

Board of Adjustment  
Thursday, May 1, 2014  
7:00 PM  
Hood Room, Matthews Town Hall

**AGENDA**

- I. CALL TO ORDER
- II. INVOCATION
- III. APPROVAL OF MINUTES
- IV. VARIANCE REQUEST: 7-Eleven, 1700 Windsor Square Dr
- V. ADJOURNMENT

**MINUTES  
BOARD OF ADJUSTMENT  
THURSDAY, APRIL 3, 2014  
HOOD ROOM, MATTHEWS TOWN HALL**

**PRESENT:** Chairman Jim Jiles, Members, Walter Monestere, Cecil Sumners, Jim Mortimer; and Jeanne Moore; Alternate Members Jerry Meek and Gary Smith; Attorney Robert Blythe; Senior Planner Jay Camp and Zoning Technician/Deputy Town Clerk Mary Jo Gollnitz

**ABSENT:** Alternate Member Peter Tuz

**CALL TO ORDER/INVOCATION:**

Chairman Jiles called the meeting to order at 7:00 pm and Jim Mortimer gave the invocation.

**APPROVAL OF THE MINUTES:**

Jeanne Moore motioned to approve the minutes of the March 6, 2014 meeting. Walter Monestere seconded the motion and they were adopted unanimously.

**SWEARING IN:**

The following were sworn in: Jay Camp, Allen Hackman, Jonathan Basnett, and Ray Zaffaresse

**VARIANCE REQUEST: 1712 Stevens Ridge Road; Swimming Pool in S.W.I.M Buffer**

**STAFF REPORT:**

Senior Planner Jay Camp stated that this evening's case involves 1712 Stevens Ridge Road; PID #227-641-37. The property was purchase by the applicant in October 2013 and is on a cul-de-sac. The property does back up to Four Mile Creek, thus the request for variance of the SWIM Buffer. Staff discussed this with the applicant in December and understands that the applicant purchased the home with the intent of installing a pool.

Mr. Camp continued noting that the applicant needs two items to proceed with the construction of the pool. The applicant needs an issuance of a variance from the SWIM Buffer. The second item the applicant will need is a Floodplain Development Permit from the Mecklenburg County. The applicant can move forward on the permit if they receive a variance this evening.

The specific variance is for an encroachment of approximately 12 feet into the SWIM Buffer. The total square footage of impervious surface is 200 square feet. Mr. Camp noted that this was not included in the staff report. He explained that SWIM Buffer is an acronym for Surface Water Improvement Management. There are four main goals to the SWIM Buffer: water quality for filtering water, storage for flood waters, allowing flood channels to meander naturally and providing suitable habitat for wildlife.

He continued stating that this property is several hundred feet from the actual centerline of Four Mile Creek. He explained that the standard buffer width is 100 feet. However, in some locations it is very wide. In this instance the creek is about 380 feet from the back of the property. The County determines the buffers using the flood fringe, and 100 year flood maps to determine the appropriate location for the buffers.

Mr. Camp reminded the Board that in September of 2013 they adopted new rules of Rules of Procedure in response to the changes in state statutes. The seven standards and four findings were included in their packets to help with deliberations.

Mr. Camp showed the location of the SWIM Buffer map and approximate location of the pool in the back yard. He noted that the back stairs of the home encroach into the SWIM Buffer. He explained that the home was constructed in 1998 and the SWIM Buffer went into effect in 2000. He stated that the impervious surfaces in the buffer would be the part of the pool, pool decking and the hot tub.

Mr. Jiles asked where the center line of the creek is located. Mr. Camp stated that the creek is approximately 300 ft from the house. He further stated that the parcel behind this home is owned by the county and is being reserved for future greenway access. Mr. Jiles asked which of the three buffer zones the pool construction would fall into. Mr. Camp explained that the three buffers are the stream side, midland and upland zones. He said that construction is several hundred feet beyond the upland zone. It is located in the flood fringe.

Ms. Moore asked why this property fell into SWIM Buffer after the construction of the home. Mr. Camp stated that some houses in Matthews are covered by these flood maps. It is because mapping was completed by the county using the 100 year floodplain. They do not adjust base maps where houses are built. Discussion continued about the floodplain administration and construction of buildings before 1998.

