



**Planning and Development  
Department**

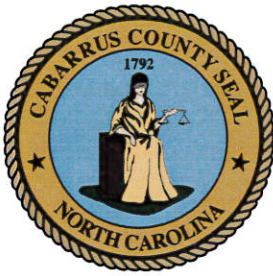
## **Cabarrus County Government**

---

Cabarrus County Planning and Zoning Commission Meeting  
January 9, 2018 @ 7:00 P.M.  
Board of Commissioners Meeting Room  
Cabarrus County Governmental Center

### Agenda

1. Roll Call
2. Approval of December 12, 2017 Planning and Zoning Commission Meeting Minutes
3. Old Business – Board of Adjustment:
  - A. Petition CUSE2017-00002 - Request for Conditional Use Permit for Accessory Airstrip. Applicant is Christopher Logan. Located at 8365 Reed Mine Rd (PIN: 566-46-9695).
  - B. Petition CUSE2017-00003 - Request for Conditional Use Permit for a Public Service Facility (electrical substation). Applicant is UC Synergetic. Located at 4415 Joyner Road (PIN: 5557-20-2855).
4. New Business – Board of Adjustment:
  - A. Petition VARN2017-00003 – Request for relief from setback, landscape and impervious standards for AO zoning district. Applicant is JR Construction & Remodeling, Inc. The property is located at 2670 Cold Springs Rd (PIN: 5559-86-9372)
5. Directors Report
6. Legal Update
7. Adjourn



## Cabarrus County Government

---

Planning and Zoning Commission Minutes  
January 9, 2018

Mr. Chris Pinto, Chair, called the meeting to order at 7:06 p.m. Members present, in addition to the Chair, were Ms. Mary Blakeney, Mr. Jeffrey Corley, Mr. Adam Dagenhart, Ms. Holly Grimsley, Mr. James Litaker, Mr. Andrew Nance, Mr. Charles Paxton, Mr. Richard Price, Mr. Brent Rockett, Mr. Stephen Wise and Mr. Jerry Wood, Jr. Attending from the Planning and Zoning Division were, Ms. Susie Morris, Planning and Zoning Manager, Mr. Jason Earliwine, Sr. Planner, Mr. Phillip Collins, Sr. Planner, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

### Roll Call

Mr. Jeff Corley **MOTIONED, SECONDED** by Mr. Adam Dagenhart to **Table Approval** of the December 12, 2017, meeting minutes. The Vote was unanimous.

The Chair read the suggested rules of procedures for the Board of Adjustment cases.

1. The Cabarrus County planning staff person(s) shall first present the staff report and answer questions from the Commission. There will be no time limit on this presentation.
2. After staff presents, the applicant will have the opportunity to make a presentation and answer questions from the Commission. There will be a 20 minute time limit on this presentation.
3. After the presentations and questions, the proponents (those speaking generally in favor of the case) will have a total of 20 minutes to speak and/or present documents in support of their position. At the conclusion of the presentation, the Commission has the option to ask questions of the proponents.
4. After the proponents finish, the opponents (those speaking generally against the case) will have a total of 20 minutes to speak and/or present documents in support of their position. At the conclusion of the presentation, the Commission has the option to ask questions of the opponents.
5. Each side will then have 5 minutes for rebuttal, with the proponents going first. Again, the Commission may direct questions to the speaker. This will conclude the public hearing portion of the meeting and the Commission will proceed to deliberation.
6. Each side is strongly encouraged to use a spokesperson to present the positions commonly held by each. Each side is also strongly encouraged to organize their speakers and presentations to ensure that all persons wanting to speak will have time to do so.

7. If a speaker has questions of a person on the other side, such questions shall be addressed to the Commission members to be redirected to the person to be asked. There will be no direct questioning of one speaker by another except through the Commission.
8. Public demonstrations of support for a speaker's comments should be limited to clapping. Any other type of audible support shall be out of order and subject the offender to being removed from the building. Anyone speaking out of order shall likewise be subject to removal.
9. These rules are designed to have a full and fair hearing that is orderly and expeditious and avoid unnecessarily repetitious presentations.

Mr. Jeff Corley, **MOTIONED, SECONDED** by Mr. Adam Dagenhart to **APPROVE** the Rules of Procedures. The vote was unanimous.

The Chair said that anyone wishing to speak for the Board of Adjustment case or to testify during the public hearings must be sworn in

The Chair administered the Oath.

#### **Old Business – Planning Board Function:**

The Chair introduced Petition CUSE2017-00002 - Request for Conditional Use Permit for Accessory Airstrip. Applicant is Christopher Logan, the property is located at 8365 Reed Mine Road (PIN: 5566-46-9695).

The Chair asked if there were any Commission members that had any conflict of interest or any information related to the case that needed to be disclosed at this time. There being none, the Chair called on Mr. Jason Earliwine to present the case.

Mr. Jason Earliwine, Sr. Planner, addressed the Board presenting the staff report for CUSE2017-00002.

He said Christopher and Donna Logan are the applicants and owners of the property. They are here tonight to present. The property Identification number is 5566-46-9695, located at 8365 Reed Mine Road, and is approximately 44.12 acres.

The applicant is proposing a private Accessory Airstrip on the subject property. Accessory Airstrips are permitted in the Agriculture/Open Space (AO) zoning district as a conditional use.

The adjacent land uses are all agricultural and residential to the north and to the west. The east side is agricultural and wooded. The south is residential, agricultural and wooded. Any uses permitted in AO will be considered for this zoning district.

Planning and Zoning Commission  
Minutes  
January 9, 2018

Mr. Earliwine said this is a conditional use zoning application and the existing zoning is AO and the surrounding zoning is AO to the north, to the south and to the west and to the east is Locust open space zoning.

Mr. Earliwine will just give a little bit of the back history.

The applicant provided documentation in accordance with Section 8-3 of the Cabarrus County Zoning Ordinance, petitioning for a Conditional Use.

The applicant submitted a complete application which includes the "Findings of Fact" sheet along with a site/survey plan and applicable supporting documentation.

The applicant has submitted a Notice of Airport Airspace Analysis Determination to Establish Private Use Airport. The review resulted in a conditional "No Objection" opinion being rendered regarding the proposed airstrip. The determination is for establishment of an airstrip on the subject property and is good until 06/21/2019 (see Exhibit K). If this airstrip ever includes any construction or alteration, or if it is abandoned, notice to the FAA is required for aeronautical review.

The subject property is approximately 44.126 acres in size and it is in the agriculture and forestry programs.

The subject property is currently vacant and wooded. However, the applicant is in the process of constructing a single family dwelling on the subject property near/in the wooded area.

Little Meadow Creek runs along the southeast border of the property.

There is an existing metal building on the property near Reed Mine Road that is approximately 3,000 square feet.

The site plan shows that the airstrip will remain in a natural state and will be approximately 1,700 feet long and 50 to 75 feet wide.

The application states that sound levels generated by the operation of the aircraft is approximately 73.9 dba. (There is an exhibit showing what it is comparable)

The application states the airstrip will be used on site two to three times per month, when weather conditions permit landing the aircraft.

The application states that the aircraft will take off and land from the north side of the proposed airstrip. The property within 1,000 feet of the north side of the subject property is all vacant-wooded and agricultural land with no residences.

The property is subject to Chapter 4 – Overlay Districts and Zones, Part II Waterbody Buffer Zone. The required buffers are shown on the site/survey plan. The property is also subject to Chapter 16,



Flood Damage Prevention, because there is floodplain located on the site. The floodplain is shown on the plan.

Should the Board of Adjustment grant approval of the Conditional Use Permit, Staff requests the following conditions become part of the approval and case record:

1. Site plan review and approval is required subsequent to Board of Adjustment approval in order to ensure compliance with all applicable development requirements and conditions.
2. The Granting Order stating restrictions and applicable conditions of approval, shall be recorded with the deed for the property.
3. The applicant shall procure any and all applicable federal, state, and local permits prior to zoning permitting.
4. Any future expansion of property, as well as modifications or changes to the approved site plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit.
5. Applicant shall provide a copy of notification to FAA and the Airport Master Report that the airstrip has been established on the subject property.
6. Applicant shall comply with all safety measures regarding construction and approach/departure standards as outlined in the letter dated December 21, 2017.

Mr. Christopher Logan, 9659 Widespread Avenue, NW, Concord NC, addressed the Board. He thanked the Board for hearing his presentation and Mr. Earliwine for all of the preparation that he did.

He said on the application there were some general requirements and he would like to respond to the three main ones. At the end of that, he has some charts and graphs and pictures that might clarify and answer any questions. He is here to discuss the grass runway at 8365 Reed Mine Road.

The first question under the general requirements was would it be detrimental to the public health, safety and general welfare.

He said the purposed operation of a light aircraft at the address of 8365 Reed Mine Road will not be a detriment to the Public Health, Safety or General Welfare.

The type of aircraft that would be used is a General Aviation light aircraft, 4 passenger and 4 cylinder engine (Exhibit A). The frequency of operation would be daytime only, in favorable weather conditions, 2 to 3 times per month. It would also be about 9 months of the year due to wet ground conditions during the winter months.

Planning and Zoning Commission  
Minutes  
January 9, 2018

The noise decibels produced during operation will be far less than most sound generating activities. (Exhibit B) The decibels (db's) produced by this type of aircraft is 73.9 dbs. (Exhibit C) This is far less than gun or farm equipment noise produced in this agriculture environment. Also, the low db produced isn't a constant db due to the movement of the aircraft.

