Accessory uses and structures (except fences, walls, or facilities associated with outdoor dining) shall not be located between the front of the principal structure and the front lot line.” (Exhibit 6)

4. The applicant contacted the City of Monroe Engineering Department about the erosion issues on the property and they conducted a drainage investigation on the property. It was found the erosion was not a result of any blue line streams in and around the property. (Exhibit 7)
5. The applicant has submitted photos of the carport and the erosion issues on the property. (Exhibit 8,9,10,11,12,13,14,15,16,17,18,19)
6. All adjacent property owners have been notified of the proposed variance. (Exhibit 20 & 21)

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 PLZNA 2024-00094 be (**approved/denied**).

Exhibits:

Exhibit 1: Ortho Map
Exhibit 2: Zoning Map
Exhibit 3: Deed to Property
Exhibit 4: Variance Application
Exhibit 5: Variance Letter of Support
Exhibit 6: Section 7.5 of UDO
Exhibit 7: City of Monroe Engineering
drainage investigation
Exhibit 8: Photo 1 of site
Exhibit 9: Photo 2 of site
Exhibit 10: Photo 3 of site
Exhibit 11: Photo 4 of site
Exhibit 12: Photo 5 of site
Exhibit 13: Photo 6 of site
Exhibit 14: Photo 7 of site
Exhibit 15: Photo 8 of site
Exhibit 16: Photo 9 of site
Exhibit 17: Photo 10 of site
Exhibit 18: Photo 11 of site
Exhibit 19: Photo 12 of site
Exhibit 20:- APO Map
Exhibit 21:- APO List

Ortho Map

PLZNA-2024-00094

2900 Meadow Creek Ln.

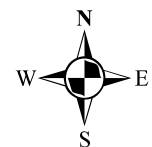
Legend

— Centerlines

▭ Parcels

Owner:
William & Menanie
Carlson

Acres: 0.4



0 150 300
Feet

Exhibit 1

Zoning Map

PLZNA-2024-00094

2900 Meadow Creek Ln.

Legend

— Centerlines

▭ Parcels

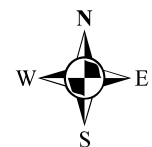
Zoning Districts

■ RR

Existing: RR
(Residential Rural)

Owner:
William & Menanie
Carlson

Acres: 0.4



0 150 300
Feet

Exhibit 2

FILED	Jul 26, 2018
AT	03:11:00 PM
BOOK	07203
START PAGE	0808
END PAGE	0809
INSTRUMENT #	20799
EXCISE TAX	\$500.00

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$500.00

PARCEL IDENTIFIER NO. 09-105-171

VERIFIED BY _____ COUNTY ON THE ____ DAY OF _____, 2018
THIS INSTRUMENT WAS PREPARED BY: HARRY MARSH LAW (*Barrister's Title Services*)

RETURN TO: HARRY MARSH LAW 10550 INDEPENDENCE POINTE PKWY, SUITE 302, MATTHEWS, NC 28105
BRIEF DESCRIPTION FOR THE INDEX: Lot 46, LAKESIDE ADDITION

THIS DEED made this 26th day of July, 2018, by and between

GRANTOR	GRANTEE
Brian Albert Pitoniak and wife, Jennifer Lynn Pitoniak	William E. Carlson and wife, Melanie C. Carlson
Mailing Address 4917 Morgan Mill Rd. Unionville, NC 28110	Property Address: 2900 Meadow Creek Ln. Monroe, NC 28110
	Mailing Address 2900 Meadow Creek Ln. Monroe, NC 28110

WITNESSETH: That said Grantor has remained and released and by these presents do remise, release, convey and forever convey unto Grantee, their heirs, and/or successors and assigns, all right, title, claim and interest of the Grantor in and to a certain lot(s) or parcel of land situated in the City of Monroe, Union County, North Carolina, and more particularly described as follows:

BEING all of Lot 46 of LAKESIDE ADDITION as shown on plat recorded in Plat Cabinet G, File 875, Union County Registry.

Also conveyed herein is a Drainfield Easement serving Lot 46 as shown on that plat recorded in Plat Cabinet G, File 875, Union County Registry.

Said plat is incorporated herein by reference for a more particular description of Lot 46 and Drainfield Easement for Lot 46.

All or a portion of the property herein conveyed (X) includes or () does not include the primary residence of a Grantor.

The properties hereinabove described was acquired by Grantor by instrument recorded in Book **4678** at Page **30**.

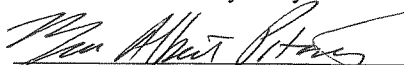
TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

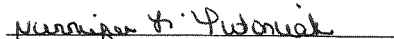
Submitted electronically by "Harry Marsh Law"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Union County Register of Deeds.

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 lawful claims of all persons whomsoever, other than the following exceptions:

All such valid and enforceable easements, restrictions and rights of way of record and the lien of ad valorem taxes for the current year which the grantee herein assumes and agrees to pay.

IN WITNESS WHEREOF, the Grantor has hereunto set their hand and seal the day and year first above written.


