

Board of Adjustment
Thursday, November 7, 2013
7:00 PM
Hood Room, Matthews Town Hall

AGENDA

- I. CALL TO ORDER
- II. INVOCATION
- III. APPROVAL OF MIINUTES
- IV. VARIANCE REQUEST: Sam Newell Rd
- V. ADJOURNMENT

TO: Board of Adjustment
FROM: Jay Camp, Senior Planner
DATE: 10/31/2013
RE: Continuation of Sam Newell Rd Variance

At the last meeting of the Board of Adjustment, the Board chose to continue the variance request for the parcel on Sam Newell Rd to the November 7 meeting. As requested, the applicant has supplied an updated survey drawing with a house plan incorporated into the proposed building footprint. A proposed driveway location is provided as well. Staff communicated with the Police Department and found that only one accident has occurred in the vicinity in recent years and was due to a driver running off the road in a single vehicle accident

Following this memo you will find attached the minutes of our last meeting as well as drawings and building plans submitted by the applicant.

**MINUTES
BOARD OF ADJUSTMENT
THURSDAY, OCTOBER 3, 2013
HOOD ROOM, MATTHEWS TOWN HALL**

PRESENT: Chairman Eric Welsh, Members Jim Jiles, Jim Mortimer and Walter Monestere; Alternate Members Peter Tuz, Jeanne Moore and Jerry Meek; Attorney Robert Blythe; Senior Planner Jay Camp and Zoning Technician/Deputy Town Clerk Mary Jo Gollnitz

ABSENT: Member Cecil Sumners

CALL TO ORDER/INVOCATION

Chairman Welsh called the meeting to order at 7:04 pm and gave the invocation.

Jeanne Moore made a motion to approve the minutes of the September 5, 2013 meeting. Jim Mortimer seconded and the motion was unanimously approved.

Ms. Moore was appointed to act as a voting member for the meeting.

VARIANCE REQUEST: Parcel 19320416, Sam Newell Rd

SWEARING IN

The following were sworn in: Jay Camp, Francisco Javier Arteaga Roggiero and Carol Sage

Senior Planner Jay Camp explained that the new Findings of Fact standards went into effect as of October 1, 2013. He noted that this is the Board's first case using the new procedures and required findings.

Mr. Camp explained that the variance request is for a vacant lot on Sam Newell Road. The request is for a variance of 25 feet to the typical 55 feet in the rear yard requirement in a R-15 zoning district for the construction of a single family dwelling. The property owner is Mr. Francisco Roggiero. and according to the tax records it was purchased in 2011.

The property is approximately 1.8 acres parcel. It is unbuildable by most standards in the Town of Matthews. With the survey staff received, there is approximately 188 sq. ft. of total buildable area once setbacks are added in. Staff researched what changes may happen in the future to this parcel. Sam Newell Road will eventually split at this property into two roads. Northeast Parkway will be a new road going towards Charlotte. The maps provided by MUMPO and City of Charlotte show the connection would be further south of the proposed building site.

Mr. Camp continued providing the Board tax records documents relating to the property. He showed the northern piece of the property where the foot print of the potential building would be with required setbacks. Mr. Camp noted that it has been understood to be unbuildable for many years. The tax value also reflects this at \$16,000 for

1.8 acres, while the adjacent property is at \$29,000. The Tax Assessors office has reduced the value to something less than normal standard for Matthews.

Mr. Camp then showed the property overview and where Northeast Pkwy would potentially cut the property and where the potential building would be. He stated that some portions of the property are only 10 to 15 feet wide. He continued showing the tax map from 1994 and online GIS website showing the alignment of the new road.

Ms. Moore wanted to know what is between this particular parcel of land and Northeast Parkway. Mr. Mortimer stated that it is raw land. Ms. Moore asked who owned that land. Mr. Camp stated that he did not know specifically who the owner is, but that it is a different owner from the applicant.

Ms. Moore asked if the land behind the property in question is buildable or not. Mr. Camp stated that he believed it was landlocked. Mr. Jiles said that he believed the land is 12.3 acres behind and is landlocked. It does not have road access at this time. Mr. Camp provided an overview of the area and said that Mr. Jiles was correct. Mr. Camp stated that without road frontage the land cannot be built upon.

