

Board of Adjustment  
Thursday, November 3, 2016  
7:00 PM  
Hood Room, Matthews Town Hall

**AGENDA**

- I. CALL TO ORDER
- II. INVOCATION
- III. APPROVAL OF MINUTES
- IV. VARIANCE REQUEST: BA 2016-3, Commercial Vehicle at 2915 Windsor Chase
- V. VARIANCE REQUEST: BA 2016-4, Budd Law Group at 352 E. Charles
- VI. ADJOURNMENT

**MINUTES  
BOARD OF ADJUSTMENT  
THURSDAY, APRIL 7, 2016  
HOOD ROOM, MATTHEWS TOWN HALL**

**PRESENT:** Chairman Jim Jiles, Members, Jim Mortimer, Cecil Sumners, Jerry Meek, and Jeanne Moore; Attorney Robert Blythe; Senior Planner Jay Camp and Planner/Zoning Administrator Mary Jo Gollnitz

**ABSENT:** Alternate Members Gary Smith, Peter Tuz and Tom Lawing

**CALL TO ORDER/INVOCATION:**

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

**APPROVAL OF THE MINUTES:**

Jim Mortimer motioned to approve the minutes of the January 7, 2016 meeting. Cecil Sumners seconded the motion. The motion passed with four members approving and Ms. Moore abstention.

**SWEARING IN:**

The following were sworn in: Jay Camp, Carlton Burton, Chase Burton, and Mike Chapman.

**VARIANCE REQUEST: BA 2016-2, Pike Nursery Sign at 1016 Devore Lane**

**STAFF REPORT:**

Senior Planner Jay Camp addressed the Board. He stated that the applicant is requesting a variance to the Highway Overlay Buffer for the installation of a monument sign. Mr. Camp provided some background history on the Highway Overlay Buffer. He stated that in 1991 when Hwy 51 was being built, the Town wanted to make sure that the road would be attractive and not become another Independence Blvd. The buffer was put in place to ensure a more parkway style road with a view shed buffer. The buffer requires a minimum of 30 foot tree save area along the right-of-way, with an extra 15 feet before any buildings can be constructed.

He further noted that when Sycamore Commons was built, an agreement with the Town was made that the property in question would not have a new driveway access to Hwy 51. Access would come from Devore Lane. When the site was rezoned by Pike Nursery in late 2015, the drawings showed the driveway off the rear. Within the Highway Overlay, in order to preserve as many trees as possible, our ordinance requires the utility connection, signs, and driveways to go into one generalized area.

Mr. Camp stated that there is no driveway along Hwy 51. The UDO states that you can have the monument sign in the buffer if you are clearing for a driveway. The applicant will clear a small area in the buffer for utility lines. There is no way to access the utilities from the back of the site. He noted that the clearing was approximately 30 ft. for the utility connections to the building. He continued showing the Board the site location and describing the area. He noted that the sign in the package would not be allowed. He showed the sign that would be allowed by the UDO sign requirements.

Ms. Moore wanted to know the size of the sign. Mr. Camp stated that the maximum size allowed is 100' sq. ft. and Pike Nursery has shown the size to be 75.4 sq. ft. Ms. Moore asked if the applicant would have another sign at the driveway entrance. Mr. Camp noted that the UDO does allow for directional signage and the applicant is still in the permitting process for signage.

Chairman Jiles asked if the landscape plan has been approved by the Planning Board. Mr. Camp stated that the rezoning was approved in December 2015. He continued noting that the plans are in the permitting process through EPM. He explained that EPM is the Electronic Plan Management system for reviews by the Town and County staff. Mr. Jiles asked if the utilities coming through the buffer also needed a variance. Mr. Camp stated that the UDO does not limit the connection for utilities. The ordinance recognizes that utilities have to be connected. The only restriction is for signs.

Mr. Jiles noted that the Ordinance states that location of utilities shall only be located in the portion that is disturbed for driveway access. Mr. Camp informed the Board that staff did examine this section of the Ordinance to make sure there was no variance for utilities. He continued stating that staff's interpretation of that section is that you could not clear two sections of the buffer, one for driveway and one for utilities.

Ms. Moore asked if these are the utilities for the nursery as well as the sign. Mr. Camp stated yes and that the sign would be located over the utility connection area.

Ty Shaffer with Robinson Bradshaw & Hinson 101 N Tryon St Charlotte representing the applicant addressed the Board. He stated that the applicant is asking for the variance to the signage standards that are applicable in Hwy NC 51 Overlay District.

He provided evidence including an aerial showing the site. He showed the overlay buffer and the approved rezoning site plan from December 2015. He continued stating that access to the property will be from Devore Lane. The plan is to develop and operate a greenhouse and nursery on this site. He stated § 155.504.2.B.13 is the relevant section of the UDO that the applicant is requesting the variance for. He read the language for the Board. The variance request is to place the sign in the area where the land will be disturbed for utility access.

Mr. Shaffer went onto to state that unlike other sites along NC 51, the applicant does not have driveway access across the buffer. This was a consequence from a prior rezoning in 2000. The Town granted easement through Devore Ln which the property owner will use. He continued stating that the easement makes this site different from other sites along NC 51. There are visibility issues for the site that makes it a hardship.

He continued noting that the current sign location will not be visible to west bound traffic and difficult for east bound traffic to see. He asked that the Board keep in mind that this is not a request to clear any additional area in the buffer. The applicant is asking to place the sign in the utility access clearance that is already allowed.

Carlton Burton with Burton Engineering Assoc. 5950 Fairview Rd Suite 100 Charlotte approached the Board. He introduced Chase Burton and stated that Chase has been with their office for seven years completing site work on projects such as this.

Carlton Burton stated that the allocated sign area is not allowed on Devore Lane because the easement is only for the driveway. He noted that there is not a good location at the corner of Northeast Parkway and Devore Lane because the area is largely covered with trees. There is a culvert and retaining wall that goes to the creek at that location. He further noted that someone may be able to see the sign at the corner while in one of the turning lanes. You would be looking across two rows of traffic. It would also be difficult to clear for the sign because you would have to limb-up real high.

Mr. Burton continued stating that if the sign is placed at the corner, and you are driving west bound, you would not be able to see the sign until you are past the property. There is basically non existing sign visibility at that location. They understand the highway overlay reasoning and requirements.

He stated that the distance from Devore Lane to Hwy 51 is approximately 485 ft. It would be difficult to see a sign from that distance. He noted that they did look into providing the utilities from Devore Ln. However, the requirement for backflow preventers and meters not on their property severely limited where they could be located. Mr. Burton informed the Board that the middle of the site had bedrock. They could not get the water across the site and could not did a trench for a fire line. The fire department required a hydrant be located along NC 51.

Mr. Burton did point out where the utility corridor would be across the buffer. He noted that it is very close to where a driveway would be. He believes there will be less clearing than if there was a driveway across the buffer. He noted that, including the shoulders, they would need close to 40 ft. clearing for the driveway. They are currently closer to 20 feet of clearing. They are not trying to take advantage of the situation. He stated that they need to been seen in order to run a business.

Mr. Burton further explained and showed the elevations along Hwy 51. He showed how the sign would be at the back of the right of way. There is still limited visibility of the sign in the cleared area. He described the road elevations. They had considered placing a sidewalk along NC 51, but because of the elevations they would have had to place a bridge to add a sidewalk. He continued explaining that the trees align with the sign on the side of the building. The height of the vegetation blocks the building wall sign.

Mr. Shaffer asked Mr. Burton to confirm the proposed building signage showing the view from NC 51 and Northeast Parkway. Mr. Burton did. Mr. Shaffer asked Mr. Burton to clarify, that due to the tree line, there is no way for traffic to see the signs on the building from Hwy 51. Mr. Burton showed the current image of the vegetation on the site. He noted that the vegetation had just started to bloom and that it is very thick making it difficult to see through. He continued noting that if you went 30 or so feet behind the sidewalk, it would be difficult to see the wall signage.

Chase Burton 5950 Fairview Rd Charlotte addressed the Board. Mr. Shaffer asked Mr. Burton if he was personally familiar with the tree survey shown to the Board. Mr. Burton answered yes. Mr. Shaffer asked if the nature of the tree line is heavily pined in evergreen. Mr. Burton stated yes. Mr. Shaffer asked if, in Mr. Burton's opinion, would there be any relief from the canopy to visibility in winter. Chase Burton stated no.

Mr. Shaffer asked Carlton Burton to answer a few more questions. He stated that coming east bound on Hwy 51, could Mr. Burton explain again the visibility issue to see signage on the site. Mr. Burton stated that the current sign location is approximately 485 feet from the traffic lane. He continued noting that you have to look over two lanes of traffic when you are east bound to see the sign. He noted that there are very dense vegetation along the edge of the property. It is difficult to clear underbrush because of the retaining wall and topography. He further stated that near the corner of the property there are two creeks that converge and culverts that go under the road.

Mr. Shaffer asked Mr. Burton to tell the Board what the image is depicting that was being shown. Mr. Burton stated that it is Hwy 51 where they will be adding a turn lane on the left hand side. You can see the vegetation, not quite to the stop light. Someone would have to look around the edge of the vegetation and look down Northeast Parkway to see the entrance.

Mr. Shaffer asked Mr. Burton that being involved in this project, would you be able to see signage on the property without any difficult. Mr. Burton answered that someone would have to know what they are looking for to see it. It is not obvious. In his opinion it would be difficult to see the sign.

Mr. Shaffer asked Mr. Burton is it his understanding that the site conditions were present on the site and not created by the applicant or his proposed use. Mr. Burton answered that all of the conditions were existing. He showed the utility clearance area for fire service, irrigation line and water service line for the project. He stated that the sign will be between the two water lines and entirely within the utility access area. The applicant is not requesting to clear any additional property.

Mr. Shaffer asked Mr. Burton if the proposed signage will have to comply with all the applicable dimensions of the UDO. Mr. Burton answered yes and based on the preliminary sketches it is less than the maximum allowed.

Mr. Shaffer asked if there were any questions. Mr. Jiles asked if the capacity of utility lines had an impact on which direction they could be accessed from. Carlton Burton stated that there were concerns with extending an eight inch line a long distance for water service. He noted that CMUD would not allow extension beyond the right-of-way. He explained the complexity of fire service lines.

Mr. Jiles asked if they considered what the sight line would be and sign visibility along Hwy 51 in both directions. Mr. Burton stated that they would prefer to have a wider space, but at least they have a sign identifying their business. They would like to perform selective under clearing and have landscaping around the sign. Mr. Jiles noted that even though you reduce the screening you will add back landscaping around the sign and still end up with screening that does not impact your sign visibility. Mr. Camp stated that the UDO allows for hand clearing of brush, invasive weeds and underbrush in the buffer.

Mike Chapman with Pike Nurseries 3555 Kroger Blvd, Duluth GA 30096 approached the Board. He stated that he has a Bachelor of Science Degree in Landscape Design and has worked for Pike Nurseries for 23 years. He continued noting that they are excited about the project and this land is perfect for their use. They do like the buffers, but the buffers are challenging. They believe this will be a perfect setting for the environment of a nursery.

