

Town of Matthews  
Board of Adjustment

Thursday, July 9, 2020  
7:00 PM  
Hood Room, Matthews Town Hall  
232 Matthews Station Street

**AGENDA**

- I. CALL TO ORDER
- II. APPROVAL OF MINUTES – March 5, 2020
- III. ELECTIONS
- IV. VARIANCE REQUEST: BA 2020-2 425 Trafalgar Pl.  
Minimum Lot Width
- V. VARIANCE REQUEST: BA 2020-3 2829 Grayfox Lane  
Accessory Structure Size
- VI. ADJOURNMENT

**MINUTES  
BOARD OF ADJUSTMENT  
THURSDAY, MARCH 5, 2020  
HOOD ROOM, MATTHEWS TOWN HALL**

**PRESENT:** Chairman Jerry Meek; Vice Chairman Steve Lee; Members Jeanne Moore and Gary Smith; Senior Planner Rob Will; Board Attorney Anthony Fox; Senior Administrative Specialist/Deputy Town Clerk Shana Robertson.

**ABSENT:** Member Lee Jenson; Alternate Members Aaron Baggaly and Allen Crosby.

**CALL TO ORDER/INVOCATION:**

Chairman Jerry Meek called the meeting to order at 7:01 pm.

**APPROVAL OF THE MINUTES:**

Vice Chairman Steve Lee made a motion to approve the minutes of the September 5, 2019 meeting. Jeanne Moore seconded and the motion passed unanimously.

**ELECTIONS:**

Without a full Board in attendance, elections were deferred until the next scheduled meeting.

Mr. Meek explained to the applicants and citizens in attendance that by law, the Board of Adjustment can only grant a variance if four fifths of the Board votes in favor. Mr. Meek said that five members typically made up the Board of Adjustment but there were only four members available for the night's meeting. Mr. Meek explained that any applicant that wished to proceed would need all four members to vote in favor for the variance to be granted. The applicants had the option to defer until a full board could be in attendance.

The applicant requesting a variance for 341 Alexander Street said that he wished to proceed with the scheduled meeting.

The applicant requesting a variance for 425 Trafalgar Place said that he would like to defer his request until a full board would be available.

**VARIANCE REQUEST: BA 2020-1, 341 Alexander Street**

**SWEARING IN:**

Senior Planner Rob Will and Andrew Albers were sworn in by Mr. Meek.

**STAFF REPORT:**

Senior Planner Rob Will said that the applicant was requesting a variance to the 35 foot front yard setback requirement in the R-12 Zoning District. Mr. Will said that the subject property is located at 341 Alexander Street in Matthews North Carolina and is further identified as tax parcel 227-022-18. The home was constructed in 1941 and subsequently expanded over time. The existing covered screened-in deck, located on the south side of the house, currently encroaches into the front yard setback by 8.5 feet. Mr. Will said

that it is located 26.5 feet from the property line. Because of this encroachment the structure is considered nonconforming as to the current setback requirements.

Mr. Will explained that the applicant is proposing to increase the size of the screened-in deck and construct an uncovered landing and stairs which will increase the existing non-conformity and is why they are seeking a variance from the Board. The applicant is requesting a variance from the 35 foot front yard setback to enlarge the south facing screened deck. This will result in an encroachment of 10.8 feet and the construction of an uncovered landing and stairs which will result in an encroachment of 17 feet.

The portion of Alexander Street where the subject property is located is a platted, public right-of-way but has not been accepted for maintenance and is unimproved. Mr. Will explained that it does not serve as access to any of the other residential properties in the area.

Mr. Will reviewed the site, the elevation, and the planned expansion.

Ms. Moore asked if the new addition to the screened in porch would line up to the front edge of the home. Mr. Will said that it would.

Mr. Lee clarified that the fence that was shown in pictures did not represent the property line. Mr. Will said that was correct.

Ms. Moore asked if there were other neighbors in the area that would face the same situation. Mr. Will said that it was not likely that other neighbors would have the same issues. Mr. Will said that the subject property fronted Alexander Street and all other neighboring properties had access from Freemont or Jefferson. Mr. Will explained that Alexander Street was unimproved and was a unique situation. Ms. Moore asked if this would set a precedence and Mr. Will said that it would not.

Gary Smith clarified that the other three properties had side yards on Alexander and only the subject property fronted Alexander. Mr. Will said that was correct.

#### **APPLICANT TESTIMONY:**

Andrew Albers 341 Alexander Street, Matthews, North Carolina, 28105 introduced himself to the Board. Mr. Albers said the he and his wife purchased the home at 341 Alexander Street four years ago. Mr. Albers said that they knew that the screened in porch would need to be replaced as it had structural and foundation issues. He said that they would like to remove the existing screened porch and construct a new screened porch in the same location with slightly larger dimensions. Mr. Albers said that knowing that the encroachment would be increased from the existing screened porch that is current, he was proposing that all the new improvements on the screened porch and the uncovered landing would not encroach on the front yard any further than the existing front porch.

Mr. Albers reviewed the illustration of the site saying that the front porch was 18.1 feet from the existing right-of-way. He said that what they were proposing would be at or behind that line. The screened porch area would be 24.2 feet from the right-of-way.

Mr. Smith asked if there was a reason the screened porch would need to be larger than what was existing. Mr. Albers said that the current screened area was 24x10 and there was only enough room to have a small table and a children's play area. He said that they were wanting more room to have a larger dining table in the space and a more comfortable seating area with room to walk.

Mr. Meek asked if a new porch was constructed with the same dimensions, would a variance be required or was it because it was a non-conforming use that predated the Unified Development Ordinance (UDO). Mr. Will said that if built with the same dimension, no variance would be needed as they would not be increasing the nonconformity. Mr. Will added that it would still be nonconforming. Mr. Meek clarified that it was not that the porch was going to be destroyed and rebuilt but that the porch would be rebuilt larger with further encroachment into the setback. Mr. Will said that was correct.

Board Attorney Anthony Fox said that he understood the nonconforming use provision did not allow for the expansion of a nonconforming use and clarified his understanding that this variance process would allow to vary the nonconformity and allow an expansion while being consistent with nonconforming provisions. Mr. Will said that this was not a nonconforming use but a nonconforming structure. A nonconforming use could not be expanded and you could not have a use variance. Mr. Fox said that typically you could not expand a nonconforming structure. Mr. Will said that was correct, not without a variance. Mr. Fox asked for clarification on the rules for a variance of a nonconforming structure. Mr. Will said that information was in Section 155.304 of the UDO. Mr. Fox read the provisions:

A nonconforming structure is any structure that existed prior to the adoption of this Title, or the effective date of any subsequent amendment, which does not comply with the minimum requirements of this Title in the district in which it is located. A nonconforming structure devoted to a use permitted in the zoning district in which it is located may continue only in accordance with the following limitations.

- A. Normal repair and maintenance may be performed to allow the nonconforming structures to maintain a safe and sound condition.
- B. Except as provided in §155.304.C. and D. immediately below, a nonconforming structure shall not undergo a change of use, renovation or expansion.
- C. A nonconforming structure may undergo a change of use or renovation without having to bring the structure into conformity with the requirements of these regulations provided that:
  1. The change in use or renovation does not increase the floor area of the structure; and
  2. The number of parking spaces provided for the use and the standards for landscaping and buffering are in conformity with the requirements of these regulations.
- D. A nonconforming structure may be expanded, without bringing the nonconforming structure into conformity with these regulations, only if the part of the structure to be expanded and the area of the lot into which the expansion is taking place are brought into conformity with the requirements of these regulations.
- E. A nonconforming structure shall not be moved unless it thereafter conforms to the standards of the zoning district in which it is located.
- F. An existing manufactured home as a principal residential building on an individual lot or located in a nonconforming manufactured housing park or subdivision in operation at the time of the adoption of these regulations may be replaced with another manufactured home provided the number of manufactured home units may not be increased beyond the number available before replacement and the replacing manufactured home must not create nonconforming yards, separation distances, or increase existing nonconforming yards or separation distances. Any replacement manufactured home not within the R-MH district shall comply with the lot development and design criteria as outline in 155.605.1.A.4. ('72 Code, § 1503) (Ord. 477, passed 2-8-88; Am. Ord. 872, passed 8-8-94; Am. Ord. 2083, passed 5-11-15) **[formerly known as §153.222]**

Mr. Will said that the structure was not being brought into conformity and warranted the request for a variance. Mr. Fox was concerned that the expansion was just increasing the nonconformity. Mr. Will said that it would increase the nonconformity and would require a variance. Mr. Fox said that the Board of Adjustment had the right to grant a variance to a setback but there was a nonconforming structure and by definition designed to get a sunset to make it conforming. Mr. Fox said to allow this type of change with an increase to the nonconformity was generally not the intent of the nonconforming use or structure provisions.

Mr. Smith asked if the Board of Adjustment was allowed, in this case, to grant a variance. Mr. Fox said that he was looking for an option that would allow the Board the ability to grant a variance for the ordinance provision. Mr. Fox added that the intent was to recognize that the nonconformity was due to a change in the ordinance requirements and expansion would be inconsistent with the sunset nature of the nonconforming structure.

Ms. Moore asked Mr. Albers if they planned to remove the structure. Mr. Albers said that the plan was to demo the existing screen porch structure and construct a new screened porch.

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.

This parcel is unique in that it faces Alexander Street with a 35 foot front setback, other neighboring homes have 10 foot side yards setbacks along the same street.

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.

The applicant inherited this situation and has been forced to repair the structure due to age.

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.

The applicant was seeking to repair the structure that was in disrepair. The property is peculiar in that it faces a platted but unimproved right-of-way which does not serve any other properties in the surrounding neighborhood. The hardship results from the location of the property, not personal circumstances.