Mr. Mortimer asked for clarification on the letter provided by Public Works Director Ralph Messera regarding possible conditions to the potential variance. Mr. Camp said that as part of the adopted UDO, staff must forward the variance request to the Public Works Director for review. The letter recommends reforestation in the lowland areas of the property. Mr. Camp showed the area to the Board.

Ms. Moore asked for explanation of the reforestation recommendation. Mr. Camp noted that it is the response to ordinance provision. He explained that it is mitigation for the variance request. Some of the mitigation is very extreme and better suited to a 200 home subdivision. The version that Mr. Messera recommended is the least impact to the home owner for a minor project such as this.

Mr. Jiles asked if the Public Works Director recommendation is in the ordinance for the upper portion towards the home for disbursement of storm water. Mr. Camp stated yes, that is the location and he believes the primary reason for reforestation is filtration. Ms. Moore asked if the reforestation is planting or cutting and planting. Mr. Camp said that it could be planting of shrubs and small trees where there is currently grass.

Mr. Jiles stated that the property is located on a cul-de-sac and wanted to know if there is proper drainage. Mr. Camp said that he believed that there are proper storm water inlets in the development. Mr. Camp said that all the construction in the back would only create about 200 sq ft of impervious surfaces.

Ray Zaffaresse 1712 Stevens Ridge Rd Matthews, addressed the Board. He stated that his family recently relocated from New York City. He was a police officer there and completed his twenty years of service and decided to leave the city. They have found a better life in Matthews. They have been here two months and love it here. They fell in love with the home. The sale advertisement for the home said that it would be perfect for an oasis pool and spa. Mr. Zaffaresse provided a copy of the advertisement to the Board. He continued stating that he has consulted with Matt Jones from Jones civil design to complete a floodplain study, if the variance is granted. He said that the pool designer and a neighbor are also present this evening.

Mr. Mortimer asked Mr. Zaffaresse if he had seen the letter from Public Works. Mr. Zaffaresse said he had seen the letter and is in agreement with the letter. They are interested in planting some fruit trees and would like to plant in the area suggested.

Allen Hackman 1709 Stevens Ridge Rd addressed the Board. He stated that he lives two doors from the applicant. He noted that the family is great neighbors. He continued stating that he was surprised to find out there was an issue with the pool. There is a huge spacious area and the creek is a long hike away. The creek is visible from his home but not really close by. The yards have been dry and there is no standing water. The neighborhood is excited for the family. There are other homes in the neighborhood with pools. He said that people take care of their homes in the neighborhood and he believes this will be an asset to the neighborhood and in line with the rest of the homes.

Jonathan Basnett representing Blue Haven Pools addressed the Board. He stated that the change in grade is important to understand. He described the backyard area and details of the swimming pool and decking. He said that the property owner has decided to eliminate the hot tub from the plans. He noted that there is eight foot drop down and then the floodplain begins. The 100 year floodplain will not affect the pool unless it rises eight feet above grade. With that there is 380 feet to the closest point of the creek. He showed the Board the conceptual pool and where the floodplain was in relation to the pool. He continued describing the plans for the pool. There is a very steep slope in the property.

Mr. Jiles asked how high the slope edge of the pool is. Mr. Basnett stated there is approximately eight feet above. He continued describing the distance between the creek and the pool. There was discussion about the slope of the pool and how to stabilize the area. Mr. Basnett stated that they would not leave the area unsafe or unmanageable.

#### **DELIBERATION:**

Chairman Jiles opened the deliberations. Mr. Blythe noted that the Board had the standards to refer to for the Findings of Fact and could comment on any of the standards. Mr. Mortimer asked if the Board was required to go through all seven of the standards. Mr. Blythe stated these are standards and in your ordinance. They are to be considered in concluding the Findings of Fact.

1. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts. Mr. Jiles said that the separation of the improvements and buffer zone is extensive and meets this. Ms. Moore said that he is a distance away from the creek. Mr. Jiles noted that the pool is in the upland zone and is the least critical for storm water. Mr. Sumners noted that it is the furthest away from the creek. He continued saying that he believes the grading on the site would help the drainage.