Mr. Chapman went on to explain that they need the sign. They are not asking to expand the size of the clearing, they wish to use the space that they have to clear for utilities. This will allow for visibility to the location. He further noted that they are dependent on signage when they come into a new market. They currently only have one location in the Charlotte area in Ballantyne. He noted that they appreciate the Board's time.

Mr. Shaffer summarized noting that Section 155.208.C.1.b of the UDO, states that the Board shall make findings upholding each of these criteria in order to grant a variance. He stated that the first is unnecessary hardship would result from strict application of the Title. Mr. Shaffer said that because the applicant is not providing a driveway across the buffer, strict application of the signage provisions would not allow the applicant to place a monument sign along NC Hwy 51. This makes the use largely invisible on the road. He further stated that the Planning staff memo notes this. He continued stating that the wall sign is going to be screened by trees. Planning staff memo also noted that other properties along NC Hwy 51 do have driveways along this road. As a result of this, strict application of the Ordinance, would cause a hardship.

Mr. Shaffer continued stating that number two is that the hardship is peculiar to the property, such as location, size, or topography. He reiterated that the hardship results from the peculiarity of the property. Planning staff memo states that this is not anything that the applicant has done. The trees in the buffer have to be protected.

He continued noting that the hardship did not result from actions taken by the applicant or property owner. He stated that they have covered this and the staff memo also states this.

Mr. Shaffer finished stating 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 noted that the applicant is not asking for any additional disturbance or clearance. They are asking for the least possible deviation of the Ordinance. To allow the signage would not detract from the character of the surrounding land uses. No additional encroachments into the buffer is being requested and all applicable dimensional standards of the sign ordinances will be met.

He further stated that the applicant would be harmed if the variance would be denied. There is no corresponding benefit to the public. The clearing will be there and they wish to make use of such. He noted that they wish to be in compliance with the spirit of the ordinance by protecting as much of the buffer as possible.

Mr. Shaffer noted that there are standards that the Board must also consider. He mentioned that they are in Section 155.403.3 of the UDO. First, that special or unique circumstances or conditions exist which apply to the land, which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts. He said that the evidence is that the hardship is caused by conditions on the site.

He said second that the special conditions or circumstances do not result from the actions of the property owner. Again, both the evidence and planning staff memo shows that this is the case. He continued stating, third that the hardships are not resulting from personal or household members' circumstances or use that would not be applicable if this property owner is no longer present at the site. Whoever develops this site will be faced with the same limitations of having no driveway. Yet they will have utility access to the site.

He continued noting the fourth requirement, that the strict enforcement would deprive the owner of reasonable use of the property. The UDO allowance for sign in the driveway clearance intent is to not disturb any more area than is necessary within the protected buffer. He stated that is all the applicant is asking, to use only what has to be disturbed. He further stated that "E" says that the granting of a variance will not result in advantages or special privileges. This property is already different along NC 51 because there is no driveway access. They are not asking to clear anything more than what is already allowed, so they are not any different from any other property.

Mr. Shaffer said that standard six notes that the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties. He pointed out that there is no evidence that other properties would be harmed by this use. Many of the other properties can take advantage of their driveway use to install similar signage. Finally that the variance shall not be materially detrimental to the health, safety or welfare of persons residing or working in the neighborhood. He noted that this is a request for the least possible deviation from the Ordinance. They will be leaving the same area of protected buffer intact. Because this is intended to increase visibility, this will increase safety by giving motorists advance notice of the use.

Mr. Shaffer asked the Board if they had any questions and they believe they have satisfied the requirements to approve the variance.

#### **DELIBERATION:**

Jim Mortimer said that he feels this is a straight forward request. Ms. Moore agreed. Jerry Meek stated that he believes it meets all the criteria to grant a variance. He continued noting that the Ordinance is not an anti-sign ordinance, rather a pro-tree ordinance. He noted that there is a legitimate reason to remove the trees for utility lines. There does not appear to be a reason for disallowing a sign where the trees have already been removed. Mr. Jiles stated that the utility portion does meet the ordinance standards and the variance request is only for the sign. He believes it is well thought out. He does think that there should be high visibility of the sign traveling in both directions.

The Board concurred with the seven Standards for Findings of Fact for Zoning Variances that was presented by Mr. Shaffer during the hearing.

#### Findings of Fact

1. Unnecessary hardship would result from the strict application of the Title. Mr. Jiles stated that the owner is not constructing a driveway therefore the monument sign can be constructed on that property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Mr. Jiles stated that the property is peculiar in topography. He further noted that they are under the prior agreement and they cannot have access off of NC 51. Mr. Meek stated the applicant's options to locate a sign on the back portion of the property are very limited.
3. The hardship did not result from actions taken by the applicant or the property owner. Mr. Jiles stated that the conditions were existing and not self-created.
4. Mr. Jiles stated that the requested variance is consistent with the spirit, purpose, and intent of this Title, public safety is secured, and substantial justice is achieved.

Attorney Blythe asked if the applicant's attorney wished to propose any additional finds for the record. Mr. Shaffer answered no.

Jerry Meek motioned that the variance request to allow for a monument identification sign within the highway overlay buffer be approved. Jim Mortimer seconded the motion which carried unanimously.

#### **ADJOURNMENT:**

Ms. Moore moved for adjournment. Cecil Sumner seconded the motion and the meeting adjourned at 7:50 pm.

Respectfully submitted,

Mary Jo Gollnitz  
Planner/Zoning Administrator

**Matthews Board of Adjustment  
Variance Request for 2915 Windsor Chase Drive  
November 3, 2016**

**Summary of Request**

The applicant requests a variance to allow a vehicle classified as a large commercial vehicle to be stored on a residential parcel.

**Background**

The owner of the property at 2915 Windsor Chase Drive, tax parcel id 19346116 seeks a variance to continue parking a large commercial vehicle at the residence. Code enforcement officer Carlo McKoy noticed the truck parked at the location while conducting other business in the neighborhood in September. The owner states that he has parked the truck at the location for “about 10 years” however staff cannot verify just how long the vehicle has been located at the premises. Google Earth imagery from as far back as 2007 appears to show the truck in the driveway. Regardless, the Town has never allowed large commercial vehicles in residential neighborhoods and only several years ago added language that allows one medium sized commercial vehicle to be parked overnight at a residence.

The owner, an employee of Caterpillar Commercial Generators, contends that he is a rapid response technician and is required to have a take home vehicle as he is and on call employee who must be ready at a moments notice. It may be possible for the owner to be issued a smaller truck that meets our code definition of a medium sized commercial vehicle and we have asked if Caterpillar will issue a letter stating that a new truck can be ordered for Mr. Hicks. If this is the case, it could be possible for the Board of Adjustment to grant a variance with a sunset clause to allow the vehicle to remain until it is replaced with a smaller truck.

**Unified Development Ordinance Requirement**

Section 155.607.1.C.14.f - In the single family residential districts, one mid-range commercial vehicle may be parked overnight (9 PM t o 7 AM) on the same lot as an occupied dwelling unit.

**Matthews Board of Adjustment  
Variance Request for 2915 Windsor Chase Drive  
November 3, 2016**

**Unified Development Ordinance Definitions and Requirements**

within the previous three years.

**Vehicle, Commercial, Mid-Range:** shall mean a vehicle that is marked with a sign or carries a commercial vehicle license plate, that is designed or used for business purposes that has a gross vehicle weight rating (GVWR) of less than thirteen thousand (13,000) pounds and a cargo area/work platform (including any installed accessories such as ladder racks, cranes, compressors, hose reels, welders, etc.) that does not exceed eight feet (8') in height. Cargo area/work platforms separate from the cab shall not exceed fourteen feet (14') in fixed length. A camper shell, toolbox within the bed, and similar accessory equipment or a conversion van that is clearly intended and being used for regular personal or household use, but not for any business or commercial activity, will not qualify the vehicle as a commercial vehicle. However, ladder racks, cranes, compressors, hose reels, welders and similar equipment make the vehicle a commercial vehicle.

**Vehicle, Commercial, Large:** shall mean a vehicle that is marked with a sign or carries a commercial vehicle license plate, that is designed or used for business purposes that has a gross vehicle weight rating (GVWR) of thirteen thousand (13,000) pounds or more. Large commercial vehicle also includes a vehicle with a GVWR of less than thirteen thousand (13,000) pounds if the height of any portion of the vehicle exceed eight feet (8') (including any installed accessories such as ladder racks, cranes, compressors, hose reels, welders, etc.), or the length of the cargo area/work platform exceeds fourteen feet (14') in fixed length.

feet (60') of NC51 right-of-way, unless meeting the provisions of §155.504.2.

- f. In the single-family residential districts, R-12MF and R15MF multi-family districts, and the SRN district, parking of commercial vehicles is not allowed, except under the following provisions:
- i. One mid-range commercial vehicle may be parked overnight (9 PM to 7 AM) on the same lot as an occupied dwelling unit. It shall only be parked on a clearly delineated parking pad or driveway, and shall not be within the required front setback.
  - ii. Vehicles intended and regularly used to transport people to and from institutional uses may be parked overnight (9 PM to 7 AM) on the same lot as the institutional use. They shall only be parked on a clearly delineated parking pad.
  - iii. A rental or moving van or truck may only park in these zoning districts for the purposes of loading or unloading personal belongings for the lot at which it is parked. Such vehicles parked in residential areas shall not exceed three (3) consecutive nights.
  - iv. Emergency response vehicles, road and utility repair and maintenance vehicles, delivery trucks, and similar vehicles used for emergency situations, repair of public infrastructure, or for the delivery of goods and services are exempt from this parking limitation while they are needed on the site.
  - v. Commercial and construction vehicles and equipment at an active development site or active construction staging area are exempt from this parking limitation. [formerly known

**Example 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.

**The property can continue to be used and occupied as a single family residence.**

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.)

**Due to the size and shape of the lot, it is not possible to store the vehicle in a location not visible from other homes.**

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 applicant maintains that he was not aware of the code and has parked the truck here for 10 years.**

4. The requested variance is consistent with the spirit, purpose, and intent of this Title, public safety is secured, and substantial justice is achieved.

**The spirit of the Ordinance is to prohibit large scale commercial vehicles from being stored in single family settings. The visual appearance of such vehicles and the noise often associated with them can be detrimental to the peaceful enjoyment of neighboring property owners. A reduction to a medium sized commercial vehicle would meet the code requirements and allow Mr. Hicks to continue storage of a work truck at the home.**

### 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.





2015 aerial showing truck parked in driveway

### APPLICATION FOR A ZONING VARIANCE

Date Filed: 10-3-14

Hearing Date: 11-3-14

Hearing Time: 7 pm

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

Property Owner Name(s): Daniel + Rhonda Hicks

Subject Property Street Address: 2915 Windsor Chase Dr Matthews, NC 28105

Subject Property Tax Parcel ID: 19346116

Current Zoning District of Subject Property: R9

Subject Property is Concurrently Seeking a Change in Zoning Classification To: Allow work Truck to park in driveway.