Brian Albert Pitoniak


Jennifer Lynn Pitoniak

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

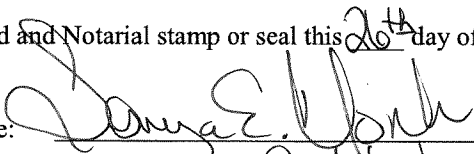
I certify that **Brian Albert Pitoniak and wife, Jennifer Lynn Pitoniak**, who is known to me or proved to me on the basis of satisfactory evidence to be the person described, personally appeared before me this day; acknowledging to me that he voluntarily signed the foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial stamp or seal this 20th day of July, 2018.

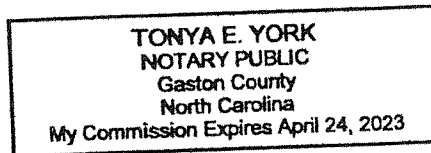
Notary Signature:

Notary's Printed Name:

My Commission Expires:


TONYA E. YORK
4/24/2023

[Notarial Seal]





City of Monroe Variance Application Form

Applicant's Name: William + Melanie carlson

Applicant's Address: 2900 meadow creek lane
Monroe, NC. 28110

Property Owner's Name: William + Melanie carlson

Property Owner's Address: 2900 meadow creek lane
Monroe, NC. 28110

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

Legal Relationship of Applicant to Property Owner: self

Contact Person Name and Phone Number: William carlson 516-734-1605

Existing Use of Property: Parking pad for a camper for 3 yrs

Property Location: 2900 meadow creek lane

Tax Map Number: 09-105-171 Lot Size: 1,223 Zoning District: _____

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

Proposed variance description: To allow RV cover to remain on side
of property

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.]

Our home is situated on a hillside and there are
no level areas behind the front corner
of the house.

2 - continued

at the bottom that we are still trying to correct. Please see attached report from Monroe storm water Dept. The excessive run off has resulted in unstable ground, exposed tree roots and rocks.

Printed name of Owner

William & Melanie Carlson

Signature of Owner

William & Melanie C. Carlson

10/26/23

Date

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

FOR STAFF USE ONLY

(PLEASE DO NOT WRITE BELOW THIS LINE)

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

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

Public hearing date: _____

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

Action taken by the Board of Adjustment: _____

Notification of Action Mailed to applicant on: _____

Wilfred D. V. Peet
2906 Meadow Creek Lane
Monroe, NC 28110

To whom it may concern,

Sandy and I have lived next to Bill, Mel, and Billy Carlson for several years. Bill asked me about the placement of a camper cover for use to protect his camper on his property. As my property and Bill's property is mostly considered wetlands and protected in Union County for bird sanctuary as well as deer and other wild animals, we are prevented to use much of the land due to run off and damaging storm surges. I sympathize with the Carlson's family dilemma and share with Bill we did not have a problem with the shelter being put up on his property.

Thank you,

Van and Sandy Peet

6. Artist or craftwork such as pottery, sculpting, or jewelry-making, with no sales permitted on the premises.
 7. E-Commerce, computer internet usage for commerce, service, or consulting with no sales.
 8. Teaching or tutoring, including musical instruments or dance, when limited to no more than five (5) pupils at a time. Any more than five (5) pupils requires a special use permit.
 9. Day care limited to no more than five (5) children/adults.
 10. Yoga instruction/massage therapy (limited to no more than one (1) client at a time); must provide license for massage therapy.
 11. Other similar uses that keep the residential character of an area, as determined by the Director.
- E. **Prohibited Uses.** The following uses shall be prohibited as home occupations:
1. On-site retail
 2. Repair, service, and painting to include vehicles, lawn equipment and appliances
 3. Catering or commercial bakeries
 4. Tool, equipment or vehicle sales or rental
 5. Veterinary clinic/hospitals, kennel or stable
 6. Physicians, dentist, and chiropractors
 7. Funeral parlor and undertaking
 8. Food vendors, caterers, or restaurants
 9. Other uses with similar impacts to the residential character of an area, as determined by the Director.

7.5. ACCESSORY USES AND ACCESSORY STRUCTURES

- A. **General Accessory Use Standards.** Accessory uses and accessory structures shall comply with the following standards. Accessory uses and structures:
1. Shall only be allowed when a principal use/ primary building exists.
 2. Shall:
 - a. Be accessory and clearly incidental and subordinate to permitted uses and structures;

- b. Be located on the same lot as the permitted uses or structures;
 - c. Not involve operations or structures inconsistent with the character of the primary use or principal structure served; and
- 3. Shall be consistent with all standards in the district for the principal use except as otherwise noted.
- 4. Are not permitted to be located or placed in any recorded easement and or required perimeter buffer as defined in Section 8.3 Landscaping, Buffering, Fences and Walls.
- 5. Shall comply with maximum building coverage requirements. Multiple structures are permitted; however, in no instance shall an accessory use and or structure exceed (in total) the heated square footage of the principle structure.
- 6. Are limited to a maximum thirty-five (35) feet in height or the height of the primary structure, whichever is lesser.
- 7. An accessory building sharing one (1) or more common walls with the principal building shall be considered part of the principal building for purposes of this ordinance and must meet all yard requirements applied to the principal building.
- 8. Accessory uses and structures (except fences, walls, or facilities associated with outdoor dining) shall not be located between the front of the principal structure and the front lot line.
- 9. Setbacks:
 - a. Within a residential district, shall not be located closer than ten (10) feet to a property line,
 - b. Within a non-residential district, shall meet the district setback standards.