Mr. Mortimer asked if the road frontage for the requested variance would be on Sam Newell. Mr. Camp answered yes and that it would be approximately 1000 ft.

Ms. Moore wished to know if the applicant already has a foot print of the plan of what he wishes to build. Mr. Camp said yes and showed the dimensions of the proposed buildable area. He continued saying that with the presented dimensions; someone could build an 800 to 1000 sq. ft. foot print and go up. Ms. Moore clarified stating is this with the variance. Mr. Camp said yes and without the variance only 188 sq ft. structure can be built. Ms. Moore asked if the applicant had a permit to build yet. Mr. Camp said no and that if a variance is granted, then he could select a building plan.

Chairman Welsh asked if the rear yardage is the only point of issue at this time. Mr. Camp said yes and that the other setbacks are drawn in and there are no issues with those.

Mr. Jiles asked if the property off to right is single family. Mr. Camp stated yes there is a home on that property.

Mr. Welsh asked if there were any issues with safety and entrance to the property because there is curve along the property. Mr. Camp noted that this is state road and NCDOT would issue a driveway permit. He continued noting that for churches and subdivisions there has been tree clearing for site line issues. Being a single family home this will probably not be an issue.

Mr. Jiles asked if staff knew what the right of way is along the property. Mr. Camp said he believed the right-of-way is 60' for a minor thoroughfare. For designated minor thoroughfares right-of-way is 70 ft., so it could impact the front building line. Mr. Camp stated that the ordinance was modified to allow encroachment in the backyard of certain unheated extensions such as screened porches. This was a minor change because so many homes were built on the back build line and people could not place a deck on their home. This does not affect this property.

Mr. Roggiero then addressed the Board. He thanked the Board for the opportunity to review this situation. He stated that when he bought the property he was not aware of the setback issue. He bought the land with the intention of building a small house for his family. As it is now there is only 188 sq. ft. available space and that it is impossible to build on. He just wants to build a two bedroom home. They have an opportunity with a builder that will lend him money to build. However, they could not get permits to build based on the land. This request is just to build the house with the least possible variance.

He continued stating that he has spoken with the property owners in the back to see if they would be willing to sell a portion of their land. They are not interested. He has also proposed to give them some land so they can put a road in and build on their land. He was also willing to donate the portion of the land that is not buildable to town to build the road or help the neighbor in the back. At this point he is depending on cooperation on town to build house with minimum bearings on neighbors. He continued providing some background of their family moving to Matthews and purchasing the land.

Chairman Welsh asked when he bought this parcel. Mr. Roggiero stated that they bought the parcel a few years back under her wife's corporation name of Mermarc. A couple years ago she signed the deed back to him. There was a person who did want to buy it, but he decided to keep the property for the future. Mr. Welsh asked who's name the deed is currently under. Mr. Roggiero said that it is now in his name.

Mr. Meek wanted more information about the situation with Stegall's, behind Mr. Roggiero. The Stegall's currently do not have any access to their property, correct? Mr. Roggiero said they do not have any access. He offered the corner of his land for them to put a road in. He also told them that he would give the skinny part of land in exchange for 20 feet of land in order for him to build. They did not have any interest and did not care. Mr. Meek continued asking if there has been any further discussion between the two of them about having the Stegall's purchase his land. Mr. Roggiero said that they made a ridiculous offer. We were not interested in their offer and we will hang on even if this request does not work. We were glad to share the land.

Carol Sage addressed the Board. She stated that she and her husband own the property to the right of the applicant. They do not have any objection to the variance being granted as long as they do not incur any expense for clearing shrubs or trees for driveway purposes. Chairman Welsh asked if there were any discussions implying that they may have to incur some. Ms. Sage stated that the curve is tight and there have been frequent accidents at that location. She said that they would not have to incur the expense of clearing their land for clear line of site for the driveway. If it is further up there would be no problem, but she did not know where he planned to place the driveway.

Mr. Welsh asked if Ms. Sage could provide more information about the accidents in relations to the curve. Ms. Sage stated that they have been there over 20 years and there are several accidents a year there. She could not say that they are all related to the curve. People speed through and drunk drivers go through their yard. Mr. Welsh asked for clarification on where Ms. Sage's property is located and the topography of the land in the area. She said that there is a creek through her property and slope which continues on to the applicant's property.