Property Owner is Applicant Appearing Before Board of Adjustment: Daniel Hicks

Applicant Appearing Before Board of Adjustment is Purchasor\*/ Lessee\*/Other\* Existing Owner

\*Written explanation is required I work for Carolina Tractor + Equipment, As

a power generator tech. We are on call 24 hours a day, 7 days a

week. We drive our trucks home to ensure response time is

quick. Hospital for example goes down can be there in 15 min versus

To the Town of Matthews Zoning Board of Adjustment: over an hour to go to office to get truck

This Application for a Zoning Variance is being submitted because the property identified above cannot be used in the following manner: Parking a large truck in driveway, in

which have been doing so for over 10 years

without any complaints from anyone

Without relief from one or more specific provisions of the Unified Development Ordinance (UDO). UDO section(s) which affect this ruling is/are: 155.607.1.14.F

**APPLICATION FOR A ZONING VARIANCE, CONTINUED**

**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 four (4) conclusions as a prerequisite to issuing a variance: (i) that unnecessary hardship would result from the strict application of the ordinance; (ii) that the hardship results from conditions that are peculiar to the property; (iii) that the hardship does not result from actions taken by the applicant or the property owner; and, (iv) that the variance is consistent with the spirit, purpose, and intent of the zoning code, public safety is secured, and substantial justice is achieved. 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 four required conclusions. IT WILL BE YOUR RESPONSIBILITY TO PRESENT THESE FACTS BY SWORN TESTIMONY AND COMPETENT EVIDENCE.

- (i) UNNECESSARY HARDSHIP WOULD RESULT FROM THE STRICT APPLICATION 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. (State facts and arguments to show that the variance will not result in advantages or special privileges to the applicant or property owner that the ordinance denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief.):

Without access to work truck and tools, gear I could possibly lose job. CAT expects techs to arrive on site within a 30min period due to some generators are life safety generators providing backup for hospitals fire department, 911 call centers for both EMS and police. We need to be there to ensure the generators are performing properly.

check if continued on a separate page

- (ii) 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. (State facts and arguments to show that special and unique circumstances or conditions 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 district.):

The truck is parked on a side driveway of the house separate from main driveway. Park & Packed back. However the shape of our property (Triangle) doesn't allow complete hideout from right side.

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**APPLICATION FOR A ZONING VARIANCE, CONTINUED**

- (iii) THE HARDSHIP DOES 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. (State facts and arguments to show that the hardship did not result from personal circumstances which would no longer be applicable to the location if the applicant or household was no longer present at the property.):

Never knew of this variance, have lived here 20 years & have work for CAT for 24 years been driving the same truck home for over 10 years and this is the first time hearing about this variance.

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- (iv) THE REQUESTED VARIANCE IS CONSISTENT WITH THE SPIRIT, PUPOSE, AND INTENT OF THE ZONING CODE, PUBLIC SAFETY IS SECURED, AND SUBSTANTIAL JUSTICE IS ACHIEVED. (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.):

As stated previous CAT has generators at all hospitals, EMS, fire. If power fails & generators don't come on or function properly, personnel, patients etc could be stuck in elevators, Dies in Surgery etc.

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**APPLICATION FOR A ZONING VARIANCE, CONTINUED**

The Board of Adjustment may apply the following standards to verify whether sworn testimony and/or submitted documents/exhibits have been provided to satisfactorily justify the required four findings of fact. Please provide any additional documents and statements that will assist the Board in their deliberations:

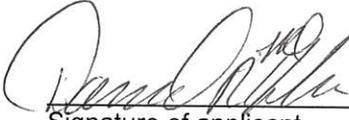
- A. That special or unique circumstances or conditions exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts.
- \_\_\_ Are there any other parcels in the vicinity of the subject site which have similar size, topographical, dimensional, configuration, or related characteristics.
- \_\_\_ What is the closest nearby parcel that exhibits similar characteristics, and what is that/are those characteristic(s)?
- B. That the special conditions or circumstances 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.
- \_\_\_ Was any foundation or other survey done after construction commenced? If so, attach.
- \_\_\_ If the request for variance is due to inaccurate measurements, calculations, or actions by anyone contrary to code requirements, please identify who, what the inaccuracy was, when it occurred, when it was discovered, what work was done after discovery. If development activity continued after discovery of the inaccurate action, why was it necessary to continue prior to review of this variance request?
- C. 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.
- \_\_\_ If another person/entity had control of this site, how would that change the need for the specific variance being requested?
- D. That the strict enforcement of these zoning requirements would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of the code.
- \_\_\_ How can the property be used if the requested variance is not granted?
- \_\_\_ Could the property be reasonably used if a variance with less deviation from the adopted requirements be issued?
- E. That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that are denied to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief.
- \_\_\_ Why do nearby parcels not need a similar variance to what is being requested?
- \_\_\_ If granted, how will this site be able to support the same/similar development characteristics as surrounding parcels?
- F. That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties.
- \_\_\_ If the requested variance is granted, what appearance changes will take place on this site?
- \_\_\_ Will any visual/appearance changes be visible from any public street?
- G. 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.
- \_\_\_ List any and all impacts that may be felt by/on adjacent parcels if this requested variance is approved.

**APPLICATION FOR A ZONING VARIANCE, CONTINUED**

**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.**

Daniel Roddey Hicks/Rhonda B Hicks  
Print applicant name

\_\_\_\_\_  
Print representative name

 Rhonda B. Hicks  
Signature of applicant

\_\_\_\_\_  
Signature of representative

2915 Windsor Chase Dr  
Mailing address of applicant

\_\_\_\_\_  
Mailing address of representative

WAXHLEWS, NC 28105  
City, State Zip

\_\_\_\_\_  
City, State Zip

\_\_\_\_\_  
Email address of applicant

\_\_\_\_\_  
Email address of representative

10-3-16  
Date

\_\_\_\_\_  
Date

NO REQUEST FOR A ZONING VARIANCE WILL BE CONSIDERED COMPLETE AND PROCESSED PER § 155.403.2.B. UNTIL ALL SECTIONS HAVE RESPONSES, ALL DOCUMENTS AND EXHIBITS ARE ATTACHED, AND THE PROPERTY OWNER HAS SIGNED THE APPLICATION FORM.

IN THE SITUATION THAT THE PROPERTY OWNER IS NOT AN INDIVIDUAL, PLEASE INCLUDE DOCUMENTATION THAT APPLICANT IS AN AUTHORIZED REPRESENTATIVE.

IF THE PROPERTY OWNER IS NOT THE APPLICANT APPEARING TO SPEAK BEFORE THE BOARD OF ADJUSTMENT, SUCH AS LESSEE, PLEASE PROVIDE EXPLANATION OF RELATIONSHIP TO APPLICANT/REPRESENTATIVE. PRESENTING REPRESENTATIVE'S AUTHORITY TO APPEAR SHALL BE VERIFIED BEFORE THE APPLICATION IS CONSIDERED COMPLETE.