The operation of this aircraft in and out of the grass landing field would take place with safety being the highest concern. He has been a professional pilot for over 33 years, never having an incident or accident. He holds an ATP license, which is the highest level of certification a pilot can obtain, a CFII MEI, which is a Certified Flight Instructor that can teach Instrument and Multi Engine students. He works for a major airline, flying hundreds of people a week. He trains yearly, flying full motion simulators and multiple classroom days reviewing system knowledge, emergency procedures and current industry events.

The aircraft involved would always be kept and maintained at the highest level. There must be an inspection every 12 months by a FAA certified mechanic. Any mechanical procedure or parts replacement must meet the FAA and manufactures guidelines.

With his frequency of flying, training and maintenance of the aircraft, he feels he will maintain the safest environment you can have.

The physical operation of the aircraft will also be at the highest level of safety and professionalism. The grass landing field direction is southwest and northeast; the orientation. The operation will be landing to the southwest and taking off to the northeast. This would eliminate a flight path over any residence or obstacles or structures. The FAA regulation for minimum safe altitude (FAR 91.119 exhibit D) is 500' over a non-congested area. For takeoff, the aircraft performance will be great enough to be at 500' or greater before leaving the boundary of the property to the northeast. On landing, the airspeed during touchdown would be about 45 mph, so the aircraft could be comfortably stopped in 300 – 400 feet. This would leave more than a quarter mile before the southwestern property boundary.

For these reasons, there will be no detriment to public health, safety or general welfare for a grass landing field at the property of 8365 Reed Mine Road.

He said the second question in the application is if it is appropriately located with respect to fire protection.

The Georgeville Fire and Rescue is located about 1 miles down the road.

The third question is will it violate neighborhood character or adversely affect surrounding land use.

The grass landing field area cannot be seen from Reed Mine Road and the existing lay of the land will not change. There is grass established and the only maintenance required will be mowing.

## Planning and Zoning Commission

### Minutes

January 9, 2018

For these reasons, the grass landing field will not violate neighborhood character nor adversely affect surrounding land uses.

Mr. Logan showed the site plan, showing his property in the center with the proposed grass runway, with all the surrounding property with the neighbors and the zoning.

He showed an aerial view of the property. He said the blue line is off just a little bit. The blue line should be left just a little bit, parallel to that thin row of trees.

He showed a half picture of the airplane (he is not sure why the picture is only showing half of the plane). This airplane fully loaded weighs 2500 pounds, less than a car. It seats four, the wing span is a little over 30 feet, and the length is a little over 24 feet and the take-off and landing 300 - 600 feet and a landing speed of 40-45 mph.

He showed a chart of decibels of other things compared to the noise that this airplane will make.

He showed a chart with the decibels of common noise levels: a tractor is just under 85, a tractor without a cabinet just over 85, a table saw, a hand drill, a circular saw, chain saw, fire crackers or gun shots are all way over 73.9.

He showed a chart with decibels for a lot of different types of guns and other things like a siren, chain saw and so forth. Any gunshot is 140 or higher, well above the 73.9 that this airplane would produce.

The take-off direction is going to be one direction to the northeast. The blue line again represents where the grass runway would be. He would start a take-off roll 400 feet or so from the south property line and head northeast.

He showed a chart which indicates the profile where you could get off the ground in 350 feet and be at 500 feet or greater at the property boundary to the northeast. As he said earlier, he thinks it is in the Board's packet, that the FAA minimum is 500 feet over non-congested area and there are no houses or structures on that end. He said the landing direction is the reverse of takeoff.

Maintenance to the aircraft - FAA mandates an annual inspection, completed by a FAA Certified Aircraft Mechanic. Aircraft have very reliable systems and many components are flight time or time limiting. So, they must be changed regardless. So the aircraft is always kept at the highest level.

He is a professional pilot with over 30 years. He has an ATP certification (Airline Transport Pilot) which is the highest rating you can get. He has numerous Type Ratings and he has flown a lot of different aircraft.

He does recurrent training every six months, first class medical every six months. He is in excellent health and has had no accidents, incidents or violations.

Planning and Zoning Commission  
Minutes  
January 9, 2018

We have fire extinguishers on site at the property. We have water, electric, phone and the Georgeville Fire and Rescue is a mile away.

The only maintenance required for this grass runway will be mowing. He has a weather station and will obtain weather information. There will be a windsock that will always show the opposite direction of the wind.

Operation will be two or three times a month, weather permitting, dry and daytime only. He is doing this for fun. So, it will be very limited and middle of the day type stuff.

He showed some pictures of local grass runways. He said there are two that are very close to Reed Mine Road. One is three miles away on Barrier Georgeville Road. One is four miles away and as you can see there are a lot of houses around that. He showed the grass runway across from the Cabarrus Country Club and he said it has two housing developments, one on either side. He showed one near I-85 and Copperfield by Northeast Hospital. He showed one that is four miles from Harrisburg. He said it is a flying community with houses all around it.

He showed a picture of a local VFR Chart. The private airports that are charted are displayed in green. As you can see there are numerous airports around Concord.

He said it is a normal thing and it is just going to be for fun. He does this for a living so, he is not going to start a commercial operation for relaxation. It is just two or three times a month in good weather. He just wants to fly a little airplane on and off the property.

We tried to go through the proper channels with the FAA and Cabarrus County. He wanted to do this the correct way.

The Chair said when you take off at VFR, do you have to call in to Concord or Charlotte when you get to a certain altitude? He is just curious.

Mr. Logan said you do. The air space over Charlotte is like an upside down wedding cake. Over this area (he showed on the chart) there is no requirement at all. If you go a little to the east or a little to the west or 6000 feet or higher you have to talk to Charlotte. Then if you get within five miles of Concord you have to talk with Concord.

The Chair said was just wondering. He said out by Rowan County there is a flying community. In Gold Hill there is a guy that does stunt stuff. He was just wondering how you guys talk to each other; if you were on the same channel.

Mr. Logan said you really are not talking to the other airplanes.

The Chair said he was just wondering. The other question he had was how fast you get off the ground by the time you get to end of your property line and the answer is 500 feet.

Planning and Zoning Commission  
Minutes  
January 9, 2018

Mr. Logan said right, the airplane that he wants to use is tremendous, as far as short takeoff and landing. So, with the amount of room we have (300 to 600 feet plenty of room) and a lot of margin for safety, which is obviously his main concern.

He said just like a CDL, if he does something it is going to affect his livelihood. He is not going to want to do that. He does not want to hurt himself or anybody else, any structure or his airplane.

Mr. Corley said with your aircraft will wind direction affect your ability to take off or land the way he explained.

Mr. Logan said yes.

Mr. Corley said your ability to land in the direction that you explained, relies on the wind blowing the direction you need it to blow.

Mr. Logan said right and in theory you always want to take off into the wind or calm winds. You are not going to take off or land with a big tail wind. That would increase your ground roll or landing roll somewhat.

Mr. Corley said on the occasion, if you were up in the air and needed to land and the wind was blowing the wrong direction, what would you do?

Mr. Logan said he will have a wind sock and you can tell how high the wind is by the windsock.

Mr. Corley said you stated that the solution would not be to land the other direction though.

Mr. Logan said no, in a normal situation if you had clear way on both sides yes. Obviously, he will take close regard to the wind and that will be a concern that it has to be blowing in the right direction to keep the safety margins where they need to be.

Mr. Paxton said what if you decide to sell that plane or get another plane, would any of this process be affected by that.

Mr. Logan said this is an airplane that takes off and lands very short. Most light airplanes would still be in this parameter of performance.

Mr. James Litaker is a private pilot. What Mr. Logan is proposing to fly out of this is a suped-up go-cart. It gets off the ground and it gets down, it has a strong motor, it is not putt putting around. He has the proper equipment, more than what he needs for this landing strip; it is a good plane.

The Chair opened the public hearing. The Chair asked if there was any one speaking in favor of the conditional use. There being no one speaking in favor, the Chair asked if there was anyone speaking in opposition.



Planning and Zoning Commission  
Minutes  
January 9, 2018

Ms. Marlene Lowder, 8755 Reed Mine Road, Midland, NC addressed the Board. She has some concerns because she is an adjacent property owner to the south.

She said this is really the first time that she has seen a site plan. But, according to what she sees, she lives about 400 feet from the end of the runway and that does pose some safety concerns for her.

She said some of her questions have already been answered, but it was the time of day that they are going to be flying, which Mr. Logan said it would be daytime. She has concerns about the sound ordinance, if other planes are going to be allowed and if the FAA is going to oversee the regulation of the airspace.

She has lived out there in the country her whole life. It is kind of hard for them to see something like this come in that could really affect their life in the country. She does respect his right as a property owner to do what he wants to, as long as it does not infringe on her lifestyle.

Ms. Allison Lee, 8225 Reed Mine Road, Midland, NC addressed the Board. She had a personal experience with Mr. Logan. She and her friends were in her field behind the house and one of her friends was a Cop. We were shooting, everything was legal.

Mr. Logan comes and sweeps down, she thought very dangerously low to her and her friends. She felt it was very unsafe and if he can do that, then what else does he feel like he could do with people that close.

Ms. Amy Lee, 8225 Reed Mine Road, Midland, NC addressed the Board stating that her land is right beside the runway.

She has some statements that she gathered from the FAA. They say that the most dangerous part of flying is taking off and landing and part of that is being close to the ground. The speeds are not as fast once you get up in the air and it requires more work from the pilot, so if he is not exactly paying attention, then something bad can happen.

They also said that 16 percent of accidents occur on takeoff and the initial climb into altitude and 29 percent occur during approach to landing.

She said with the grass landing strip you are going to have the difference in the temperature of the ground. Out where we live, you are going to have dew and damp conditions, which are going to affect both of those; taking off and landing.

The FAA also stated that the residents that live near any aircraft area are at a higher risk of planes smashing through their roof. When this happens at home, it is usually destroyed and the people inside do not fair too well.