Mr. Roggiero stated that he could put his entrance on the other side of the property.

DELIBERATIONS

Ms. Moore said that she is having a hard time with someone buying a property without knowing whether you could build or not on it. She also said that it seems that there are no definite plans for driveway location, size of house, or specific location of the house. Just to grant the variance hypothetically is not good.

Mr. Jiles stated that he tends to agree. The fact that this property has been unbuildable for years is a concern. The trade off for land to access the property behind him and make his property more buildable is a good thing. He was pleased to hear that the applicant has made some attempt with his neighbor.

Mr. Mortimer said he thought the same thing. He encourages the applicant to keep trying to come to terms with the adjoin property owner. However, he is having a hard time granting a variance on this property knowing the

consequences with other properties. Mr. Jiles said he did not try to put a foot print on the property, however whatever you do with the house and garage will be strange. He understands that the applicant said he wanted a small house, but that house may not fit with the neighborhood.

Ms. Moore stated that if the applicant would show the Board what he wishes to place there it would help with their decision. Mr. Jiles was also concerned about the future right-of-way along the property.

Ms. Moore asked when the Board had to respond to the application's request and could this be delayed until they receive something more definitive. Chairman Welsh said that it would be up to the applicant if he wishes to withdraw or table the application.

Attorney Blythe suggested that the hearing could be continued until the applicant is able to come up with a definitive plan for the property.

Mr. Tuz stated that he was concerned about the safety access, of the plan, and where the driveway would be located. Discussion continued regarding the potential footprint of the house and widening of Sam Newell Road.

Mr. Welsh ask the applicant how he wished to proceed. It was explained that one choice would be to adjourn the request until the next meeting and bring definitive plans for consideration to the Board. If the applicant chooses not to do that, then the Board would vote this evening, it is his choice.

Mr. Blythe stated that the applicant could extend the hearing to the December meeting. Mr. Roggiro said that he has been provided a couple of plans from the builder and he would get them. Mr. Welsh stated that the Board needs more definite plans in order to make a determination. He continued stating that it was the applicant's decision on continuing the hearing or not.

Attorney Blythe informed the applicant that if he proceeded with the request and he is turned down, he would not have an opportunity to re-file for this particular variance again. Mr. Roggiro acknowledged that he understood.

Discussion continued with the applicant on specifics of what he needed to provide the Board. The Board also stated that if the applicant needed additional time, to let Planning Staff know and it will be given.

Mr. Mortimer asked Mr. Camp to show the Board where the right-of-way is on Sam Newell Rd. Mr. Camp showed the Board the transitional right-of-way and where the building setback would be.

Mr. Meek said that it in this case, the period of uncertainty may help to get resolution to this property.

Mr. Camp asked if the applicant can provide the foot print and driveway location earlier than December or does the applicant have to wait that long. Mr. Roggiro said that he should be able to provide information for the Board by the November meeting.

Mr. Welsh stated that the Board was trying to provide plenty of time for the applicant. Attorney Blythe suggested that the motion be to continue the hearing until the November meeting. If the applicant needs additional time beyond the November meeting date, then the hearing can be extended again to the December meeting.

Ms. Moore made a motion to continue the hearing until the scheduled November meeting date. Mr. Mortimer seconded the motion and it carried unanimously.

Rules of Procedure

Mr. Camp explained that the Board adopted the new Rules of Procedure at their September meeting. Staff has since identified a few changes that did not make it to the approved document. Mr. Camp stated that the changes were shown in green on the copies provided.

The Board reviewed the proposed changes. Mr. Camp explained that the Board only needs a simple majority of the quorum present to reverse an order. Attorney Blythe clarified that for any decision other than a variance a simple majority is required. The Board asked for an example and Mr. Blythe stated that an appeal would be one type of decision.

Attorney Blythe asked that staff provide better findings of facts "cheat sheet" for the Board. He continued noting that there was a mistake on the document. Mr. Camp said that staff will correct the issue.

Mr. Mortimer asked if staff could go over the findings of fact sheet provided, specifically number three. Mr. Camp explained that this particular statement refers to the variance running with the land. The Board cannot look at what the applicant's personal situation is currently, they have to look at what the property would be twenty years from now.