**MECKLENBURG COUNTY, NC POLARIS 3G DEED REPORT**

Date Printed: 10/03/2016

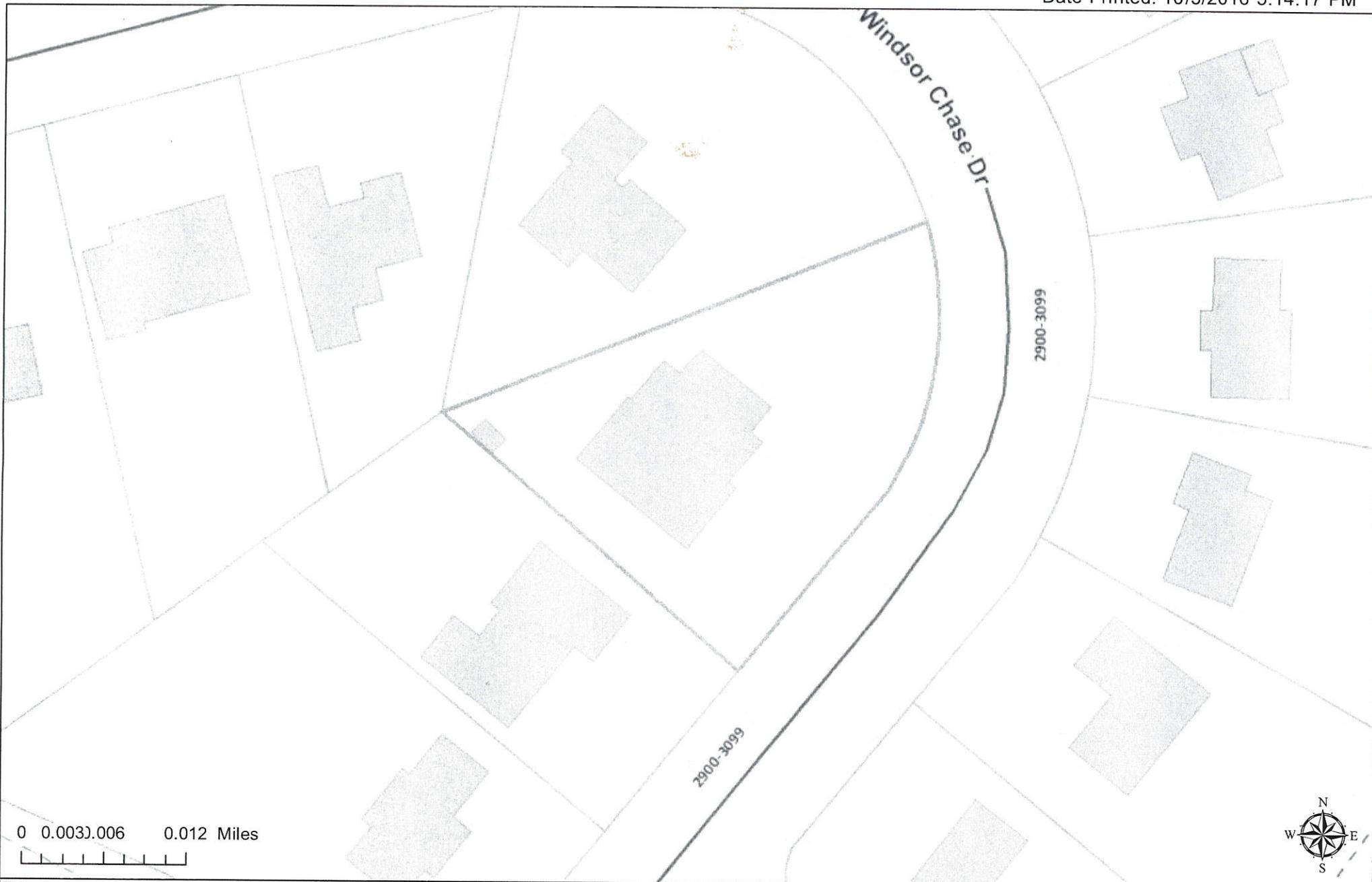
Buffer Distance: 65 Feet

No	Parcel ID	Owner Name	Mailing Address	Legal Description	Deed Book	Deed Page	Land Area
1	19346115	1. WALLACE, SUSAN J 2.WALLACE, ALAN K	30 LOOMIS BAY RD ASHVILLE NY 14710	L15 M23-839	29108	27	1 LT (0.306 GIS Acres)
2	19346116	<del>1. RHONDA BURNETTE, 2.HICKS, DANIEL RODDEY</del>	2915 WINDSOR CHASE DR MATTHEWS NC 28105	L16 M23-839	08639	738	1 LT (0.388 GIS Acres)
3	19346117	1. CONNORS, RAYMOND MICHAEL	200 WEST 16TH ST APT 4H NEW YORK NY 10011	L17 M23-839	20340	568	1 LT (0.421 GIS Acres)
4	19346118	<del>1. BLATTERMANN, DRUSILLA S</del>	3003 WINDSOR CHASE DR MATTHEWS NC 28105	L18 M23-839	24276	60	1 LT (0.283 GIS Acres)
5	19346119	1. ARMSTRONG, BEVERLY A	3011 WINDSOR CHASE DR MATTHEWS NC 28105	L19 M23-839	18165	816	1 LT (0.319 GIS Acres)
6	19346133	1. PRINCE, LAURA S 2.PRINCE, PHILLIP S	2918 WINDSOR CHASE DR MATTHEWS NC 28105	L33 M23-839	07858	658	1 LT (0.520 GIS Acres)
7	19346134	1. NOWLIN, JEANETTE 2.NOWLIN, DAVID	13052 DEL MONTE APT 43D SEAL BEACH CA 90740	L34 M23-839	20890	22	1 LT (0.665 GIS Acres)
8	19346135	1. RUSHING, LESLIE KRISTINE 2.RUSHING, GREGORY JAMES	2910 WINDSOR CHASE DR MATTHEWS NC 28105	L35 M23-839	17041	190	1 LT (0.482 GIS Acres)
9	19346136	1. JOHNSTON, RICHARD G JR	2906 WINDSOR CHASE DR MATTHEWS NC 28105	L36 M23-839	22818	183	1 LT (0.464 GIS Acres)
10	19346137	1. LOCKE, ELIZABETH A 2.LOCKE, KEVIN C	2900 WINDSOR CHASE DR MATTHEWS NC 28105	L37 M23-839	28566	328	1 LT (0.427 GIS Acres)

*This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.*

# Polaris 3G Map – Mecklenburg County, North Carolina

Date Printed: 10/3/2016 5:14:17 PM



This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information sources should be consulted for verification. Mecklenburg County and its mapping contractors assume no legal responsibility for the information contained herein.

**Matthews Board of Adjustment  
Variance Request for 352 East Charles Street  
November 3, 2016**

**Summary of Request**

The owner requests variances to driveway width and front setback in conjunction with a rezoning request to construct a new office building on East Charles Street.

**Background**

The property at 352 East Charles Street is currently under consideration for the construction of a new office building that will total approximately 4,000 square feet. A single family home that is currently located on the site would be demolished if the rezoning is approved. Before a decision can be made, the proposal must meet all applicable requirements within the UDO. Staff has identified two independent aspects of the proposal that do not meet code. The variances are as follows:

***Variance 1 - Front setback within the Downtown Overlay District.***

Properties within the Downtown Overlay must adhere to special architectural and site plan requirements. Front setbacks are determined by the Downtown Streetscape Plan. For Charles Street, a maximum setback of 29' from the curb is specified. However, CSX right-of-way encroaches onto the front portion of the site making it impossible to build a new structure where code dictates. The proposed front setback as shown on the plans is approximately 35' from the back of curb to the front porch wall of the building. This represents a variance of about 6'.

***Variance 2 - Driveway Width.***

The applicant proposes an 18' wide driveway that is flared out to 24' where it intersects with Charles Street. Standard driveway width for 2 way traffic is 24'. The applicant states that due to the low volume of traffic anticipated a 2 way drive is not necessary.

**Unified Development Ordinance Requirement**

Section 155.607.13.C.2.a - Width. All driveways installed, altered, changed, replaced, or extended after the Effective Date of the Title shall be a maximum of twelve feet (12') in width for one-way traffic and twenty four feet (24') in width for two-way traffic.

### Example 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.

**The property cannot be redeveloped and meet the maximum build-to line due to the presence of the CSX right of way. The driveway width meets code at the curb but is single lane in width along the side of the home.**

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

**The CSX right of way overlay on the front side of the property is a unique circumstance that prevents adherence to setback requirements. The narrow, 99' makes provision of a 24' driveway and a building that meets the 75% lot frontage requirement difficult.**

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

**The hardship is a direct result of the location of the railroad right of way along the front portion of the property.**

4. The requested variance is consistent with the spirit, purpose, and intent of this Title, public safety is secured, and substantial justice is achieved.

**The result of the variance would be a building that still appears to meet the goal of the Streetscape Plan and Downtown Overlay by placing the building near the property frontage with parking behind the structure. A single lane driveway lends the appearance of a property that was once single family in nature. The flair at the end of the driveway allows for 2 way traffic at the intersection with Charles Street.**

### Findings of Fact Standards for Zoning Variances

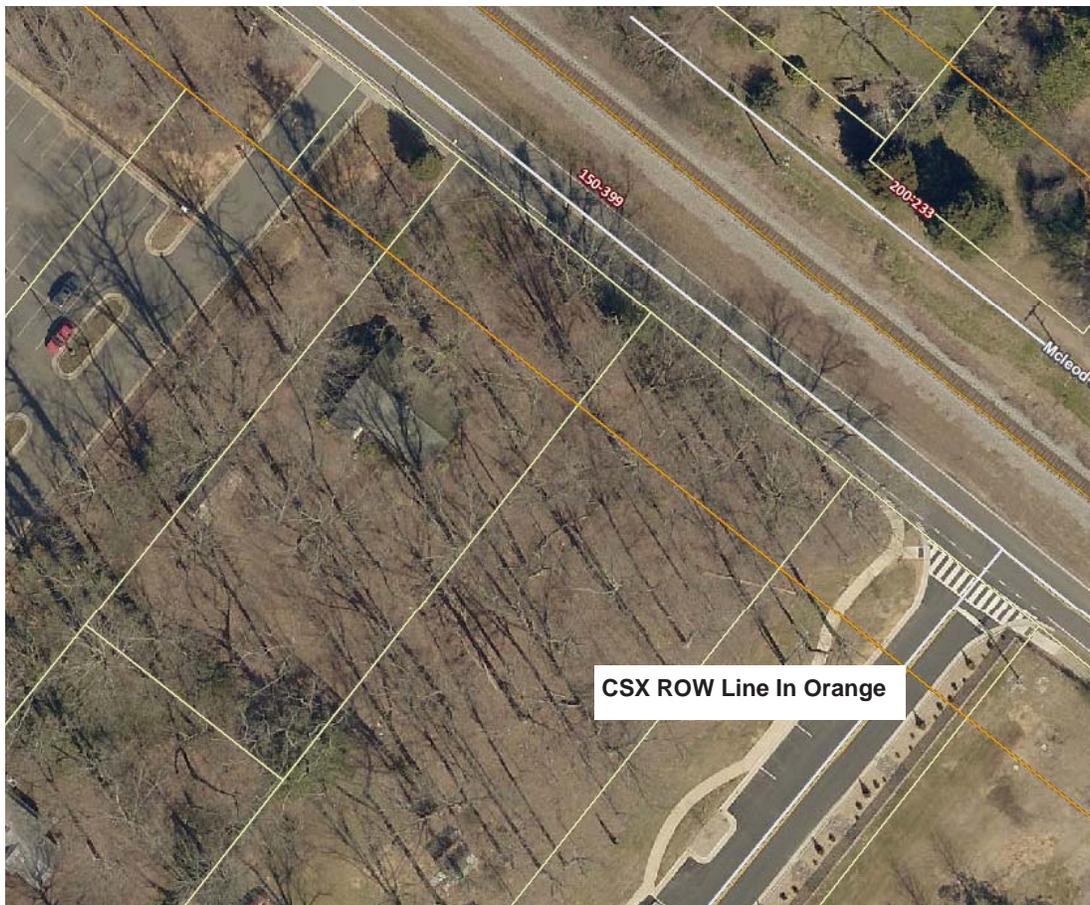
***In granting any zoning variance, the Board of Adjustment shall make findings that the spirit of the ordinance shall be observed, public safety and welfare shall be secured, and substantial justice shall be done. To reach these findings, the Board of Adjustment shall consider the following 7 standards:***

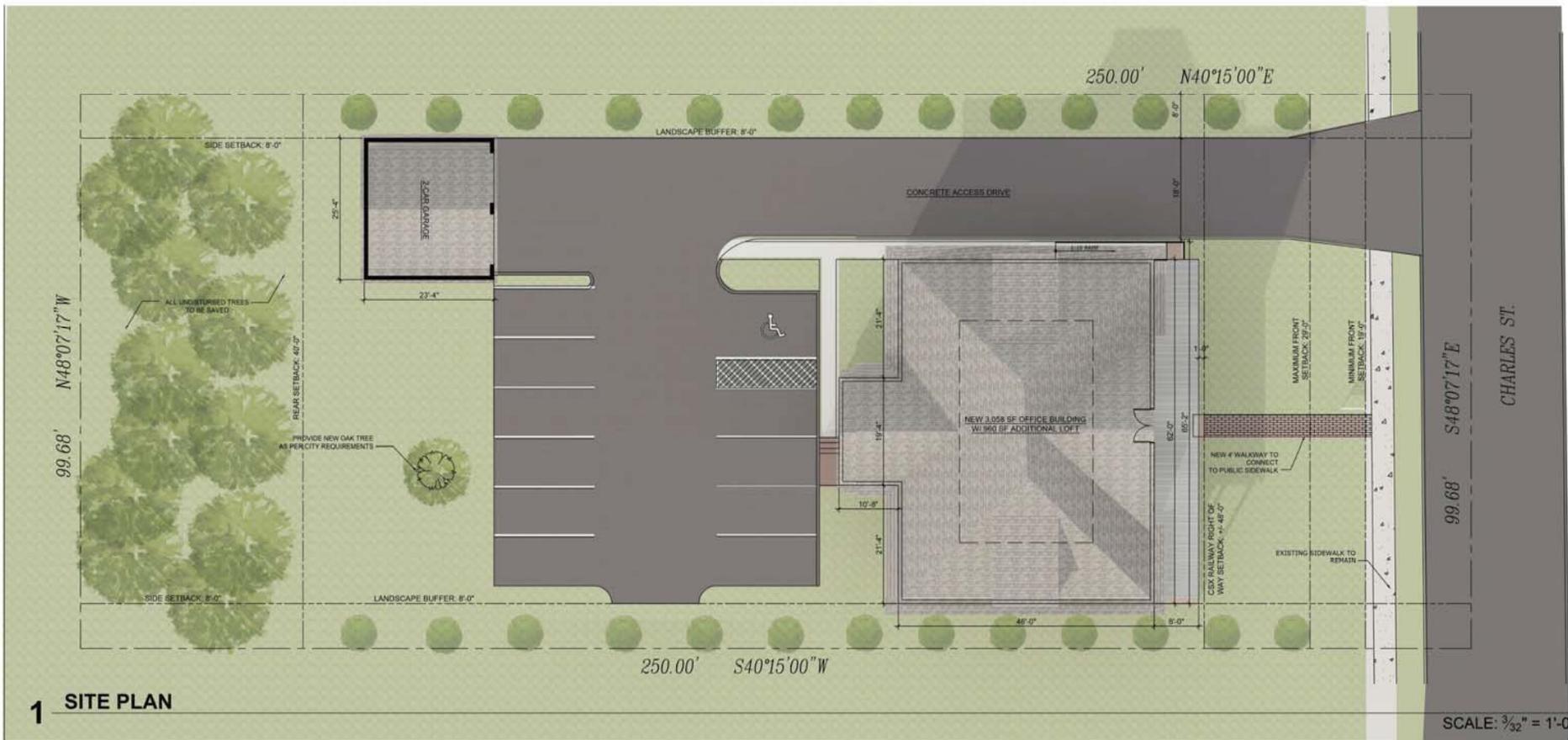
1. That special or unique circumstances or conditions or practical difficulties exist which apply to the land, buildings or uses involved which are not generally applicable to other land, buildings, structures, or uses in the same zoning districts.
2. That the special conditions or circumstances or practical 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.

