

**BOARD OF ADJUSTMENT
MEETING
THURSDAY, MARCH 28, 2024
6:00 PM
Council Chambers
300 West Crowell Street
Monroe NC**

AGENDA

- Item 1.** **Call to Order**
- Item 2.** **Pledge of Allegiance and Moment of Silence**
- Item 3.** **Approval of Minutes: February 22, 2024**
- Item 4.** **Conflicts of Interest:**
- Item 5.** **Quasi-Judicial Statement:**
- Item 6.** **PLSUP- 2024-00156 Special Use Permit-The Board of Adjustment is requested to consider a Special Use Permit request from John Masset of Cutting Edge Landscaping to conduct warehouse storage at 411 East Windsor Street. (Parcel ID # 09-231-028A)**
- Item 7.** **PLZNA-2024-00155 Variance- The Board of Adjustment is requested to consider a variance request from Jose Delgado to bring an accessory structure into compliance that was installed at 321 East Sunset Drive. (Parcel ID# 09-234-050)**
- Item 8.** **PLSUP- 2024-00172 Special Use Permit-The Board of Adjustment is requested to consider a Special Use Permit request from Scott Clark, Director of the Water Resources for the City of Monroe to install a water tower south of the East Sunset Drive and Charles Street intersection. (Parcel ID # 09-237-001)**
- Item 9.** **Next Meeting: April 25, 2024**
- Item 10.** **Adjournment**

Attention: BOARD MEMBERS:

Please call Maryann Brown at 704.282.4527 to confirm your attendance. Thank you!

***cc: Mujeeb Shah-Khan
 Ashley Duncan
 Doug Britt
 Keri Hutchins***

MINUTES OF THE BOARD OF ADJUSTMENT MEETING

February 22, 2024, at 6:00 P.M.

Council Chambers

300 W. Crowell St.

Monroe, NC

To HR: 2/27/2024

Item 1. Call to Order

Chair, Kenneth Deal called the February 22, 2024, meeting to order at 6:12 p.m. and noted that there was a quorum present with 3 members. Ashlyn Penegar, Administrative Assistant, called the roll.

Members Present: Kenneth Deal, Louis Philippi and George Smith

Members Absent: None

Staff Present: Doug Britt, Senior Planner; Patrick Blaszyk; Al Benshoff, BOA Attorney; Ashlyn Penegar, Administrative Assistant II

Guests: Beth and Steve Frye, Mike Stewart, Ronald Reynoso, Corey Noland, Kyle Moore, Tina Helms Johnson and Robb Johnson

Item 2. Pledge of Allegiance and Moment of Silence

Item 3. Approval of Minutes – Minutes of January 25, 2024

Chair asked has all Board members had a chance to review the minutes?

George Smith said yes.

Chair asked are there are corrections or omission that you noticed?

There were none.

Motion: **Louis Philippi made a motion to approve the minutes of the January 25, 2024, meeting.**

Second: **George Smith**

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

AYES: **Kenneth Deal, Louis Philippi and George Smith**

NAYS: **None**

Item 4. **Conflicts of Interest**

Chair asked if there were any conflicts of interest?

There were none.

Item 5. **Quasi-Judicial Statement:**

Al Benshoff said this is for the audience and it is a brief explanation of what the Board of Adjustment does. 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.

Item 6. **PLZNA- 2024-00146 Variance-The Board of Adjustment is requested to consider a variance request from Michael Stewart to modify the minimum lot size for car, boat, other vehicle sales and rental establishments in order to operate a vehicle sales lot at 1610 Lynn Street. (Parcel ID # 09-188-105)**

Chair said if anyone is giving testimony for this matter, please step forward to be sworn in. Patrick Blaszyk, Doug Britt and Michael Stewart approached the podium and were sworn/affirmed in by the Chair.

Patrick Blaszyk said tonight, I am here to present a Variance request for 1610 Lynn Drive in which the applicant is looking to modify the minimum lot size for a car lot.

Proposed Findings:

1. The property located at 1610 Lynn Street is owned by Melissa Plyler and is zoned GB (General Business). (Exhibit 1, 2 & 3)

2. The Unified Development Ordinance (UDO) Section 7.2.6 entitled “Commercial Uses” states in relevant parts (Exhibit 4):

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.
3. The subject property is a total of .37 acres. (Exhibit 5)
4. On January 22, 2024, the applicant submitted a variance application in order to request a variance of the minimum lot size requirement for an automotive sales lot. (Exhibit 6)

Patrick Blaszyk said I also just would like to add that the applicant is currently operating an auto repair at this location and what their eventual goal is, is to be able to do is repair and sell the vehicles that they have repaired. I just wanted to make that clear. Their intent is to do 2-3 a month, is what my understanding is and I think that is also listed in the application. I just wanted to add that detail as well.

5. The applicant submitted a site plan of the existing layout of 1610 Lynn Street. (Exhibit 7)
6. All adjacent property owners have been notified of the proposed variance. (Exhibit 8 & 9)

Patrick Blaszyk said this concludes my presentation at this time. Please let me know if you have any questions for me or the applicant, who is here as well.

Chair asked was the application for the variance application submitted accurately and complete and accepted by the Planning Department?

Patrick Blaszyk said it was.

Chair asked are there any questions from any other Board members?

Al Benshoff asked to have the site plan loaded back up on the screen and asked is this a site plan that is required by the Planning Department to establish this use?

Patrick Blaszyk said yes and the applicant also willingly gave this, but often times the site plan is recommended to be helpful in proving what they are trying to get across here.

Al Benshoff said right, but if someone came in and if it was a permitted use and it was a 2-acre lot size and they didn't need a variance. Would they need site plan approval to get a zoning permit?

Patrick Blaszyk said yes, because sometimes we need to review other zoning aspects that could go along with that site plan.

Al Benshoff said if that's true, is this a complete site plan?

Doug Britt approached the podium and said if it's a by right use, a site plan would not be required. Since this is an existing site, what they would be required to do while going through the permit process, they will have to do a floor plan showing the interior layout of the site and make sure that they meet building code. But, from a Planning standpoint, we look at it from the aerial map, since it's an existing building and they aren't adding anything new, we wouldn't not require a new site plan for an existing location.

Al Benshoff asked is parking required for this use?

Doug Britt said parking is required and for this type of use, I think it's a minimum of 2 and a half spaces per thousand. I think this one would require approximately 4 spaces.

Al Benshoff asked 2 and a half spaces per thousand or ten thousand?

Doug Britt said thousand. This unit is approximately 1,700 square feet and it has a roll up door inside, so we would allow them to have 1 interior space and 3 exterior spaces.

Al Benshoff asked what is the variance requested?

Doug Britt said the variance request is to deviate from the required lot size to allow automobile sales, which requires 2 acres, as outlined in the Staff Report.

Al Benshoff said he's got 1,700 square feet...

Doug Britt said the 1,700 square feet for the building, but the variance request is based on the lot size. The lot size of the parcel is less than 2 acres, so that's why the request for the variance.

Al Benshoff asked that's another question, who's lot? Because it looks like his lot is 16,239 square feet.

Doug Britt said the property owners lot. That's not a lot, that's just the building, but there are 3 addresses on this same parcel, but it's all one parcel. The way the ordinance reads is you are required to have retail sales vehicles or rental is required to have a minimum of 2-acre lot size. This whole entire parcel is less than 2 acres.

Patrick Blaszyk said its 0.37 acres.

Chair said there is already two other uses on it.

Doug Britt said right and there are plenty of building that have multiple uses on them. Again, this is the parcel in question and how it exists is that this is the entire parcel, his unit space is the

portion in the middle. Again, the parcel itself is 0.38 acres and the parcel itself is defined by the blue line that is outlined.

Al Benshoff said when you go out to see if three to four parking spaces are there, what do you check?

Doug Britt said there's not site spaces, but there's space in front of there that will accommodate 4 vehicles and one space in the building.

Al Benshoff said then it would go to the size of the applicants lease hold. Right?

Doug Britt said I cannot speak on that. Again, the variance is for the overall size of the property, not the tenant space.

Al Benshoff said I understand that, but the tenants space is necessary to do the parking calculation, but the parking isn't shown. In my mind, there is an open question as to whether another variance is needed.

Doug Britt said on the previous case we did, it didn't come up as far as other than there were a few spaces out there, so there is available parking out there, like I said. We aren't going to make someone re-stripe the whole entire parking lot, if it's a change of use. Again, there is a roll up door in the one area and there is room for 3 spaces in this other area.

Al Benshoff said thank you for the explanation.

Doug Britt said thank you for the question.

Chair asked are there any other questions for Staff?

George Smith asked was this on another site where the owner owned 2 acres and there were 7 businesses there already?

Doug Britt said if the property was 2 acres or greater, they can operate a car lot.

George Smith asked if it doesn't matter how many other businesses?

Doug Britt said when you go to Wal-Mart or Target, there's multiple properties on a parcel, so yes.

Chair said it would be up to the property owner at that point.

Louis Philippi said I drove up there today and if I got the right building, which I think I did, there were 4 vehicles parked out in the front and it's an auto repair shop. As I would've guessed, there was sufficient distance between the vehicles and I thought you could have put 5 spots up there. There is also no parking on the street whatsoever so whatever you are going to be doing, it will be in that lot only, correct?

Patrick Blaszyk said yes.

Louis Philippi said thank you.

Chair asked would the applicant like to come forward? Mr. Stewart?

Mike Stewart approached the podium and said I don't think it makes any difference possibly on the area that I lease is actually 1,500 square feet, not 1,700 square feet. The small office on the bottom left, I think the Board will remember was approved for an identical variance at the November meeting.