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.

The strict enforcement of this Title would deprive the owner or applicant of reasonable use of the property

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.

The granting of the variance would not result in advantages or special privileges to the applicant or property owner in their attempt to enjoy a safe porch that's configuration was similar to other homes in the neighborhood. The request was consistent with the remainder of the home and its position on the property.

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

There was no testimony received that showed that there would be a negative impact to other 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.

There was no evidence that the requested variance would be detrimental to anyone in the neighborhood and was found to be consistent with other neighboring properties.

Alexander Street is unopened and unimproved road. The petitioner provided in his application justification for each element that the Board of Adjustment was required to find. No one spoke in opposition against this variance request.

Mr. Will said that the variance would be to the setback requirements and read into record the Ordinance Interpretation and Determination letter that was administered by the Towns Zoning Administrator.

Mr. Meek asked if the porch was being rebuilt and not expanded, would a variance be required. Mr. Will said there would not be a need for a variance if it were being built in the original footprint as it would be normal repair and maintenance that would not increase the nonconformity.

Mr. Albers said that he understood that he would have needed a variance to demolish and construct a new screen porch. Mr. Albers said this was not for a repair but for a reconstruction as the structure was sinking into the ground. He said that the idea was that if a variance was needed regardless of size. The request would be made for an area more useable. Mr. Meek asked if Mr. Albers was given the option to build the porch in the current footprint, would he had needed a variance. Mr. Albers said that as he understood, if he demolished the nonconforming porch that was considered as bringing the structure into conformity and the new structure would then need a variance.

Mr. Meek said that it was the Board's authority to deny the variance, approve the variance that was requested, or approve the variance if even required. Mr. Fox said those were the options and a determination that the nature of the evidence that had been brought before the Board suggest the nature of the improvement was repair and was necessary to make the porch safe and therefore a permissible repair under the ordinance. Mr. Fox said that the Board could approve the variance and make findings for granting the variance.

Mr. Meek asked if the applicant could explain the unnecessary hardship to the Board. Mr. Albers said that the existing 35 foot front yard setback was located around the access door for the screened porch and he would have to go back 37 feet to clear the door. This would put the construction in the middle of the kitchen. Mr. Albers said that the kitchen would need to be reconfigured for the design of the porch access.

Mr. Smith asked if a full demo of the porch structure with a larger replacement structure qualify to be classified as a renovation. Mr. Will said that a renovation was typically something that was less than 50% of the property's value and the total demo and rebuild would not be considered renovations.

Mr. Albers said that his first goal was to make the structure stable. Mr. Albers added that the other 3 homes that abut the right-of-way for the unimproved Alexander Street had side yard setbacks of 10 feet. His property was the only front yard facing home and required a 35 foot setback. Mr. Albers said that made the property unique adding that the road did not even exist. Mr. Albers said that the new screened porch and landing structures would not be any closed to the Alexander Street right-of-way that the existing front porch

**TESTIMONY IN FAVOR:**

None

**TESTIMONY IN OPPOSITION:**

None

**DELIBERATION:**

Mr. Lee said that this was a fairly unique property because of the planned subdivision with regular lot lines and speaks to the spirit and intent of the ordinance.

Ms. Moore agreed and said that the side screened area was no further into the front setback that the than the front porch.

**FINDINGS OF FACT**

Ms. Moore motioned that the variance request be granted. Mr. Lee seconds the motion and the variance request carried unanimously.

**RECESS**

Mr. Lee made a motion to recess the meeting at 7:46 pm. Ms. Moore seconded and the motion passed unanimously. The Meeting will continue on March 26, 2020 at 7:00 PM

Respectfully submitted,

Shana Robertson  
Senior Administrative Specialist/Deputy Town Clerk

DRAFT

Matthews Board of Adjustment  
Variance Request for 425 Trafalgar Place.  
BA2020-2  
June 22, 2020

### **Summary of Request**

The applicant requests a variance to the 90' minimum lot width requirement in the R-20 Zoning District (see UDO section 155.604.1 Table of Dimensional Standards).

### **Background**

The subject property is located at 425 Trafalgar Place in Matthews North Carolina and is further identified as tax parcel 213-024-07. The applicant is the owner of two lots and wishes to recombine said lots into the original configuration in which they were platted in 1969. However, this recombination would result in a lot that does not meet the minimum lot width for the zoning district (90 feet in R-20). The proposed recombination would result in a lot width of 66.2 feet as was originally platted. The second existing lot is currently 'landlocked' and has no road frontage, making it non-conforming as to the standard in the Town's UDO that requires every lot to abut a street (see UDO section 155.601.5).

At some point in time the front portion of original lot 158 was combined with the neighboring lot 159 to create what is today 425 Trafalgar Place. According to the Mecklenburg County tax records the home on the subject property was built in 1979. The existing non-conforming parcel that does not abut a street was subdivided by deed in 1976 (an illegal subdivision).

The applicant is proposing a driveway easement on the existing lot for access to the new lot to be created (original lot 158) because of stream topography along the front of the property.



Illustration 1.1. 425 Trafalgar Place showing existing property lines and right-of-way

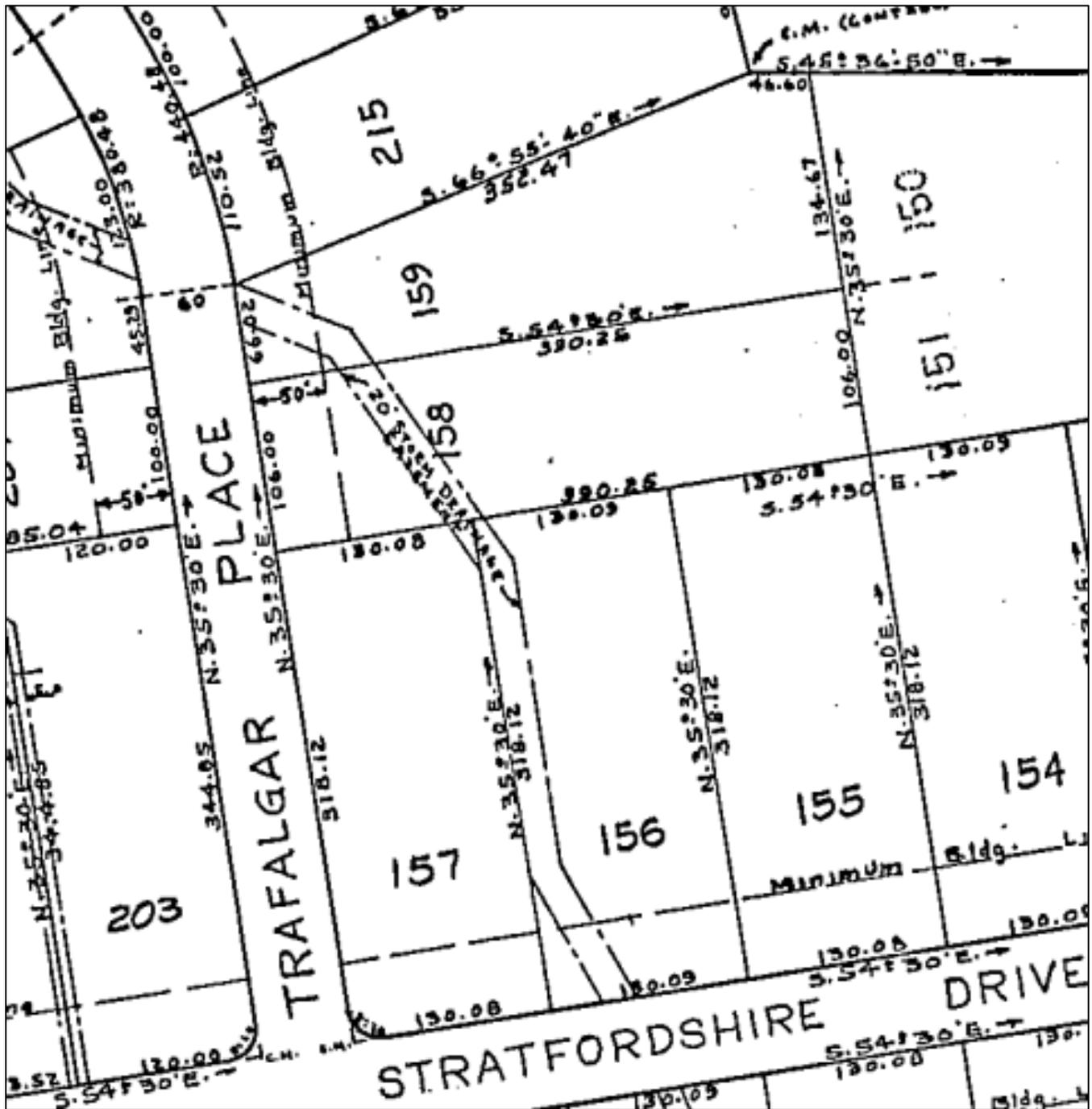


Illustration 1.2. Recorded plat from 1969 showing the original layout of lots 158 and 159