**Matthews Board of Adjustment  
Variance Request for 2915 Windsor Chase Drive  
November 3, 2016**

**Typical Minimum Streetscape Cross-Section for  
Downtown Collector Street Type**

Applies unless otherwise noted in this or other Town of Matthews or NCDOT planning documents





**PROJECT SUMMARY**

**PROJECT LOCATION:** 352 E CHARLES ST.  
MATTHEWS, NC 28105

**OWNER(S):** PRESSLEY, JUDY L.  
PRESSLEY, JERRY W.  
PRESSLEY, LYNN

**APPLICANT:** LAURA BUDD

**CURRENT ZONING:** RESIDENTIAL - R-12

**PROPOSED ZONING:** OFFICE - O (CD)

**EXISTING USE:** SINGLE FAMILY RESIDENCE

**PROPOSED USE:** PROFESSIONAL OFFICE

**SUMMARY REQUEST**

The applicant requests a rezoning of the existing property from Residential - R-12 to Office - O (CD). An addition will be constructed on the rear of the existing building and the property will be used as legal offices for the The Budd Law Group.

**SUMMARY OF PROPOSED CONDITIONS**

The existing single family residence is 1,177sf, was built in 1947 and has a shingled roof with a gable at each end. The existing house has wood siding with a brick base.

The applicant proposes to remove the existing residence as it will not serve to function as an office due to building size, The Americans with Disabilities Act, available electric service, and existing mechanical unit size and efficiency.

The new structure will contain 3,159sf on the ground floor and a 1,000sf second story loft area. The architectural style of the new structure will be residential in nature and scale.

There will be a new 18'-0" concrete access drive to the parking area in the rear of the building. There will be 7 parking spaces, one of which is handicap accessible.

There will be an ADA compliant ramp on the north side of the building.

All uses in Office are allowed.

Lot Size: 0.57 Acres  
Parcel ID: 21501408  
Required Parking: 6 Spaces

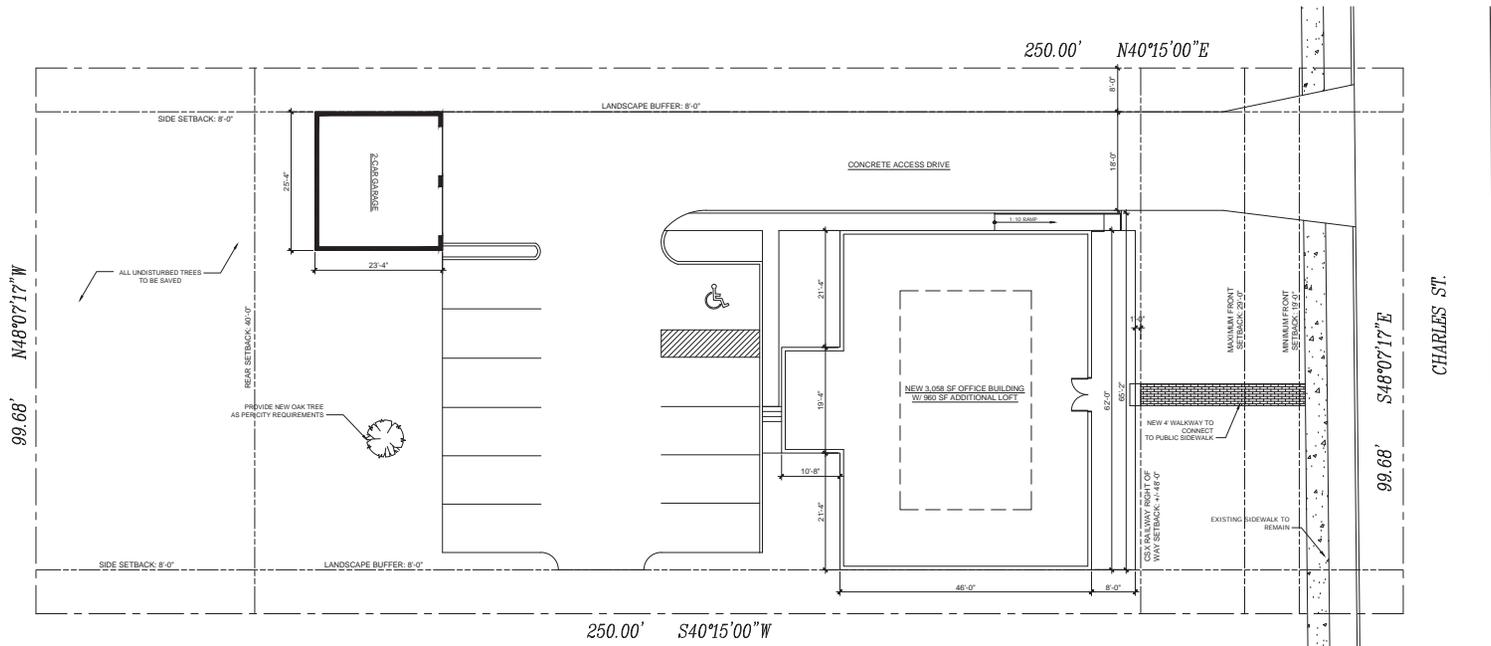
Required Setbacks  
Front: 19'-0" Minimum  
29'-0" Maximum  
NOTE: There is a CSX Right of Way setback of +/- 48'-0" from the front property line as noted on the site plan. Exact location of setback to be verified by surveyor.

Side: 8'-0" Minimum  
Rear: 40'-0" Minimum



**STUBBS | ARCHITECTURE**  
richard@stubsarchitecture.com  
407-782-4482

**GENERAL NOTES:**  
1. EXISTING SITE CONDITIONS ARE BASED ON THE SURVEY PREPARED BY Q.N. HUNEYCUTT: L-1103 - DATED 9/28/04.



**1 SITE PLAN**

SCALE: 3/32" = 1'-0"

The Budd Law Group  
Offices  
352 E Charles St.  
Matthews, NC 28105

**Revisions**

No.	Description	Date

**PROPOSED SITE PLAN**

Drawn: RS  
Checked:  
Date: 8/31/16

**RZ-2**  
Project #: 2016.30

## APPLICATION FOR A ZONING VARIANCE

Date Filed: October 13, 2016

Hearing Date: November 3, 2016

Hearing Time: 7:00PM

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

Property Owner Name(s): Judy Pressley, Lynn Pressley & Jerry Pressley, Jr.

Subject Property Street Address: 352 E. Charles St. Matthews, NC 28105

Subject Property Tax Parcel ID: 215-014-08

Current Zoning District of Subject Property: Residential

Subject Property is Concurrently Seeking a Change in Zoning Classification To: OCD

Property Owner is Applicant Appearing Before Board of Adjustment: With Purchaser

Applicant Appearing Before Board of Adjustment is Purchasor\*/ Lessee\*/Other\* Budd Law Group, PLLC

\*Written explanation is required The Budd Law Group is currently under contract to purchase the property from the Pressleys and are seeking to have it rezoned from Residential to OCD.

To the Town of Matthews Zoning Board of Adjustment:

This Application for a Zoning Variance is being submitted because the property identified above cannot be used in the following manner: \_\_\_\_\_

1. The CSX Railroad Right of Way of 50 feet does not allow compliance with the 29 foot maximum setback from the back of curb to the front setback line pursuant to the Downtown Streetscape Plan. A variance of 21 feet is requested.

2.& 3. The Lot width is too narrow to allow compliance with all requirements for structure width, driveway width, and landscape buffers set forth in the Downtown Streetscape Plan and Ordinance 155.607.3(c )(2)(a). Variances for the structure width and a portion of the driveway are requested.

Without relief from one or more specific provisions of the Unified Development Ordinance (UDO). UDO section(s) which affect this ruling is/are: \_\_\_\_\_

Downtown Streetscape Plan

Ordinance 155.607.3(c )(2)(a)

**APPLICATION FOR A ZONING VARIANCE, CONTINUED**

**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 four (4) conclusions as a prerequisite to issuing a variance: (i) that unnecessary hardship would result from the strict application of the ordinance; (ii) that the hardship results from conditions that are peculiar to the property; (iii) that the hardship does not result from actions taken by the applicant or the property owner; and, (iv) that the variance is consistent with the spirit, purpose, and intent of the zoning code, public safety is secured, and substantial justice is achieved. 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 four required conclusions. IT WILL BE YOUR RESPONSIBILITY TO PRESENT THESE FACTS BY SWORN TESTIMONY AND COMPETENT EVIDENCE.

(i) UNNECESSARY HARDSHIP WOULD RESULT FROM THE STRICT APPLICATION 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. (State facts and arguments to show that the variance will not result in advantages or special privileges to the applicant or property owner that the ordinance denies to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief.):

1. The Downtown Streetscape Plan allows for a maximum setback of 29 feet. The CSX right of way extends 50 feet into the front of the property. The proposed structure cannot encroach on the CSX right of way and a variance of 21 feet is required to avoid encroaching on CSX right of way.

2. The Lot width is 99.68 feet. The proposed structure is required to occupy a minimum of 75% of the Lot width per Code. The proposed structure is 65 feet in width and variance of 9.76 feet is requested to allow for an 8 foot landscape buffer on each side of the Lot.

3. The Commercial Driveway Code requires a minimum of a 24 foot driveway. The Lot cannot accommodate a 24 foot driveway for the entire length of the drive. It is 11.32 feet too narrow with a 65 foot structure and 8 foot landscape buffers. Therefor a variance of 6 feet for the portion of the driveway running parallel to the structure is requested.

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(ii) 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. (State facts and arguments to show that special and unique circumstances or conditions 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 district.):

Please see the above.

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**APPLICATION FOR A ZONING VARIANCE, CONTINUED**

- (iii) THE HARDSHIP DOES 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. (State facts and arguments to show that the hardship did not result from personal circumstances which would no longer be applicable to the location if the applicant or household was no longer present at the property.):

The hardship does not result from actions taken by the applicant or property owner. They are inherent conditions of the property due to the rezoning to OCD that have resulted in a hardship .