2. That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Planning Director, or designee, before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later. Mr. Mortimer said that this is correct. Mr. Blythe stated that the difficulties are not of the applicant's actions, rather the result of the SWIM Buffer.

3. That the unique hardship situations cited by the applicant are not hardships resulting from personal or household members' circumstances which would no longer be applicable to the location if the applicant or household was no longer present at the property. Mr. Jiles said that the hardship situation did not result from the applicants doing.

4. That the strict enforcement of this Title would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Title. Mr. Mortimer said that strict enforcement would deprive the owner of building a pool.

5. That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Title denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief. Mr. Mortimer said that granting a variance will not advantage the applicant that this Title denies others.

6. That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties. The Board agreed that the proposed use is compatible with nearby properties.

7. That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance.

Mr. Mortimer said that a variance would not be materially detrimental to the neighborhood. The Board agreed with him on this standard.

### **Findings of Fact**

Jim Mortimer said that unnecessary hardship would result from the strict application of this Title in that the property owner would not be able to build a pool. He continued stating that hardships results from conditions that are peculiar to the property, such as location, size, or topography. He stated that this is certainly true.

Mr. Mortimer continued stating that the hardship did not result of action taken by the applicant or property owner, so far, prior to building the pool. He said that the requested variance is consistent with the spirit, purpose, and intent of the Title, public safety is secured, and substantial justice is achieved. He stated that he believes this is correct with the remediation.

Jerry Meek asked that if the Board is inclined to grant the variance, would the Board condition the variance on the applicant following the recommendation of Mr. Messara. Mr. Blythe answered yes. Mr. Meek asked if this would include the conservation easement, and the planting. The Board agreed that it would be included in the motion if the variance is approved.

Gary Smith asked if the Board would have to impose the conservation easement. Mr. Blythe stated that is part of the recommendation of the mitigation. If the Board is going to incorporate the letter, then the Board will have to impose the conservation easement.

Mr. Meek said that it is his understanding that the purpose of the easement is to place the restriction to subsequent owners. This protects the scenario of granting the variance, the pool being built, the house being sold and subsequent purchaser removing all the trees. Mr. Jiles said that the owner has seen the letter and understands what it involves. Mr. Jiles continued noting that he realizes this is extra large area and may not need all that area to protect the storm water. However, the regulations require this and the Town is willing to work with the property owner.

Jeanne Moore made a motion to grant the variance as indicated in the findings of fact and incorporate the conditions of the letter provided by Mr. Messera. Cecil Sumner seconded the motion which carried unanimously.

### **Election of Vice Chair**

Ms. Moore nominated Jim Mortimer for Vice Chair and Mr. Sumner seconded the motion. The motion carried unanimously.

### **ADJOURNMENT:**

Mr. Mortimer moved for adjournment. Mr. Jiles seconded the motion and the meeting adjourned at 7:42 pm.

Respectfully submitted,

Mary Jo Gollnitz  
Zoning Technician/Deputy Town Clerk

## **Matthews Board Of Adjustment**

**Case 2014-04**

**Type of Request: Variance**

**May 1, 2014**

### **Summary of Request**

The applicant requests a variance to the Outdoor Lighting Ordinance to allow an increase from the required 2 foot candles at the property line to as much as 20.2 foot candles at the property line.

### **Background**

The property at 1700 Windsor Square Drive, further identified as tax parcel 19330203, currently consists of a gas station and convenience store constructed in 1988 according to tax records. In 2012, the property was rezoned from Conditional to B-2 (CD) to accommodate the construction of an expanded convenience store and additional gas pumps. This work has yet to take place as the current owner, Sam's Mart, intends to sell the property to 7-Eleven prior to any construction.

### **Request**

The applicant requests a variance to the maximum allowed foot candles of light allowed at the property line. The standard for Matthews is 2 foot candles while some portions of the site would have readings as high as 20.2 foot candles. More specifically, the request to exceed foot candle requirements is requested on the northeastern and southeastern boundaries of the property adjacent to Windsor Square Shopping Center.