October 10, 2023

Bill Carlson
2900 Meadow Creek Lane
Monroe, NC 28110

**RE: Drainage Concern
2900 Meadow Creek Ln**

Dear Mr. Carlson,

The City of Monroe Engineering Department has completed its drainage investigation regarding the stream on the back of your property at 2900 Meadows Creek Ln. Our field review revealed that it is listed as a blue line stream and does not fall under the jurisdiction of the City of Monroe. Upstream investigation of the stream did not reveal any blockages that would qualify for City assistance.

Under the City's Storm Drainage Policy, the City may offer assistance to repair or upgrade drainage systems that are subject to unsafe conditions, recurring erosion, or property damage if Stormwater from the public right-of-way is contributing to the problem. Since the issue is originating from a blue line stream with no signs of blockages or obstructions, this concern does not qualify for assistance per the City of Monroe's Storm Drainage Policy.

I have also attached some information about working in Streams and Wetlands in NC that may be helpful.

If you have any questions, feel free to contact me at (704) 282-4530 or email me at zbaker@monroenc.org.

Sincerely,

Zac Baker,
Stormwater Engineering Associate

Exhibit 8



Exhibit 9



Exhibit 10



Exhibit 11



Exhibit 12



Exhibit 13



Exhibit 14



Exhibit 15



Exhibit 16





Exhibit 17



Exhibit 18

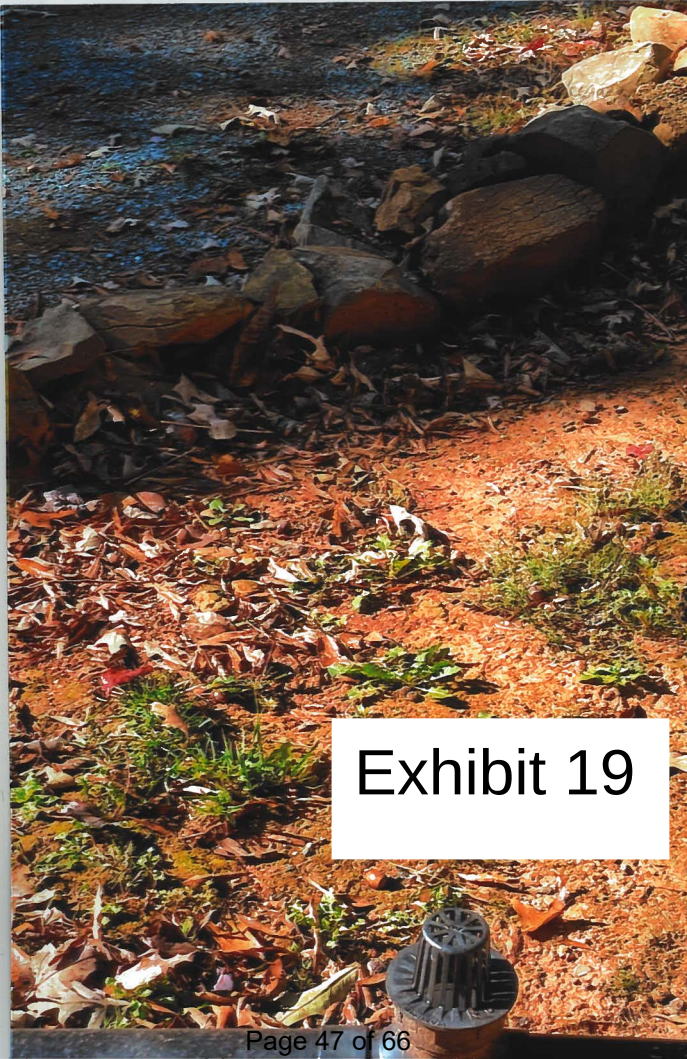
A photograph of a stream bed. The water is dark and flows over a bed of rocks and fallen leaves. The foreground is covered in reddish-brown soil, dry leaves, and small green plants. A metal grate is visible in the bottom right corner.

Exhibit 19

APO Map

PLZNA-2024-00094

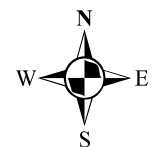
2900 Meadow Creek Ln.