Planning and Zoning Commission

Minutes

January 9, 2018

She is glad that Mr. Logan has a perfect record, but it is just like being in a car accident, there is always that first time. She said with houses around there, you have children and we have a pasture on the other side, which will have livestock. She does not want anything bad to happen to anybody and you just never know when you are in an airplane what is going to happen.

She hopes that the Board thinks about this. She does not think anyone wants a runway in their neighborhood or their backyard really.

Mr. Jim Davis, 9005 Reed Mine Road, Midland, NC addressed the Board stating he is a property owner. What he has heard is a case for the perfect scenario. Everything is perfect, weather is perfect, houses are not in the way and everything works just fine. But of course, someone can take off and be in the air and weather can change, then you have to land in difficult weather.

For many of us, this is the first time we have seen the proposed runway. He does not own the house at the end of that runway, he thinks Marlene (Lowder) does. But if it were asserted to him, the runway does not look far away, literally, you could probably through a rock and hit that runway from where her house is. Also, he sees the direction the runway is pointed.

We purchased the property at 9005 with the intent of building two homes for our children. Exactly where we planned to build those homes is where this runway goes. His perception is that it is a risk for us to be able to build our children homes on those properties.

He said the other thing to keep in mind is that things change. He has seen this with other conditional uses. It may be conditioned that is the plane that we have today, but is there a requirement that that is always the plane? This gentleman's health is great today and he has never had an accident, is that always the case? Will he always be perfectly healthy? Will he be the only one that flying in and out of there?

What if he, as an instructor, decides he would like to start a little business here and start doing training flights? Is there anything that controls the number of flights for training purposes? If he is doing training flights are there going to be other pilots in training that are going to land there?

These are things that are a concern to him, because once something is approved, it is very hard to actually control what happens. He said weather conditions; weather changes, is he really going to land the same way each time or is he going to adjust the direction that he is coming in based on the weather. It would be logical to say you are going to change the direction you come in based on the weather. So, you may actually take off a different direction, you may land a different direction. A reasonable expectation will that that is going to change based on weather conditions.

He said please keep in mind that there is a house right there at the end of the runway and there will be more houses in the area. We intended to build houses on that property and that is the reason they bought it. The neighborhood will change, putting this runway there will affect other people's ability to use the land they anticipated.

If everything works perfectly, nothing is going to happen, but the world does not always work perfectly and things do change. We respectfully, ask that the Board keeps that in mind for the other property owners in the area.

The Chair said the applicant has five minutes for rebuttal.

Mr. Logan said in reference to the low flying aircraft complaint that was mentioned, his wife was out there the same day that Ms. Lee said he was there. He was on a trip with Southwest Airlines, so that was not him flying that aircraft. He has no idea what the situation was with that airplane but it was not any of his friends or himself, nor would he ever engage in that type of flying.

He said as far as the landing, Ms. Marlene Lowder's house is the closest house. Obviously, the more experience the pilot has, the more safety margins and the more conservative you get the older you get because you see stuff.

But, with regard to the landing, almost 2,000 feet is the length of that property. So if you land in a couple hundred feet from the northeast property line and touch down, if the airplane is doing 40 or 45 mph, you would not even need brakes. An airplane just from friction would stop in three to six hundred feet. Which would still be over 1,200 feet from that property where Ms. Lowder resides.

He said with regard to the weather and so forth, that is what we are trained to do; is to keep an eye on the weather. If things change, you have options. He is not going to try to land if the wind has changed directions or increased in velocity. So, you go to Concord and you land where the aircraft is going to be kept. He does not have to get in there if the weather changes.

Also, if he is out there flying and he sees that there is a line of weather coming through, obviously it is going to change the weather conditions. He is not going to be landing out there at that time.

He said this is just a fair weather, daytime only operation. He has no desire to start a commercial operation out there. This is just for him only, to have fun flying a little airplane on and off the grass. He does this four days a week, flying commercially, so that is not going to be relaxing if he is starting a business out there.

He is not quite sure how far down 9005 Reed Mine Road is, but that is south. He said with landing in and out, as he tried to convey, flying to the south is not even going to be a factor. He will come in from the northeast and leave to the northeast.

Mr. Logan said hopefully, this answered some of the questions that the people had.

The Chair said the opponents have five minutes for rebuttal.

Planning and Zoning Commission  
Minutes  
January 9, 2018

Mr. Davis does not know the statistics on it, but the number one very likely cause of accidents are pilot error. Very experienced pilots sometimes make an error, sometimes it is because they believe that they are so experienced, that they can make it.

He suggest that the Board imagine themselves with their family in the evening at your dinner table. The weather is bad outside and you have pilot 400 feet away, bad weather, thinking they can make that landing.

All he is saying is that once you grant this use, he sees nothing in the request that specifically says it must be just that plane. It will only be that pilot, it will only be in the day and it will only be during good weather. What he is hearing is that once it is approved, it will be a judgment call that the pilot will make, as to when he will take off, when he will land, when weather is appropriate when it is not. If I lived 400 feet from the end of that runway he would be concerned about another person making judgment calls about landing near my home.

Mr. Corley said with the FAA approval, are there any regulations on when you can operate on that runway?

Mr. Logan said there would be nothing different with that than any other runway.

Mr. Corley said but obviously, they would have to be equipped to land at night and things like that if you were to choose to do that right?

Mr. Logan said yes, but there are not lights and you cannot see trees. In his personal requirements, safety margin would not allow him to operate at night out of there.

Ms. Amy Lee showed where her land and Ms. Lowders land are located on the map. She is on the north end of her property. If my kids want to build a house on her five acre field at the end of that runway, is there a limit to how close the runway could be to a home?

The Chair said just from the pictures that he saw of the airstrip in Concord off Groff Street, in Cabarrus County, they come right over the tops of the trees. He does not know if there is a dimension so to speak. Maybe in certain jet planes or something, but he does not think that in a private aircraft there is a dimension like that. He said they come over low there.

Ms. Lee does not know if they would want to build a house right where the runway starts.

Mr. Davis said if a conditional use permit is approved and the gentleman sells the property, would that also convey with the property?

The Chair said yes.

Mr. Davis said so, we could have a very very experienced pilot today and someone else could find that an attractive feature and maybe not be an experienced pilot right? Or maybe someone

Planning and Zoning Commission  
Minutes  
January 9, 2018

else may decide they want to start a training business training people to fly. So, even if this gentleman, as experienced as he is, it could convey to someone else who would not be as safe.

Mr. Dagenhart said in the current zoning, is it allowed to have a flight instructor school? If so, would it be covered or would he have to come back for another conditional use?

Ms. Morris said a flight instruction school is not something that we currently have listed as a home occupation permit and she does not think there is a comparable use for it to be permitted as similar and compatible.

Ms. Marlene Lowder said another concern that she has is, as the property owner 400 feet from the end of runway, is her property value. If she were to resell her property, who would want to buy my house at the end of this runway? That does generate a big concern for her right now.

She asked if there was insurance that would cover if anything would go wrong. Like if the plane did not get stopped and he runs into her property and runs in and tears up something. Is there insurance that covers any of that?

There being no further discussion the Chair closed the public hearing.

Ms. Morris showed Ms. Lowder's property and Mr. Logan's property on the site plan just for clarification so that the Board can process the comments.

Mr. Litaker said in reference to the insurance question, in order to fly basically into any of those airports you have to have insurance. It is kind of like a car, you basically would be covered in case something would happen.

He knows by you not being a pilot and not understanding a lot of it, that being at the end of the runway is a last ditch effort, that is way before your go, not go point is. He said with 700 feet and a small grass field is huge, most of them are sitting at 800 feet and 600 feet a lot of the time.

If he had to fly from here to Atlanta or drive in a car, by statistics, it is safer for him to fly than it is to drive. Pilots have a tendency to be very detailed, very anal about their plane and what they do and very anal about who comes in and out of their airport. They are not sitting there and going to do a beer and barbeque party and have a bunch of people fly in and have a party. He said no alcohol, zero alcohol tolerance and with the certificates that Mr. Logan has, he doubts very seriously that Mr. Logan is going to lose his license and lose his retirement for being stupid on having a violation of buzzing somebody at the 500 feet level.

All of the problems that you are addressing are federal offenses that he would be charged with not the State. It is a lot more severity in his punishment that you would see. Driving while impaired, flying while impaired is two different things; not grounded but under the jail house if he is flying while impaired or anything of that nature.



Planning and Zoning Commission  
Minutes  
January 9, 2018

Mr. Litaker said from what he has seen, Mr. Logan has done a very good job with the type of plane that he has. It is extremely safe and one of the best payload to get in and out. The safety factors are as good as you will find anywhere. He has done his homework and has done a good job. Mr. Litaker feels that it should put a lot of the concerns to rest for what Mr. Logan has done, he is not doing a short cut, and he is doing the long version of trying to make this work.

Mr. Corley believes that this is not detrimental to the public health safety or general welfare. It is appropriately located with respect to fire protection and it would not violate the neighborhood character or adversely affect the surrounding land uses.

There being no further discussion, Mr. Litaker, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **APPROVE** Petition CUSE2017-00002, Request for Conditional Use Permit for Accessory Airstrip with the Conditions recommended by staff. The vote was unanimous.

It was the consensus of the Board to have Mr. Richard Koch prepare the findings of fact.

The Chair introduced Petition CUSE2017-00003-Request for Conditional Use Permit for Public Service Facility (electrical substation) at 4415 Joyner Road.

The Chair asked if there were any Board members that have any conflicts of interest or any information related to the case that needs to be disclosed at the this time. There being none, the Chair called on Mr. Phillip Collins to present the staff report.