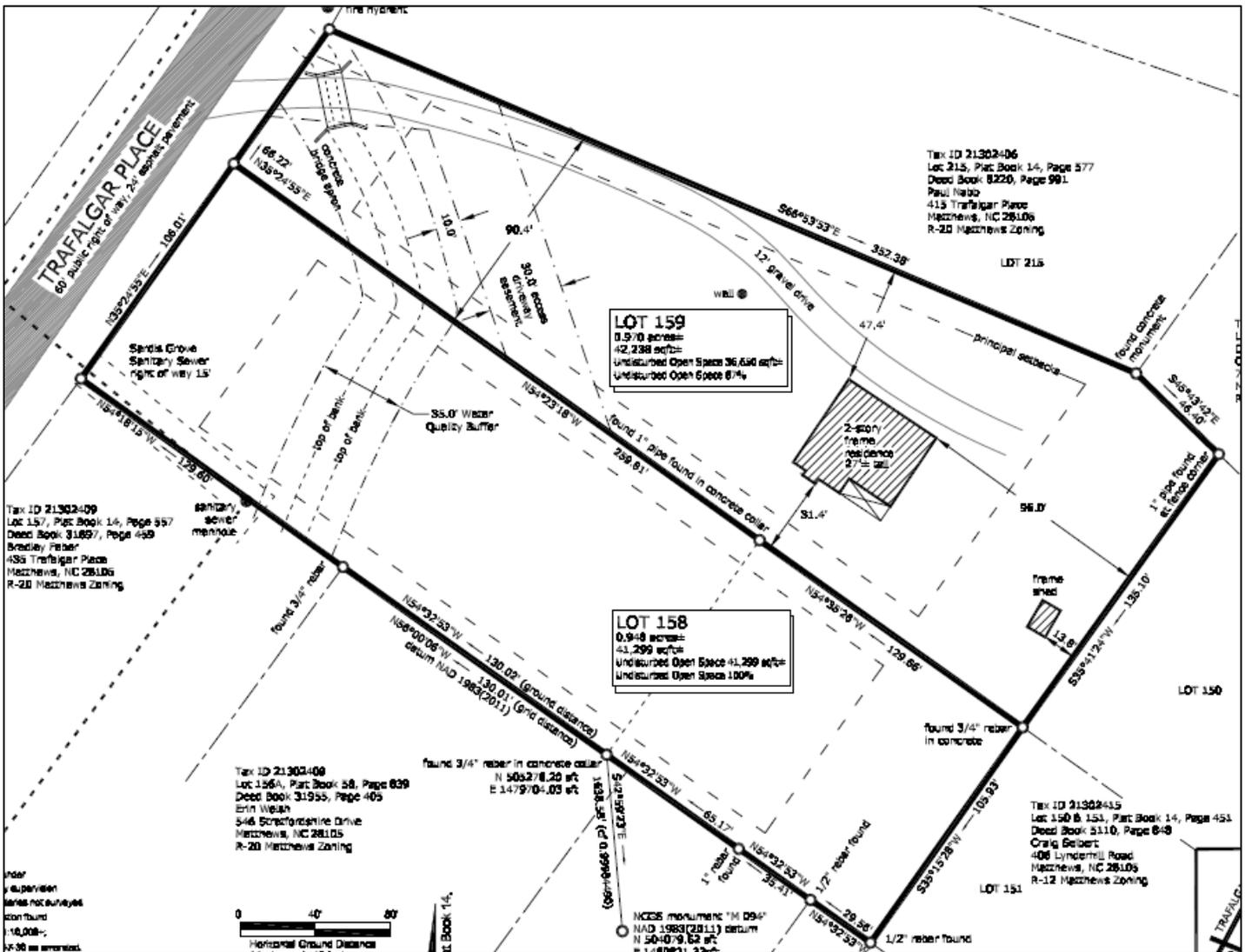


Illustration 1.3. Proposed recombination of lots 158 and 159 to original dimensions and creating a lot with non-conforming width.

### 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.

**Strict application of the lot width requirements would not allow the recombination of two existing lots resulting in one being unbuildable because it does not abut a street.**

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 property is peculiar in that it was recombined with a neighboring parcel at some point and a landlocked parcel was created. The hardship results from the location of the property, not personal circumstances.**

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.

**No record of the combination of Lot 158 and 159 exists and the landlocked parcel was created prior to the construction of the existing home by previous owners.**

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 requested variance is consistent with the spirit, purpose and intent of the title and would allow a recombination of parcels as they were originally platted in 1969.**

## Ordinance Interpretation

June 19, 2020

RE: Recombination Requirements  
Parcel #213-024-07 and #213-024-17

Nonconforming lot(s) that were previously recorded.

Matthews Unified Development Ordinance § 155.303 Nonconforming Lots:

*A nonconforming lot is a lot which does not meet the minimum dimensional requirements for width, area, front, side or rear yard, height or unobstructed open space, for the district in which it is located, but was recorded by plat or description in the office of the Register of Deeds of Mecklenburg County prior to the adoption of this Title or any subsequent amendment. Such a lot can either be vacant or contain a structure. A nonconforming lot may be used for any of the uses permitted by this Title in the district in which it is located, or any structure on this type of lot may be improved or expanded in accordance with the following standards:*

- A. The minimum requirements for front, side and rear yards, heights of structures and unobstructed open space for the district must be met.*
- B. The lot in question does not adjoin a lot which could be combined with it to make it conforming as provided for in § 155.601. ('72 Code, § 1502) (Ord. 477, passed 2-8-88; Am. Ord. 872, passed 8-8-94) [formerly known as § 153.221]*

Matthews UDO § 155.601.3 Combination of Substandard Lots states:

*In certain circumstances, substandard lots which have been previously recorded will be required to be combined for zoning purposes. At any time after the adoption of this Title, if adjoining lots are in the same ownership and any of the lots are below Title standards for lot width or lot area for the district in which it is located, that lot shall not be eligible for development unless one or more adjoining lots are combined with the substandard parcel into one or more lots which do meet the minimum ordinance requirements and are properly recorded. However, if the combination results in the creation of a single lot with more than one and one-half times the width and area than is required by this Title then it may be divided into two lots of equal width and area, and shall include a note on the recorded plat explaining the application of this section ('72 Code, § 24-1007) (Ord. 477, passed 2-8-88) [formerly known as § 153.035]*

Matthews UDO § 155.601.5 Every Lot Must Abut A Street states:

*Except for the following, no building, structure, or use of land for any purpose may be placed on a lot which does not abut a street:*

- A. A one-family detached dwelling may be constructed on a lot that does not abut a street, provided that the lot is at least two acres in size, is provided with access to a public street by an easement at least fifteen feet (15') in width for the exclusive use of the single-family dwelling, and the easement is maintained in a condition passable for emergency and service vehicles. In situations where two (2) or more one-family detached dwelling lots have required minimum road frontage on a public street, but do not desire, or are prohibited from having, direct vehicular access to such street from each*

*individual lot, then, subject to Town approval and NCDOT (if applicable), a shared driveway may be created on one or more of the lots through an easement guaranteeing cross access usage to all affected parcels. (Ord. No. 1609-A, passed 2-11-08)*

Parcel 213-024-07 addressed as 425 Trafalgar Place has a single-family dwelling on the property. Parcel 213-024-17 is vacant. The original Stratfordshire subdivision was recorded prior to adoption of Matthews Subdivision Ordinance in August 1975. The above referenced parcels were originally recorded as lots #158 and 159 of the subdivision that held road frontage along Trafalgar Place. The two properties were later combined into one parcel around 1978. Sometime later the property was subdivided into its current configuration without approval from the Town of Matthews.

Parcels 213-024-07 and 213-024-17 are both currently owned by Pardee T Houghton Living Trust. The Mecklenburg County Tax records show PID 213-024-17 as a land lock lot (no road frontage), and does not meet the dimensional size requirements of Matthews UDO for R-20 (Residential 20,000 sq ft minimum lot size).

The above referenced lots are currently zoned R-20. Matthews Unified Development Ordinance currently requires lots within the R-20 zoning to have 90' lot width frontage and a 20,000 sq ft minimum lot area. The width and area of parcel 213-024-17 does not meet the current zoning district standards.

In regards to the parcels along Trafalgar Place, it is the interpretation of the Zoning Administrator that in order to recombine the 2 lots and construct a second single family dwelling, the land must be subdivided to meet the R-20 zoning district dimensional requirements for frontage width and minimum lot area in accordance with § 155.601.3 of Matthews UDO.

If the property owner wishes to recombine the lots back to the originally recorded subdivision lot sizes, without meeting the R-20 standards, then they will need to submit a Variance request to be heard by Matthews Board of Adjustment.



Mary Jo Gollnitz, CZO  
Senior Planner/Zoning Administrator

**APPLICATION FOR A ZONING VARIANCE**

Date Filed: 2-14-2020

Hearing Date: 3-5-2020 Hearing Time: \_\_\_\_\_

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

Property Owner Name(s): T. HAUGHTON PARDEE

Subject Property Street Address: 425 TRAFALGAR PLACE

Subject Property Tax Parcel ID: 21302406 & 21302417

Current Zoning District of Subject Property: R-20

Subject Property is Concurrently Seeking a Change in Zoning Classification To: R-20

Property Owner is Applicant Appearing Before Board of Adjustment: NO

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

\*Written explanation is required JOHN MCHENRY, PLS HAS  
BEEN CONFIRMED AS REPRESENTATIVE  
OF OWNER.

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: RESIDENCE

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Without relief from one or more specific provisions of the Unified Development Ordinance (UDO). UDO section(s) which affect this ruling is/are: 155.604.1 MINIMUM LOT WIDTH 90(9)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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.):

ISS. 303. A NONCONFORMING LOTS OF RECORD

- LOT 159 (HOMEPAGE) MEETS YARD SETBACKS, UNOBSTRUCTED OPEN SPACE, & BUILDING HEIGHT REQUIREMENTS.
- LOT 159 (HOMEPAGE) MEETS 90' WIDTH REQUIREMENT AT SWM BUFFER.
- OWNER WISHES TO RECOMBINE LOT 158 TO RECTIFY PORTION OF LOT 158 LAND-LOCKED BY DEVELOPER & ADJOINER IN 1976.