### **Ordinance Requirements**

Outdoor illumination standards were created in Matthews several years ago to address concerns of light trespass and light pollution from one property to the other. In 2011 and 2012, a consultant who specializes in outdoor lighting worked with various boards, citizens and staff to develop lighting standards to meet the needs of our community. Every community is different and with Matthews being a suburban community with a high degree of development, we knew that pursuing a "dark skys" style of ordinance that severely limits lighting was not practical. The consultant provided Matthews with lighting levels consistent with many other jurisdiction ordinances including special requirements for uses such as gas stations and car lots to allow a greater amount of light given the special needs of these particular uses. The intent of the requirements is to create clear and comprehensive outdoor lighting standards that emphasize reduction of glare and light trespass. Since the adoption of these standards one new gas station, a Circle K at Idlewild Road and Matthews Mint Hill Road, has been constructed and has complied with the Ordinance.

## **Ordinance Requirements**

Definition: Foot candle (FC) – A quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square foot.

155.609.7.A: All new lighting installations and renovations to existing lighting fixtures adjacent to a commercial property shall show the intent to limit foot candle (FC) levels at property lines to two (2) foot candles initial illumination...When the horizontal initial illumination level exceeds these standards...a written explanation why the limit cannot be met shall be provided.

### **155.609.10.A GAS AND SERVICE STATION CANOPIES**

All lighting fixtures mounted on the underside of canopies must be “full-cutoff” classified, being either completely recessed/flush in the canopy, or having solid sides on a surface mounted fixture (canopy edges do not qualify as shielding). The light source shall be metal halide, ceramic metal halide or LED. Lighting levels under the canopy shall be no greater than thirty (30) footcandles. Areas outside the pump island canopy shall be illuminated as to provide proper safety to customers, but shall be limited and not exceed twenty (20) footcandles initial.

## **Staff Review**

Any development activity that proposes outdoor illumination must include a detailed outdoor illumination plan as part of the Landscape Plan submission. A drawing showing photometric points was submitted prior to the variance request as well as with the variance. The applicant's representative has informed staff that they choose not to make the effort to first comply with our code. Without a complete plan submission, staff cannot provide a full assessment of what does, and does not, comply with code; regarding property edge foot candle limits. The code (at 155.609.7.A.) calls for the applicant to provide written explanation why the limit cannot be met, which might include explanation of options they explored like changing the angle or height of a specific lamp; because these steps have not been taken by the applicant, this case is not ready to be heard by the Board of Adjustment.