Mr. Phillip Collins, Sr. Planner, addressed the Board. He said as the Board may recall this is a request for a conditional use permit to replace an existing substation at 4415 Joyner Road. Essentially, it is a bigger substation with more capacity and it was considered at the December meeting of the Planning and Zoning Commission.

The request was Tabled in order to make revisions to the plan and to address the landscape buffer and the driveway placement. The applicant has since revised the plan based on the comments received at the Planning and Zoning Commission meeting and the following changes were made.

The required 75 foot bufferyard was relocated outside the 60 foot wide access easement. It is partially located within the transmission line right of way but the required landscaping is provided (showed on site plan).

The access road was relocated to the east side of the transmission line (showed on site plan). They relocated outside of that easement.

The changes requested by the Planning and Zoning Commission to accommodate the landscape buffer outside of the existing 60 foot right of way and to relocate the driveway appear to be addressed. Staff has reviewed the revised plans and the plan, as submitted, meets the intent and requirements of the Cabarrus County Development Ordinance.

Mr. Collins restated the conditions that were proposed originally with some slight changes.

Should the Board of Adjustment grant approval of the Conditional Use Permit, Staff requests the following conditions become part of the approval and case record:

1. Site plan review and approval is required subsequent to Board of Adjustment approval in order to ensure compliance with all applicable development requirements and conditions.
2. A Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
3. The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of the project.
4. Expansion of this project, as well as modifications or changes to the approved site plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit.
5. The applicant is proposing that existing landscaping will be used to meet the buffer requirements. In the event the buffer does not meet the intent of the ordinance, or qualify for waiver, the applicant agrees to install the buffer as required by the Ordinance.
6. Soil and Erosion control measures shall comply with Federal and State water quality laws, regulations and rules. The applicant shall submit the revised plan relocating the driveway and landscape buffers to NCDENR for review and comment to see if a modification to the permit is required. Mr. Collins stated that he sent that out and they have seen it. He will communicate with them further as to what they need to do, if they need to do anything, because the disturbed area is not increased; it has actually gone down some and that is what they usually look at.
7. The project is subject to design standards as outlined in Stormwater Permit #SW3171001. The applicant shall submit the revised plan relocating the driveway and landscape buffers to NCDENR for review and comment to see if a modification to the permit is required. Mr. Collins spoke with Rick Riddle, NCDENR in Raleigh and he is okay with that. There is no increase in the impervious area.
8. Deed Restrictions, as outlined in the Stormwater Permit Schedule of Compliance, must be recorded in the Cabarrus County Office of the Register of Deeds and a copy provided to NCDENR and to Cabarrus County Planning after recordation.
9. The project is subject to design standards as outlined in Driveway Permit C-1768-SR 1105. Applicant shall submit the revised plan to NCDOT for review and approval. Mr. Collins said we have already done that as well. We have gotten comments back and they have addressed all of those.

10. Copies of revised permits from NCDENR and NCDOT (if required) shall be submitted for the permanent project file prior to zoning permitting.

Mr. Dagenhart thinks it is just an oversight that page two and six do not match three and four. But he thinks the applicant just did not revise those plans.

Mr. Collins said they are the grading plans. They have not had a chance to update those yet but they will do that when the site plan comes around.

He said the applicants are here and they have some information to hand out.

Mr. Nathan Bass, Manager, Facilities Planning and Siting Department at UC Synergetic, 123 N. White Street, Fort Mill, SC addressed the Board. He is here tonight on behalf of Union Power.

He said Mr. Collins is handing out some exhibits that we prepared to support the revisions that we have made on the plans.

As the Board is aware, Union Power is seeking approval to construct a new electrical substation, on the property that it currently owns on Joyner Road, where they have an existing electrical substation. It was built in the 1950's and needs to be replaced. The existing substation, which sits immediately adjacent to Joyner Road, will be removed upon completion of the project.

Union Power Distribution Planners, have determined that the new facility is critically needed to ensure that Southeastern Cabarrus County and surrounding areas are furnished with an adequate supply of electrical energy now and into the future.

Mr. Bass said during the last meeting on December 12, 2017, the Board had a few concerns regarding the locations of various items on the original site plan and each of those were valid concerns. He believes they have addressed those today.

He has a few exhibits that he would like to walk through, but first he wants to point out a few existing conditions on site. The first thing he wants to point out is Exhibit A, it shows a 2013 aerial photography of the site prior to Union Power purchasing the property. As you can see, the entire area near the adjacent home was cleared at that time and Union Power actually purchased the property in 2014.

Exhibit B shows the property in 2017, where the area he just showed was cleared, is now covered in volunteer forest vegetation successional growth.

He said the next two exhibits, Exhibit C and C1 are our revised plan. We have addressed the following concerns:

First was the access road. As Mr. Collins mentioned, we placed that on the other side of the transmission line to avoid it crossing the required 75 foot bufferyard.

The second concern we covered was the bufferyard itself. Originally, it was placed inside and overlapped the 60 foot easement. So, we could not guarantee in perpetuity that it would be maintained and that was an oversight on their part. With that said, we have moved the bufferyard to be completely outside of the access easement. So, we have basically considered that easement to not even be a part of our property for the purposes of this project.

The vast majority of the bufferyard is completely forested surrounding the site, as you can see and in other areas they are partially forested. He said you can see right in here, adjacent to the road, (showed the site plan) even the area adjacent to the transmission line. There is about 30 feet of existing tree cover there now. We just plan to supplement that with additional plantings to fulfill the Ordinance as well.

The third concern was the transmission line easement itself, adjacent to the road. We had an existing, it is not really an easement on site, because we own the property he believes, but we are maintaining 70 to 100 feet there. We also need an additional distribution line to exit the property. So, rather than putting it outside the transmission easement, we made a few concessions and are going to place that inside the transmission easement. It will not require any additional tree removal in that area.

Mr. Bass would like to walk through other concerns that the Board had at the last meeting.

Exhibit D, this photo was taken from the center of the proposed access road. Right in the middle of the property is the proposed access road. This is looking west toward the adjacent property owner and as you can see, the existing vegetation on site has already grown to a height of about 15 feet.

The rod that you see there is a 15 foot rod and the arrows point to where the house is located. Again, you cannot see the house as the result of the existing vegetation. He said one other thing to point out is the elevation change. His feet are standing about 10 feet lower than where that vegetation is and probably 30 feet lower than where the actual house sits. The elevation change from where the substation is going to sit will be significantly different, which will add to the screening opportunity.

One thing he wants to point out in addition, is this is only five years of growth. We do not plan on cutting this anytime soon if ever; actually ever, because it is going to be a proper buffer. But in two or three years, this is going to be an additional five to seven feet tall. In twenty years it will be 50 to 60 foot tall. He said the site is already forested and sufficiently screened and it is going to get more screen into the future.

Planning and Zoning Commission  
Minutes  
January 9, 2018

The next two, Exhibits E and F, are taken from the same observer location. They are taken from Joyner Road, immediately under the transmission line. This is a 2013 view of Google Earth showing the house in the background. As you can see the entire site is cleared.

The very next exhibit is showing the degree of vegetation that is on site and will remain. You can see one of his colleagues standing there with a 15 foot pole. The trees along the road there are actually about 35 feet tall. The ones in the background are generally successional growth pine and they are only about 15 feet tall at this time.

The last exhibit is just to show the buffer along the roadside on the eastern part of the property. This vegetation is growing in a lower area so if we were to remove that and add screening it would be difficult if not impossible. Our plan is to leave the successional growth and let it mature and screen the property.

Mr. Bass said Ms. Morris wanted us to mention that any kind of grading plan changes, the additional exhibits that you had mentioned, those will be made and submitted as part of this process. We did not overlook them, at this time we have not had time to do the site plan and the landscape plan for the purposes of this meeting today.

The Chair opened the public hearing. There were no comments from anyone in favor of the request.

Mr. Dan Haller, 4301 Joyner Road, addressed the Board. He thanked the Board for the concessions they made last time. He appreciates it. He has the property next door.

His concern is the more he thinks about the vegetation barriers, if we are letting them grow higher, won't they get to a point where they cannot be too tall because if they were to fall over due to a storm, they would hit the power lines. While he appreciates the thought of letting that grow, wouldn't it eventually, naturally get to a point they are going to need to be cut back anyway, so as not to impede the power lines?

The other question he had was, when you took the picture, where you were standing lower, you were taking that picture from where the access road is, which is close to Joyner Road. But, what about where the actual substation will go. Does that also sit at a lower elevation similar to the picture?

Mr. Bass addressed Mr. Haller's two concerns. The first regarding the location of the easements. What we have shown is standard right of way easements that Union Power utilizes for their system. What they have is sufficient to protect lines.

Number two, the substation sits he believes at an elevation of about 600 – 602, somewhere in there. The height of his home he believes is around 640; don't check him on the exact elevation there. But, there is a significant elevation change, so by the time the vegetation grows taller, his



line of sight for visibility is looking higher. So he is effectively looking over top of a substation at its final elevation.

There being no additional comments the Chair closed the public hearing.

Mr. Adam Dagenhart thinks the applicant has met the intent. They took our concerns as well as the adjacent property owner's and they have addressed them. He does not think they can really achieve much more. They are kind of restricted by the 60 foot access easement, as well as the existing transmission lines. He is in support of what they are showing here.

There being no further comments, Mr. Brent Rocket, **MOTIONED, SECONDED** by Mr. Steve Wise to **APPROVE**, Petition CUSE2017-00003-Request for Conditional Use Permit for Public Service Facility, with the conditions recommended by staff. The vote was unanimous.

It was the consensus of the Board to have Mr. Richard Koch prepare the findings of fact.

The Chair introduced Petition VARN2017-00003 – Request for relief from setback, landscape and impervious standards for AO zoning district. Applicant is JR Construction & Remodeling, Inc.