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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.):

- LOTS 158 & 159 WERE DEVELOPED UNDER PROVISIONS OF MCKENBURG COUNTY SUBDIVISION ORDINANCE IN 1969.
- LOTS WERE ANNEXED BY MATTHEWS IN 1980.
- HOMEPAGE WAS COMPLETED ON LOT 159 IN 1979.
- UNIFIED DEVELOPMENT ORDINANCE ADOPTED BY MATTHEWS ON DECEMBER 9, 2013.
- HOMEPAGE WAS COMPLETED ON LOT 159 PRIOR TO WIDTH REQUIREMENT.
- NO RECORD OF COMBINATION EXISTS FOR LOTS

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158 & 159. OTHERWISE, LANDLOCKED PORTION WOULD NOT EXIST.

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.):

- LOT 158 WAS SPLIT ILLEGALLY BY DEVELOPER & ADJOINER (PARHAM & THOMAS) IN 1976.
- UDO APPLIED STRICTER WIDTH REQUIREMENTS ON LOT 159 IN 2013.
- OWNER'S ACTIONS & INTENT WERE TO BUILD GRANDCHILD'S HOMEPLACE ON LOT 158.
- NO RECORD OF LOT COMBINATION EXISTS.
- OWNER UNDERSTOOD 2 TAXBILLS WERE FOR LOT 158 & LOT 159 AS PLATTED.

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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.):

- LOT 158 IS UNDEVELOPED & UNMAINTAINED.
- DEVELOPMENT OF LOT 158 WILL ENHANCE & RECTIFY NATURAL DRAINAGE CONDITIONS BETWEEN LOT 158 & THE NORTHERN PORTIONS OF LOTS 154-157.

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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.

Additional Statements that will assist the Board in their deliberations:

- a. **Unique Circumstances** – There are no other land-locked tax parcels in the vicinity. The owner wishes to treat both Lots as originally purchased and treated by the owner.
- b. **Circumstances not related to the Actions of the Property Owner**
  - The rear portion of Lot 158 was illegally subdivided by the developer (Parham) and the adjoiner at the time (Thomas) for unknown reasons.
  - The Pardee Homeplace was completed on Lot 159 in 1979.
  - Mathews annexed Lot 158 and Lot 159 as platted and as shown on Plat Book 20, Page 156 in 1980.
  - Mecklenburg Land Records identifies that the front of Lot 158 and Lot 159 were combined in 1978. There is no legal record combining the tracts.
- c. **Were Household no longer present**
  - The land-locked portion of Lot 158 would remain land-locked. The width non-conformity for Lot 159 would remain.
- d. **Strict enforcement would deprive the owner of reasonable use**
  - Lot 158 is not usable due to the land-locked nature of the rear portion, the buildable area portion of Lot 158. The topography in the western 250' of Lot 158 is very steep and contains the 35' SWM buffer. The lot width requirement for Lots 158 & 159 could be split equally ( $172.30'/2 = 86.11'$ ) therefore minimizing the width requirement impact.
- e. **Not result in special privileges**
  - Nearby parcels either conform to redivision standards or the originally platted lot dimensions. The act of illegally cutting off the rear portion of Lot 158 is unique in this vicinity. If the variance is granted, the homeplace on Lot 159 can continue as a non-conforming legal lot and Lot 158 can be developed as a single-family residence as originally intended. The surrounding parcels are all developed as single-family residences.
- f. **The proposed use will be compatible with the nearby parcels**
  - Lot 159 will remain a single-family residence. Lot 158 will change from a vacant lot to a single-family residence. The surrounding parcels are all developed as single-family residences.
- g. **Impacts that may be felt by/on adjacent parcels**
  - The neighborhood was originally platted and is currently zoned for single-family residences. The only impact of the variance will be the maintenance and improvement of the currently undeveloped Lot 158 as a single family residence and the additional traffic generated by residents of one such residence.

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.

T. HAUGHTON PARDEE  
Print applicant name

\_\_\_\_\_  
Signature of applicant

425 TRAFALGAR PL.  
Mailing address of applicant

MATTHEWS, NC 28105  
City, State Zip

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

\_\_\_\_\_  
Date

JOHN A. MCHENRY, PLS  
Print representative name

  
Signature of representative

175 RAIKEY ROAD  
Mailing address of representative

SALISBURY, NC 28146  
City, State Zip

SURVEYORNC@CAROLINA.RR.COM  
Email address of representative

2-14-2020  
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.

Subject: Authorization Letter for Representative

To whom it may concern,

I, Angela C. Pardee, the undersigned and owner of property located at **425 Trafalgar Place, Matthews, NC**, do hereby authorize John McHenry, PLS-3676, to act on my behalf on all matters relating to dealings with the Town of Matthews, NC, for the sole purpose of obtaining and presenting and receiving documents necessary in the application for a zoning variance for said listed property.

Hoping for your consideration. Please contact me at: 704-641-5850 for any questions or necessary verification. angela.pardee@gmail.com

Signature: Angela C. Pardee

Date: 2/21/20

2020-02



232 Matthews Station Street  
Matthews, NC 28105  
704.847.4411

### ZONING VARIANCE INSTRUCTIONS TO APPLICANT

If the title to the mentioned property is not in the name of the petitioner, attach a letter from the owner signifying approval to proceed with this variance request.

**VARIANCE REQUEST MUST BE ACCOMPANIED BY:**

- A small scale vicinity map (preferably by County Tax Map) showing exact location of property with respect to existing streets, number and size lots, and other important features within and contiguous to the property
- A survey or drawing and PDF showing the location of structures and the violation for which the variance is sought
- List on a separate sheet names and addresses of owners of adjoining properties and property directly across the street from the property involved, and the tax parcel codes of those properties
- A copy of the variance request as well as an unsealed, addressed envelope for each adjoining property owner (including those across the street). Any requested change to the notification process must be approved by Planning and Development Staff.

**THE APPLICATION MUST BE FILED AT LEAST TWENTY (20) CALENDAR DAYS BEFORE THE MEETING OF THE BOARD** at which approval is sought, accompanied by a filing fee of:

Zoning Variance

Residential - \$150.00

Non-Residential - \$350.00

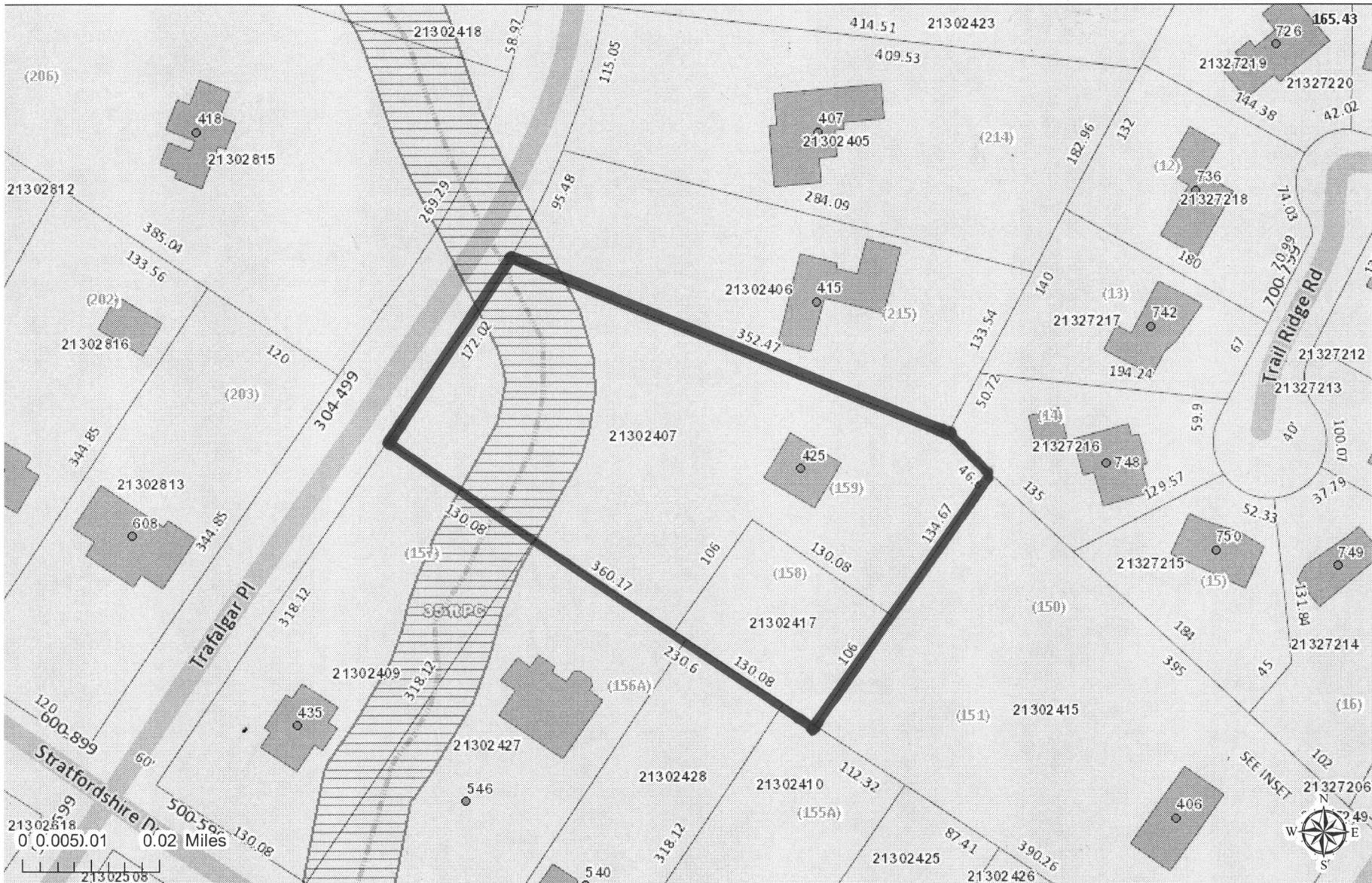
March 5<sup>th</sup> 2020  
Date of Meeting

Feb. 14 2020 4:30 pm  
Return this form by (time and date)

# Polaris 3G Map – Mecklenburg County, North Carolina

## Lots 158 & 159 of Stratfordshire

Date Printed: 2/14/2020 9:18:51 AM



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.