Legend

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

Owner:
William & Menanie
Carlson

Acres: 0.4



0 150 300
Feet

Exhibit 20

Exhibit 21

ACCTNO	OWNERNAME1	OWNERNAME2	OWNERADDRE	OWNERCITY	OWNERSTATE	OWNERZIP
09105047	HELMS TODD A	HELMS DENISE M	2905 MEADOW CREEK LN	MONROE	NC	28110
09105172	GORDON TODD		250 RESCUE WILLIAMS RD	INDIAN TRAIL	NC	28079
09105048	SMALL ANDREW CARL III	SMALL JERILVN R	2907 MEADOW CREEK LN	MONROE	NC	28110
09105171	CARLSON WILLIAM E	CARLSON MELANIE C	2900 MEADOW CREEK LN	MONROE	NC	28110
09105173	GREENBERG-BARTLES INVESTMENTS		1718 MEDLIN RD	MONROE	NC	28112
09105042	GREENBERG-BARTLES INVESTMENTS		1718 MEDLIN RD	MONROE	NC	28112
09105046	PRESLEY JOHNNY RAY	PRESLEY PATRICIA	2903 MEADOW CREEK LN	MONROE	NC	28110
09189133	COBBS LLOYD TRUSTEE ET AL		2004 PLANTERS KNOLL DR	MONROE	NC	28110
09105004	GREENBERG-BARTLES INVESTMENTS		1718 MEDLIN RD	MONROE	NC	28112
09105045	PEET WILFRED D V	THAYER SANDRA B	2906 MEADOW CREEK LN	MONROE	NC	28110



REVISED STAFF REPORT

Case # PLZNA 2024-00106

TO: Board of Adjustment Members

DATE: November 30, 2023

FROM: Doug Britt, Senior Planner

SUBJECT: Variance Request by James Rucker for property located at 1600 Lynn Street

SUMMARY STATEMENT

James Rucker is requesting a variance to modify the minimum lot size for car, boat, other vehicle sales and rental establishments in order to operate a vehicle sales lot at 1600 Lynn Street.

SITE DATA

Type of Action: Variance

Date of Petition: November 1, 2023

Name of Petitioner: James Rucker

Location: 1600 Lynn Street

Tax ID #: 09-188-105

Lot Size: 0.37 Acres

Current Zoning Classification: GB (General Business) Zoning District

REVIEW

Proposed Findings:

1. The property located at 1600 Lynn Street is owned by Melissa Plyler and is zoned GB (General Business). (Exhibit 1, 2 and 3)
2. In July 2023, a change of occupancy application was submitted in order locate an e-commerce car sales business at 1600 Lynn Street that listed the applicant as James Rucker of JR Elite Transport 2 U, LLC. (Exhibit 4)

3. The permit was approved by Planning staff on July 31, 2023 with condition that stated “Approval is for online sales only. No vehicles can be sold, serviced or repaired on site.”
4. The Unified Development Ordinance (UDO) Section 7.2.6 entitled “Commercial Uses” states in relevant parts (Exhibit 5):

P. Car, Boat, Other Vehicle Sales & Rentals

4. Use Standards.
 - a. Minimum lot size for car, boat, other vehicle sales and rental establishments shall be two (2) acres.
5. The subject property is a total of .37 acres. (Exhibit 6)
6. On October 31, 2023, the applicant submitted a variance application in order to request a variance to the minimum lot size requirement for an automotive sales lot. (Exhibit 7)
7. All adjacent property owners have been notified of the proposed variance. (Exhibit 8 and 9)

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 2024-00106 be (**approved/denied**).

Exhibits:
Exhibit 1: Ortho Map
Exhibit 2: Zoning Map
Exhibit 3: Deed to Property

Exhibit 4: Change of Occupancy
Application
Exhibit 5: Ordinance Excerpt 7.2.6 P
Exhibit 6: Parcel Report
Exhibit 7 Variance Application
Exhibit 8: APO List
Exhibit 9: APO Map

Prepared by: DB 11-13-2023



Ortho Map

1600 Lynn Street

Legend

- Centerlines
- Parcels

 Subject Property

Owner: Melissa Plyler



EXHIBIT 1

Zoning Map

1600 Lynn Street

Legend

— Centerlines

▭ Parcels

Zoning_091321

CD

GI

GB

★ Subject Property

Owner: Melissa Plyler



EXHIBIT 2

LYNN ST

WALKUP AVE

FILED
UNION COUNTY, NC
CRYSTAL D. GILLIARD
REGISTER OF DEEDS
FILED Mar 14, 2019
AT 01:49 pm
BOOK 07329
START PAGE 0498
END PAGE 0499
INSTRUMENT # 06365
EXCISE TAX (None)
CG

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax:\$0.00 Transfer
Parcel Identifier No.09-188-105 Verified by _____ County on the ____ day of _____, 20____
By: _____

Mail/Box to: Grantee
This instrument was prepared by: Grantee *Melissa M. Plyler*
Brief description for the Index:0.37 acres Lynn Street

THIS DEED made this _____ day of _____, 2019, by and between	
GRANTOR	GRANTEE
Terry M. Richardson, Widow	Melissa M. Plyler, Married
Mailing Address: 5608 Lancaster Hwy. Monroe, NC 28112	Mailing Address: 4808 Old Highway Road Monroe, NC 28112