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- (iv) THE REQUESTED VARIANCE IS CONSISTENT WITH THE SPIRIT, PUPOSE, AND INTENT OF THE ZONING CODE, PUBLIC SAFETY IS SECURED, AND SUBSTANTIAL JUSTICE IS ACHIEVED. (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 variance requests are consistent with the spirit, purpose, and intent of the zoning code in regards to the Historic Downtown Overlay in that the variance requests are consistent with the "residential" look of the new structure. Public safety is secure due to low traffic volume and because the driveway flare of 24 feet at the entrance to E. Charles St. allows for traffic to enter and exit safely, if occuring simultaneously. The CSX right of way of 50 feet is designed for safety and is being complied with. Substantial justice is achieved by improving the look and usage of the Lot, which currently contains a vacant house. The Lot is surrounded by a rental property, a warehouse, and the US Post Office, all of which are business in nature.

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**APPLICATION FOR A ZONING VARIANCE, CONTINUED**

The Board of Adjustment may apply the following standards to verify whether sworn testimony and/or submitted documents/exhibits have been provided to satisfactorily justify the required four findings of fact. Please provide any additional documents and statements that will assist the Board in their deliberations:

- A. That special or unique circumstances or conditions 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.
  - Are there any other parcels in the vicinity of the subject site which have similar size, topographical, dimensional, configuration, or related characteristics.
  - What is the closest nearby parcel that exhibits similar characteristics, and what is that/are those characteristic(s)?
  
- B. That the special conditions or circumstances 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.
  - Was any foundation or other survey done after construction commenced? If so, attach.
  - If the request for variance is due to inaccurate measurements, calculations, or actions by anyone contrary to code requirements, please identify who, what the inaccuracy was, when it occurred, when it was discovered, what work was done after discovery. If development activity continued after discovery of the inaccurate action, why was it necessary to continue prior to review of this variance request?
  
- C. 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.
  - If another person/entity had control of this site, how would that change the need for the specific variance being requested?
  
- D. That the strict enforcement of these zoning requirements would deprive the owner or applicant of reasonable use of the property that is substantially consistent with the intent of the code.
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- E. That the granting of a variance will not result in advantages or special privileges to the applicant or property owner that are denied to other land, structures, or uses in the same district, and it is the minimum variance necessary to provide relief.
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  - If granted, how will this site be able to support the same/similar development characteristics as surrounding parcels?
  
- F. That the proposed use and the appearance of any proposed addition or alteration will be compatible with, and not negatively impact, nearby properties.
  - If the requested variance is granted, what appearance changes will take place on this site?
  - Will any visual/appearance changes be visible from any public street?
  
- G. 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.
  - List any and all impacts that may be felt by/on adjacent parcels if this requested variance is approved.

**APPLICATION FOR A ZONING VARIANCE, CONTINUED**

***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.***

Laura H. Budd on behalf of The Budd Law Group, PLLC

Print applicant name

Signature of applicant

10550 Independence Pointe Pkwy Ste. 301

Mailing address of applicant

Matthews, NC 28105

City, State Zip

lbudd@thebuddlawgroup.com

Email address of applicant

October 13, 2016

Date

**See attached Zoning Petition**

Print representative name

Signature of representative

Mailing address of representative

City, State Zip

Email address of representative

Date

NO REQUEST FOR A ZONING VARIANCE WILL BE CONSIDERED COMPLETE AND PROCESSED PER § 155.403.2.B. UNTIL ALL SECTIONS HAVE RESPONSES, ALL DOCUMENTS AND EXHIBITS ARE ATTACHED, AND THE PROPERTY OWNER HAS SIGNED THE APPLICATION FORM.

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# Polaris 3G Map – Mecklenburg County, North Carolina

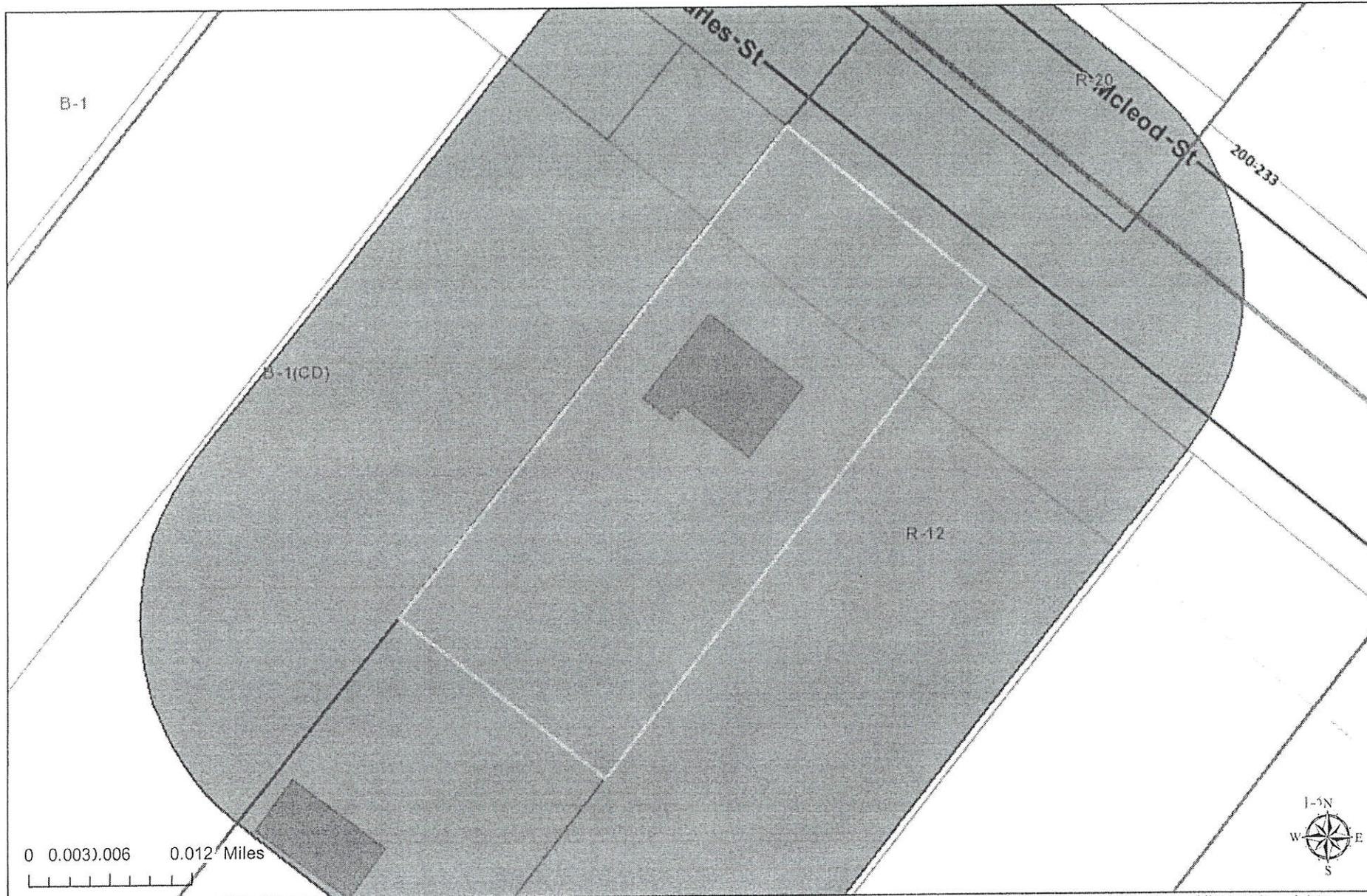
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# Polaris 3G Map – Mecklenburg County, North Carolina Buffer

Date Printed: 5/25/2016 3:02:46 PM



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List all tax parcel numbers, names, and mailing addresses of all property owners subject to notification of this zoning application. Attach additional sheets if necessary.

See item #7 in instruction sheet titled "Instructions for Filing an Application for a Change in Zoning Classification or Change in Conditions for Property located in the Town of Matthews."

Application number  
2016-648  
For office use only

2016-648  
6-1-2016

215-014-07

TAX PARCEL

Thomas Funderburke Rev. Liv. Trust & Mary Funderburke Rev. Liv. Trust

PROPERTY OWNER NAME(S)

831 Kilarney Court

OWNER MAILING ADDRESS

Matthews, NC 28104

OWNER MAILING ADDRESS, CONTINUED

United State Postal Service

TAX PARCEL

P.O. Box 27497

PROPERTY OWNER NAME(S)

Greensboro, NC 27495

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

21501418

TAX PARCEL

Amy Dassoulas, William Moore, Patricia Webb, Steven Moore

PROPERTY OWNER NAME(S)

7423 Mill Pond Dr

OWNER MAILING ADDRESS

Waxhaw, NC 28173

OWNER MAILING ADDRESS, CONTINUED

21501209

TAX PARCEL

Rachel T. McLeod

PROPERTY OWNER NAME(S)

7009 Cinnamon Circle

OWNER MAILING ADDRESS

Mint Hill, NC 28227

OWNER MAILING ADDRESS, CONTINUED

21501208

TAX PARCEL

Frank Williams, II & Kristin Williams

PROPERTY OWNER NAME(S)

P.O. Box 704

OWNER MAILING ADDRESS

Matthews, NC 28105

OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED

TAX PARCEL

PROPERTY OWNER NAME(S)

OWNER MAILING ADDRESS

OWNER MAILING ADDRESS, CONTINUED



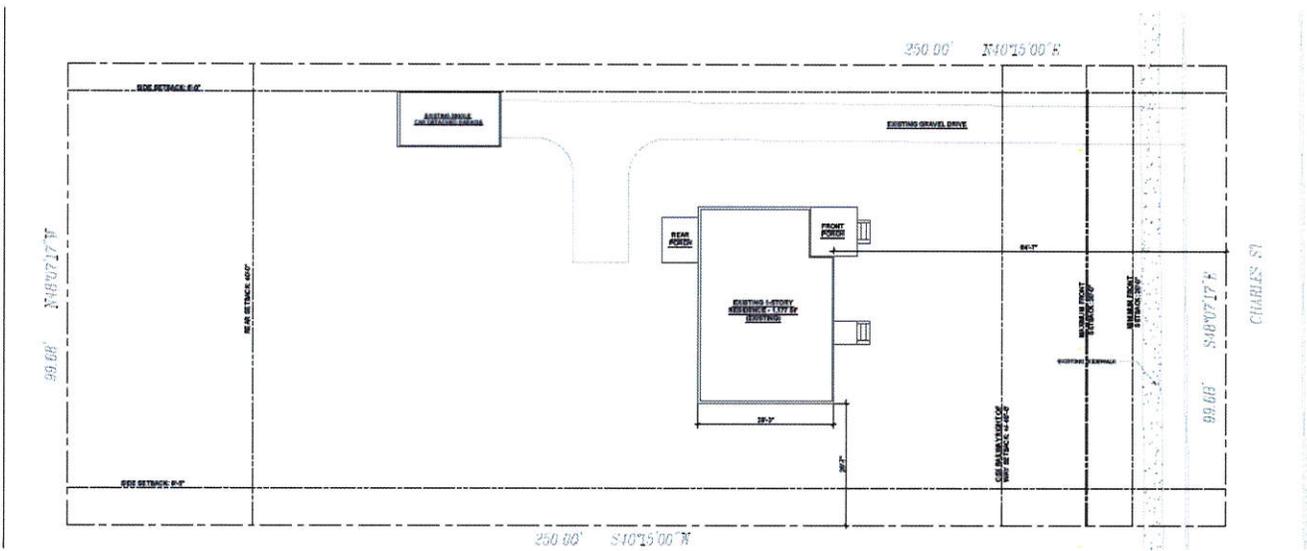
PROPOSAL FOR 352 E CHARLES STREET  
MATTHEWS, NC