**Across the Street**

<i>Parcel ID</i>	<i>Name</i>	<i>Address</i>	
21302815	JEREMY R & JULIE S HOUGH	418 TRAFALGAR PL	MATTHEWS NC 28105
21302813	JAMES S SHUPE JR & HEATHER CONOVER	608 STRATFORDSHIRE DR	MATTHEWS NC 28105

**Directly adjoining**

21302406	PAUL E & JOANN D NABB	415 TRAFALGAR PL	MATTHEWS NC 28105
21327216	CHARLES D & Dora M CLAYTON	748 TRAIL RIDGE RD	MATTHEWS NC 28105
21302415	CRAIG & REBECCA SEIBERT	406 LYNDERHILL LN	MATTHEWS NC 28105
21302410	W GARY & RHONDA H LUMETTA	528 STATFORDSHIRE DR	MATTHEWS NC 28105
21302428	JODY S & LAURIE CNOSSEN	540 STRATFORDSHIRE DR	MATTHEWS NC 28105
21302427	ERIN K WALSH & CHARLES T HOLLINGSWORTH	546 STRATFORDSHIRE DR	MATTHEWS NC 28105
21302409	BRADLEY J & KELSEY M FABER	435 TRAFALGAR PL	MATTHEWS NC 28105

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

The foregoing certificate(s) of Robert L. Brown, Jr. a Notary Public of said County and State is certified to be correct. This 17th day of October 1969.

Recorded in Book Page and Verified. CHARLES E. CHOUWER, Register of Deeds  
By Marye King Deputy

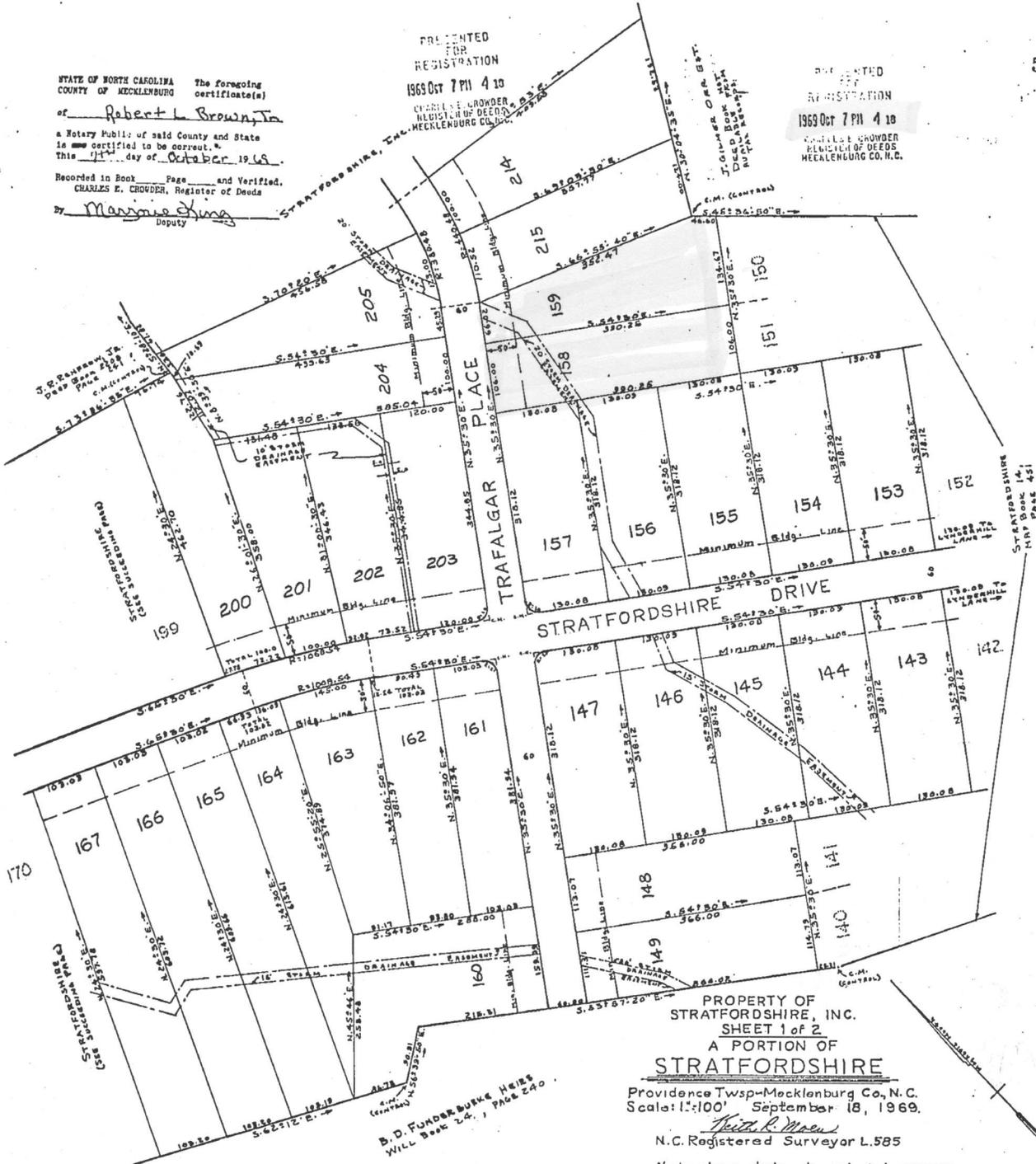
PRESENTED FOR REGISTRATION  
1969 Oct 7 PM 4 10

CHARLES E. CHOUWER  
REGISTER OF DEEDS  
MECKLENBURG CO., N.C.

PRESENTED FOR REGISTRATION

1969 Oct 7 PM 4 10  
CHARLES E. CHOUWER  
REGISTER OF DEEDS  
MECKLENBURG CO., N.C.

577



PROPERTY OF  
STRATFORDSHIRE, INC.  
SHEET 1 of 2  
A PORTION OF  
**STRATFORDSHIRE**  
Providence Twp-Mecklenburg Co., N.C.  
Scale: 1"=100' September 18, 1969.  
Keith R. Mason  
N.C. Registered Surveyor L.585

Note: Iron stake at each lot corner.  
20' radius at street line intersections, however, all distances are to intersection of street lines.

State of North Carolina  
County of Mecklenburg  
I, the undersigned surveyor, do hereby certify that the foregoing plat was prepared in accordance with the provisions of the Subdivision Ordinance of Mecklenburg County, North Carolina, and that the same is a true and correct copy of the original as shown to me by the owner thereof. Witness my hand and seal of office on this 17th day of October, 1969.  
Keith R. Mason  
N.C. Registered Surveyor L.585

State of North Carolina  
County of Mecklenburg  
I, the undersigned surveyor, do hereby certify that the foregoing plat was prepared in accordance with the provisions of the Subdivision Ordinance of Mecklenburg County, North Carolina, and that the same is a true and correct copy of the original as shown to me by the owner thereof. Witness my hand and seal of office on this 17th day of October, 1969.  
Keith R. Mason  
N.C. Registered Surveyor L.585

APPROVED IN ACCORDANCE WITH THE PROVISIONS OF THE SUBDIVISION ORDINANCE OF MECKLENBURG COUNTY, NORTH CAROLINA.  
CHARLOTTE-MECKLENBURG PLANNING COMMISSION  
Keith R. Mason  
REGISTRAR DATE Oct 7, 1969



Signed \_\_\_\_\_  
N. C. Reg. Land Surveyor #1415



# ANNEXATION SURVEY FOR THE TOWN OF MATTHEWS

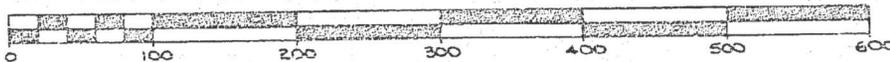
TOTAL AREA = 186.76 ACRES

MECKLENBURG COUNTY

SCALE: 1" = 300'

NORTH CAROLINA  
MARCH, 1982

AREA ANNEXED ON FEBRUARY 25<sup>TH</sup>, 1980



### MAP REFERENCES

1. N.C. DEPT. OF TRANSPORTATION PROJECT NO. 6.803937
2. TAX MAP BOOK 213, PAGE 1 AND PAGE 2.
3. UNRECORDED MAPS OF FRED W. FUNDERBURK, DAVID H. STLTH, MARY KISER WOOTEN AND CLARENCE E. WILLIAMS, JR.
4. RECORD MAPS OF STRATFORDSHIRE: BOOK 14, P. 449, BOOK 1A, PAGES 491, 577, AND 579.

STATE OF NORTH CAROLINA  
COUNTY OF MECKLENBURG

I, GAIL S. BASS, a Notary Public,  
State of North Carolina, do hereby certify that William A. Soiset  
Surveyor performing this survey on this day and acknowledge  
execution of the same. I do hereby certify and upon his oath swear  
the statements set forth herein are true and correct.  
Witness my hand and notarial seal this 30<sup>TH</sup> day of Mar

Gail S. Bass  
Notary Public

My Commission Expires 2-5-86



PRESENTED  
 REGISTRATION  
 Nov 5 12 33 PM '02  
 CHARLES F. CROWDER  
 REGISTER OF DEEDS  
 MECKLENBURG CO. N.C.