Chair said it's not identical by any means, it's not an identical purpose. The building on the end that was approved previously was for an internet sales operation with no allowance for onsite vehicles.

Mr. Stewart said I see, I apologize.

Chair said if he goes out and purchases vehicles for clients and the only time the vehicle is present on the lot is during the physical turnover. So, we are talking a matter of minutes or hours, if that. His primary, daily operation is to operate his internet sales business. So, it's a very different type of business, so let's focus on your particular business. Tell us what you are trying to do.

Mr. Stewart said we normally have 4 vehicles outside, just this afternoon, I put 5. We park at least 3-4 inside, but I don't think I have anything further to add.

Chair asked is yours a new business?

Mr. Stewart said yes, we began last year in April.

Chair asked you basically purchase damaged vehicles and you're fixing them up for resale?

Mr. Stewart said that is what my business model was. But, I am not able to do that, because I cannot become a dealer without the correct zoning of this building.

Chair said you cannot get your license from the state without a variance, correct?

Mr. Stewart said yes, so I had to change my business model to something that I didn't want to do. I have to do repairs on vehicles instead of purchasing them.

Louis Philippi asked your intention is to go from repair only to go into repairing and selling only? Whereas if I had wrecked my car or something, you can fix my car for me, the answer would be no. All you do is buy cars and fix them and sell them?

Mr. Stewart said no, I would open to that.

Louis Philippi asked it would be a combination of both?

Mr. Stewart said yes.

Louis Philippi said from looking at that building, there's no parking on the street, if you have more cars that wouldn't fit in the building, then you would have to take one to your house. Thank you, sir.

Chair asked do we have any more questions for the applicant?

George Smith said I have one more question, you said four to five cars maximum that you can handle in the queue for the business model.

Mr. Stewart said yes, my intention is to sell two to three a month, but obviously some would be in process.

George Smith asked, the total amount in process would be four to five? No more?

Mr. Stewart said we can fit four inside and then four to five outside.

George Smith said ok and asked is that a total of four or eight?

Mr. Stewart said eight at any one time.

Chair said part of our issue here Mr. Stewart is that we have to look for a legal reason to approve a variance to a standard that's set for the GB district under the Unified Development Ordinance, which is to sell vehicles, you need a two-acre lot. I'm having difficulty seeing what your legal basis for your petition is. I understand your desire, certainly. But, we can't make legal rulings on desires and opinions. We need some sort of a factual basis to establish that. Because of the type of business on the other account that you mentioned, his business license, like your business license, relied on him being allowed to conduct that business without having the capacity for a 2-acre lot, even though he didn't need any acres to have his business, in order to meet state law. In your case, you actually want to have onsite vehicles that are for sale, that you have repaired, which is something that he was very specifically told he couldn't do, because that went too far outside of the ordinance. The burden here is not on us or the City, it's on you to show a legal basis as to why we should wave that two-acre rule to support your business model. I'm trying to help you understand what you need to bring to a variance hearing in order to get approval. We are very pro-business and pro resident in the way we want to rule, but we can't just do it because it feels good. We have to have a legal basis to do that.

Mr. Stewart said I understood the purpose of the variance like this one, because of the hardship.

Chair said there is no hardship. This is something that you want to do, that's not a hardship. That may not let you fulfill your dreams, but you rented a piece of property that had very obvious

limitations when you went in there, you are changing your business model from a repair shop to a repair and sale shop.

Mr. Stewart said I always intended to be a repair and sale, I've never intended to be anything else. The business for what I'm intending is absolutely perfect for what I want to do.

George Smith said its more of a compliance issue. We have an ordinance and we have no reason that it should be approved based on the evidence given.

Chair said we are struggling trying to figure out a way to help you here, but I'm coming up short.

Mr. Stewart asked what is the need for two acres?

Louis Philippi asked can I ask a question on the possibility of this? If he had the location of the sales business at a different location and he had all the stuff there and acted as an agent for the area, would that give him the freedom to do that?

Chair said I think we are stretching beyond our legal limits there.

Al Benshoff said Mr. Philippi, I would say the Chair asked for a statement on the hardship, we haven't heard one yet. If you look at the application, which asks for a list of the hardships, we essentially have a statement that the ordinance is unfair and that maybe so, but writing and adopting the ordinance is not in the purview of the Board of Adjustment.

Board discusses.

George Smith said if they owned the whole lot, there would be no reason for the variance, but since it's such a small portion.

Chair asked do you have anything to add Mr. Stewart?

Mr. Stewart said no, I do not.

Chair said thank you, sir and asked the Board members if there were any discussions.

Chair said the first item is that Staff has presented 6 Findings of Fact, I would entertain a motion whether to accept, modify or reject any of the Findings of Fact submitted by Staff.

Motion:	George Smith made a motion to approve the Findings of Fact 1-6.
Second:	Louis Philippi
Action:	The motion to approve the Findings of Fact 1-6 passed unanimously with the following votes:
AYES:	Kenneth Deal, Louis Philippi and George Smith
NAYS:	None

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

Motion: George Smith made a motion that an unnecessary hardship would not result from the strict application of the ordinance.

Second: Louis Philippi

Action: The motion passed unanimously with the following votes.

AYES: Kenneth Deal, Louis Philippi 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 based on the property size and the fact that the property is shared by three separate business and is significantly short of the minimum lot size requirement in the ordinance.

Second: Louis Philippi

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, Louis Philippi and George Smith

NAYS: None

3. It is the Board's CONCLUSION, that the hardship is the result of the applicant's own actions.

Motion: George Smith made a motion that the hardship is the result of the applicants own actions because the applicant rented a property that's does not support the business model that he wishes, based on the limitations of the Unified Development Ordinance.

Second: Louis Philippi

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, Louis Philippi and George Smith

NAYS: None

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

Motion: Louis Philippi made a motion that the variance is not consistent with the spirit, purpose, and intent of the ordinance.

Second: George Smith

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, Louis Philippi and George Smith
NAYS: None

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

Motion: George Smith made a motion that in denying the variance, public safety will be secured and substantial justice will be achieved.
Second: Louis Philippi
Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, Louis Philippi and George Smith
NAYS: None

Chair said at this point, I will accept a motion to either approve or deny the variance request.

Motion: Louis Philippi made a motion to deny the variance request.
Second: George Smith
Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, Louis Philippi and George Smith
NAYS: None

Chair said based on the 4 questions, answers and motions, the request for a variance is denied.

Item 7. PLZNA-2024-00148 Variance- The Board of Adjustment is requested to consider a variance request from Ronald Reynoso, of Shining Light Baptist Church, to modify the required perimeter buffer along the left and rear property lines to allow for a new educational building to be constructed at 2601 Old Charlotte Highway. (Parcel ID# 09-301-242)

Chair said if anyone is giving testimony for this matter, please step forward to be sworn in.

Al Benshoff said let me remind the audience, if you are not sworn, you cannot speak.

Audience member asked even to ask a question? That's why we are here, to find out if, what and when, that's our thing. So, we can't ask a question?

Board discusses.

Audience member said I want to be able to say something, if I need to.

Chair said I will allow questions, as long as there isn't testimony following the questions.

Audience member said I will be glad to be sworn, if I can say something.

Chair said I prefer that you be sworn if you are going on the record to say anything.

Patrick Blaszyk, Doug Britt, Ronald Reynoso, Beth Frye and Steve Frye approached the podium and were sworn in by the Chair.

Patrick Blaszyk said tonight, I am here to present a Variance request for 2601 Old Charlotte Highway to modify the required perimeter buffer along the left and rear property lines to allow for a new educational building.

Proposed Findings:

1. The property located at 2601 Old Charlotte Highway is owned by Larry Adams and Wayne Thompson as Trustees of Shining Light Baptist Church and their successors in office and is zoned NB (Neighborhood Business). (Exhibit 1, 2 & 3)
2. On February 6, 2024, the applicant submitted a variance application in order to request a variance from Section 8.3.5 titled Perimeter Buffer Standards of the Unified Development Ordinance (UDO) to reduce the Type 3, 25-foot perimeter buffer to a 10-foot buffer with landscaping and fencing along the left and rear property lines in order to construct a new educational building. (Exhibit 4)
3. The Unified Development Ordinance (UDO) Section 8.3.5 entitled “Perimeter Buffer Standards” identifies the buffer types in Table 8.3.1, “Perimeter Buffer Types Table”. This property is required to provide a 25-foot landscape buffer per the ordinance. (Exhibit 5)
4. The applicant submitted a sketch plan of the site with the proposed 10-foot buffer at 2601 Old Charlotte Highway. (Exhibit 6)
5. All adjacent property owners have been notified of the proposed variance. (Exhibit 7 & 8)

Patrick Blaszyk said this concludes my presentation at this time. Please let me know if you have any questions for me or the applicant, who is here as well.

Chair asked was the application for the variance application submitted accurately and complete and accepted by the Planning Department?

Patrick Blaszyk said it was.

Chair said I have one quick question and asked, the intent is to take the existing building down and construct a new?

Patrick Blaszyk said yes, to construct a new educational building.

Chair asked are there any questions for Staff?

Al Benshoff said I have one. Mr. Blaszyk, just to clarify, the variance requested is just 15 feet?

Patrick Blaszyk said yes, what they are looking for is just the 15 feet, to go from the 25 ft. width, to go to the 10 ft. width. But, they are looking to still have the type 3 requirements, they are just looking to scale it into a 10ft. width, as opposed to a 25 ft. width, so yes its 15 ft.

Al Benshoff asked, they aren't asking for a type 1 buffer?

Patrick Blaszyk said no, they aren't.

Al Benshoff asked how do they fit all of the plants into a 10 ft. wide buffer? Maybe that's a question for the applicant.