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, parcel of land or condominium unit situated in the City of Monroe, Union County, North Carolina and more particularly described as follows:

BEGINNING at an iron on the South side of Nash Street, said point being located North 58 deg. 5 min. East 277.9 feet from a ten inch (10") steel post marking the intersection of the East right of way line of U.S. Highway #74 and the South side of said Nash Street and running thence with the South side of said Nash Street, North 58 deg. 5 min. East 211.1 feet to an iron stake in the center of a 30 foot street, corner of the M & H Building Materials, Inc., property and running thence with the center of said street and with said M. & H. property line, South 29 deg. 50 min. East 69.9 feet; thence South 51 deg. 30 min. West 199.7 feet to an iron stake; thence with a line of the S. P. Helms property, North 38 deg. 10 min. West 93 feet to the BEGINNING corner and containing 37/100 of an acre, according to survey and map by Ralph W. Elliott, R.L.S., dated August 27, 1962.

Also described as: That certain tract containing 0.37 of an acre, more or less, on Lynn Street as more fully described in Deed recorded in Deed Book 333, Page 203, Union County Registry.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 333 page 203 and Book 468, Page 822.
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, other than the following exceptions:

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

(Entity Name)

Terry M. Richardson (SEAL)
Print/Type Name: **Terry M. Richardson**

By: _____

(SEAL)

Print/Type Name & Title: _____

Print/Type Name: _____

By: _____

(SEAL)

Print/Type Name & Title: _____

Print/Type Name: _____

By: _____

(SEAL)

Print/Type Name & Title: _____

Print/Type Name: _____

State of North Carolina - County or City of Union
I, the undersigned Notary Public of the County or City of Union and State aforesaid, certify that Terry M. Richardson personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 12 day of March, 2019
My Commission Expires: 11-13-2019
(Affix Seal)



TAMMY PURSER GODFREY
Notary Public, North Carolina
Union County
My Commission Expires
November 13, 2019

Tammy Purser Godfrey
Notary's Printed or Typed Name

State of _____ - County of _____
I, the undersigned Notary Public of the County of _____ and State aforesaid, certify that Terry M. Richardson personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this _____ day of _____, 2019.
My Commission Expires: _____
(Affix Seal)

Notary Public

Notary's Printed or Typed Name



Submittal Date: _____
Permit #: _____
Parcel #: _____ - _____ - _____
Copy of I.D.: _____ yes _____ no

Change of Occupancy

Address: 1600 Lynn Street Monroe, NC 28110

Detailed Proposed Use of the Property: E-commerce car sales

Previous Use of the Property: Car dealership Date previous use ceased _____

New Business Name: JR Elite Transport 2 U LLC Business Phone #: 704-431-8222

Will your business be serving alcohol No providing any live entertainment No

Are you serving or selling any food No If so, please attach menu.

Will your business sponsor any type of gaming whether chance or skill based (electronic, internet, sweepstakes, bingo, or video poker) No

If so, explain N/A

Will your business be providing massage therapy No (must provide copy of NC state license)

How many people will you be expecting in the building at one time 3-4

Will you have any business partner's No If so, all partners must sign the applications.

Will there be any renovations or modifications to the building or tenant space? No

Applicant's Name: James Rucker Telephone #: 502-298-631

Applicant's Address: 1705 Jekyll Lane Waxhaw, NC 28173 Fax #: _____

E-Mail Address: contact@jrconsultants.info

I hereby certify that the information provided hereon is, to the best of my knowledge, correct and complete. I understand that providing false or incomplete information or violating an approved zoning permit may be grounds for revocation of the permit and any associated building permit.