State of North Carolina, County of Mecklenburg  
 The foregoing certificate(s) of David A. Bass  
 a Notary Public of Mecklenburg County and State North Carolina  
 is/are certified to be correct. This 5 day of November, 1902  
 Charles E. Crowder, Register of Deeds, By John J. Johnson  
 DEPUTY

BEARING AND DISTANCE SCHEDULE

1	N 15° 03' 00" E	275.00
2	N 74° 58' 30" E	275.00
3	S 78° 00' 45" E	171.00
4	S 19° 01' 00" E	420.00



N.C. GRID CO-ORDINATE SCHEDULE FOR POINTS IN & ABOUT

POINT	SOUTHING	EASTING
A	882,800.41	1,182,350.42
B	882,800.41	1,182,350.42
C	882,800.41	1,182,350.42
D	882,800.41	1,182,350.42
E	882,800.41	1,182,350.42

NOTES:  
 ALL BEARINGS REFER TO GRID NORTH, NORTH CAROLINA STATE CO-ORDINATE SYSTEM. SURVEY CONTROL BASED ON EXISTING MATTHEWS TOWN PLAT'S INDICULATION. ANGULAR ERROR OF CLOSURE 00-00-00. COMBINATION GRID FACTORS IMPLICATING TOO FOR AVERAGE. EVALUATION OF SURVEY, SURVEY ACCURACY 1:10,000 OR BETTER. ANGLES ACQUIRED TO 2 SECONDS. DISTANCES AND ANGLES MEASURED WITH A TOPCON GTS-1000 GPS. NORTH CAROLINA STATE CO-ORDINATES COMPUTED FROM A BALANCED SURVEY.

STATE OF NORTH CAROLINA  
 COUNTY OF MECKLENBURG  
 The undersigned surveyor do hereby certify and affirm that the plat was made and the bearings, distances and angles as indicated thereon were measured in all respects in conformity with the laws of this State and that the same were prepared by or under the supervision of the undersigned surveyor on or about the 20th day of March 1902, and that the same are true and correct to the best of his knowledge and belief.

Surveyor John J. Johnson  
 State of North Carolina



**ANNEXATION SURVEY FOR  
 THE TOWN OF MATTHEWS**  
 TOTAL AREA - 186.76 ACRES  
 MECKLENBURG COUNTY NORTH CAROLINA  
 AREA ANNEXED ON FEBRUARY 29<sup>TH</sup>, 1900

SCALE 1" = 500'

- MAP REFERENCED
- U.S. DEPT. OF TRANSPORTATION, FEDERAL ROAD DISTRICT NO. 6, 5000 ST. ALBANY ROAD, D.D. 1900, 1901 AND 1902.
  - UNRECORDED MAP BY FRED W. FUNDERSBURK, DAVID W. MITCH, MARY A. WOODRUFF AND CLARENCE E. WILLIAMS, 1901.
  - RECORD MAP OF STRATFORDSHIRE, BOOK 14, P. 443.
  - BOOK 14, PAGES 451, 577, AND 578.



**surveyornc@carolina.rr.com**

---

**From:** Barley, Becky <Becky.Barley@mecklenburgcountync.gov>  
**Sent:** Wednesday, February 12, 2020 9:25 AM  
**To:** surveyornc@carolina.rr.com  
**Subject:** parcel 213-024-07

Hi John,

I was able to get some answers about parcel 213-024-07. The annexation occurred in 1980 per recorded map book 20 page 156. I also found out that the lots were combined in 1978 but can't find any notes referencing a recorded document. It was most likely combined informally per owner request, which mean that we can re-split the lot along the old lot line if that's what the current owner would like to do.

Just me know what they decide to do.

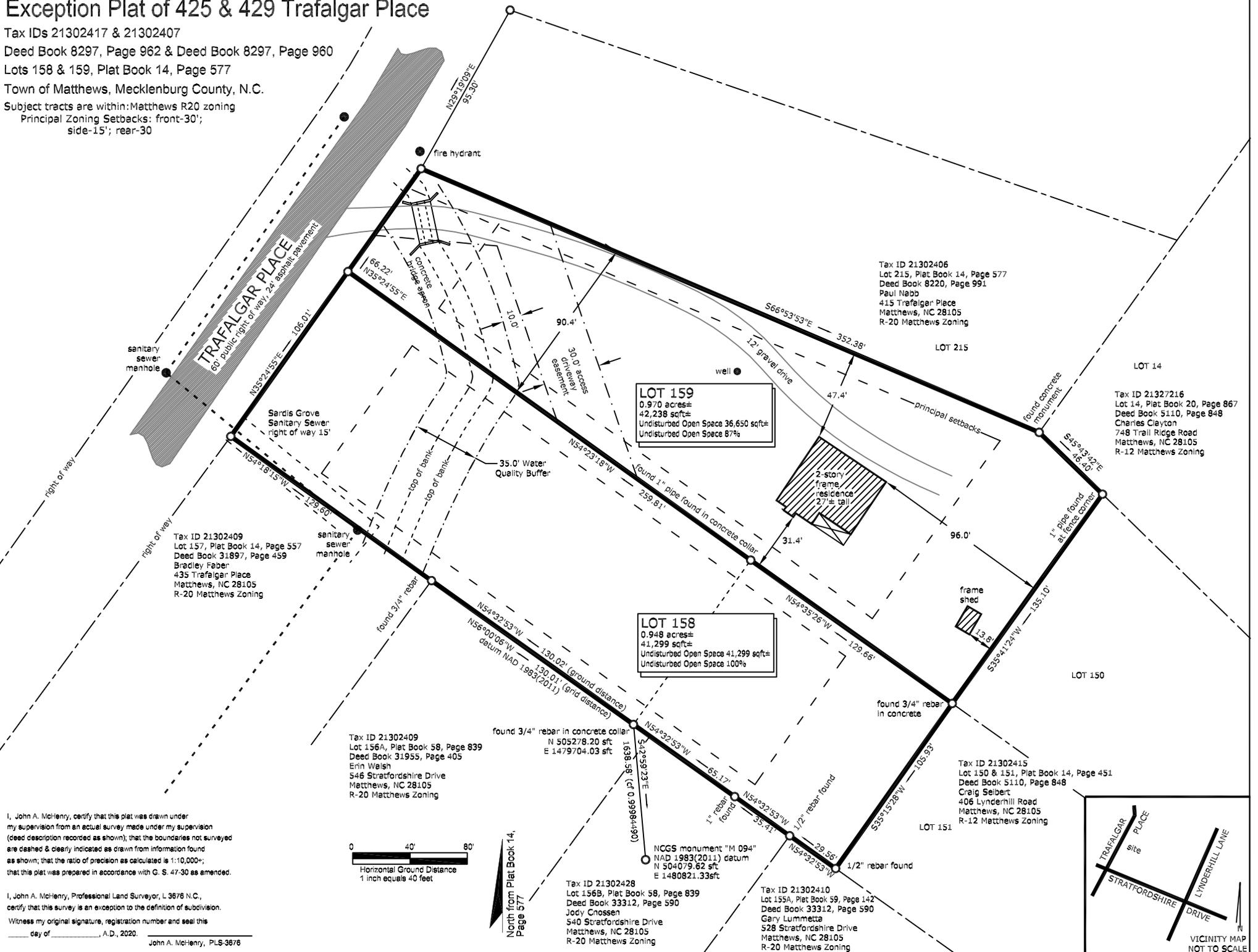
*Becky Barley*

GIS Technician/Land Records  
Mecklenburg County  
Geospatial Information Services - GIS  
[becky.barley@mecklenburgcountync.gov](mailto:becky.barley@mecklenburgcountync.gov)  
980-314-4606

Oh how my manager would love it if you would take a few moments and complete this survey!  
GIS-Addressing and Land Records

# Exception Plat of 425 & 429 Trafalgar Place

Tax IDs 21302417 & 21302407  
 Deed Book 8297, Page 962 & Deed Book 8297, Page 960  
 Lots 158 & 159, Plat Book 14, Page 577  
 Town of Matthews, Mecklenburg County, N.C.  
 Subject tracts are within: Matthews R20 zoning  
 Principal Zoning Setbacks: front-30';  
 side-15'; rear-30'

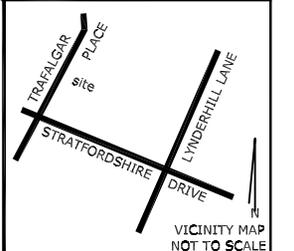


I, John A. McHenry, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded as shown); that the boundaries not surveyed are dashed & clearly indicated as drawn from information found as shown; that the ratio of precision as calculated is 1:10,000+; that this plat was prepared in accordance with G. S. 47-30 as amended.