Patrick Blaszyk said yes.

Chair said that's a good question. Do we have any other questions for Staff? It looks like you have a question Louis.

Louis Philippi said no, I'm just trying to figure out how you can fit that number of plants in the footage.

Chair said ok, thank you. Who is representing the applicant here tonight? Please step forward and state your name and address for the record.

Ronald Reynoso approached the podium and introduced himself. He said I am at 306 S. Westover in Monroe.

Chair said tell us what you want to do here. Are you going to tear this down and build?

Mr. Reynoso said currently, we have a storage building and according to some consultations that we've had with engineers and architects, they've advised that if we proceed with building an educational building, to do away with what we have and construct it anew. That obviously that triggers the UDO for ordinances in place. The plan is for an educational plan to take place of the current storage building.

Chair said I am going to mimic the attorneys question here and add to it. I have a question about the parking, as well as how are you going to meet the other requirements of your buffer and fit the trees and shrubs into that remaining 10 ft. buffer. Three trees, one understory tree, 50 shrubs per 100 lineal ft. and a 6 ft. fence, wall or berm.

Mr. Reynoso said we plan to fit it all in the 10 ft.

Chair asked, you're going to plant all that, as well as put in a 6 ft. fence or wall or berm?

Mr. Reynoso said something inaudible.

Chair said it will be crowded back there. I guess parking will be more of a question for Staff. Is that adequate parking for the size of the building that they want to construct?

Doug Britt said the ordinance allows them to do shared parking. With the amount of parking they have at their facility...

Chair said that's true.

Doug Britt said the ordinance does allow shared parking.

Al Benshoff asked, does the shared parking requirement have a maximum distance? Because most ordinances say that access to off-site parking should be within a certain number of feet.

Doug Britt said it does, I don't remember what ours was. But, we've already looked at this site in preliminary to give them some feedback, so we were satisfied at that time. They haven't submitted for a full-fledged site plan review, but we have had some preliminary discussions about the site.

Chair said thanks, Doug.

George Smith asked with all the land surrounding it, is this the only place that you could fit this?

Mr. Reynoso said well, it's a school. Right behind the property, if you referring to it as the left of the property, we have Dillinger and then right behind that, we have railroad tracks and then behind that, we have all the other property. Currently, on this parcel, that's the only place we could fit.

George Smith asked are you saying that to build on another parcel that you own would be a hardship?

Mr. Reynoso said correct, because it would be beyond the railroad tracks and that would be a hardship.

George Smith said we don't want the kids going back and forth across the railroad tracks.

Chair said the Shining Light Church Road, I know that's your controlled road...

Mr. Reynoso said that's a public road.

Chair said we won't require it or anything like that, but I would suggest that you start negotiating for painting a crosswalk on that road to get from your primary buildings over to your new building, if the variance is approved. Just for safety purposes.

George Smith said, and parking.

Chair said, and access to extra parking. Do we have any other questions?
There were no further questions for the applicant.

Chair asked did any other folks here wish to ask a question? If so, please step to the podium.

Beth Frye approached the podium and introduced herself. She said I live on 2401 Shining Light Church Road. My first question is, is this just the first step? Do they still have other hurdles? Or is this approved if they approve this variance?

Chair asked Doug, do you want to answer that?

Doug Britt said basically this is just to deviate from the ordinance and if this is approved by the Board, then they next step they would need to submit plans for the City to review. So, there will be no other opportunity for public comments. Basically, if its approved, they will submit everything else.

Ms. Frye asked, there won't be anything before City Council?

Doug Britt said no, schools and churches are allowed in this particular zoning district.

Ms. Frye said I understand that and I don't have an issue with that. My issue is the Shining Light Church Road and adding more students and more traffic and the way the church uses that road. I have to drive that road and we all do to come into our neighborhood and during pickup and drop off, it's a parking lot. I don't let my 18-year-old leave to go to school during it because cars stop to let out children, they cross the street and don't look, so you have to creep through there. But, just the way, since the City took over that street, the way it's used. My concern is adding more students, it's just going to be more traffic and more accidents. There's an accident there once a month and there was just one in that location last night. There is no rhyme or reason to entering or exiting the property, so you've got people turning left and right out of four entrances. That's my concern, is just the added traffic with the additional building and the inconvenience. If they use that street as a public street and I've called the traffic division several times for the Monroe Police and the Streets division, they just don't seem to care that it's not used as a public street. That's my concern.

Steve Frye approached the podium and introduced himself. He said I live at 2401 Shining Light Church Road. For the record, I just them to know that I'm coming out against this for the very reason of that. My opinion of this, I'm not against the school, but the building is just a management issue of getting the people in and out. It's chaos in the morning and chaos in the afternoon and in my opinion, it's not safe. The streets aren't lined and there are no crosswalks. Moms and dads are dropping children off at the side of the building with blind spots. In my opinion, it's a very dangerous situation for the young children and children crossing the street, a lot of times, unattended. To be quite frank with you, it's also a hassle for us in the morning and afternoon for 9 months out of the year, it's a parking lot. Thank you for your time.

Chair asked the applicant, do you have anything to say to answer those concerns that the citizens have brought forward?

Mr. Reynoso said as far as the crosswalk, that's something that we would have to look into and forecast the future. We have consulted the City many times about a traffic light and that's something we are looking into again, because of that accident from yesterday that happened after school hours. As far as the drop off, that's something we are consistently working on with parents to make sure that they utilize the gravel parking lot that we have and that's something that we will work more to perfect. But, that's all I have to say.

Chair said I assume the accident problems are trying to turn on to Old Charlotte Highway.

Mr. Reynoso said usually going westbound on Old Charlotte Highway. Left turns.

Chair said thank you, sir. Is Old Charlotte Road, is that a county road or a state road, Doug?

Doug Britt said there's no county roads, there's state roads and city roads and this is a state road. The City has input, but ultimately, it's the DOT's decision if they want to install a signal there.

George Smith asked is that currently an educational building? Are you just wanting to get a bigger one or what?

Patrick Blaszyk said it's a storage building, currently.

George Smith asked, there is no educational building, right now? Do you have educational facilities, currently?

Mr. Reynoso said yes.

Audience member said that building in front of that is an educational building right now.

Mr. Reynoso said the building in question on the application is not, the building in front of that is closer to Old Charlotte is.

George Smith asked, is this going to be a larger building to allow more students?

Chair said you need to stand up to the microphone, so it can be recorded. We have the citizens of Monroe standing in the back, back there that would like to be able to hear.

Mr. Reynoso said the lot size is on the application or the building size is on the application. As far as students, I don't have the number in front of me. There is a formula for that.

Al Benshoff asked can we have the site plan back up? The variance request is just on two sides, on the north side and the west side if I'm reading this correct. Is that correct?

Mr. Reynoso said that is correct.

Al Benshoff asked where is the buffer on the east side? You intend to provide the full 25 ft. buffer on the east side?

Doug Britt said Staff has looked at it, the variance request is for the two sides. They can meet the buffer requirements and it is not 25 feet on all sides.

Al Benshoff said there is no buffer shown on the east side.

Doug Britt said again, this is not a site plan for a development, this is a site plan for you all to consider a variance. The buffer along this property line, because the property in front of this is zoned neighborhood business, that's only a 10 ft. buffer and they can meet the 10 ft. buffer.

Al Benshoff said ok. If this is approved, the variance has to be very clear about what it is.

Doug Britt said that's why when Staff met with him on more than one occasion to figure out what they could not comply with, because we wanted to go one time, if we are going to go. They can meet the buffer requirement here, and then there is a 10 ft. street yard buffer required along Shining Light Drive that they can meet as well. Because the property in front of it is Neighborhood Business, the property to the sides are zoned GI (General Industrial) and that requires a 25 ft. buffer. That's why it's different between this and this right here, because its two different zoning districts. It looks like the building is 66 by 100, so roughly 6,600 square feet.

Steve Frye said there was a question earlier about how many students was this going to bring. But, we never got that answer. I would like to approach it from another direction. So, how many classrooms will you be putting in this educational building? That will probably clarify and give us close to a student count. Thank you.

Mr. Reynoso approached the podium and said roughly 5 classrooms.

Chair asked what is your average class size for your school?

Mr. Reynoso said 20-25 and some are smaller.

Chair asked do we have any other questions?

There were none.

Al Benshoff said Mr. Chairman, before you start the deliberations, this is the part of my job that I don't like. I have to tell you that the state law requires that the impact of increased traffic and traffic safety on the neighborhood must be presented by an expert witness. You've had no expert qualified, so I have to ask you to disregard the testimony on increased traffic and traffic safety in making your decision. In other words, you can consider it, but you cannot base your decision on that testimony.

Chair said noted, the Board will not consider the traffic impacts when making their motions on the questions. Staff has submitted 5 Findings of Fact, do I have a motion to either accept, decline, or amend those Findings of Fact?

Motion: George Smith made a motion to approve the Findings of Fact 1-5.
Second: Louis Philippi
Action: The motion to approve the Findings of Fact 1-7 passed unanimously with the following votes.

AYES: Kenneth Deal, Louis Philippi and George Smith
NAYS: None

1. The Board's CONCLUSION, that unnecessary hardship would not result from the strict application of the ordinance.

Motion: Louis Philippi made a motion that the unnecessary hardship would not result from the strict application of the ordinance because the educational building can be placed elsewhere, with all the property the applicant owns.

George Smith said if we disagree, the motion fails, right?

Louis Philippi said I think that's correct.

George Smith said I would say it would, but since you said it would not, so it fails.

Al Benshoff said we haven't had a second or a vote.

George Smith said I make a motion that it would and he's going to make a motion that it would not, how do we do that?