Attorney Blythe said that the State Legislature has clarified the findings better than what was originally written. Mr. Welsh asked that staff provide a clear summary of useful language to use as a tool at the meetings. Mr. Camp noted that the changes to the Board of Adjustment language were supported at the local level and have simplified the process. Mr. Blythe agreed with Mr. Camp's statement.

Mr. Mortimer motioned to accept the Rules of Procedure as amended and presented. Mr. Jiles seconded and the vote carried unanimously.

ADJOURNMENT

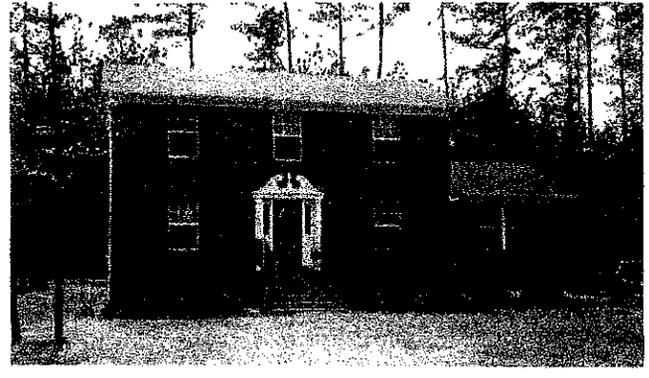
Ms. Moore made a motion to adjourn. Mr. Monestere seconded the motion and the meeting adjourned at 8 pm.

Respectfully submitted,

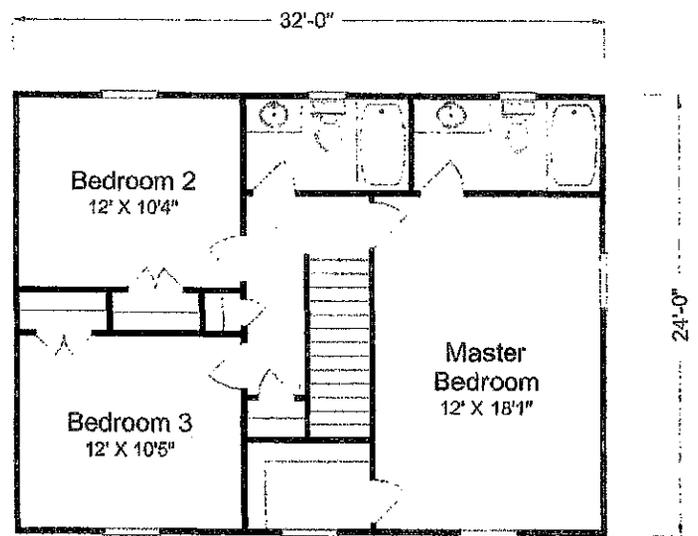
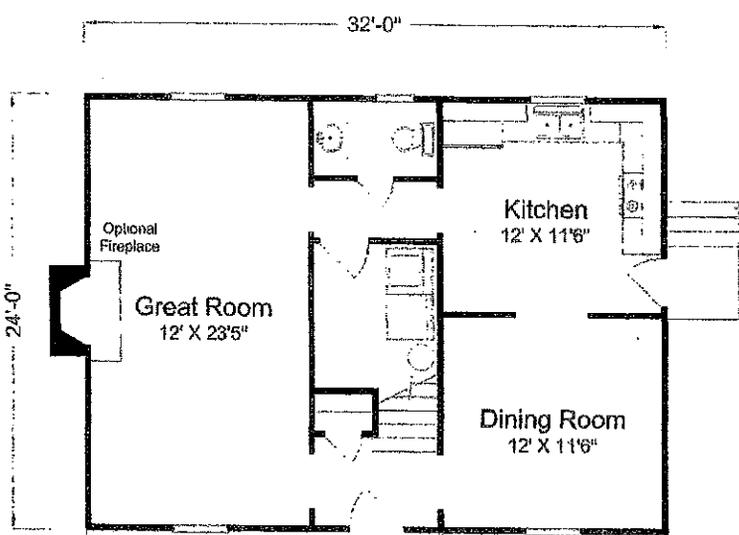
Mary Jo Gollnitz
Zoning Technician/Deputy Town Clerk