Applicant's Signature

Date

EXHIBIT 4

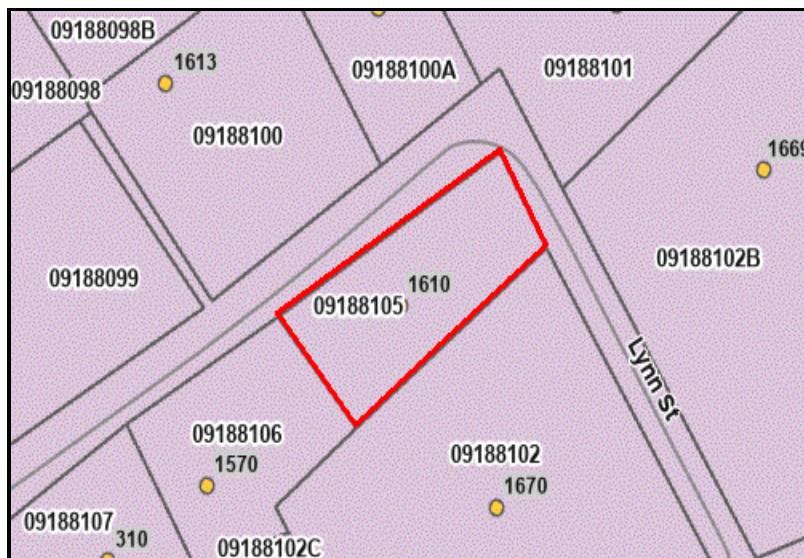
Revised 5/2017

P. Car, Boat, Other Vehicle Sales & Rentals

1. Characteristics. Establishments that are involved with the sale or lease of motor vehicles (including but not limited to cars and boats), renting of motor vehicles, and display of these motor vehicles.
2. Accessory Uses. Accessory uses may include ancillary indoor storage, associated office, showroom, vehicle fueling (for vehicles for sale or lease, not open to the general public), car wash (for vehicles for sale or lease, not open to the general public), and limited retail sales of items associated with motor vehicles.
3. Examples. Examples include but are not limited to car dealerships, boat dealerships, motor vehicle dealerships dealing in recreational vehicles, car rental establishments, moving vehicle rental establishments.
4. Use Standards.
 - a. Minimum lot size for car, boat, other vehicle sales and rental establishments shall be two (2) acres.

Parcel Number

09188105

OwnerPLYLER
MELISSA M**Mailing Address**4808 OLD HIGHWAY RD
MONROE
NC, 28112**Account Information**

Land Value \$40,700.00

Building Value \$43,200.00

Total Value \$83,900.00

Acreage 0.3700

Description 7329-498

Situs Address 1610 LYNN ST

Property Class COMMERCIAL

Sales Information

Sale Date	Sale Amount	Book & Page	Grantor
03/14/2019	\$0.00	7329 498	RICHARDSON, TERRY MULLIS
07/20/2016	\$0.00	W16E 0677	RICHARDSON CARROLL DOUGLAS HEIRS
07/20/2016	\$0.00	W16E 0677	RICHARDSON CARROLL DOUGLAS HEIRS

Location Information

Municipal Administration Monroe

County Zoning Code CITY

Zoning Administration Monroe

ETJ

Fire District Monroe

Soils BuB

12 Mile Service Area No

School [School Assignment Information](#)

Census Tract Number 206.01

FEMA Panel 5445

FEMA Zone

Building Information [View Real Property Site](#)

Total Living Area 00

Year Build 0

District Voting Assignments (Jurisdictions)

Polling Place	SUTTON PARK RECREATION CENTER	School District	1	Congressional District	9
Precinct District	#4	State House	55	Senate District	35

Exhibit 6



City of Monroe Variance Application Form

Applicant's Name: James Rucker

Applicant's Address: 1705 Jekyll Lane Waxhaw, NC 28173

Property Owner's Name: Melissa Plyler

Property Owner's Address: 4808 Old Hwy Road Monroe, NC 28112

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

Legal Relationship of Applicant to Property Owner: Landlord/Tenant

Contact Person Name and Phone Number: James Rucker 704-431-8222

Existing Use of Property: E-commerce car sales

Property Location: 1600 Lynn Street Waxhaw, NC 28110

Tax Map Number: 09 - 1881 - 05 Lot Size: 0.3700 acre Zoning District: GB- General Business

Ordinance section number to which a variance is being sought. 7.2.6 Commercial Uses (P)

Proposed variance description: Allow JR Elite Transport 2 U LLC to operate as an auto dealership at 1600 Lynn Street Monroe, NC 28110 waiving the minimum 2-acre requirement.

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.]

Exhibit 7

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]

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]

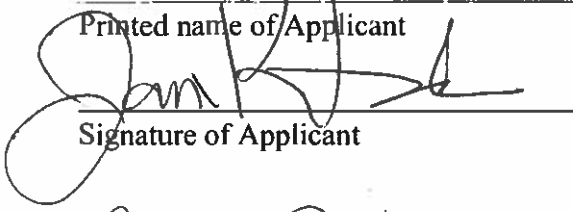
4. **The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

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.

James Rucker, Owner of JR Elite Transport 2 U LLC

Printed name of Applicant



Signature of Applicant

10-31-2023

Date

Melissa Plyler

City of Monroe Variance Application Form

1. JR Elite Transport 2 U LLC is permitted to run as an independent auto dealership at the property listed above, 1600 Lynn Street in Monroe, NC 28110 per the North Carolina State Department of Motor Vehicles. According to the City of Monroe Table of Permissible Uses, vehicle sales are permitted under GB- General Business. However, per the City of Monroe UDO 7.2.6 Commercial Uses section P, an auto dealership must have at minimum 2-acres. JR Elite Transport 2 U LLC runs as an e-commerce dealership where there is no need for the space like a traditional dealership.

2. The property previously housed an auto dealership and there are two other dealerships within a 1/4-mile radius of 1600 Lynn Street Monroe, NC 28110. The surrounding eight businesses are all vehicle-related businesses that complement JR Elite Transport 2 U LLC.

3. The variance request is not due to any actions taken by the business owner (Plyler) or tenant (JR Elite Transport 2 U LLC). We as a small business owner understand that this variance being approved does not negate us from any other regulations that are set forth in the UDO. Per the neighboring businesses, granting the variance will not affect their business in any way.