The Chair asked if there were any Board members that have any conflicts of interest or any information related to the case that needs to be disclosed at the this time. There being none the Chair called on Mr. Jason Earliwine to present the staff report.

Mr. Earliwine said he is going to try to keep this simple, but they are asking for five variances tonight. That can get kind of tedious, so we have diagrams and things to try to clear up any confusion.

This is VARN2017-00003, Virginia Moore is the applicant from Carlos Moore Architect and the owner is JR Construction & Remodeling. Ms. Moore, who is the architect, and Mr. Steve Ruggles, who is the owner are both going to present some information tonight.

Mr. Earliwine said we heard a lot about this last month with their rezoning. The address is 2670 Cold Springs Road, it is a 3 acre parcel. The subject property does contain two concrete block buildings. The west building, which we are referring to as Building 1, is 6,848 square feet and the east building on the property is Building 2 and it is 4,622 square feet. The property also supports an existing gravel driveway totaling +/-11,905 square feet of impervious area. This comes into play when we start talking about the variances and is why he is mentioning it.

The applicant is proposing the following uses for the site: 1) Repair Garage - Automobile, 2) Repair Shop - Farm Machinery, 3) Repair Shop - Small Engine, which will be housed in the west building (Building 1), and 4) Contractor or Trade Shop, which will be housed in the east building (Building 2). The proposed uses are permitted in the AO zoning district and are subject to performance based standards. The applicant is not proposing any outdoor storage at this time.

The applicant is seeking relief from the Cabarrus County Development Ordinance, more specifically, from Chapter 5 – District Development Standards, Chapter 7 – Performance Based Standards, and Chapter 9 - Landscape and Buffering.

Mr. Earliwine said the five variance requests are as follows and he is going to try to break them down so that we can look at them individually.

**Variance Request #1** - Request for relief from the required 75 foot front setback for both of the existing buildings.

Basically, the buildings are existing and within the required setback (showed on diagram) that dashed line. Building #1, which is the west building encroaches 23 feet into the 75 foot setback. Building #2 encroaches approximately 20.67 feet into the setback.

**Variance Request #2** - Request for relief from the 20 foot side setback for the east building, which is Building 2. The applicant is requesting relief from Chapter 5, which states that the side setback in an AO zoning district is 20 feet and currently the existing east building encroaches six inches into the required setback.

He knows it is only six inches but it is part of the requirement so we had to list it as a variance.

**Variance Request #3** - Request for relief from the maximum impervious surface requirement of 15%.

He said this one is a little bit more complicated. The AO zoning district allows 15% and as it stands, the property currently contains 19.12 total percentage of impervious coverage.

The applicant is proposing the removal of part of the driveway to the west, totaling 2,273.6 square feet. An old carport, totaling 862 square feet, will be demolished as well.

The applicant is proposing to widen the existing gravel driveway to the required 24 feet to meet the two-way traffic standard listed in Chapter 10 of our Ordinance. They also propose a new paved parking lot which will be installed bringing the total impervious surface to be added to 8,200 square feet. Which means that the total of all the impervious surface after the existing and then what they are planning on taking out and what they are planning on adding is going to be +/-23%, which is about 8 % over their requirement.

That, Mr. Earliwine thinks, is the most complicated one.

**Variance Request #4** - Request for relief from the required 100 foot rear setback for the west building (Building 1) (which is the center building he showed on the site plan) and is going to house the repair shop.

He said that is a Performance Based Standard, the 100 foot setback. Chapter 7 states that for each of these uses, that in the event it abuts a residentially used or zoned property, buildings must be located a minimum of 100 feet from the property line. The applicant states the uses listed above will only be offered in the west building. They are the repair garage, repair shop and repair shop small engine. The existing west building encroaches 14 feet into that required 100 foot setback (showed on the site plan).

**Variance Request #5** - Request from relief from the required 38 foot landscape buffer for the east building (Building 2):

Table Five states that all commercial uses abutting residentially used or zoned properties require a Level Two Landscape Buffer. According to the table, that is a 38 foot landscape buffer requirement. As it sits, the existing east building (Building 2) encroaches 11.75 feet into the required buffer yard (showed on site plan).

Mr. Earliwine said those are our five variances. He thinks the applicant has brought some colored maps that we can look at to make it a little easier, that it will stand out more.

The current land use is vacant and it does contain existing nonconforming buildings. The zoning, as the Board remembers, was rezoned last month to AO, but all the surrounding property is CR (Countryside Residential). Any uses permitted within the AO (Agriculture Open Space) district are permitted.

Adjacent land uses to the North, we have single family residential homes, to the East it is vacant and wooded, as well as to the West and to the South there is some residential property as well as wooded property.

The subject property is required to have a 38 foot landscape buffer. The applicant is proposing the following uses as he stated earlier: Repair Garage - Automobile, Repair Shop - Farm Machinery, Repair Shop - Small Engine. They will all be in the west building and a Contractor or Trade Shop in the east building. In the AO district, these are all subject to additional performance based standards.

Some of the uses proposed for the site require a performance based standard of a 100 foot setback from the property line.

The applicant is proposing to widen the existing gravel driveway to the required 24 feet and to install new paved parking. As it stands the driveway is not in conformance, so they are going to try to bring that up to standards.

The applicant is proposing to supplement the landscape buffers by providing the required number of plantings and, in some areas, they are adding more, as shown on the site plan to offset the building encroachment.

Should the Board of Adjustment grant approval of the variance, the following conditions should be considered as part of the approval and case record:

- Site plan review and approval is required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions.
- The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
- The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of project.
- Applicant shall supplement buffers according to the site plan due to building encroachment.
- Applicant will add a 24 foot driveway width note to the zoning site plan and change the newly approved rezoning to AO (Agriculture/Open Space).

Mr. Earliwine thinks that on the site plan it is showing that it is listed as CR with proposed zoning of AO. Obviously, we were going through a lot of changes then, so he thinks it was probably an oversight.

One thing that was brought to our attention earlier today was that WSACC operates a force main along Cold Springs Road on the applicant's property side. We did speak with WSACC and determined that the proposed street bufferyard is far enough away from the location of the sewer line to not propose an immediate issue. The force main is located between the ditch and pavement of Cold Springs Road. Therefore, WSACC asked that a condition be imposed, that if any future repair to the force main is necessary, that they will remove planting as needed and as a requirement from Cabarrus County, we require the applicant to reinstall the plantings.

They just wanted to make us aware that that could be a possibility if there is ever any repair need in that area.

Mr. Dagenhart said for clarification, is WSACC saying that their easement is within some of the landscape buffer?

Mr. Earliwine said they do not have an easement. There is just a force main running there and it is right near the edge of the pavement. The applicant proposed this street bufferyard at the future right of way, which is per staff's request. He thinks we have 30 feet or so between the road and where the actual street bufferyard starts.

Ms. Ginger Moore, Carlos Moore Architect, 222 Church Street North, Concord, NC addressed the Board. She thanked the Board for hearing the case. She said to simply all of this she has a diagram for each variance. It is a little cumbersome to try and look at that site plan and figure out what we are doing. She calls them Variance A, B, C and D.

Planning and Zoning Commission  
Minutes  
January 9, 2018

She said on Variance A, which is the 75 foot front setback. She is trying to be consistent with all of the diagrams about what are the rules and why is she asking for in encroachment. She said moving forward anything blue will be what she is asking for, for a variance.

Our front setback is 75 feet and she highlighted it in green all the way from the road to where that 75 foot line is. This is the new right of way. She believes they were asked to dedicate 15 more feet in there. These two existing buildings, the blue is our request for Variance #A, the one on the west is 932 square feet and the one on the right is about 697 square feet.

Variance B, the 20 foot setback surrounding is all highlighted in green and everything seems to be good until we get to the far East building where we encroach by six inches. She has a small P-line for the blue encroachment at that.

Variance C, is in regards to impervious surface. The red is what we are removing, we are trying to make some kind of effort. Once they realized that she read the impervious surface wrong, to where it is a total impervious surface not individual. They are trying to make an effort to reduce what they can and add where it may be necessary. She said fire truck access and widening for traffic is necessary; two entrances is not. We made the effort for handicap accessibility, paved parking and widening of the road in this one.

Variance D, is for the west building only; the repair garage. Within that, you have to have 100 foot setback. She did not show it on the right side because clearly it meets that. The blue is the highlighted tip of the building where it encroaches. On all of these, there is already healthy buffer lines along each one on the perimeter.

Variance E, for the type of level bufferyard we need is 38 feet surrounding all which supersedes and in addition to the setback. All the buildings seem to survive that except for an encroachment on the east and that encroachment she thinks is 20 feet. It is about 116 feet long she believes and 11 feet.

Ms. Moore said those are the diagrams for each of the variances, in order to simplify it. Because, she was looking at the site plan and thought this is crazy. This helps her and hopefully will help the Board as well.

She showed a few pictures:

The first photograph is showing along the western property line, at the area where they are going to remove part of the gravel drive. You can see the healthy buffer there.

She said in all of their landscape plans, they plan to meet the Ordinance with the required amount of points. In some cases, they are superseding that especially, where there is an encroachment of the building. There will be more required plantings there, it may not just be quite as wide.



The second photograph is of the front. She believes this is where Mr. Earliwine was talking about there being a question about where the sewer line was. She showed the ditch that they were talking about and the new right of way and the two buildings that encroach inside that front setback. With that thoroughfare buffer, that is required, we are planting a healthy front street yard. An effort has been made there to screen that and get the intent.

She showed the existing bufferyard at the back side where they are requesting the 100 foot variance for the tip of the west building. She showed another picture showing the tip.