Chair said first, he made a motion that it would not result and hearing no second, that motion fails.

Motion: George Smith made a motion that the unnecessary hardship would result in the strict application of the ordinance.

Chair said hearing no second, that motion also fails. Herein lies our difficulty of a 3-person board is that there is no way that we can come to a quorum on this question.

George Smith asked can I second his motion and then vote against it? Or does it just fail?

Chair said that might actually work, let's do this. Let's start again with Louis's motion.

Motion: Louis Philippi made a motion that the unnecessary hardship would not result from the strict application of the ordinance because the educational building can be placed elsewhere, with all the property the applicant owns.
Second: Kenneth Deal

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

AYES: **Kenneth Deal and Louis Philippi**

NAYS: **George Smith**

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

George Smith asked if we didn't have a vote on number one, do we even need to go further?

Al Benshoff said if you don't mind, I would like you go through the exercise because if there is an appeal, we will need a full order from this Board.

Motion: **George Smith made a motion that the hardship is not peculiar to the applicant's property because the building could be constructed on other portions of the applicant's property or it could be reduced in size to meet the buffer requirements.**

Second: **Louis Philippi**

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

AYES: **Kenneth Deal, Louis Philippi and George Smith**

NAYS: **None**

3. It is the Board's CONCLUSION, that the hardship is the result of the applicant's own actions.

Motion: **Louis Philippi made a motion that the hardship is the result of the applicants own actions based on his desire to construct a building that's larger than the allowable footprint, which would allow for the required buffers.**

Second: **George Smith**

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

AYES: **Kenneth Deal, Louis Philippi and George Smith**

NAYS: **None**

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

Motion: **Louis Philippi made a motion that the variance is not consistent with the spirit, purpose and intent of the ordinance as the variance request does not comply with the restrictions in the Unified Development Ordinance.**

Second: **George Smith**

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

AYES: **Kenneth Deal, Louis Philippi and George Smith**

NAYS: None

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

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

Second: Louis Philippi

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, Louis Philippi and George Smith

NAYS: None

Chair said therefore, based on the foregoing, the motion to either approve or deny the variance needs to be made.

Motion: George Smith made a motion to deny the variance request.

Second: Louis Philippi

Action: The motion passed unanimously with the following votes:

AYES: Kenneth Deal, Louis Philippi and George Smith

NAYS: None

Chair said the options are to obviously reduce the size of the building for less classrooms to make it a build by right.

Item 8. Next Meeting: March 28, 2024

Chair asked is everyone available on March 28?

There were no conflicts.

Item 10. Adjournment

Motion: Louis Philippi made a motion to adjourn the meeting.

Second: George Smith

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

AYES: Kenneth Deal, Louis Philippi and George Smith

NAYS: None

The meeting was adjourned at 7:27 p.m.

Respectfully submitted,

Kenneth Deal
Chair

Ashlyn Penegar
Clerk of the Board

STAFF REPORT

Case # PLSUP-2024-00156

TO: Board of Adjustment Members

DATE: March 28, 2024

FROM: Doug Britt, Senior Planner

PREPARED BY: Patrick Blaszyk, Planner

SUBJECT: Cutting Edge Landscaping is requesting a Special Use Permit in order to conduct warehouse storage at 411 East Windsor Street.

SUMMARY STATEMENT

John Masset of Cutting Edge Landscaping is requesting a Special Use Permit in order to conduct warehouse storage at 411 East Windsor Street in the General Business (GB) Zoning District.

SITE DATA

Type of Action: Special Use Permit

Date of Petition: February 14, 2024

Name of Petitioner: John Masset

Location: 411 East Windsor Street

Tax ID #: 09-231-028A

Lot Size: 2.64 Acres

Zoning Classification: GB (General Business)

PROPOSED FINDINGS

Proposed Findings:

1. The property located at 411 East Windsor Street is owned International Graphics Technologies Inc, and is zoned GB (General Business). (Exhibit 1, 2, & 3)
2. A Special Use Permit application was submitted on February 14th 2024 by John Masset of Cutting Edge Landscaping, requesting to conduct warehouse storage for their landscaping business at 411 East Windsor Street. (Exhibit 4)

3. Table 7.1. Table of Permissible Uses from the City of Monroe Unified Development Ordinance (UDO) displays that a Special Use Permit is required for Warehouse & Storage in the General Business zoning district. (Exhibit 5)

TABLE 7.1. - TABLE OF PERMISSIBLE USES																	
"P" = Permitted, "S" = Special Use Permit Required, "X" = Prohibited																	
	Traditional Districts											Mixed-Use Districts					
Use Type	RR	RLD	RMD	RHD	OM	NB	GB	GI	HI	PUD	PCD	DC-MX	DG-MX	CC-MX1	CC-MX2	RC-MX	MD-MX
Warehouse & Storage	X	X	X	X	X	X	S	P	P	X	P	X	X	X	X	X	7.2.8.H

4. All adjoining property owners have been notified of the Special Use Permit application. (Exhibit 6 & 7).

CONCLUSIONS

Staff is bringing this request before you tonight for your consideration. **Please see the attached Special Use Permit Worksheet.**

Exhibits:

Exhibit 1: Ortho Map

Exhibit 2: Zoning Map

Exhibit 3: Deed to Property

Exhibit 4: Special Use Permit Application

Exhibit 5: Excerpt from Table 7.1 of UDO

Exhibit 6: - APO Map

Exhibit 7: - APO List

Prepared by: PB 3/13/2024

SPECIAL USE PERMIT WORKSHEET
**TO CONDUCT THE USE OF WAREHOUSE STORAGE AT 411 EAST
WINDSOR STREET**

Before the Board of Adjustment makes a decision concerning the proposed Special Use Permit, they shall consider the following:

I. Completeness of Application:

Staff finds the application to be complete and the jurisdiction proper.

II. Special Use General Standards:

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

Petitioner's Response: The use will not endanger the public health or safety.

☐ Motion standard is met; or

☐ Motion standard is NOT met based on the following findings of fact:

- B. The use or development complies with all regulations and standards of the City of Monroe Zoning Ordinance, as well as any other state or local rule or regulation governing the development of land.*

Petitioner's Response: The use will comply with all regulations and standards of the City of Monroe Zoning Ordinance. The use will comply with state and local regulations.

☐ Motion standard is met; or

☐ Motion standard is NOT met based on the following findings of fact:

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

Petitioner's Response: The use will not impact surrounding property and will in no way injure the value of any adjoining property.

☐ Motion standard is met; or

☐ Motion standard is NOT met based on the following findings of fact:

- D. *The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Monroe Land Development Plan.*

Petitioner's Response: The use will be in harmony with the area in which we will be located.

☐ Motion standard is met; or

☐ Motion standard is NOT met based on the following findings of fact:

III. *Permit Action*

- A. **Motion** to GRANT the special use permit. (*Board of Adjustment may add conditions as deemed necessary*).

OR;

- B. **Motion** to DENY the special use permit based on the finding that general standard(s) _____ above is/are not met.

Ortho Map

Case #: PLSUP-2024-00156

**411 East
Windsor Street**

Legend

-  Subject Property
-  Centerlines
-  Parcels

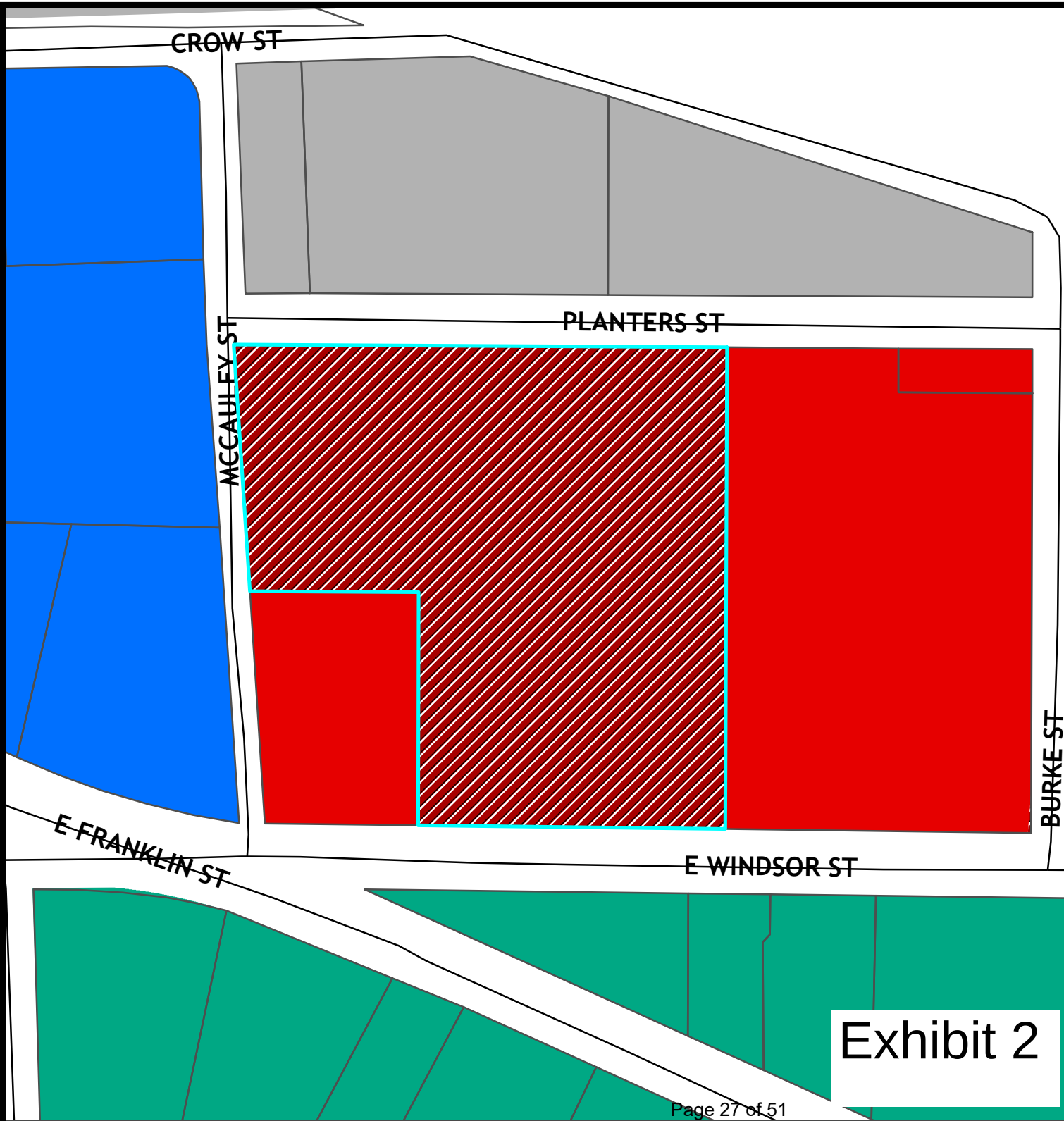
**Owner: International
Graphics Technologies Inc**