4. Granting a variance for the property in question would not affect the spirit, purpose and intent of the ordinance in any way. The business that will occupy this property, JR Elite Transport 2 U LLC, will not affect public safety and there will be no decreased attention to the value or upkeep of the property. As a small business owner in the City of Monroe we are eager to get business up and going so that we can contribute to the City of Monroe and give back to the community.

Printed name of Owner

Nelson Bluf

Signature of Owner

Oct 31 2023

Date

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

FOR STAFF USE ONLY

(PLEASE DO NOT WRITE BELOW THIS LINE)

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

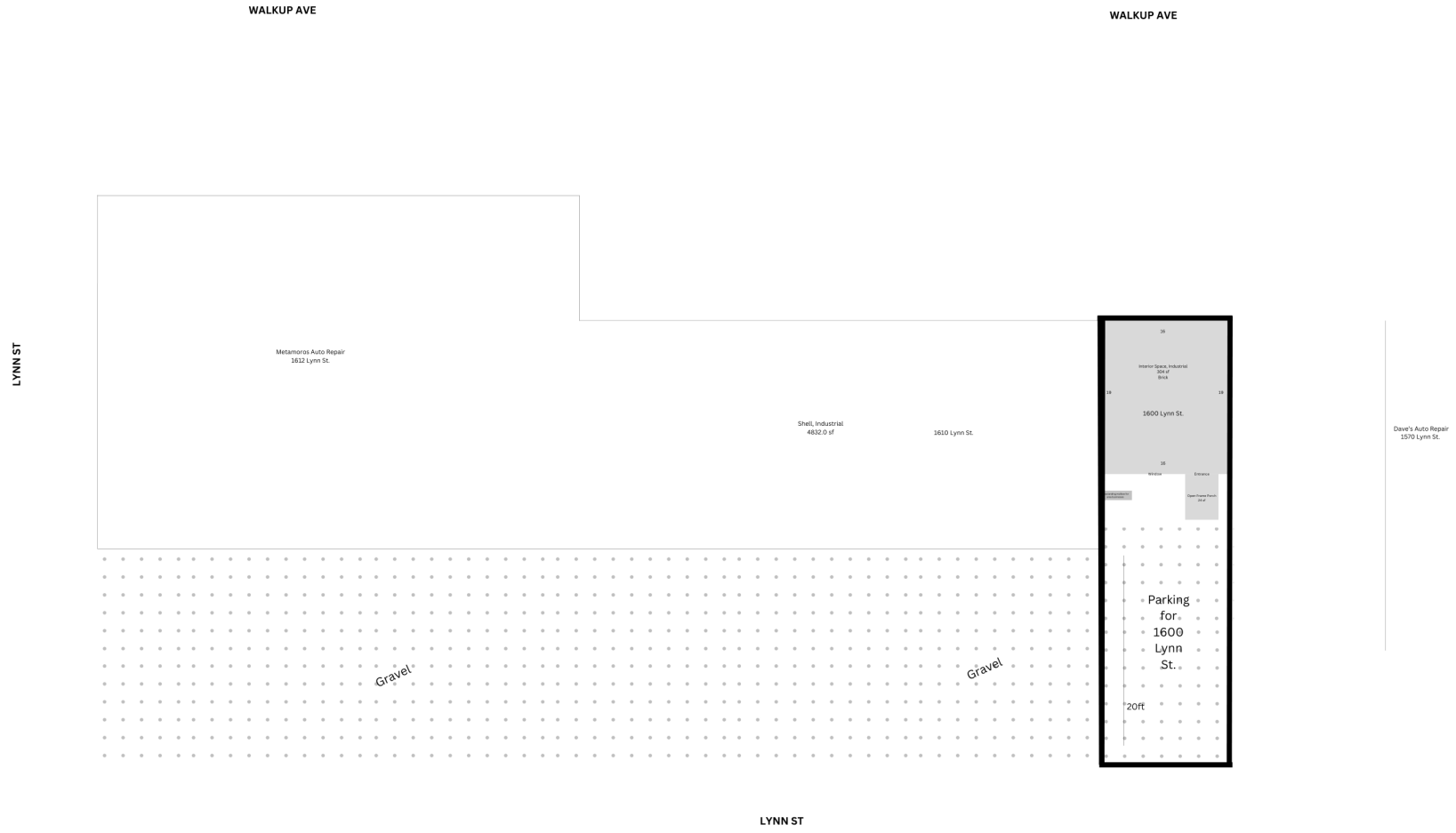
Adjoining property owner's information attached: Yes _____ No _____

Public hearing date: _____

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

Action taken by the Board of Adjustment: _____

Notification of Action Mailed to applicant on: _____



1600 Lynn Street Monroe, NC 28110 (Outlined in bold)
No proposed changes to any structures, outside elements
or parking
Parcel Number: 09188105
Class: 12 - COMMERCIAL
Zone: GB - General Business