I, John A. McHenry, Professional Land Surveyor, L 3676 N.C., certify that this survey is an exception to the definition of subdivision.  
 Witness my original signature, registration number and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2020.  
 John A. McHenry, PLS-3676



North from Plat Book 14, Page 577



**LOT 159**  
 0.970 acres=  
 42,238 sqft=  
 Undisturbed Open Space 36,650 sqft=  
 Undisturbed Open Space 87%

**LOT 158**  
 0.948 acres=  
 41,299 sqft=  
 Undisturbed Open Space 41,299 sqft=  
 Undisturbed Open Space 100%

Tax ID 21302406  
 Lot 215, Plat Book 14, Page 577  
 Deed Book 8220, Page 991  
 Paul Nabb  
 415 Trafalgar Place  
 Matthews, NC 28105  
 R-20 Matthews Zoning

Tax ID 21327216  
 Lot 14, Plat Book 20, Page 867  
 Deed Book 5110, Page 848  
 Charles Clayton  
 748 Trail Ridge Road  
 Matthews, NC 28105  
 R-12 Matthews Zoning

Tax ID 21302409  
 Lot 157, Plat Book 14, Page 557  
 Deed Book 31897, Page 459  
 Bradley Faber  
 435 Trafalgar Place  
 Matthews, NC 28105  
 R-20 Matthews Zoning

Tax ID 21302409  
 Lot 156A, Plat Book 58, Page 839  
 Deed Book 31955, Page 405  
 Erin Walsh  
 546 Stratfordshire Drive  
 Matthews, NC 28105  
 R-20 Matthews Zoning

Tax ID 21302428  
 Lot 156B, Plat Book 58, Page 839  
 Deed Book 33312, Page 590  
 Jody Crossen  
 540 Stratfordshire Drive  
 Matthews, NC 28105  
 R-20 Matthews Zoning

Tax ID 21302410  
 Lot 155A, Plat Book 59, Page 142  
 Deed Book 33312, Page 590  
 Cary Lummetts  
 528 Stratfordshire Drive  
 Matthews, NC 28105  
 R-20 Matthews Zoning

Tax ID 21302415  
 Lot 150 & 151, Plat Book 14, Page 451  
 Deed Book 5110, Page 848  
 Craig Seibert  
 406 Lyndershill Road  
 Matthews, NC 28105  
 R-12 Matthews Zoning

Matthews Board of Adjustment  
Variance Request for 2829 Grayfox Lane.  
BA2020-3  
June 22, 2020

### **Summary of Request**

The applicant requests a variance to the requirement that accessory structures should be no larger than 50% of the heated area of the principal residential structure (see UDO section 155.601.20.B).

### **Background**

The subject property is located at 2829 Grayfox Lane, further identified by as tax parcel 227-172-13, is currently zoned R-20 (Residential 20,000 sq. ft. minimum lot size). The principal use of the property is single family residential.

The Mecklenburg County Tax record (attached to this report) for the above referenced property indicate that in 1998 a single-family residential dwelling was constructed with 2,354 sq. ft. of finished area (implied heated) and 3,180 sq. ft. total. The tax information also indicates that in 1998 a shop/building that measured 3,456 sq. ft. was also constructed on the property. The shop/building was permitted by Mecklenburg County (permit number B0687965). It appears that the County issued the permit in error.

§ 155.601.20.B of Matthews UDO states “The size of all accessory structures on such a residentially-used lot shall not exceed fifty percent (50%) of the heated area of the principal structure.” Fifty percent of the heated area of the principal structure would equal a maximum of 1,177 sq. ft. allowed for an accessory structure. The residential accessory structure is larger than the maximum permitted at 3,456 sq. ft.

The Town of Matthews code requirements for accessory structures have not changed since 1998, the 88' code and it has the same language.



Illustration 1.1. 2829 Grayfox Lane showing existing property lines and structures. Shipping containers have been removed.

### 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 storage building was permitted in 1998 and without relief it would have to be torn down.**

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.)

**Mecklenburg County issued the outbuilding permit and approved the structure once it was complete.**

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 property has been owned by the current resident since 1990. The house and outbuilding were permitted and constructed in 1998.**

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 requested variance is consistent with the spirit, purpose and intent of the title and would allow the outbuilding to remain as a permitted non-conforming structure.**

**MECKLENBURG COUNTY ~ PROPERTY RECORD CARD PROPERTY SEARCH**

PARCEL ID: 22717213  
 2829 GRAYFOX LN MATTHEWS  
 NC

MOORE ERIC B, MOORE KIM H  
 2829 GRAYFOX LN  
 MATTHEWS NC 28105-6688

Total Appraised Value  
**\$371,100**

**KEY INFORMATION**

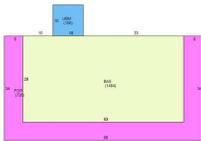
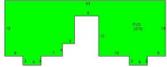
Land Use Code	<b>R120</b>	Neighborhood	<b>W702</b>
Land Use Desc	<b>SINGLE FAMILY RESIDENTIAL - ACREAGE</b>	Land	<b>4.36 ACRE</b>
Exemption/Deferment	-	Municipality	<b>MATTHEWS</b>
Last Sale Date	-	Fire District	<b>MATTHEWS</b>
Last Sale Price	-	Special District	<b>FIRE SERVICE E</b>
Legal Description	<b>L24 U/M</b>		

**ASSESSMENT DETAILS**

2020 Real Estate Assessed Value	
Land Value	<b>\$152,200</b>
Building Value	<b>\$193,300</b>
Features	<b>\$25,600</b>
Total	<b>\$371,100</b>

**BUILDING (1)**

Finished Area	<b>2,354</b>	Year Built	<b>1998</b>	Built Use / Style	<b>SINGLE FAMILY RESIDENTIAL</b>
Story	<b>1.5 STORY</b>	Heat	<b>FORCED AIR - DUCTED</b>	Fuel	<b>GAS</b>
Foundation	<b>CRAWL SPACE</b>	External Wall	<b>FACE BRICK</b>	Fireplace(s)	<b>1</b>
Full Bath(s)	<b>2</b>	Half Bath(s)	<b>1</b>	Bedroom(s)	<b>3</b>
Total (SqFt)	<b>3,180</b>				



**LAND**

Use	Units	Type	Neighborhood	Assessment
R120	4.36	ACRE	W702	\$152,200

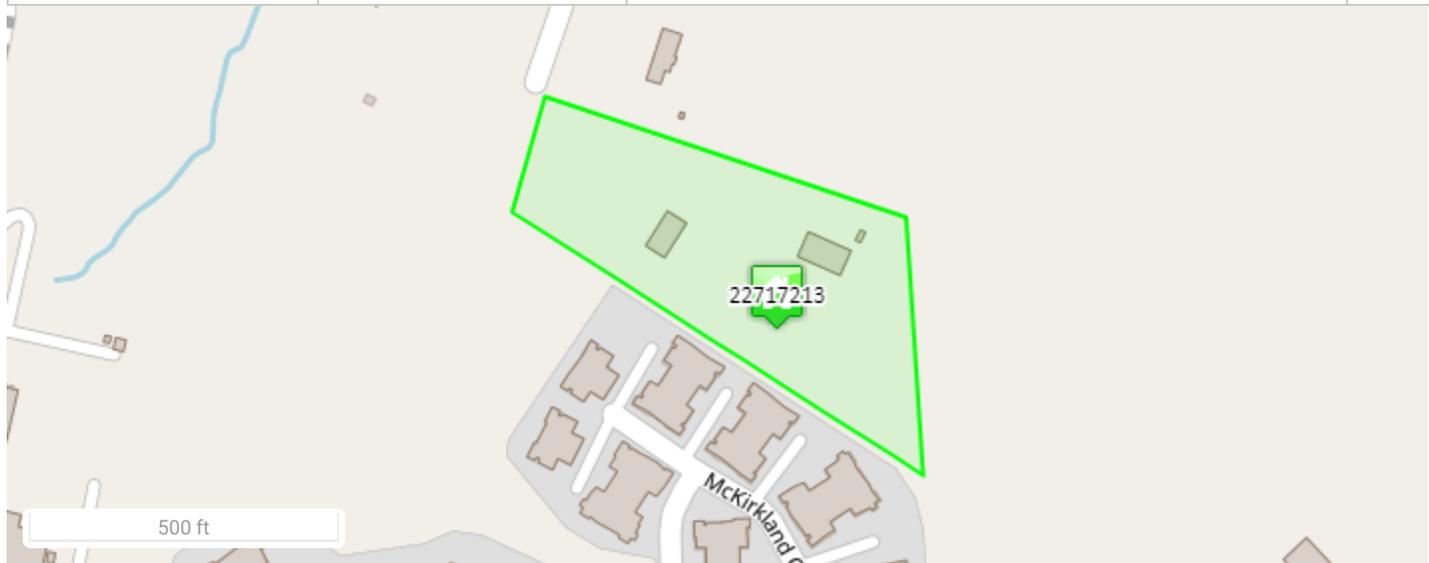
**FEATURES**

Year Built	Type	Quantity	Units	Value
1998	SHOP BLDG	1	3456	\$25,600

## VALUE CHANGES

The value change history shows only changes in appraised value; it does not show exemptions, exclusions or deferrals that could reduce a property's taxable value. If any of these are in effect for a particular tax year, it will be shown on the property tax bill for that year. It is also possible that some previous value changes might be missing from this list or listed in the wrong order. If you have any questions, please call the County Assessor's Office at 704-336-7600.

Date of Value Change	Effective for Tax Year	Reason for Change	New Value
07/02/2019	2019	Informal Review - Decision	\$371,100
01/15/2019	2019	COUNTYWIDE REVALUATION	\$519,300
01/10/2013	2012	Board of Equalization and Review - Decision	\$321,400
11/09/2014	2011	REVALUATION REVIEW - PEARSON	\$321,400
02/04/2011	2011	COUNTYWIDE REVALUATION	\$358,900
05/19/2008	2008	IMP/ADDITION/REMOD COMPLETED FOR TAX YEAR	\$304,100
07/05/2005	2005	BUILDING PARTIALLY COMPLETE	\$175,800
12/12/2003	2003	EQUALIZATION OF VALUE	\$174,200
09/13/2003	2003	BUILDING PARTIALLY COMPLETE	\$301,700
01/02/2003	2003	COUNTYWIDE REVALUATION	\$178,500



### Disclaimer

Mecklenburg County makes every effort to produce the most accurate information possible. **No warranties, expressed or implied, are provided for the data herein, its use or interpretation.**

## Ordinance Interpretation and Determination

June 19, 2020

RE: Accessory Building Size  
Parcel #227-172-13  
2829 Grayfox Lane

Matthews Unified Development Ordinance (UDO) § 155.103.C Definitions states:

**Accessory Building or Structure:** shall mean a detached, subordinate structure, the use of which is clearly incidental and related to that of the principal structure or use of land, and which is located on the same lot as that of the principal structure or use.