EXISTING HOME  
352 E Charles Street



# EXISTING SITE PLAN



view toward Post Office



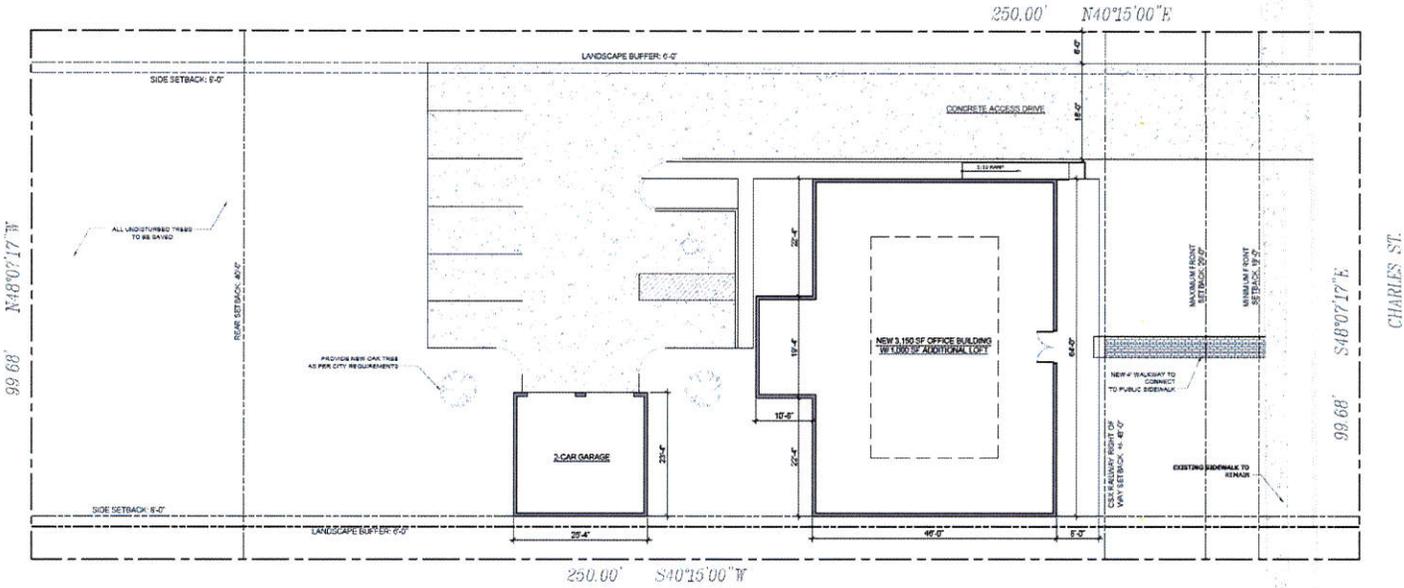
view across street



view away from town

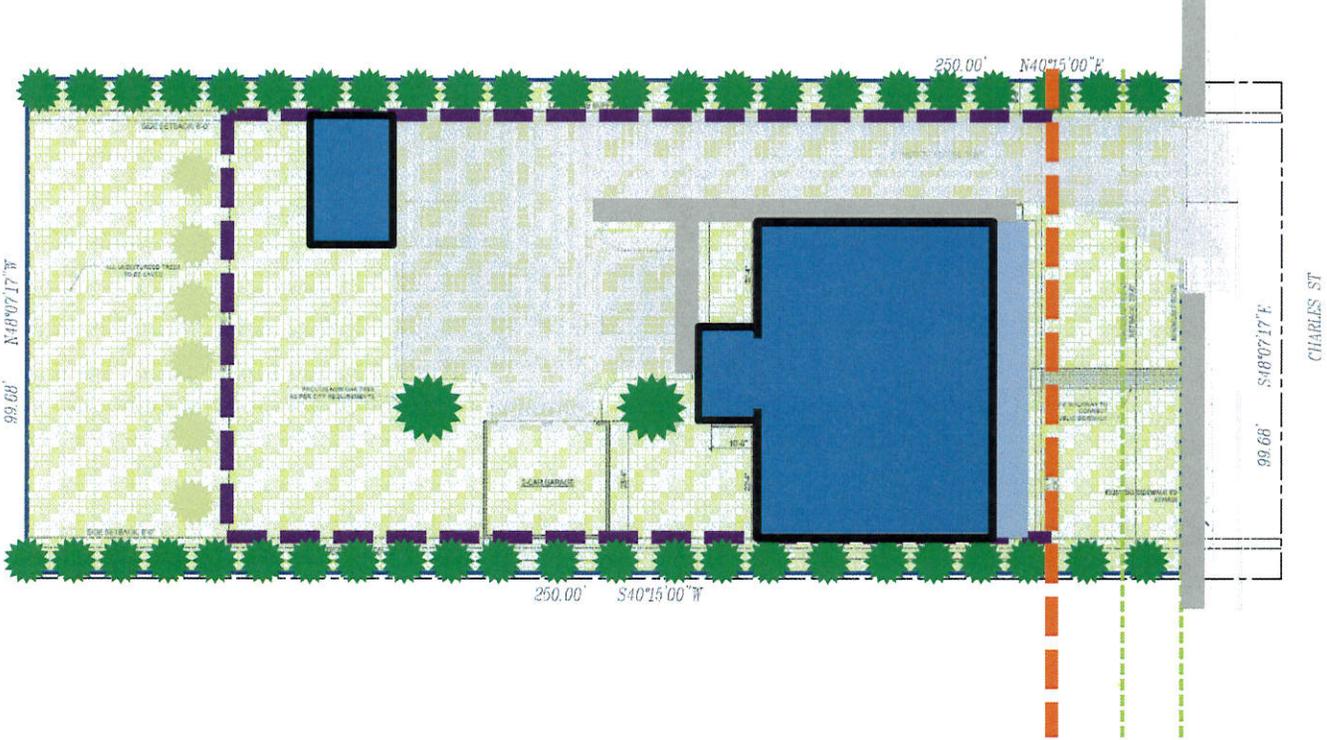


# PROPOSED SITE PLAN



CHARLES ST.

# PROPOSED SITE PLAN









**PROJECT SUMMARY**

**PROJECT LOCATION:** 352 E CHARLES ST  
MATTHEWS, NC 28105

**OWNER(S):** PRESSLEY, JUDY L  
PRESSLEY, JERRY W  
PRESSLEY, LYNN

**APPLICANT:** LAURA BUDD

**CURRENT ZONING:** RESIDENTIAL - R-12

**PROPOSED ZONING:** OFFICE - O (CD)

**EXISTING USE:** SINGLE FAMILY RESIDENCE

**PROPOSED USE:** PROFESSIONAL OFFICE

**SUMMARY REQUEST**

The applicant requests a rezoning of the existing property from Residential - R-12 to Office - O (CD). An addition will be constructed on the rear of the existing building and the property will be used as legal offices for the The Budd Law Group.

**SUMMARY OF PROPOSED CONDITIONS**

The existing single family residence is 1,177sf, was built in 1947 and has a shingled roof with a gable at each end. The existing house has wood siding with a brick base.

The applicant proposes to remove the existing residence as it will not serve to function as an office due to building size, The Americans with Disabilities Act, available electric service, and existing mechanical unit size and efficiency.

The new structure will contain 3,150sf on the ground floor and a 1,000sf second story loft area. The architectural style of the new structure will be residential in nature and scale.

There will be a new 18'-0" concrete access drive to the parking area in the rear of the building. There will be 7 parking spaces, one of which is handicap accessible.

There will be an ADA compliant ramp on the north side of the building.

All uses in Office are allowed.

Lot Size: 0.57 Acres  
Parcel ID: 21501408  
Required Parking: 8 Spaces

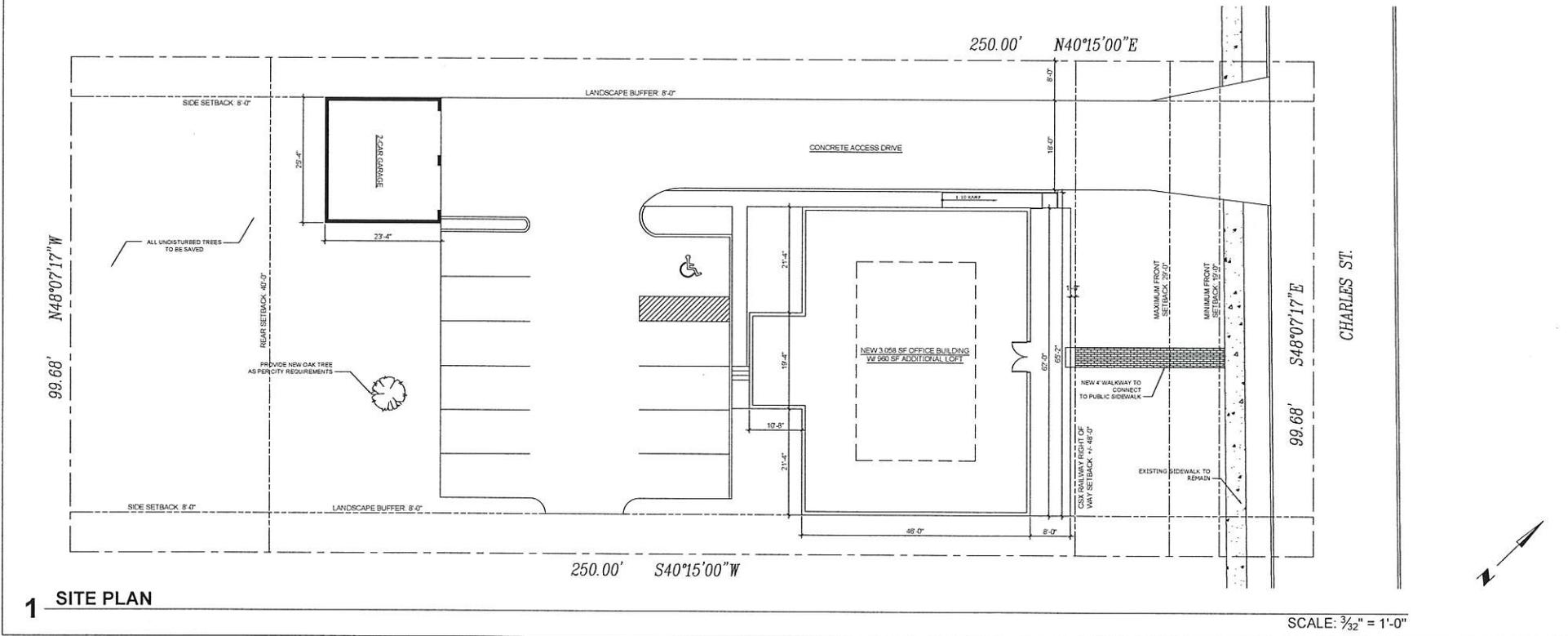
**Required Setbacks**  
Front: 12'-0" Minimum  
29'-0" Maximum  
NOTE: There is a CSX Right of Way setback of +/- 48'-0" from the front property line as noted on the site plan. Exact location of setback to be verified by surveyor.