APO Map

1600 Lynn Street

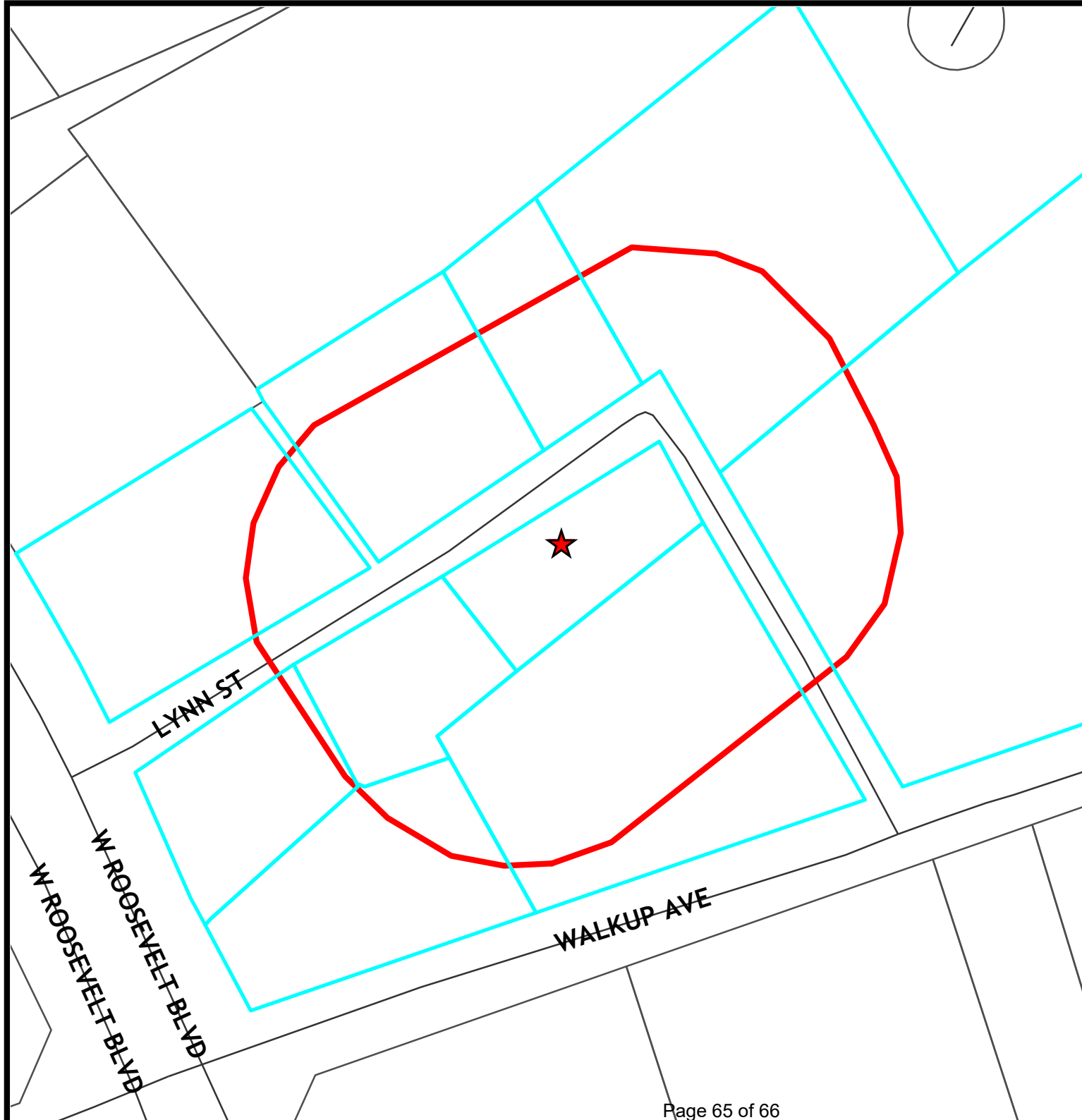
Legend

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

Owner: Melissa Plyler



EXHIBIT 8



ACCTNO	OWNERNAME1	OWNERADDRE	CITY	STATE	ZIP
09188099	Z V PATE INCORPORATED	PO BOX 159	LAUREL HILL	NC	28351
09188100	WIGGINS CLARA P	408 W ROOSEVELT BLVD	MONROE	NC	28110
09188100A	WIGGINS CLARA P	408 W ROOSEVELT BLVD	MONROE	NC	28110
09188101	CCC OF UNION LLC	3219 DUCK POINT DR	MONROE	NC	28110
09188102	TUCKER DAVID N	PO BOX 2066	MONROE	NC	28111
09188102B	SOUTH CENTRAL OIL CO INC #804	2121 WEST MAIN ST	ALBEMARLE	NC	28001
09188102C	TUCKER DAVID	PO BOX 2066	MONROE	NC	28111
09188105	PLYLER MELISSA M	4808 OLD HIGHWAY RD	MONROE	NC	28112
09188106	YOUNCE JEFFREY KEVIN TRUSTEE	5422 SUGAR AND WINE RD	MONROE	NC	28110
09188107	KALTSOUNIS SPIRYDON	314 ABELLIA DR	WAXHAW	NC	28173

Exhibit 9