## Findings of Fact Standards for Zoning Variances

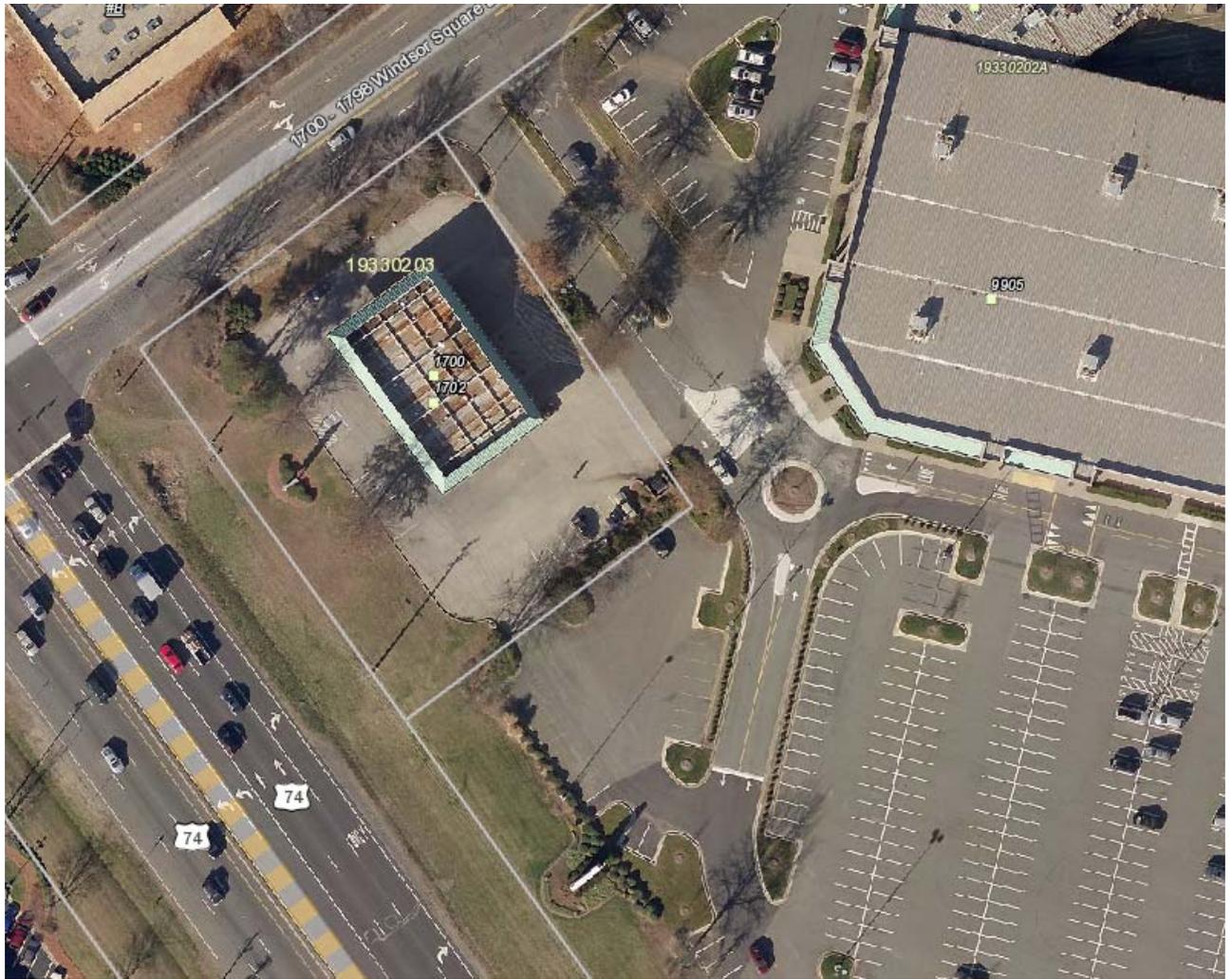
***In granting any zoning variance, the Board of Adjustment shall make findings that the spirit of the ordinance shall be observed, public safety and welfare shall be secured, and substantial justice shall be done. To reach these findings, the Board of Adjustment shall consider the following 7 standards:***

1. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts.
2. That the special conditions or circumstances or practical difficulties do not result from the actions of the property owner or applicant, their agent, employee, or contractor. Errors made by such persons in the development, construction, siting or marketing process shall not be grounds for a variance except in cases where a foundation survey submitted to the Planning Director, or designee, before a contractor proceeds beyond the foundation stage has not revealed an error which is discovered later.
3. That the unique hardship situations cited by the applicant are not hardships resulting from personal or household members' circumstances which would no longer be applicable to the location if the applicant or household was no longer present at the property.
4. That the strict enforcement of this Title would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of this Title.
5. That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that this Title denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief.
6. That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties.
7. That the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. Consideration of the effects of the variance shall include but not be limited to, increases in activity, noise, or traffic resulting from any expansion of uses allowed by the variance.