Madison Homebuilders



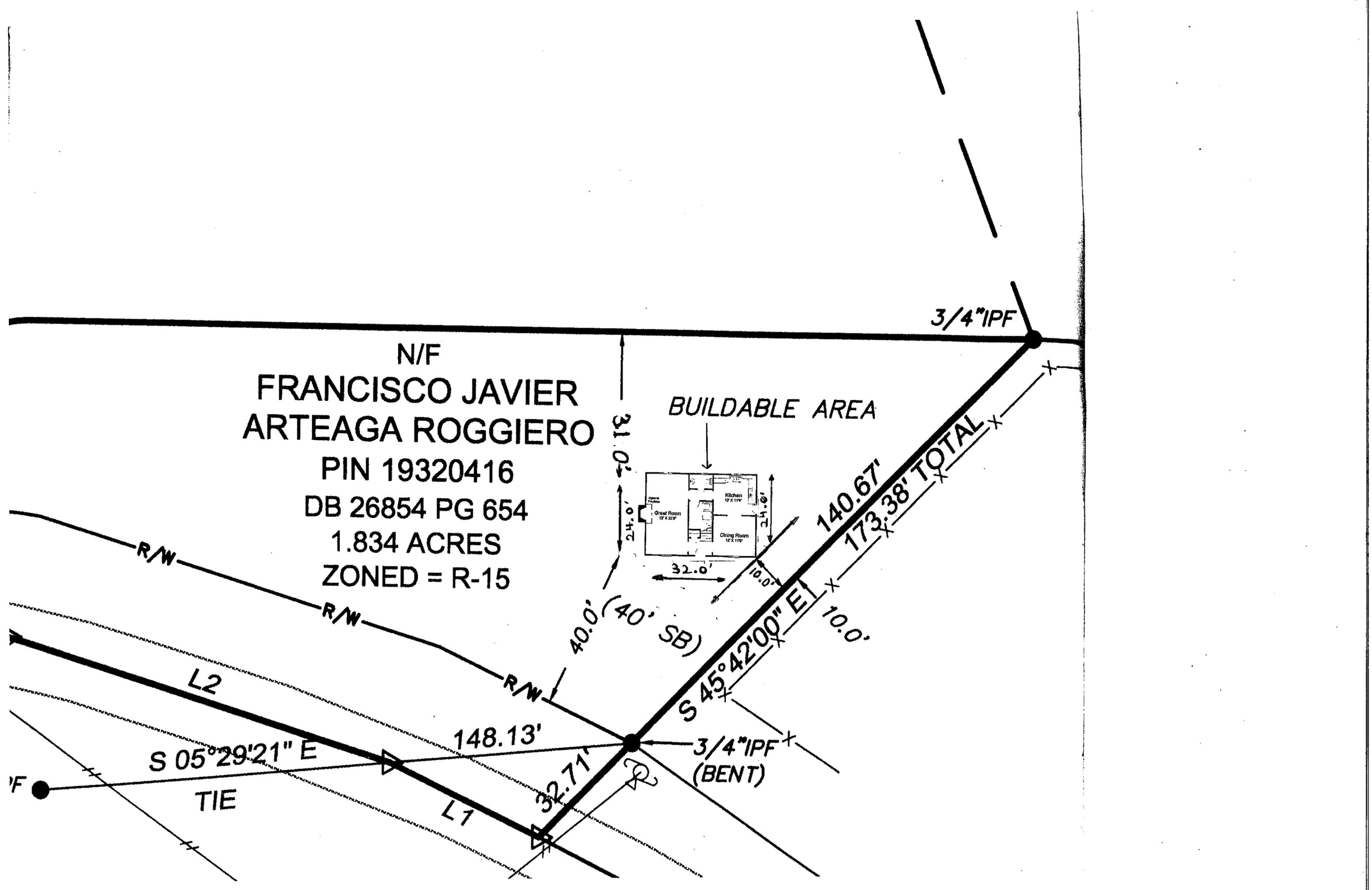
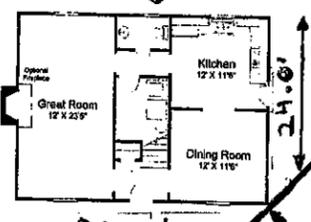
Peterson - Shown above with optional concrete porch with brick steps, sidelights and front gabled roof. Top right, shown with optional brick veneer, front door pediment around oval glass front door with sidelights, railing and additional first floor square footage. Bottom right shown with covered front stoop.