Side: 8'-0" Minimum  
Rear: 40'-0" Minimum



STUBBS | ARCHITECTURE  
richard@stubbsarchitecture.com  
407-782-4482

GENERAL NOTES:  
1. EXISTING SITE CONDITIONS ARE BASED ON THE SURVEY PREPARED BY Q.N. HUNEYCUTT, L-1103 - DATED 9/28/04.



1 SITE PLAN

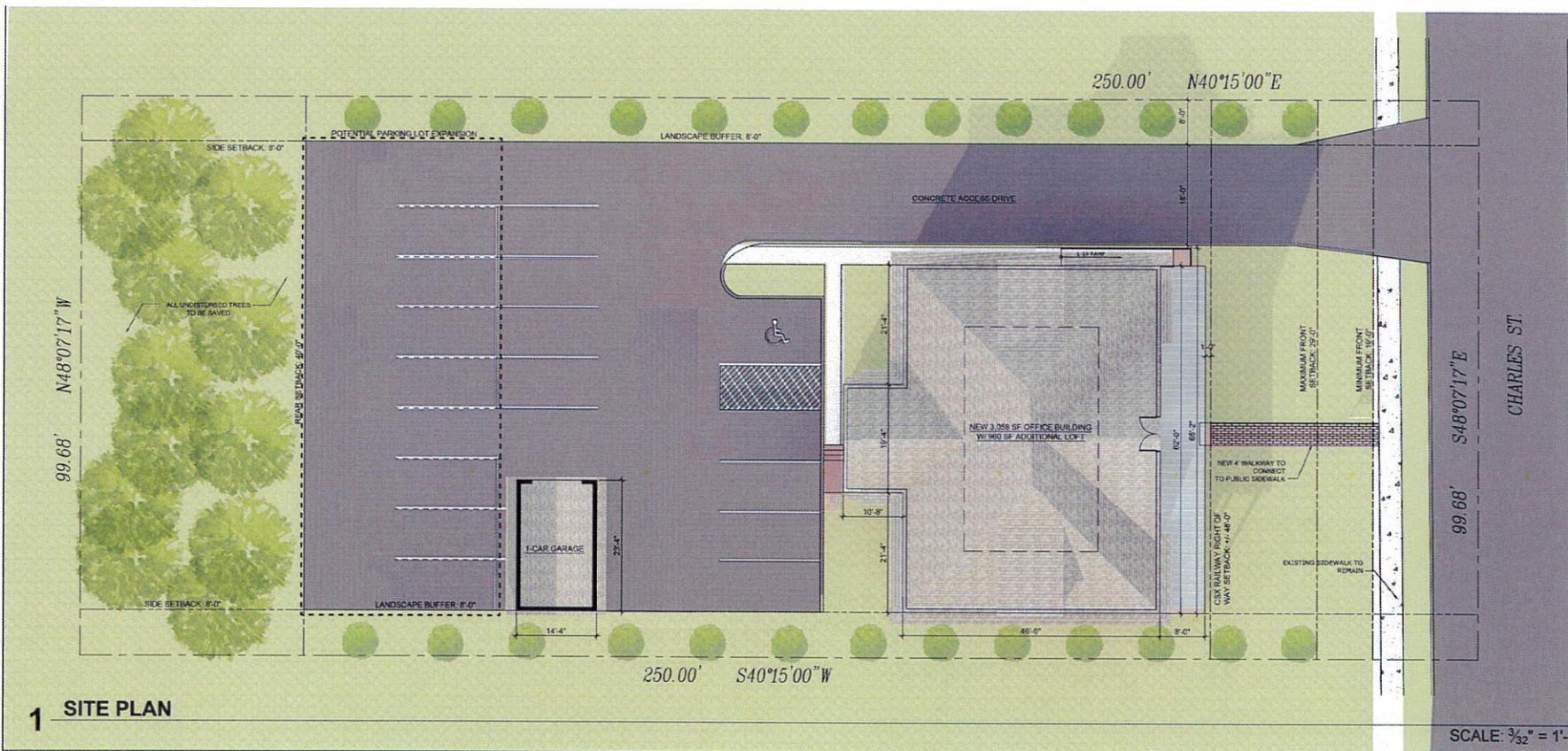
The Budd Law Group  
Offices  
352 E Charles St.  
Matthews, NC 28105

Revisions		
No.	Description	Date

**PROPOSED SITE PLAN**

Drawn: RS  
Checked:  
Date: 8/31/16

**RZ-2**  
Project #: 2016.30



**PROJECT SUMMARY**

**PROJECT LOCATION:** 352 E CHARLES ST.  
MATTHEWS, NC 28105

**OWNER(S):** PRESSLEY, JUDY L.  
PRESSLEY, JERRY W.  
PRESSLEY, LYNN

**APPLICANT:** LAURA BUDD

**CURRENT ZONING:** RESIDENTIAL - R-12

**PROPOSED ZONING:** OFFICE - O (CD)

**EXISTING USE:** SINGLE FAMILY RESIDENCE

**PROPOSED USE:** PROFESSIONAL OFFICE

**SUMMARY REQUEST**

The applicant requests a rezoning of the existing property from Residential - R-12 to Office - O (CD). An addition will be constructed on the rear of the existing building and the property will be used as legal offices for The Budd Law Group.

**SUMMARY OF PROPOSED CONDITIONS**

The existing single family residence is 1,177sf, was built in 1947 and has a shingled roof with a gable at each end. The existing house has wood siding with a brick base.

The applicant proposes to remove the existing residence as it will not serve to function as an office due to building size, The Americans with Disabilities Act, available electric service, and existing mechanical unit size and efficiency.

The new structure will contain 3,155sf on the ground floor and a 1,000sf second story loft area. The architectural style of the new structure will be residential in nature and scale.

There will be a new 18'-0" concrete access drive to the parking area in the rear of the building. There will be 7 parking spaces, one of which is handicap accessible.

There will be an ADA compliant ramp on the north side of the building.

All uses in Office are allowed.

Lot Size: 0.57 Acres  
Parcel ID: 21501408  
Required Parking: 8 Spaces

**Required Setbacks**

Front: 19'-0" Minimum  
29'-0" Maximum

**NOTE:** There is a CSX Right of Way setback of +/- 48'-0" from the front property line as noted on the site plan. Exact location of setback to be verified by surveyor.

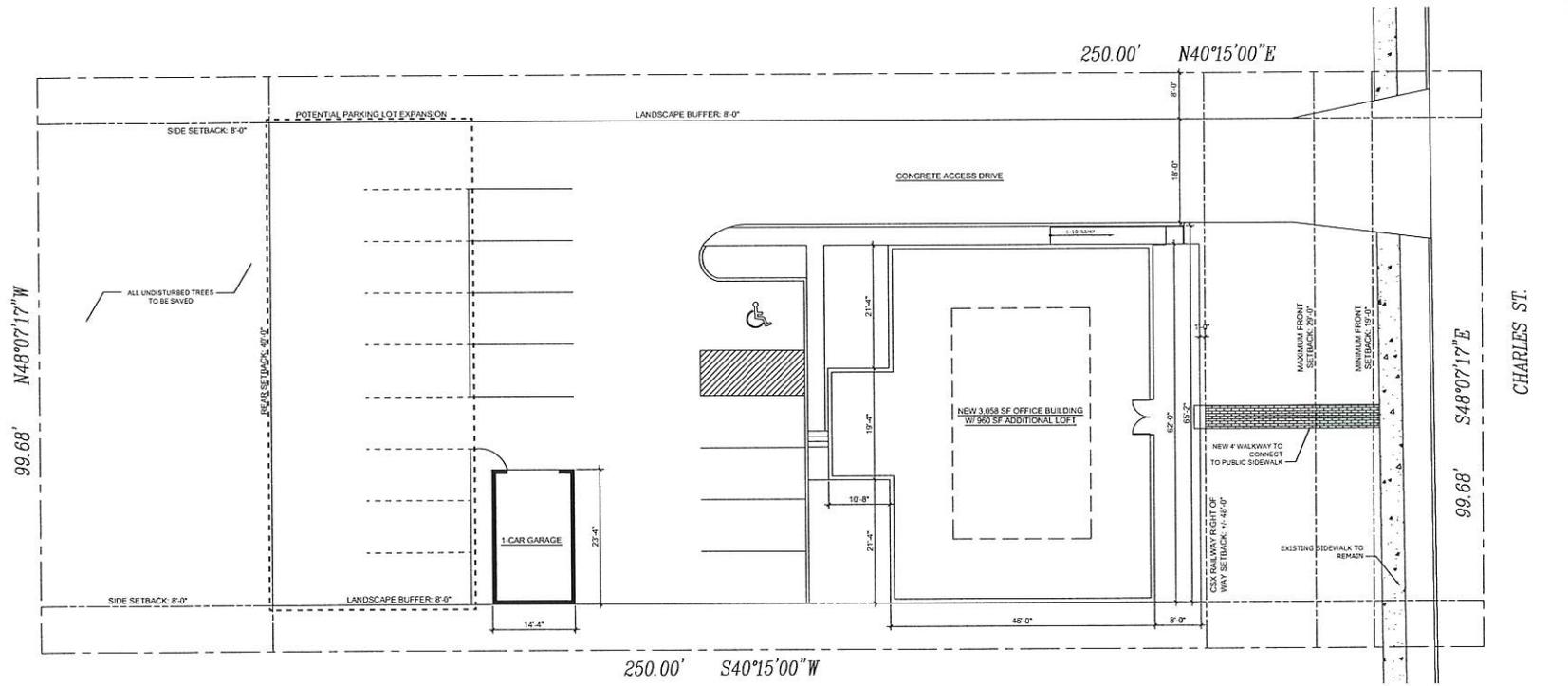
Side: 8'-0" Minimum

Rear: 49'-0" Minimum



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richard@stubsarchitecture.com  
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**GENERAL NOTES:**  
1. EXISTING SITE CONDITIONS ARE BASED ON THE SURVEY PREPARED BY Q.N. HUNEYCUTT: L-1103 - DATED 9/28/04.



1 SITE PLAN

SCALE: 3/32" = 1'-0"

The Budd Law Group  
Offices  
352 E Charles St.  
Matthews, NC 28105

**Revisions**

No.	Description	Date

**PROPOSED SITE PLAN**

Drawn: RS  
Checked:  
Date: 8/31/16

**RZ-2**

Project #: 2016.30