## **Findings of Fact**

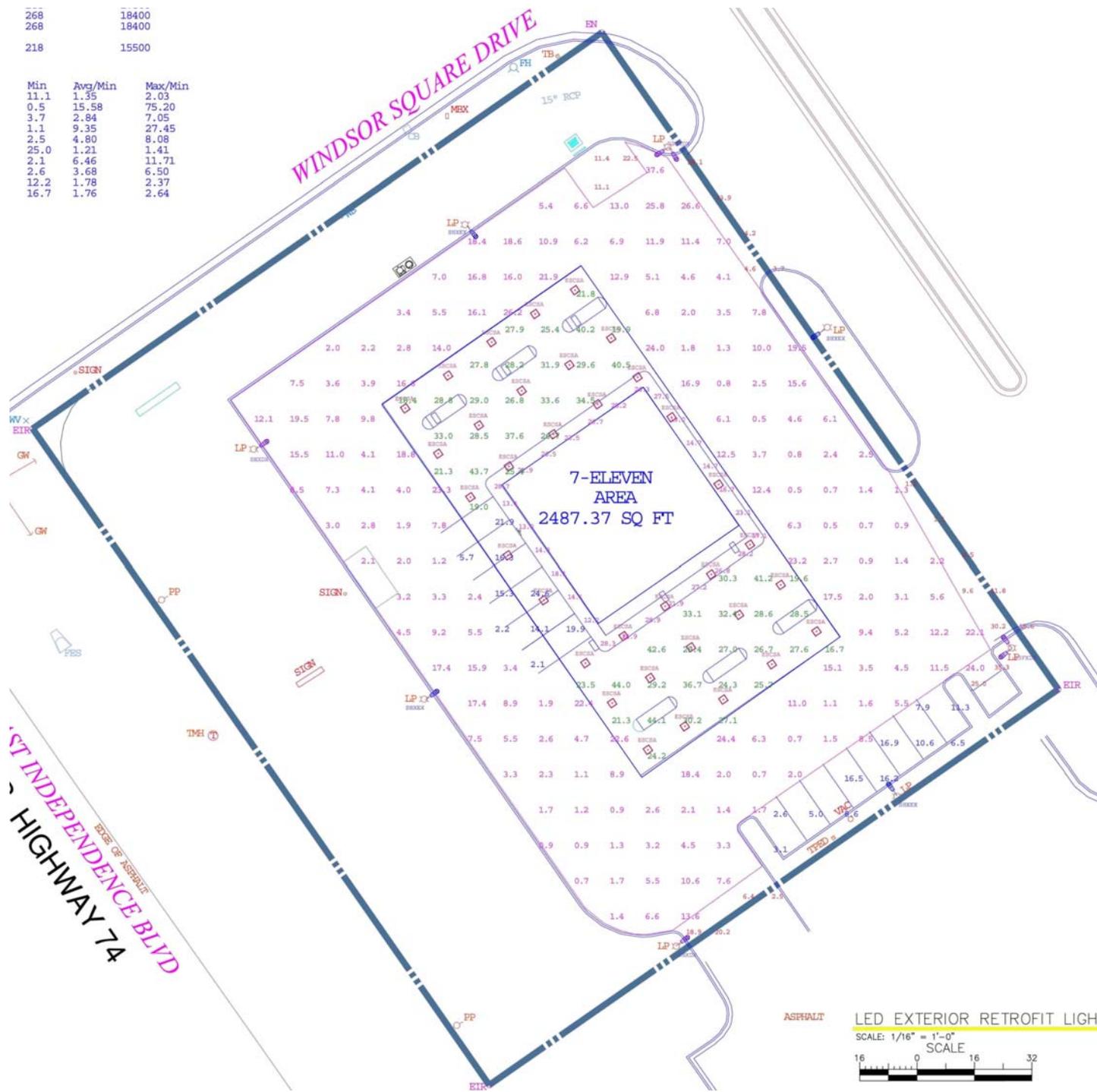
***In reaching a decision on a variance request, the Board shall make findings upholding all of the following criteria:***

1. Unnecessary hardship would result from the strict application of this Title. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. (Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.)
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 this Title, public safety is secured, and substantial justice is achieved.



# Photometric Lighting Plan

268	18400	
268	18400	
218	15500	
Min	Avg/Min	Max/Min
11.1	1.35	2.03
0.5	15.58	75.20
3.7	2.84	7.05
1.1	9.35	27.45
2.5	4.80	8.08
25.0	1.21	1.41
2.1	6.46	11.71
2.6	3.68	6.50
12.2	1.78	2.37
16.7	1.76	2.64