1st Floor	768	Sq. Ft.
2nd Floor	737	Sq. Ft.
Total	1,505	Sq. Ft.

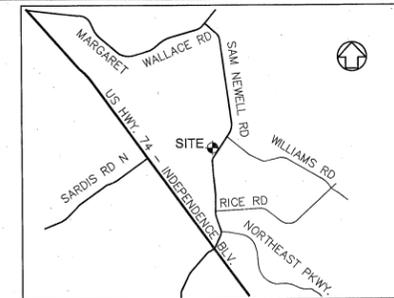
N/F
FRANCISCO JAVIER ARTEAGA ROGGIERO
 PIN 19320416
 DB 26854 PG 654
 1.834 ACRES
 ZONED = R-15

BUILDABLE AREA



SURVEY NOTES:
 1. ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
 2. AREA COMPUTED BY THE COORDINATE METHOD.
 3. PROPERTY SUBJECT TO ANY & ALL EASEMENTS AND RESTRICTIONS OF RECORD.
 4. PROPERTY LIES WITHIN ZONE X, AREAS DETERMINED TO BE OUTSIDE THE 0.2 % ANNUAL CHANCE FLOODPLAIN; AREAS OUTSIDE/FUTURE CONDITIONS 1 % ANNUAL CHANCE FLOODPLAIN, ACCORDING TO FIRM MAP NUMBER 3710458100J, PANEL 4581, EFFECTIVE DATE MARCH 2, 2009.
 5. PROPERTY CURRENTLY ZONED AS R-15 ACCORDING TO MECKLENBURG COUNTY GIS DATA.
 6. THIS SURVEY WAS DONE WITHOUT BENEFIT OF A CURRENT TITLE REPORT AND DOES NOT PURPORT TO SHOW ALL MATTERS OF TITLE WHETHER OF RECORD OR NOT.
 7. UNLESS SIGNED AND SEALED THIS PLAT IS CONSIDERED A "PRELIMINARY PLAT NOT FOR RECORDATION, CONVEYANCES OR SALES".

DB 26854 PG 654



VICINITY MAP
(NOT TO SCALE)

SAMUEL A. CORTEZ
 9815 ADAGIO COURT
 MATTHEWS, NC 28105
 PHONE (704) 322-8295

JACKIE G. DUNCAN, PLS
 11 WILSON STREET NE
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 EMAIL: JDUNCAN@JACKIEDUNCANPLS.COM