**Accessory Use:** shall mean a subordinate use, clearly incidental and related to the principal structure, building, or use of land and located on the same lot as that of the principal structure, building, or use.

**Principal Building or Structure:** shall mean a building or structure containing the principal use of the lot.

Matthews UDO § 155.601.20.A Accessory Structures states:

- A. Accessory structures shall not be permitted in any required front setback or side yard or within three feet (3') of any exterior property line. If located on a corner lot, the accessory structure shall not be nearer to the side street than the principal structure.
- B. On parcels with single-family attached or detached dwellings, no accessory structure shall be the greater of: taller than twenty feet (20') in height; or exceed the height of the principal structure. The size of all accessory structures on such a residentially-used lot shall not exceed fifty percent (50%) of the heated area of the principal structure.

The property addressed as 2829 Grayfox Lane, further identified by Mecklenburg County GIS as parcel #227-172-13, is currently zoned R-20 (Residential 20,000 sq ft minimum lot size). The principle use of the property is single family residential.

Mecklenburg County Tax records for the above referenced property, indicates that in 1998 a residential dwelling was constructed with 2,354 sq ft of finished area (implied heated) and 3,180 sq ft total (see attached). The tax information also indicates that in 1998 a shop/building that measured 3,456 sq ft was also constructed on the property.

It is the determination of Matthews Zoning Administrator that, although permitted through Mecklenburg County, the shop/building built in 1998 at 2829 Grayfox Lane is almost 3 times over the allowable size of an accessory structure in accordance with Matthews Unified Development Ordinance. Therefore, the shop/building on the property must receive a variance from § 155.601.20.B of Matthews UDO in order to remain on the property as a nonconforming structure.



Mary Jo Gollnitz, CZO  
Senior Planner/Zoning Administrator

### APPLICATION FOR A ZONING VARIANCE

Date Filed: \_\_\_\_\_

Hearing Date: \_\_\_\_\_ Hearing Time: 7 PM

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

Property Owner Name(s): ERIC AND KIM MOORE

Subject Property Street Address: 2829 GRAY FOX LN

Subject Property Tax Parcel ID: 227-172-13

Current Zoning District of Subject Property: R-20

Subject Property is Concurrently Seeking a Change in Zoning Classification To: NO

Property Owner is Applicant Appearing Before Board of Adjustment: ERIC MOORE

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

\*Written explanation is required WE DISCOVERED DURING THE SALE OF OUR HOME THAT THE OUTBUILDING IS TOO LARGE FOR MATTHEWS RULES AND ARE REQUESTING A VARIANCE

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: ACCESSORY STRUCTURES SHOULD BE NO MORE THAN 50% OF THE LEASED AREA OF THE HOUSE

Without relief from one or more specific provisions of the Unified Development Ordinance (UDO). UDO section(s) which affect this ruling is/are: 155.601.20.13

**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.):

THE STORAGE BUILDING WAS PERMITTED IN 1998 AND WITHOUT RELIEF  
IT WOULD HAVE TO BE TORN DOWN

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.):

MECKLENBURG COUNTY ISSUED THE OUTBUILDING PERMIT AND APPROVED  
THE OUTBUILDING ONCE IT WAS COMPLETED.

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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.):

OUR FAMILY HAS OWNED THIS PROPERTY SINCE THE 1950'S AND WAS PASSED DOWN TO MY WIFE AND I IN THE 1990'S WHEN WE BUILT THE HOUSE AND OUTBUILDING AND DID NOT INTENTIONALLY BREAK RULES AND NEVER HAD COMPLAINTS FROM NEIGHBORS. THE OUTBUILDING HAS BEEN THERE FOR MORE THAN 20 YEARS AND IS NOT VISIBLE FROM THE STREET. I HAVE TRIED TO BE A GOOD CITIZEN OF THE TOWN OF MATTHEWS BY VOLUNTEERING MY TIME FOR MORE THAN 20 YEARS ON THE TRANSPORTATION COMMITTEE THROUGH THREE PUBLIC WORKS DIRECTIONS.

\_\_\_ check if continued on a separate page

(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 NEW BUYER WANTS THE OUTBUILDING TO REMAIN AS IS

\_\_\_ check if continued on a separate page

**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.

ERIC MOORE  
Kim Moore

Print applicant name

Print representative name

Eric Moore  
Kim Moore

Signature of applicant

Signature of representative

4044 TIMBERLAND DRIVE

Mailing address of applicant

Mailing address of representative

LANCASTER, SC 29720

City, State Zip

City, State Zip

MOOREANDASSOC@HOTMAIL.COM

Email address of applicant

Email address of representative

5-18-20

Date

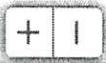
Date

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.

Enter address / parcel # / owner / landmark  
Advanced Search Market Analysis Search Help



*Gray Fox Lane*

Mckirkland Ct  
1962-1993

2000-2299

00-3325

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**ZONING VARIANCE  
INSTRUCTIONS TO APPLICANT**

If the title to the mentioned property is not in the name of the petitioner, attach a letter from the owner signifying approval to proceed with this variance request.

**VARIANCE REQUEST MUST BE ACCOMPANIED BY:**

- A small scale vicinity map (preferably by County Tax Map) showing exact location of property with respect to existing streets, number and size lots, and other important features within and contiguous to the property
- A survey or drawing and PDF showing the location of structures and the violation for which the variance is sought
- List on a separate sheet names and addresses of owners of adjoining properties and property directly across the street from the property involved, and the tax parcel codes of those properties
- A copy of the variance request as well as an unsealed, addressed envelope for each adjoining property owner (including those across the street). Any requested change to the notification process must be approved by Planning and Development Staff.

**THE APPLICATION MUST BE FILED AT LEAST TWENTY (20) CALENDAR DAYS BEFORE THE MEETING OF THE BOARD** at which approval is sought, accompanied by a filing fee of:

Zoning Variance

Residential - \$150.00

Non-Residential - \$350.00

\_\_\_\_\_  
Date of Meeting

\_\_\_\_\_  
Return this form by (time and date)

2009

GRAYFOX

Parcel No

Permit

Date

227-173-13

BC 287965

Issued To

OWNER

For Inspections Call

336-

FAILURE TO POST T

UN VISIBLE FROM THE MAJOR ACCESS WAY MAY DEL

For Inspectors' Use Only

Res STORAGE

RTD

# 2829 Gray Fox Birds Eye



03/07/2020

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

Date Printed: 05/13/2020

Buffer Distance: 60 Feet

No	Parcel ID	Owner Name	Mailing Address	Legal Description	Deed Book	Deed Page	Land Area
1	22760112	1. C/O ALTUS GROUP, 2.WINDSOR RUN LLC,	PO BOX 92129 SOUTHLAKE TX 76092	L1 M64-163/164	29150	416	73.757 AC
2	22756201	1. YOUNG MEN'S CHRISTIAN ASSOC OF, GREATER CHARLOTTE	500 E MOREHEAD ST CHARLOTTE NC 28202	LB M43-787	07025	185	33.887 AC
3	22717302	1. GLAZE, PAM	PO BOX 645 MATTHEWS NC 28105	L22 & 23 U/M	22588	546	4.3 AC
4	22717213	1. MOORE, KIM H 2.MOORE, ERIC B	2829 GRAYFOX LN MATTHEWS NC 28105	L24 U/M	09546	410	4.364 AC
5	22717212	1. MOORE, CHARLES D SR	2801 GRAYFOX LN MATTHEWS NC 28105	L25&26 U/M	28162	371	4.846 GIS Calc. Acres
6	22717239	1. TAYLOR, KATHLEEN A 2.TAYLOR, WILLIAM P	1948 MCKIRKLAND CT MATTHEWS NC 28105	L26D M50-185	24225	620	0.253 AC
7	22717236	1. SELBY, ANNA 2.SELBY, DAVID	1936 MCKIRKLAND CT MATTHEWS NC 28105	L26B M50-185	28803	314	0.325 AC
8	22717231	1. JONES, BARBARA E 2.JONES, THOMAS K	1984 MCKIRKLAND DR MATTHEWS NC 28105	L28D M50-185	28624	637	0.136 AC
9	22717232	1. BETHEA, ERNEST JR 2.BETHEA, BETTY S	1954 MCKIRKLAND CT MATTHEWS NC 28105	L27B M50-424	28335	823	0.144 AC
10	22717235	1. CSEHILL, KAY D	1966 MCKIRKLAND COURT MATTHEWS NC 28105	L27D M50-424	28521	827	0.144 AC
11	22717228	1. PRICE, JANICE CECELIA	1972 MCKIRKLAND CT MATTHEWS NC 28105	L28B M50-424	24147	911	0.139 AC
12	22717240	1. VILLAGE OF ST ANDREWS TOWNHOMES, HOMEOWNERS ASSOC	PO BOX 3340 FORT MILL SC 29716	COS M50-185	26680	064	0.22 AC
13	22756202	1. ASSOCIATION OF MATTHEWS, INC 2.VILLAGES OF ST ANDREWS TOWNHOMES HOMEOWNERS,	PO BOX 3340 C/O PINNACLE MGMT GRP FORT MILL SC 29716	P2 M42-701	25331	859	7.9 AC

*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.*



53.174AC

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1224.3

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302

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173

BLOCK  
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