2.64 Acres



0 100 200
Feet

Exhibit 1



Zoning Map

Case #: PLSUP-2024-00156

411 East Windsor Street

Legend

-  Subject Property
-  Centerlines
-  Parcels

Zoning Districts

NEW_ZONING

-  DC-MX
-  GI
-  NB
-  GB
-  OM

Owner: International Graphics Technologies Inc

2.64 Acres

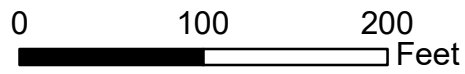


Exhibit 2

FILED
UNION COUNTY, NC
CRYSTAL CRUMP
REGISTER OF DEEDS

FILED Aug 27, 2009
AT 02:47 pm
BOOK 05202
START PAGE 0218
END PAGE 0221
INSTRUMENT # 28380
EXCISE TAX (None)

TAW

TAX PARCEL ID NO:
09-231-028A

NO STAMPS

Cover Page for Deed from
Internal Revenue Service
To
International Graphics Technologies, Inc.

(Please index Grantor as "Internal Revenue Service"
and also as " United States of America")

Return after recording to:
Steven D. Starnes, Attorney at Law

Exhibit 3

Prepared by:
Internal Revenue Service
10715 David Taylor Dr
MB 25
Charlotte, NC 28262

DEED

This deed, made the 21st day of August 2009, between the Advisory Territory Manager, South Atlantic Area, INTERNAL REVENUE SERVICE, Small Business/Self-Employed Division, hereinafter referred to as GRANTOR, and INTERNATIONAL GRAPHICS TECHNOLOGIES, INC., 411 East Windsor Street, Monroe, NC 28112, hereinafter referred to as GRANTEE.

WITNESSETH: That pursuant to the provisions of section 7506(b) of the Internal Revenue Code of 1986, and in consideration of the payment of (TWO HUNDRED FIFTY THOUSAND DOLLARS) (\$250,000.00) cash in hand paid, the GRANTOR does grant and convey unto the GRANTEE the following described property:

BEGINNING at an iron found on the north boundary of the right of way of Windsor Street, a corner of the property of David L. Simpson (89 E 3, Office of Clerk of Superior Court for Union County), and running from the Beginning iron with the Simpson property as follows: (1) North 01 degree 08 minutes 49 seconds East 180.00 feet to a set iron; (2) North 88 degrees 50 minutes 08 seconds West 131.68 feet to a p.k. nail set over an iron found in the edge of the pavement

on the east side of McCauley street; thence generally with the east edge of the pavement of McCauley street, North 02 degrees 18 minutes 12 seconds West 190.51 feet to a p.k. nail set over an iron found 3 feet West of the east edge of the pavement of McCauley street; thence with the southern boundary of the right of way of Planters Drive (said right of way being 40 feet wide) as follows: (1) South 88 degrees 46 minutes 18 seconds East 143.14 feet to a found iron; (2) South 88 degrees 55 minutes 49 seconds East 235.06 feet to a found iron; a corner of the property of Comar Industries (Book 357, Page 548, Union County Registry); thence with the property of Comar Industries as follows: (1) South 00 degrees 59 minutes 55 seconds West 189.96 feet to a found nail; (2) South 00 degrees 48 minutes 03 seconds West 189.22 feet to an iron found on the north boundary of the right of way of Windsor Street; thence with the north boundary of the right of way of Windsor Street as follow: (1) North 89 degrees 21 minutes 37 seconds West 118.66 feet to a found nail; (2) North 88 degrees 58 minutes 24 seconds West 43.02 feet to a point; (3) North 01 degree 08 minutes 49 seconds East 10.00 feet to a point; (4) North 88 degrees 51 minutes 11 seconds West 75.00 feet to the BEGINNING iron, and containing 2.638 acres, more or less, as shown on copy of unrecorded map of survey prepared by Thomas M Park, NCRLS, dated April 14, 1997.

Also all of the right, title and interest and user privilege of party of the first part in and to a spur tract of the CSX Railroad (formerly Seaboard Airline railway) in the City of Monroe, North Carolina, and described by deed recorded in Book 153, page 581, Union County Registry.

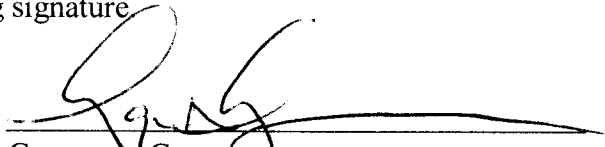
This conveyance is made subject to all restrictions, easements and rights of way of record affecting the aforesaid real estate.

The property described herein is the same property title to which was vested in the United States by virtue of a Certificate of Redemption dated April 20, 2009, recorded as Instrument Number 13643, with the Register of Deeds for Union County; and being the

same property conveyed by Trustee's Deed of Foreclosure dated March 25, 2009,
recorded as Instrument Number 09410 from David T. Simpson, Jr. of Mecklenburg
County, North Carolina, Substitute Trustee to Black Diamond Homes, LLC and CSW-
MDM Properties, LLC.

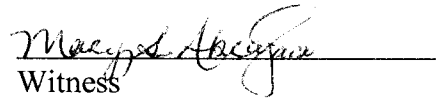
The said GRANTOR releases to the said GRANTEE all of his claims upon the
said land.

WITNESSETH the following signature


George A. Green
Advisory Territory Manager
South Atlantic Area
Internal Revenue Service
Small Business/Self-Employed Division

SIGNED, SEALED AND DELIVERED)
IN THE Presence of:)


Witness

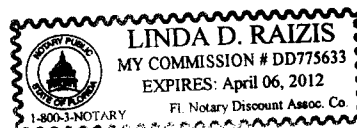

Witness

STATE OF FLORIDA)
CITY OF JACKSONVILLE)

I, Linda D. Raizis, a notary public in the State of
Florida, do hereby certify that George A. Green, Advisory Territory Manager, South
Atlantic Area of the Internal Revenue Service, Small Business/Self-Employed Division,
whose name is signed to the writing above bearing date on the 21st day of August
2009, has acknowledged the same before me.

GIVEN under my hand this 21st day of August 2009.


Notary Public





SPECIAL USE PERMIT APPLICATION

Applicant's Name: Cutting Edge LawnCare + Landscaping

Applicant's Mailing Address: PO Box 612
Monroe NC 28112

Applicant's Phone Number: 704 724 3580

Applicant's Email Address: nccuttingedgelawncares@gmail.com

Property Owner: LOUIS DOUGLAS DAVIS

Property Location: 411 East Windsor St Monroe NC 28112

Tax ID Number: 09 - 231 - 028A Deed Reference Number: BOOK 1724 PAGE 370

Existing Zoning: GB

Proposed Special Use:

Storage for landscaping/lawncares business

Proposed Conditions:

Storage for landscaping/lawncares business

For Staff Use Only	
Project Number:	_____
Date Submitted:	_____
Approved	_____
Denied	_____

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

General Information Required

5-12-21

SUP Application.doc REVISED 2-99, 7-99, 2/00, 12/03, 7/04, 9/13, 1/14, 12/15, 5/21

Exhibit 4

- A location map that shows the project in relation to surrounding parcels, zones, streets, right of ways, and utility services and easements, total acreage, north arrow, legend, and a vicinity map.
- Name of the applicant(s) and the name of the proposed development including a copy of the current deed.
- Scale, at one (1) inch equals 100 feet, unless otherwise approved by the Zoning Administrator.

Information on Natural, Historic, and Recreational Features Required

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

Zoning and Lot Information Required

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

Transportation and Utilities Information Required

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

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

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

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

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

Upon acceptance of the site plan by planning staff, the petitioner shall provide a digital copy of the site plan. Depending on site details, the applicant may be required to provide ten (10) copies of the site plan for review by the Board of Adjustment.

I. Special Use General Standards:

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

The use will not endanger public health or safety.

- B. The use or development complies with all regulations and standards of the City of Monroe Zoning Ordinance, as well as any other state or local rule or regulation governing the development of land.

The use will comply with all regulations + standards of the City of Monroe Zoning Ordinance. The use will comply with state and local regulations.

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

The use will not impact surrounding property and will in no way injure the value of any adjoining property.