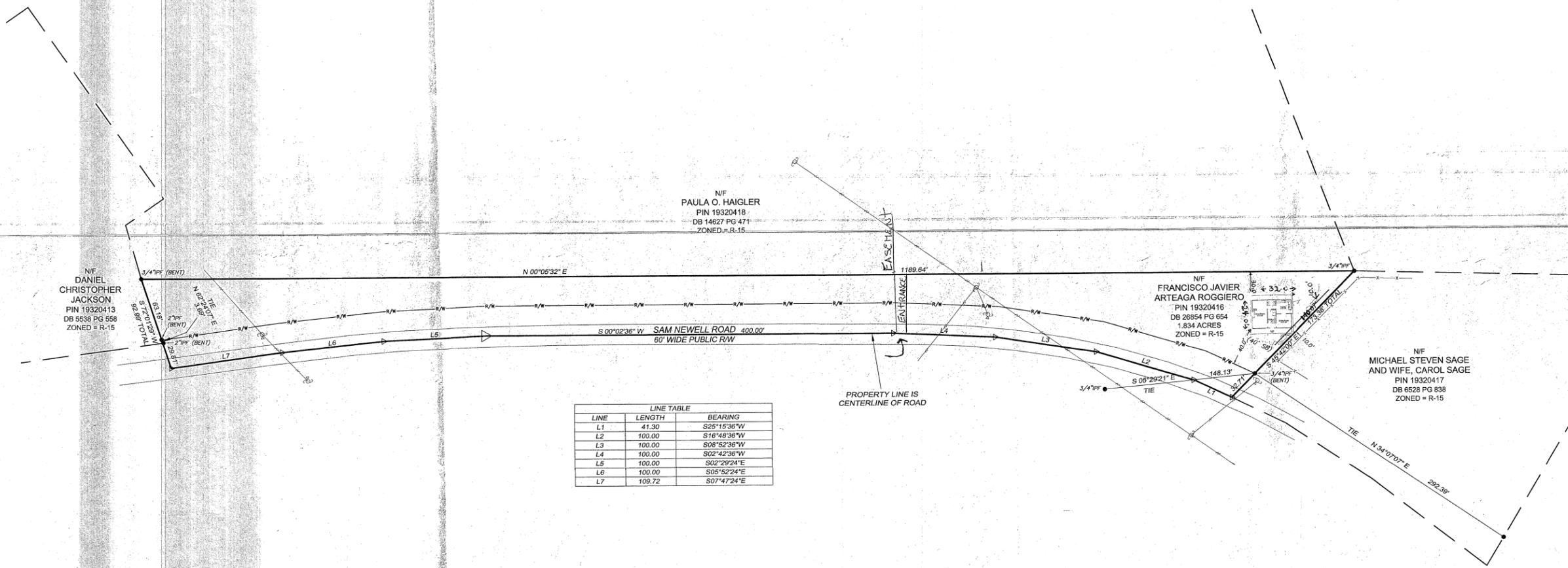
BOUNDARY SURVEY OF PROPERTY OWNED BY:
FRANCISCO JAVIER ARTEAGA ROGGIERO
 SAM NEWELL ROAD
 MECKLENBURG COUNTY GIS DIN 19320416

NF DANIEL CHRISTOPHER JACKSON
 PIN 19320413
 DB 5538 PG 588
 ZONED = R-15

NF PAULA O. HAIGLER
 PIN 19320418
 DB 14627 PG 471
 ZONED = R-15

NF FRANCISCO JAVIER ARTEAGA ROGGIERO
 PIN 19320416
 DB 26854 PG 654
 1.834 ACRES
 ZONED = R-15

NF MICHAEL STEVEN SAGE AND WIFE, CAROL SAGE
 PIN 19320417
 DB 6528 PG 838
 ZONED = R-15

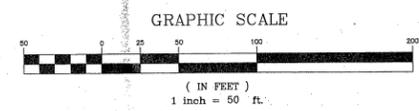


LINE	LENGTH	BEARING
L1	41.30	S25°15'36"W
L2	100.00	S16°48'36"W
L3	100.00	S08°52'36"W
L4	100.00	S02°42'36"W
L5	100.00	S02°29'24"E
L6	100.00	S05°52'24"E
L7	109.72	S07°47'24"E

I, JACKIE G. DUNCAN, HEREBY CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DASHED LINES, DRAWN FROM INFORMATION REFERENCED ON THE FACE OF THIS PLAT; THAT THE RATIO OF PRECISION AS CALCULATED EXCEEDS 1:10,000;
 THAT THIS SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET;
 THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED; WITNESS MY ORIGINAL SIGNATURE REGISTRATION NUMBER AND SEAL THIS 14th DAY OF AUGUST, 2013, A.D.



NORTH CAROLINA REGISTRATION NUMBER L-3412



SYMBOL LEGEND

	PROPERTY CORNER FOUND
	UTILITY POLE
	UTILITY POLE WITH LIGHT

LINE LEGEND

	SUBJECT PROPERTY LINE
	ADJOINING OWNER PROPERTY LINES
	RIGHT-OF-WAY LINE
	OVERHEAD UTILITY LINES
	SETBACK LINE
	PAVEMENT

ABBREVIATIONS

DB	= DEED BOOK
MB	= MAP BOOK
PG	= PAGE
N/F	= NOW OR FORMERLY
SB	= SETBACK
R/W	= RIGHT OF WAY

REVISIONS:

DATE OF SURVEY:	AUGUST 14, 2013
SCALE:	1" = 50'
DRAWN BY:	JGD
CHECKED BY:	JGD
PROJECT:	15-048
SHEET:	1 / 1