ASPHALT  
**LED EXTERIOR RETROFIT LIGHT**  
 SCALE: 1/16" = 1'-0"  
 SCALE  
 16 0 16 32



## Ordinance Determination

**RE: Outdoor Illumination**

April 22, 2014

Section 155.609

1. All new lighting installations and renovations to existing lighting fixtures adjacent to a residentially zoned or used property shall show the intent to limit horizontal light levels at property lines to one (1) footcandle initial (burn-in) illumination. All new lighting installations and renovations to existing lighting fixtures adjacent to a commercial property shall show the intent to limit footcandle (FC) levels at property lines to two (2) footcandles initial illumination. In addition, vertical light readings shall not exceed one and one half (1.5) FC at any point along the site perimeter. When the horizontal initial illumination level exceeds these standards at any given point, then the average illumination level at the property line within fifty feet (50') of that point shall not exceed one (1) FC for adjacent residential or two (2) FC for adjacent nonresidential, and a written explanation why the limit cannot be met shall be provided on the plan. The applicant shall incorporate additional evergreen plant materials at the place where the perimeter lighting level exceeds the given standards.

Based on the above referenced section, a variance would be required to exceed the maximum of two (2) footcandles at the property line of an adjacent commercial use.



# BOHLER

ENGINEERING NC, PLLC

800 West Hill Street, Suite 101  
Charlotte, NC 28208  
PHONE 980.272.3400  
FAX 980.272.3401

April 16, 2014  
Via: Dash Courier

Town of Matthews  
232 Matthews Station Street  
Matthews, NC 28105  
(704)708-1235

Attn: Jay Camp

Re: Proposed 7-11 Expansion  
List of Adjacent Property Owners  
Matthews, NC  
BE #NCC142005

Dear Mr. Camp:

With regard to the photometric variance, we are providing a list of adjacent property owners for photometric variance for the proposed 7-11 expansion located at 1700 Windsor Square Drive (Parcel #193-302-03) in Matthews, NC.

The adjacent property owners are:

1. Parcel ID: 19323125  
Location: 1625 Windsor Square Dr. Matthews, NC  
Owner:  
FGLW PROPERTIES LLC  
5030 DMONT DR SW  
ROANOKE, VA 24018
2. Parcel ID: 19323134  
Location: 9905 Matthews Park Dr. Matthews, NC  
Owner:  
CHICK-FIL-A INC.  
5200 BUFFINGTON RD  
ATLANTA, GA 30349
3. Parcel ID: 19330311  
Location: 9727 E Independence Blvd., Matthews, NC  
Owner:  
CARROLL FAMILY INVESTMENTS LTD  
2340 INTERSTATE 20  
WEST SUITE 100  
ARLINGTON, TX 76017
4. Parcel ID: 19330202A  
Location: 9949 E Independence Blvd. Matthews, NC  
Owner:  
SC WINDSOR ASSOCIATES LP  
340 ROYAL POINCIANA WAY #316  
PALM BEACH, FL 33480
5. Parcel ID: 19330202A  
Location: 9949 E Independence Blvd. Matthews, NC



**BOHLER**  
ENGINEERING INC, PLLC

Owner:

SC WINDSOR ASSOCIATES LP  
6501 LEGACY DR  
PLANO, TX 75024-3698  
C/O JC PENNEY CORPORATION INC.

For each adjacent property owner listed, we are providing a stamped and addressed envelope and a copy of the signed application.

Please confirm that you do not need any additional information.. Should you have any questions or require additional information, please contact me at (980) 272-3400.

Sincerely,

**BOHLER ENGINEERING, INC.**

Brian Miller

enc.

cc: H:\2014\NCC142005\Permitting\Submittal Packages\Lighting Variance



232 Matthews Station Street  
Matthews, NC 28105  
704.847.4411

**APPLICATION FOR A ZONING VARIANCE**

DATE FILED \_\_\_\_\_ 4/16/14 \_\_\_\_\_

HEARING DATE \_\_\_\_\_ 5/1/14 \_\_\_\_\_ TIME 7pm ~~9:00pm~~ \_\_\_\_\_

LOCATION: Hood Rood, Matthews Town Hall, 232 Matthews Station Street, Matthews, NC 28105

To the Matthews Board of Adjustment:

I, Ron Skarke \_\_\_\_\_ (print name), hereby petition the Board of Adjustment of the Town of Matthews for a VARIANCE from the literal provisions of the MATTHEWS ZONING ORDINANCE because I am prohibited from using the parcel of land described below in the following manner:

The site photometric levels provided in the jurisdictional ordinances do not align with the standards required for site lighting for a 7-Eleven convenience store.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The property is located at \_\_\_\_\_ 1700 Windsor Square Dr., Matthews, NC 28105 \_\_\_\_\_ (address) and is shown on the Mecklenburg County tax map as parcel number(s) 19330203 \_\_\_\_\_.