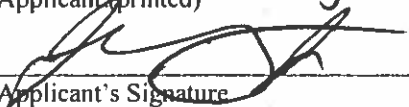
- D. The location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and will be in general conformity with the Monroe Land Development Plan.

The use will be in harmony with the area in which we will be located.

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

John R Massey Jr

Applicant (printed)



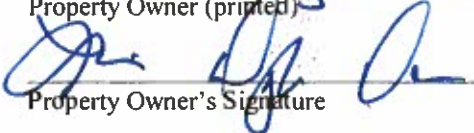
Applicant's Signature

1/29/2024

Date

Louis Douglas Davis

Property Owner (printed)



Property Owner's Signature

8-1-2023

Date

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

TABLE 7.1. - TABLE OF PERMISSIBLE USES																		
"P" = Permitted, "S" = Special Use Permit Required, "X" = Prohibited																		
	Traditional Districts											Mixed-Use Districts						
Use Type	RR	RLD	RMD	RHD	OM	NB	GB	GI	HI	PUD	PCD	DC-MX	DG-MX	CC-MX1	CC-MX2	RC-MX	MD-MX	REFERENCE
Warehouse & Storage	X	X	X	X	X	X	S	P	P	X	P	X	X	X	X	X	X	7.2.8.H

Exhibit 5

APO Map

Case#:
PLSUP-2024-00156

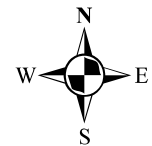
411 E. Windsor St.

Legend

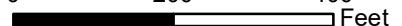
-  150 Foot Buffer
-  Parcels
-  Notified Properties
-  Subject Property

**Owner: International Graphics
Technologies Inc**

2.64 Acres



0 200 400 Feet



PIN	OWNERNAME1	OWNERNAME2	OWNERADDRE	OWNERCITY	OWNERSTATE	OWNERZIP
09231011	CITY OF MONROE		PO BOX 69	MONROE	NC	281110069
09231021A	CITY OF MONROE		PO BOX 69	MONROE	NC	281110069
09231046	MONROE/UNION COUNTY COMMUNITY DEVELOPMENT CORPORATION		PO BOX 887	MONROE	NC	28111
09231048	RAMDUT 2 LLC		4408 CHAPEL GROVE RD	GASTONIA	NC	28052
09231210	DELWOOD ASSOCIATES OF MONROE LLC		400 E FRANKLIN ST	MONROE	NC	28112
09231034	HINSON & COMPANY INC		PO DRAWER 428	MONROE	NC	28111
09231051	GROUP FENIX INC		1230 W ROOSEVELT BLVD	MONROE	NC	28110
09231205	MSG COMMERCIAL PROPERTIES LLC		PO BOX 1699	MONROE	NC	28111
09231045	BOGER STEPHEN W		345 E FRANKLIN ST	MONROE	NC	28112
09231052	GROUP FENIX INC		1230 W ROOSEVELT BLVD	MONROE	NC	28110
09231206	UNION MEMORIAL HOSPITAL INC		PO BOX 5003	MONROE	NC	281115003
09231004	CITY OF MONROE		PO BOX 69	MONROE	NC	281110069
09231014	CITY OF MONROE		PO BOX 69	MONROE	NC	281110069
09231026	LATHAM GAIL F TRUSTEE		301 ROANOKE CHURCH RD	MONROE	NC	28110
09231028A	INTERNATIONAL GRAPHICS TECHNOLOGIES INC		411 E WINDSOR ST	MONROE	NC	28112
09231049A	MCMANUS DOYLE L		1903 LATHAN RD	MONROE	NC	28112
09231025	RUSHING BARRY L		2505 HENRY BAUCOM RD	MONROE	NC	28110
09231028	LATHAM GAIL F TRUSTEE		301 ROANOKE CHURCH RD	MONROE	NC	28110
09231030	ESQUIVEL FRANCISCO ET AL	BAUTISTA PEDRO ESQUIVEL	1208 AUTUMN CV	MONROE	NC	28112
09231033	HINSON & COMPANY INC		PO DRAWER 428	MONROE	NC	28111
09231035	GRIFFIN H CHARLES		6022 UNIONVILLE-BRIEF RD	MONROE	NC	28110
09231012	CITY OF MONROE		PO BOX 69	MONROE	NC	281110069
09231022	WIGGINS CONST CO INC		408 WEST ROOSEVELT BLVD	MONROE	NC	28110
09231023	THOMAS MICHAEL		100 BURKE STREET	MONROE	NC	28112
09231024	LAND THOMAS E	LAND KATHY D	6320 SHELF RD	MARSHVILLE	NC	28103
09231035A	GRIFFIN H CHARLES		6022 UNIONVILLE-BRIEF RD	MONROE	NC	28110
09231050	HEALTH QUEST OF UNION COUNTY		415 E FRANKLIN ST	MONROE	NC	28112
09231208	BARRINO DELORIS		1406 LANCASTER AVE	MONROE	NC	28112
09231003	LEE WUKARI HATHAWAY		220 E EAST AVE	MONROE	NC	281102847
09231021	SEABOARD RAILROAD		100 SMITH ST	MONROE	NC	28110
09231023A	LAND THOMAS EDWARD	LAND KATHY DOWDLE	6320 SHELF RD	MARSHVILLE	NC	281037826
09231047	RUSHING ROCKY C	RUSHING KATHY W	PO BOX 2588	MONROE	NC	28111
09231209	PEREZ JORGE A	PEREZ ALMA	802 LAKE STONE DR	MONROE	NC	28112
09231013	CITY OF MONROE		PO BOX 69	MONROE	NC	281110069
09231038A	CITY OF MONROE		PO BOX 69	MONROE	NC	281110069
09231043	CITY OF MONROE		PO BOX 69	MONROE	NC	281110069
09231049	TMURR PROPERTIES LLC		2006 WALKUP AVE STE A200	MONROE	NC	28110
09231207	RODIER INVESTMENTS LLC		96 WESTWOOD PL	ASHEVILLE	NC	28806

Exhibit 7



STAFF REPORT

Case # PLZNA-2024-00155

TO: Board of Adjustment Members

DATE: March 28, 2024

FROM: Doug Britt, Senior Planner

PREPARED BY: Patrick Blaszyk, Planner

SUBJECT: A variance request by Jose Delgado for an accessory structure at 321 East Sunset Drive.

SUMMARY STATEMENT

Jose Delgado is requesting a variance from the accessory structure setback requirements in a residential zoning district in order to bring an accessory structure into compliance that was installed at 321 East Sunset Drive.

SITE DATA

Type of Action: Variance

Date of Petition: February 13, 2024

Name of Petitioner: Jose Delgado

Location: 321 East Sunset Drive

Tax ID #: 09-234-050

Lot Size: 0.514 Acres

Current Zoning Classification: RMD, Residential Medium Density

REVIEW

Proposed Findings:

1. The property located at 321 East Sunset Drive is owned by Jose Delgado and is zoned RMD, Residential Medium Density. (Exhibits 1, 2, and 3)
2. On February 13th 2024, the applicant submitted a variance application in order to request a 3-foot variance from the 10-foot accessory structure setback requirement for an accessory structure located at 321 East Sunset Drive. (Exhibit 4)

3. Section 157.7.5 Accessory Uses and Accessory Structures of the Unified Development Ordinance (UDO) states in relative parts:

A. General Accessory Use Standards

9. Setbacks:

- a. Within a residential district, shall not be located closer than ten (10) feet to a property line. (Exhibit 5)
4. The applicant submitted a survey of the existing location of the accessory structure at 321 East Sunset Drive. The survey indicated the accessory structure was located 8.6 feet from the property line. (Exhibit 6)
5. All adjacent property owners have been notified of the proposed variance. (Exhibit 7 and 8)

Conclusions:

1. It is the Board's CONCLUSION, that unnecessary hardship (would/would not) result from the strict application of the ordinance.
2. It is the Board's CONCLUSION, that the hardship (is/is not) peculiar to the applicant's property.
3. It is the Board's CONCLUSION, that the hardship (is/is not) the result of the applicant's own actions.
4. (a) It is the Board's CONCLUSION, that the variance (is/is not) consistent with the spirit, purpose, and intent of the ordinance.

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

THEREFORE, on the basis of all foregoing, IT IS ORDERED that the application Variance PLZNA-2024-00155 be (**approved/denied**).

Exhibits:

Exhibit 1: Ortho Map
Exhibit 2: Zoning Map
Exhibit 3: Deed to Property
Exhibit 4: Variance Application
Exhibit 5: UDO Section 157.7.5 A.9
Exhibit 6: Accessory Structure Survey
Exhibit 7: APO Map
Exhibit 8: APO List

Prepared by: PB 3/12/2024

Ortho Map

Case #: PLZNA-2024-00155

**321 East
Sunset Drive**

Legend

-  Subject Property
-  Centerlines
-  Parcels

**Owner: Jose Luis
Delgado**

Acres: 0.514



0 50 100
 Feet

Exhibit 1

Zoning Map

Case #: PLZNA-2024-00155

**321 East
Sunset Drive**

Legend

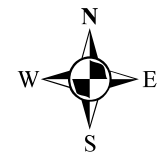
Zoning Districts

NEW_ZONING

-  NB
-  RMD
-  Subject Property
-  Centerlines
-  Parcels

**Owner: Jose Luis
Delgado**

Acres: 0.514



0 50 100
Feet



Exhibit 2

5806
0636

FILED
UNION COUNTY, NC
CRYSTAL CRUMP
REGISTER OF DEEDS

FILED Aug 23, 2012
AT 02:59 pm
BOOK 05806
START PAGE 0636
END PAGE 0638
INSTRUMENT # 26161
EXCISE TAX \$108.00
SWC

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$108.00

Parcel Identifier No. 09-234-050 Verified by _____ County on the ____ day of _____, 20____
By: _____

Mail/Box to: RUSSELL Z. ASTI

This instrument was prepared by: RUSSELL Z. ASTI

Brief description for the Index: 2 TRACTS E. SUNSET

THIS DEED made this 17 day of AUGUST, 2012, by and between

GRANTOR	GRANTEE
DORETHA E. BURNS, WIDOWED	JOSE LUIS DELGADO 2315 FOWLER SECREST RD 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 MONROE, MONROE Township, UNION County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A"

"A PROPERTY DESCRIBED HEREIN _____ INCLUDES/DOES NOT INCLUDE X, THE PRIMARY RESIDENCE OF A GRANTOR NAMED HEREIN."