On the east side, where we have the six inch encroachment and also the bufferyard encroachment, you can see the tip of that building there and the healthy vegetation there as well. They plan to supplement what is already there.

Ms. Moore believes that is all of their presentation documents. They tried to meet as best they can on these.

Mr. Dagenhart said at the previous meeting the applicant stated that Building 1 was going to be used for his son's go cart/race car. He asked if that is still the intended use.

Ms. Moore said yes.

Mr. Dagenhart said would that not fall under the AO conditional use for a race shop? He said it is a race team.

Ms. Morris said when the applicant came to us, essentially they are looking for a garage space and auto repair. The applicant can speak to this, but the proposal to us was not that it would be a full blown race shop. It would be somewhere to store the vehicle and potentially work on it. Because they needed a different space and they would rent out the other spaces in order to support buying the property.

The applicant told us there would not be any type of chassis dyno and also that there would not be a steady influx of employees coming back and forth; that this was more of hobby. She will let the applicant speak with the Board on record about what is happening or not happening in those buildings.

Mr. Dagenhart said the dyno and all of that stuff he listed, is what the Ordinance defines as a race shop or does it?

Ms. Morris said it defines it more as a complex, where you would have the different buildings to support it. She has her Ordinance and can provide that definition. Based on the conversations that we had with the applicant, he really was talking more about somewhere to store the car and maybe prepare the car, than to have a full blown team operating from that space. That this is something that he could do from his garage at home but was interested in some more room.

Planning and Zoning Commission  
Minutes  
January 9, 2018

Mr. Earliwine read the definition of a race shop according to the Ordinance. A facility used for the production, testing and repair of competitively raced motor vehicles inclusive of offices and warehousing of vehicles and souvenirs.

Mr. Price said how old are the buildings and when were they built?

Mr. Earliwine believes that they were built in the mid 80's. We could not find the exact dates but that is sort of what we discovered through tax records.

Mr. Price asked if it was prior to the Ordinance or zoning in Cabarrus County.

Mr. Earliwine said he is not sure because our Zoning Ordinance was adopted in the 80's as well. Again, we cannot find the exact date of when the buildings were built. Obviously, they were prior to our current Ordinance. When they were built, if they were permitted at all, we do not really know if they met the standards or not. We are left with them now as nonconforming structures and are trying to bring them into conformity the best we can. Obviously, the zoning that was requested last month was to help accommodate that as well.

Mr. Corley asked if there was any idea when the parcel was created, was it a piece of a bigger pie or do we know?

Mr. Earliwine said no; he has no idea. It would have been before the middle 80's. It was its own parcel then.

Mr. Dagenhart said in Ms. Moore's last slide, the east building encroaching into the buffer. He understands that GIS is not accurate, as far as parcel lines, but it looks like the parcel line and that existing vegetation, that some of that vegetation may actually not even be on this property.

Ms. Moore said that is correct. They have had it surveyed and there is a pin out there and that is another reason that they are providing all the adequate amount of vegetation there. She has it kind of scrunched up in that area, so it is the right number of points right there, the width is just buried.

Mr. Dagenhart asked what was going to serve for septic. You have two septic fields on site.

Mr. Moore said they are existing.

The Chair opened the public hearing.

Mr. Steve Ruggles, 401 Dakota Street, Kannapolis, NC, owner of JR Construction addressed the Board.

He said in reference to the question about chassis dyno; no, we do not have any sort of chassis dyno nor will we ever do any sort of chassis dyno at this site.

The Chair said what kind of car is it; an all pro car, a Legends car?

Mr. Ruggles said currently he is running a late model stock car; it's a NASCAR.

The Chair said at Concord or something?

Mr. Ruggles said they do not run at Concord, they run at Hickory, Motor Mile in Virginia and Myrtle Beach; places like that. Just local within a couple hundred miles is the furthest they travel.

The Chair said you do not have a bunch of people parking cars there and taking off on Saturday morning and coming back Sunday night or anything like that?

Mr. Ruggles said no, his truck tows the trailer and that usually carries the whole crew which is he and his son.

There being no further questions, the Chair closed the public hearing.

The Chair said the Board needs to look at all the variances one at a time using A, B, C and D.

The Chair read the Application of the variance power.

#### **Section 12-20 Application of the variance power**

A variance may only be allowed by the Commission in cases involving practical difficulties or unnecessary hardships when substantial evidence in the official record of the application supports all the following findings:

1. 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.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

All of these findings of fact shall be made in the indicated order by the Commission, which is not empowered to grant a variance without an affirmative finding of fact on all four categories above. Each finding of fact shall be supported by substantial, material, and competent evidence in the record of the proceeding before the Commission.

The Chair said at this time we need to have discussion. We can through them all or we can do one at a time.

**Variance Request #1** - Request for relief from the required 75 foot front setback for both of the existing buildings.

Mr. Dagenhart said the applicant is asking us to just waive it, but they are not doing any give and take there. He does not know if we should do a wholesale. He understands that the buildings are existing and they are doing some buffering but he feels like maybe we should ask for some additional in those areas, to try and help offset what they are asking for.

Mr. Price can appreciate what Mr. Dagenhart is saying, but it looks to him like we have about six gallons of stuff in a five gallon bucket out there. He said short of asking the applicant to take part of the buildings away, which would seem to him to be unreasonable to request that. It appears to him that they have done about all that they can do to come into conformance as closely as they can.

Mr. Dagenhart would argue that you could add some additional landscaping in those areas. He is not asking for the building to be moved. He is just asking to consider some additional landscaping.

Mr. Price said where would you put it?

Mr. Dagenhart said on the road; use some additional screening.

Mr. Price said taller or more of it?

Mr. Dagenhart said just a wider width.

Mr. Price said how much are we going to ask for? We are looking at it two dimensionally here. He asked Ms. Moore to put her picture back up.

Mr. Price said based on what you are proposing here on your site plan, can you give some idea of how wide of a bufferyard we are talking about there.

Mr. Dagenhart said a fifteen foot street yard.

Ms. Moore said yes and showed it on the diagram.

Planning and Zoning Commission  
Minutes  
January 9, 2018

Mr. Price asked if she had any idea at this point of what plantings there will be; what species you are talking about putting in there.

Ms. Moore thinks what they had talked about were some Leyland cypress there as well.

Mr. Price said it is about as thick as you can get, if you are talking Leyland cypress.

Mr. Dagenhart said but a Leyland cypress will become diseased and die.

Mr. Price is not a fan of Leyland cypress, but they do screen.

Ms. Moore thinks from what we heard at the rezoning was people talking about being able to see and that was the best kind of planting we could do, as far as buffer there. She wrote down on the site plan what the requirements are, which are one shade tree per 30 linear foot and one shrub per 50. But then it had some other; 350 linear feet. She is required to have 12 trees and she is showing 14 plus 3 ornamental and 110 shrubs shown. We can swap some shrubs for some trees if we are concerned about view.

Mr. Corley suggested potentially some landscaping actually in front of the building other than a wider width.

Mr. Dagenhart would like to see that, but he does not know if that might be something that once they get to the actual site plan, that they will have some type of landscaping around the building. He thinks that would be a better solution.

Mr. Price said you mean like foundation type shrubs?

Mr. Dagenhart said like a building yard. He asked if that is something they are willing to do? Obviously, you will have to talk with you client.

The Chair said that would make more sense too, because if you put it closer to the road; stuff grows. He is not going to be able to pull out with a trailer and see both ways safely. The other thing is WSACC.

Mr. Dagenhart said they are 30 feet away from that.

The Chair said but still, what if he does plant stuff that is closer to the road and all of sudden he will have to pay for the bushes to be taken out and pay for it to be replanted.

Ms. Moore said what he is asking is, if we plant a building yard at the front where the encroachment is six or eight feet wide.

Mr. Dagenhart said he was not talking about planting within the future right of way. He was talking about on the back side.



Planning and Zoning Commission  
Minutes  
January 9, 2018

Ms. Moore understands. She showed on a diagram.

Mr. Dagenhart said yes, just something to try and help to make it look a little better.

Ms. Morris said for a point of clarification, if the Board does decide to move forward with that, staff will need some specification as far as what the Board is looking for.

Mr. Koch said also are we talking about the building yard in addition to the front street yard?

Ms. Moore said yes and the applicant said okay.

Mr. Dagenhart said probably like an eight foot building yard; six or eight whatever the standard is. He does not know what the County standard is.

Ms. Moore said the County does not require one, the City of Concord does. Hence, why she kept throwing out points and the County does not operate on points.

Mr. Dagenhart said he knew what she meant.

Mr. Dagenhart would agree with Mr. Corley that is a good compromise.

Ms. Moore said so, six foot building yard with a mix of ornamentals; is that what we are asking?

The consensus of the Board was yes.

Ms. Morris said to clarify, you are looking for that on both of the buildings or only the one that is closest?

Mr. Dagenhart said where ever it encroaches into that 75 feet.

There being no further discussion, Mr. Adam Dagenhart, **MOTIONED, SECONDED** by Mr. James Litaker to **APPROVE**, Variance Request #1 - Request for relief from the required 75 foot front setback for both of the existing buildings with the condition that the applicant add a six foot building yard as it pertains to both buildings within the 75 foot front setback. The vote was unanimous.

**Variance Request #2** - Request for relief from the 20 foot side setback for the east building which is Building 2.

Mr. Richard Price thinks the same basic discussions that we had for the previous variance kind of comes into play here as well.

The Chair thought he remembered that it was built before the 80's, before the Zoning Ordinance.

Mr. Price said those building have been out there a long time. He has driven back and forth along Cold Springs Road out there and he does not remember them not ever being there. He said Mr. Bean had some sort of a filter media business out there one time.