The section(s) of the Zoning Ordinance which affect this ruling is/are 155.609.7 pg. 609 -3 \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The present zoning of the property is \_\_\_\_\_ Conditional (C) \_\_\_\_\_.

**FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE**

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. By law, the Board is required to reach three conclusions as a prerequisite to issuing a variance: (1) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance; (2) that the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit; and, (3) that in the granting of the variance the public safety and welfare have been assured and substantial justice has been done. In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these three required conclusions. **IT WILL BE YOUR RESPONSIBILITY TO PRESENT THESE FACTS BY SWORN TESTIMONY AND COMPETENT EVIDENCE.**

(1) THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THE ORDINANCE. The courts have developed three rules to determine whether in a particular situation "practical difficulties or unnecessary hardships" exist. State facts and arguments in support of each of the following:

- (a) If he/she complies with the provisions of the ordinance, the property owner can secure no reasonable return from, or make no reasonable use of his/her property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

The city ordinance for site lighting reduces the number of footcandles of the overall site and specifically at the site access points. Reducing the number of footcandles below the 7-Eleven national standard provides less security for patrons during evening hours when natural daylight is not readily available. Traffic and pedestrian circulation to and through the site is compromised including the safety of people walking to and from the site and between the fuel canopy and the C-store. Lastly, loitering is more of an issue when lower light levels are allowed. Higher light levels reduce the amount of possible loitering and unlawful behavior.

- (b) The hardship of which the applicant complains results from unique circumstances related to the applicant's land. (Note: Hardships common to an entire neighborhood resulting from overly restrictive zoning regulations should be referred to the Planning Board. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the land.)

The site is an existing site with existing access points. 7-Eleven is committed to redeveloping the site to enhance the overall quality of the site which will positively affect the surrounding developments, however, has to maintain a financial responsibility to ensure that the site is a succesful venture with long term performance success. Redefining the site access points is not financially feasible for the long-term success of this property.

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

Due to existing site conditions and the location of site access points, pavement design, and light fixture locations were all present prior to the applications pursuit of redevelopment of the site.

(2) THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES ITS SPIRIT. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

The redevelopment of the subject property keeps all the existing light fixtures in their existing positions. New lamp heads are intended to be utilized to improve the security, aesthetic, and overall performance of the site. Light spillage over the Property Line is minimized as much as possible and light pollution is reduced for glare and other potential problematic issues to be in harmony with the general purpose and intent of the ordinance.

(3) THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSTICE. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

The number one important factor is pedestrian and vehicular interaction at the site access points and on the site. Lower light levels result in less visible pedestrians to people driving vehicles onto the site. By nature convenience stores have a high traffic volume turnover that results in multiple vehicular movements throughout all hours of the day. Pedestrians will be better safeguarded with higher light levels. Patrons to the store who will most of the time be citizens of the Town of Matthews will also better safeguarded against loitering and other unlawful activities with higher light levels that help deter this type of activity.

I certify that all of the information presented by me in this application, including attachments, is accurate to the best of my knowledge, information and belief.

Ron SKAERKO  
Print applicant name  
703 - 338 - 6805  
Telephone number of applicant  
980 - 272 - 3400  
Telephone number of representative  
Chris Capellini  
Print representative's name  
4/16/14  
Date

[Signature]  
Signature of applicant  
8904 EDMONSTON RD.  
COLLEGE PARK, MD. 20740  
Mailing address of applicant  
[Signature]  
Signature of representative  
800 west Hill St.  
Charlotte, NC 28208  
Mailing address of representative  
4/16/14  
Date