The property hereinabove described was acquired by Grantor by instrument recorded in Book 4002, page 636.

A map showing the above described property is recorded in PLAT CABINET ., PAGE .

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)

Doretha E. Burns (SEAL)
DORETHA E. BURNS

By: _____

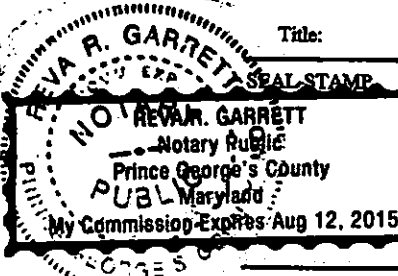
Title: _____ (SEAL)

By: _____

Title: _____ (SEAL)

By: _____

Title: _____ (SEAL)



SEAL-STAMP State of Maryland - County of Prince George's
I, the undersigned Notary Public of the County and State aforesaid, certify that DORETHA E. BURNS 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 21 day of AUGUST, 2012.

My Commission Expires: 08/12/2015

Notary Public [Signature]

SEAL-STAMP State of North Carolina - County of _____

I, the undersigned Notary Public of the County and State aforesaid, certify that _____

Witness my hand and Notarial stamp or seal, this _____ day of _____, 20____.

My Commission Expires: _____

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 _____ County
By: _____ Deputy/Assistant - Register of Deeds

EXHIBIT "A"

FIRST LOT:

BEGINNING at a stake, the northeast corner of Henry Redfearn's lot and runs with the northern line of the same North 88.5-00-00 West 134 feet to a stake, the said Redfearn's northwest corner; thence North 01-00-00 West 70 feet to a stake; thence South 88.5-00-00 East 134 feet to a stone; thence South 01-00-00 East 70 feet to the **BEGINNING**, containing 70 x 134 square feet and being the lot conveyed to Walt Redfearn by deed dated February 8m, 1914 and which is recorded in Book 40 at Page 382.

SECOND LOT:

BEGINNING at a stone, D. A. Covington's corner and runs North 2/25-00-00 East 120 feet to a stone in W. S. Lao's line; thence North 88.5-00-00 West 134 feet to a stone, a new line; thence South 2/25-00-00 West 120 feet to a stone, a new corner, D. A. Covington's line; thence South 88.5-00-00 East 134 feet to the **BEGINNING** and containing 120 x 34 square feet.

LESS AND EXCEPT that certain parcel conveyed by Mrs. Estella Burns, et al to the City of Monroe by Deed recorded in Deed Book 177 at Page 139, Union County Public Registry and being more particularly described as follows:

BEGINNING at a point in the northern right-of-way line of Covington Street, the southeast corner of Dr. S. A. Alexander's property and runs thence with the present right-of-way line South 88-30-00 East 134 feet to a stake, the southwest corner of the S. E. Bundy Estate land; thence with the said Bundy Land's North 01-00-00 West 16 feet to a point located in the new proposed right-of-way line of Covington Street; thence with the new proposed right-of-way line of Covington Street North 63-30-00 West 134 feet to a stake in Dr. S. A. Alexander's property line; thence with Dr. Alexander's property line South 01-00-00 East 16 feet to the **BEGINNING** and being a part of that property deeded to Stella Burns on June 14, 1944 by Mrs. S. B. Bundy and recorded in Deed Book 95 at Page 330, Union County Register of Deeds.

City of Monroe Variance Application Form

Applicant's Name: Jose Luis Delgado
 Applicant's Address: 321 E sunset dr
Monroe NC 28112
 Property Owner's Name: Jose Luis Delgado
 Property Owner's Address: 321 E sunset dr
Monroe NC 28112

For Staff Use Only

Application #: _____
 Date Submitted: _____
 Approved: _____
 Denied: _____

Legal Relationship of Applicant to Property Owner: Same person Submitting application
 Contact Person Name and Phone Number: Jose Luis Delgado 704-2077795
 Existing Use of Property: Home / Residential
 Property Location: 321 E sunset dr
 Tax Map Number: 04-234-050 Lot Size: .49 acres Zoning District: RMD
 Ordinance section number to which a variance is being sought. 157. 7.5 Accessory uses/structures
 Proposed variance description: 3 feet, variance from minimum accessory structure requirements

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.]

Concrete slab and framed on slab moving it might cause it to fall

aidedel@yahoo.com

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]

no hardship ~~is~~ from conditions peculiar to property.

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

~~the~~ surveyor originally told homeowner property corner was further back before construction of shed, when homeowner got plat survey property line ended up being a foot and a half c.

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.**

one neighbor has a storage shed 6' tall next to property line 8x6 shed. Shed will be in harmony with surrounding area

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.

Jose Luis Delgado

Printed name of Applicant

JLD

Signature of Applicant

2-13-24

Date

Jose Luis Delgado

Printed name of Owner

Jose Luis Delgado
Signature of Owner

2-13-24
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: _____

7.5. ACCESSORY USES AND ACCESSORY STRUCTURES

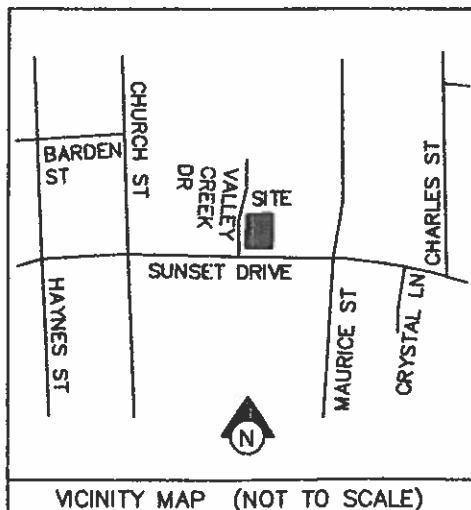
A. General Accessory Use Standards. Accessory uses and accessory structures shall comply with the following standards. Accessory uses and structures:

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.

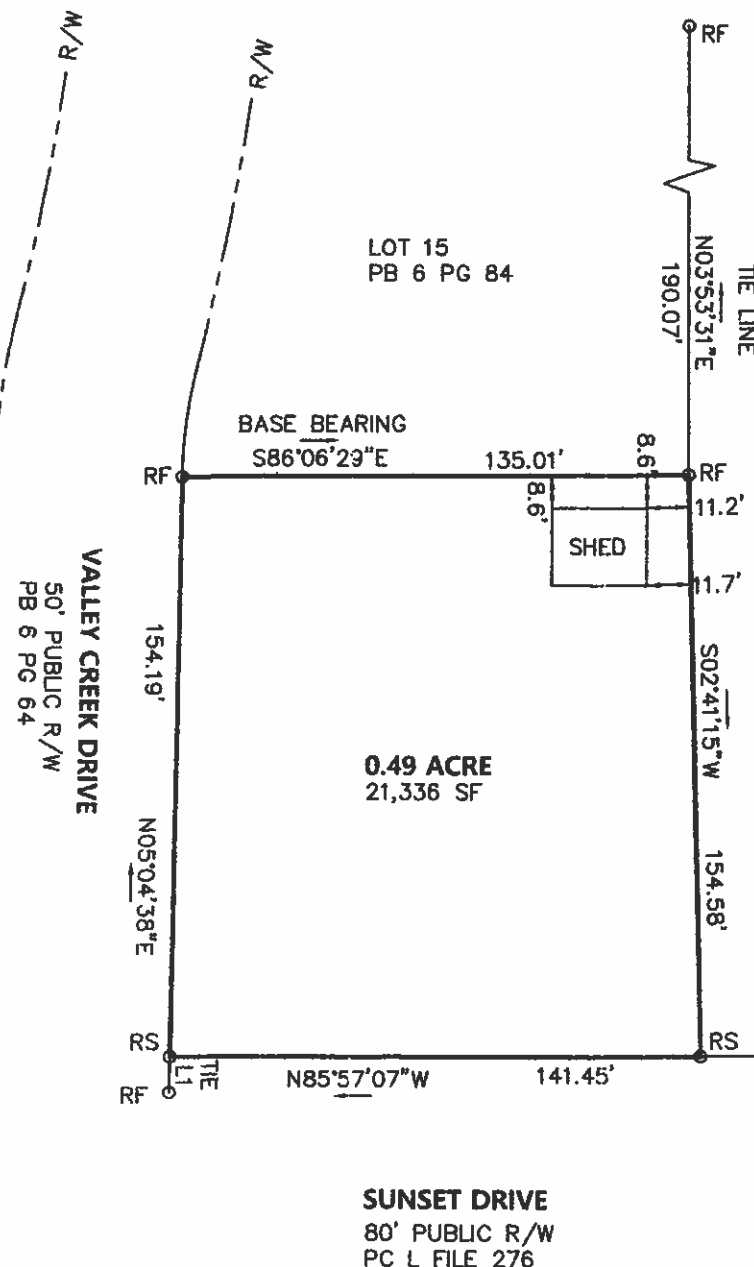
Exhibit 5



NOTES:

1. TAX I.D. #09-234-050
2. AREA CALCULATED BY COORDINATES.
3. NO NCGS MONUMENT FOUND WITHIN 2000'
4. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES, MEASURED WITH ELECTRONIC METERS
5. #5 REBARS SET AT ALL LOT CORNERS UNLESS OTHER WISE NOTED.
6. ADJOINING PROPERTY OWNERS NAMES WERE TAKEN FROM UNION COUNTY TAX OFFICE RECORDS, AND ARE CONSIDERED AS NOW OR FORMERLY
7. PROPERTY MAY BE SUBJECT TO OTHER EASEMENTS AND OR RIGHT OF WAYS, EITHER RECORDED OR IMPLIED.
8. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE COMMITMENT.
9. THIS PROPERTY IS NOT SUBJECT TO A FEMA SPECIAL FLOOD HAZARD ZONE AS PER FIRM, MAP NO. 3710543400J, PANEL 5434, EFFECTIVE DATE: OCTOBER 16, 2008.
10. CURRENT ZONING - RMD
SETBACKS: FRONT - 20'
SIDE CORNER - 20'
SIDE - 10'
REAR - 10'

MAP NORTH REF:
PB 6 PG 84
APRIL, 1971

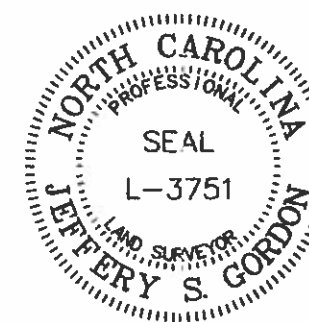


NORTH CAROLINA, UNION COUNTY

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 5806, Page 636;) 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 12th day of December, A.D., 2023.

Seal or Stamp



Jeffery S. Gordon
Professional Land Surveyor
L-3751
Registration Number

LEGEND

RF - REBAR FOUND
RS - REBAR SET
PB - PLAT BOOK
PC - PLAT CABINET
DB - DEED BOOK
PG - PAGE
SF - SQUARE FEET
R/W - RIGHT OF WAY
N/F - NOW OR FORMERLY

LINE TABLE		
LINE	LENGTH	BEARING
L1	9.56	S05°04'38"W

GRAPHIC SCALE



(IN FEET)
1 inch = 50 ft.

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

BOUNDARY/LOCATION SURVEY FOR:
JOSE LUIS DELGADO

Property of: Jose Luis Delgado
Legal Ref: DB 5806, PG 636

City of Monroe, Union County, North Carolina

Date: 12 December 2023

Scale: 1" = 50'

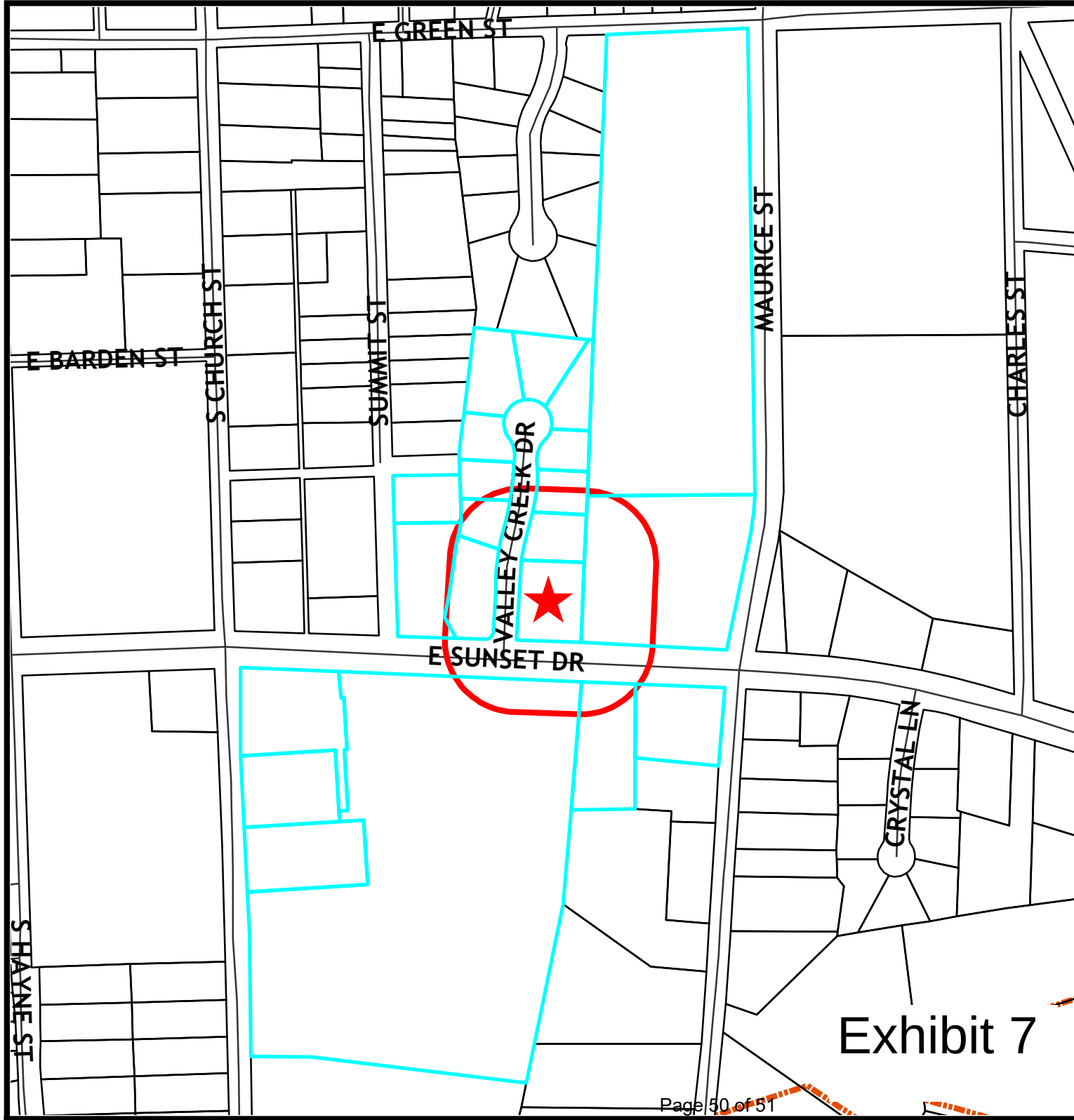
Surveyed by: Jeffery S. Gordon, NCPLS, L-3751

Dwg. File: NEWPROJECTS\SUNSETDRE321-MONROE.dwg

REVISION BLOCK

NO.	DATE	DESCRIPTION	BY

Exhibit 6



APO Map

Case#:
PLZNA-2024-00155

**321 East
Sunset Drive**

Legend

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

**Owner: Jose Luis
Delgado**

Acres: 0.514



0 250 500
Feet

Exhibit 7

PIN	OWNERNAME1	OWNERNAME2	OWNERADDRE	OWNERCITY	OWNERSTATE	OWNERZIP
09234039H	SOUTH CENTRAL OIL CO INC		2121 W MAIN ST	ALBEMARLE	NC	28001
09234042	MURRAY THOMAS C		6262 GREYSTONE DRIVE	MATTHEWS	NC	28104
09234049	CISNEROS GUADALUPE SALCEDO	MALDONADO VICTORIANO BARRAGAN	817 VALLEY CREEK DR	MONROE	NC	28110
09234046	CADENA ADOLFO CONTRERAS	SALCEDO DORA MARIA	805 VALLEY CREEK DR	MONROE	NC	28112
09234050	DELGADO JOSE LUIS		321 E SUNSET DR	MONROE	NC	281126335
09234040	MURRAY THOMAS C		6262 GREYSTONE DRIVE	MATTHEWS	NC	28104
09234048	CHAVEZ SERGIO	CHAVEZ MARIA DE LOS ANGELES	813 VALLEY CREEK DR	MONROE	NC	28112
09234079	BRADSHAW ANGELA		304 RIDGE RD	MONROE	NC	28110
09234039A	MILLS A PARKER JR		915 S CHURCH ST	MONROE	NC	28112
09234041	CISNEROS YOLANDA SALCEDO	JUAREZ ENRIQUE CONTRERAS	816 VALLEY CREEK DR	MONROE	NC	28112
09234043	MURRAY THOMAS C		401 ARBOR DR	WAXHAW	NC	28173
09234045	AGUILLON FRANCISCO NOYOLA	MONTOYA ANA LAURA	801 VALLEY CREEK DR	MONROE	NC	28112
09234052	MONROE HOUSING AUTHORITY		PO BOX 805	MONROE	NC	281110805
09234044	MURRAY THOMAS C		6262 GREYSTONE DRIVE	MATTHEWS	NC	28104
09234080	CITY OF MONROE		PO BOX 69	MONROE	NC	281110069
09234037	RAMIREZ-AYALA MICAELA		1006 GILMAN PLACE	MONROE	NC	28110
09234038	LEDBETTER PHYLLIS E	GIORGIS TADESSE W	715 WAYSIDE RD	NEPTUNE	NJ	07753
09234039B	79 SHEEP DAVIS ROAD LLC		470 MAST RD	GOFFSTOWN	NH	03045
09234047	SFR JV-2 PROPERTY LLC		PO BOX 15087	SANTA ANA	CA	92735
09234051	MONROE HOUSING AUTHORITY		PO BOX 805	MONROE	NC	281110805
09234039 01	PETRA HOMES LLC		100 E SUNSET DR	MONROE	NC	28112

Exhibit 8