Mr. Wise said if you read the book that the Health Alliance wrote, they talked about in the 80's; about some washing machine permits and stuff, so it had to be the 80's.

There being no further discussion Ms. Mary Blakeney, **MOTIONED, SECONDED** by Mr. Brent Rockett to **APPROVE**, Variance Request #2 - Request for relief from the 20 foot side setback for the east building which is Building 2. The vote was unanimous.

**Variance Request #3** - Request for relief from the maximum impervious surface requirement for individual lots with 15% bumping it up to 23%.

The Chair asked if any of that impervious amount was because of the driveway we are making you put in? How much is that?

Mr. Dagenhart said 8,200 square feet, but that also includes the additional parking that they are installing for both buildings.

Mr. Earliwine said unless Ms. Moore has other information, she just added all the impervious surface together. He said the impervious surface was the additional driveway standards and the parking lot.

The Chair said it was 19 and now it 23 and we are responsible for 4 percent?

Mr. Earliwine said correct.

Mr. Dagenhart can certainly understand the need to widen it for the fire requirement, but is there any hindrance to moving the parking from Building 1, to the other side, to try and lesson the impervious? We are talking a pretty good bit of impervious over the maximum allowable.

Ms. Moore said her experience with your local fire marshal is that she needs to provide adequate distance around the building, so that is why she stopped it right there where the fire truck turn around could be.

She said to answer your question, there is an existing overhead door on this side and so that was the way that it currently goes in the building.

Mr. Dagenhart said so the applicant wants us to allow it to be almost 50 percent over, just because they do not want to put in a roll up door on the other side?

Ms. Moore said logic dictated this is where it goes at the moment.

Mr. Dagenhart said but you also understand that you have to try to work within the perimeters and just because that is where the door is.

Ms. Moore will be happy to eliminate the entire drive over on the west side.

Mr. Corley said just to clarify, if the parking lot moved, the road still has to be there, so at the end of the day you are not gaining.

He said we have existing buildings on a small lot and what his gut tells him this is what is going to make that lot a legitimate site to do business on; is the improvements that are being made.

Mr. Dagenhart said how much of that building is actually going to be used for his personal use? He said what derived your parking spaces; what square footage?

Ms. Moore said if she remembers correctly, what they did was calculate it one space per employee and then one space per truck and a handicap space in both areas. She has three parking spaces down on the west building and four up at the top. The one on the west was going to be primarily for him. The one on the right was going to be the contractors and they had three or so employees.

Mr. Dagenhart said what is the existing width of that road?

Ms. Moore did not pull a P-line on it or anything; she offset it at 24.

Mr. Dagenhart is curious if you move the parking lot to the other side of the building and therefore there was no need for two-way traffic, would the existing be adequate for fire.

Ms. Morris said no; the Fire Marshal's minimum is 20 feet when you start talking about commercial. The extra four comes in for two-way traffic, which is a zoning requirement; so that would not go away.

Mr. Dagenhart said if she shifted that parking lot to the east side of the building, there would not be a need for two-way traffic. They would still have 20 feet, but if there is existing 20 feet there then she does not have any new impervious.

Ms. Morris said they are still going to have to increase it on this side to accommodate the two-way traffic.

Mr. Dagenhart is trying to get her numbers down.

Ms. Morris does not know where those numbers would shake out. She thinks it is hard to try to guesstimate it when that plan does not specifically say from segment to segment what the new impervious is.

She said the Fire Marshal's minimum requirement, which you all have seen on some of the reception facilities, is they ask to go down to the 20 from the 24 for the two-way. The Fire Marshal is worried about the 20 and the Zoning Ordinance calls for the 24 to support the two-way traffic.

The Chair said where is the septic located? Maybe you cannot even put it there.

Mr. Dagenhart showed where the septic is located.

Ms. Moore hears what Mr. Dagenhart is saying. She does not know how much more she can save, from a square footage standpoint by relocating it over to the right side. She is not sure it is worth thinking about pervious pavers or anything at this small magnitude either.

Mr. Price thinks those things work on paper anyway. In practical use, he does not think they do a thing. They may work down in the coastal area where it is sandy, but around here with our clay he does not think you will gain anything by using those things. He said that is his opinion, he is no expert.

The Chair does not see any way around the 15 percent; even if it is 16 you will still have to have a variance for it.

There being no further discussion Mr. Richard Price, **MOTIONED, SECONDED** by Mr. James Litaker to **APPROVE**, Variance # 3 - Request for relief from the maximum impervious surface requirement for individual lots with 15%. The vote was 8 to 1 to **APPROVE**, with Mr. Adam Dagenhart voting against.

**Variance Request #4** - Request for relief from the required 100 foot rear setback for the west building (Building 1).

The Chair said the building is already in the setback. He believes it was built before the 1980's, before zoning.

Mr. Dagenhart does not have a problem with it, but the intended use is what is creating the hardship. If it was some other use it would not need 100 foot. If it was not automotive he would not have to have that. He is okay with it, but he just wants to state that his intended use is why that requirement is needed for the 100 foot.

There being no further discussion Ms. Mary Blakeney, **MOTIONED, SECONDED**, by Mr. Steve Wise to **APPROVE** Variance Request #4 - Request for relief from the required 100 foot rear setback for the west building (Building 1). The vote was unanimous.

**Variance Request #5** - Request from relief from the required 38 foot landscape buffer for the east building (Building 2).

Planning and Zoning Commission  
Minutes  
January 9, 2018

Mr. Dagenhart said as he stated before, there is a septic field in that buffer. Essentially, there is about 100 foot of that side setback that will not be buffered because you will not be able to put landscape buffer on a septic field.

(Showed his diagram that is color coded)

He said the areas in blue are the existing septic. The area in green (the line) is the 38 foot buffer based on the size of the lot. Basically, you would have no buffer along the edge of that building.

Ms. Moore stated that the existing vegetation that is there is not on this property.

Mr. Corley said is there is an acceptable alternative?

Mr. Dagenhart looks to the applicant for that.

Mr. Corley said he is asking Mr. Dagenhart specifically. Is there an acceptable alternative to planting that area?

Mr. Dagenhart said you can not plant it.

Mr. Price said what about some sort of tall grasses instead of woody plants? He said pampas grass or something like that that gets fairly tall and is fairly inexpensive.

Mr. Dagenhart thinks that needs to be deferred to the Health Alliance because that is their baby.

Ms. Morris said in the past, when the Board has made decisions, there has either been tradeoffs or you would have the option of asking the applicant to install a fence to provide screening to meet the intent of the Ordinance if the landscape cannot be installed as it is shown on the proposed plan,

Mr. Dagenhart said that is what he was thinking, but that is for the applicant to propose.

Ms. Morris is saying based on the intent of the Ordinance, as the administrator, those two items are items that the Board has used in the past.

Mr. Koch said you can impose conditions on a variance, you do not have to ask their permission.

Mr. Dagenhart said right, before he would make that proposal, he would need clarification if there is adequate space between the actual property line and that septic. He does not want to make them put a fence up that is going to penetrate the septic field and create more problems. He does not know if Ms. Moore has enough survey data to determine that or not. It appears, but he does not want to make an assumption.



Ms. Moore forgot about the septic there; everybody was so concerned about the buffer that that is what she was thinking about; an oversight on her part.

She recollects coming before the Board on two other occasions, where we asked for a variance because the bufferyard went over top of the existing septic and that was on reception facilities. She is not asking for that right now.

She said that dashed line is an approximate area (showed diagram). She thinks, what they should do is delineate in actuality where that is and provide adequate buffer to the north and to the south of that and then alongside the building there. We will stay away from that as best we can. She is not sure it is feasible to put up a fence against the existing tree line. She said those are her only offerings, as far as that goes, that she can think of at the moment.

The Chair is acceptable to that; go across the front of the building, straight across and block it that way.

Mr. Ruggles tried to get additional landscape buffer land from the property owner to the east side. He tried many different ways of purchasing the strip land from them; asking for just an easement. He went through a whole lot of different things to get it done. Their only resolution for him was to buy the continuous 55 acres; to do this and that and it was unfeasible for him to do. He went a lot of different routes trying to get a little bit more room over there, but they would not do it.

Ms. Moore said let's get the actual septic area defined, flagged and work around it. She showed on the diagram where she could put extra to maybe supplement or on the tip end of it. She said the same as we move up, condense it and if there is any area to the right or to the left put it there and be careful of the root structure. She thinks that is what they have done in the past, is try to pick appropriate species to where the drip line is condensed.

Mr. Corley said there would or would not be a gap?

Ms. Moore said it depends on exactly where that flag is; where the line is flagged. If there is an area here to plant some additional, we will be planting it there.

Mr. Dagenhart thinks they will from where that bump out is to back to the main structure; you should be able too. Because according to your drawing the septic basically runs the length of the building, so you have that there.

He is just concerned, the Health Alliance had concerns over the septic as it was to begin with; in that dissertation they wrote.

Ms. Moore cannot remember if it mainly pertained to this building or that building.

Mr. Dagenhart said it was not very clear. He does not want to create a situation where he has bigger problems down the road.

Ms. Moore said we have a small fortune tied up in landscaping as it is. They would like to meet the Ordinance.

Mr. Price is really sort of weighing what the risks verse reward is there, to get all excited about that. It is what it is. It does not meet our current Ordinance and whatever we propose there, would be such a minor thing, that he is really wondering if the reward would be there.

His knee jerk answer is no. You are still going to end up with that area that is septic there and that is going to be that way. He said to come in and plant a few bushes, just seems to him like that would be an exercise in futility, for what you are going to get out of it. Once again, that is his opinion.

Mr. Corley said do you think we ought to modify the request to specifically exempt the area of the septic field?

Mr. Price said that is probably a not a bad idea.

There being no further discussion Mr. Jeff Corley, **MOTIONED, SECONDED**, by Mr. Charles Paxton to **APPROVE** Variance Request #5 - Request from relief from the required 38 foot landscape buffer for the east building (Building 2) with the addition of the language to exclude landscaping to the extent of the existing septic field as identified in the field. The vote was unanimous.

Mr. Koch thinks the Board may need one other motion and that is to approve all the conditions. Because you only stated one in your motion for the first variance and that one related to the six foot building yard in the areas of the encroachment and there were five conditions stated in the staff report.

There was another one as he understood it, related to the WSACC force main. That if there are any plantings in that area and there is a need for a repair, that the applicant would remove the plantings and then reinstall them if there were. He thinks that was a condition that was added to what was in the staff report.

He said since those have not been articulated in each of the individual variances, he thinks the Board will need to entertain a Motion to add those as conditions, overall, as they apply to each of the five variances.

Mr. Dagenhart **MOTIONED, SECONDED**, by Mr. James Litaker to **APPROVE** the conditions set forth by staff, as well as the WSACC condition, as well as addition to the previous five variances that we voted on. The vote was unanimous.

It was the consensus of the Board to have Mr. Richard Koch prepare the findings of fact.

### **Directors Report**

Ms. Morris said we are starting to move in to Phase II of the Harrisburg Land Use Plan update process. We will be having a work session Thursday, so your representatives will be attending.

She said during this first phase, some of the things that came back in the public survey was support for the Town or for government to step in and try to take over the Town Center for it to be developed.

During this next phase we will be looking for clarification of what open space really means. People seem to be talking about open space, but also talking about agriculture. So we are looking for some clarification on that.

The third item is clarification on jobs; because, people keep saying they need jobs in Harrisburg, but there are jobs in Harrisburg, but it seems that the people who live in Harrisburg do not really want the jobs in Harrisburg. She said and of course everybody still wants restaurants and are still hoping for their Chick-Fil-A.

We will be having the work session on Thursday and will not be able to report back to the Board because the next public meeting will be February 6<sup>th</sup> from 3:30 to 7:30.

She will send the Board a flyer to pass along or to put on Facebook. We will not be working with the schools this time on sending out invites. That did not prove to be as effective as it has been in the past, she is not sure why. We will mainly be using social media and the newspaper to get the word out.

Ms. Morris believes that the Mt. Pleasant Area Plan update that we were working on she believes has been approved. She is not sure if we will move that forward to the Board, as that particular document or if it will end up being incorporating into our overall Eastern Area Plan.

She believes that the City of Concord is also close to adopting there plan or moving to the final stages, as well as the City of Kannapolis. But, we really have not had a lot of input into those documents so she is not sure what our direction will be with those.

Again, February 6<sup>th</sup> at Harrisburg Town Hall, it is drop in and there will be no formal presentation. We would love to have you if you are able to make it to Town Hall.

### **Legal Update**

Mr. Koch said on the Phillip Little case, they still have not served him with the order for arrest. However, he has moved the trailer to a place where you cannot see it from either the right of way of Morehead or Concord Parkway.

Planning and Zoning Commission  
Minutes  
January 9, 2018

Mr. Koch said he is playing a game with the County and he guess it really depends on how long he wants to play that and how much he is willing to pay, because part of that order for arrest is that he owes the County \$8,000.00. The Judge gave him 90 days to do that, so that period of time is still open. We will see what he does about that.

Mr. Koch tends to thinks when it hits him hard enough in the pocket book this game will come to an end.

Mr. Koch said the Judge signed the Order, affirming the Board's decision, on the WSACC variance at the Muddy Creek Waste Water Treatment Plant. It is now within the 30 day appeal period. We will see what will happen with that.

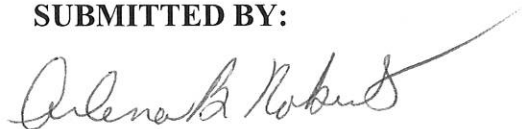
There being no further discussion, Mr. Richard Price, **MOTIONED, SECONDED** by Ms. Mary Blakeney to Adjourn the meeting. The vote was unanimous.

**APPROVED BY:**



Mr. Chris Pinto, Chair

**SUBMITTED BY:**



Arlena B. Roberts

**ATTEST BY:**



Susie Morris, Planning and Zoning Manager

# Memo

**To:** Mr. Christopher Logan  
**Cc:** Jason Earliwine, Sr. Planner,  
**From:** Lynn Roberts, Clerk to the Planning and Zoning Commission  
**Date:** February 12, 2018  
**Re:** Granting Order for Conditional Use Permit CUSE2017-00002

---

Attached please find the recorded Granting Order for Conditional Use Permit CUSE2017-00002, Accessory Airstrip, approved at the February 13, 2018, Planning and Zoning Commission.

A condition of approval for your proposed project is that the Granting Order, stating restrictions and applicable conditions of approval, must be recorded with the deed to the property so that it appears during a due diligence search. The Granting Order has been submitted to the Register of Deeds Office for recordation. A bill from Cabarrus County Finance will be forwarded to the address you provided for the fees associated with recording documents with the Register of Deeds.

If you have any questions, please call our office at 704-920-2141.

*mailed 2/15/18 akr*



FILED  
CABARRUS COUNTY NC  
WAYNE NIXON  
REGISTER OF DEEDS  
FILED Feb 14, 2018  
AT 02:53 pm  
BOOK 12878  
START PAGE 0250  
END PAGE 0253  
INSTRUMENT # 03431  
EXCISE TAX \$0.00  
MKL

SCANNED AND RETURNED

Drawn by and Mail to:  
Richard M. Koch  
Cabarrus County Attorney  
(ROD Box 74)

Application Case # CUSE 2017-00002

COUNTY OF CABARRUS  
STATE OF NORTH CAROLINA

ORDER GRANTING A CONDITIONAL USE PERMIT

The Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment ("Board") held a public hearing on January 9, 2018, to consider application number CUSE 2017-00002, submitted by Christopher Logan, a request for a conditional use permit to construct and use an accessory airstrip at 8365 Reed Mine Road, Cabarrus County, North Carolina. After hearing all of the evidence and arguments presented at the hearing, the Board makes the following FINDINGS OF FACT.

1. The Board makes and adopts as Findings of Fact contained in the General Requirements and Specific Requirements of the application. Based on these FINDINGS OF FACT, the Board makes the following Conclusions.
2. It is the Board's CONCLUSION that the proposed use does satisfy the first General Standard listed in Section 8.3 of the Cabarrus County Zoning Ordinance ("Ordinance"); namely, that the use is not detrimental to the public health, safety and general welfare, if located where proposed and developed and operated according to the plan as submitted.

4/11/18 26-

3. It is the Board's CONCLUSION that the proposed use does satisfy the second General Standard listed in the Ordinance; namely, the use assumes the adequacy of sewage disposal facilities, solid waste and water, police, fire and rescue, equal protection, schools, transportation systems (in and around the site) and other public facilities.
4. It is the Board's CONCLUSION that the proposed use does satisfy the third General Standard listed in the Ordinance; namely, that the use will maintain or enhance the value of contiguous property.
5. It is the Board's CONCLUSION that the proposed use does satisfy the fourth General Standard listed in the Ordinance; namely, the use is in compliance with the general plans for the physical development of the County as embodied in the Ordinance or in the applicable land use plan adopted by the Cabarrus County Board of Commissioners.
6. It is the Board's CONCLUSION that the proposed use does satisfy the specific standards listed in the Ordinance for this use.


Since the Board has determined that all of the general and specific conditions precedent to the issuance of a CONDITIONAL USE PERMIT have been satisfied, IT IS ORDERED that the application for the issuance of a conditional use permit be GRANTED, subject to the conditions contained in the staff report, which are attached. IT IS FURTHER ORDERED that the applicant fully comply with all the applicable, specific requirements of the Ordinance and develop the property in accordance with the site plan submitted and approved. If any of the conditions shall be held invalid, this permit shall become void and of no effect.

ORDERED this 13<sup>th</sup> day of February, 2018, *nunc pro tunc* to January 9, 2018.



Chair  
CABARRUS COUNTY PLANNING and  
ZONING COMMISSION  
sitting as the BOARD OF ADJUSTMENT

ATTEST:



Secretary

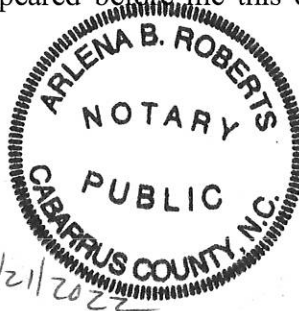
STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

I, Arlena B. Roberts, a Notary Public in and for the said State and County do hereby certify that Chris Pinto as Chair of the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment personally appeared before me this day and acknowledged the due execution of the foregoing Order.

*Arlena B. Roberts*

Witness my hand and notarial seal,  
this 13 day of February, 2018.

*My Commission expires on 3/21/2022*



NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Cabarrus County within thirty (30) days after the date of this order. See Section 12-25 of the Ordinance.

## EXHIBIT B

### APPLICANT

Christopher Logan - CUSE 2017-00002

### CONDITIONS OF APPROVAL

Included in the approval of the Conditional Use Permit, the following conditions of the approval must be met:

1. Site plan review and approval is required subsequent to Board of Adjustment approval in order to ensure compliance with all applicable development requirements and conditions.
2. The Granting Order stating restrictions and applicable conditions of approval, shall be recorded with the deed for the property.
3. The applicant shall procure any and all applicable federal, state, and local permits prior to zoning permitting.
4. Any future expansion of property, as well as modifications or changes to the approved site plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit.
5. Applicant shall provide a copy of notification to FAA and the Airport Master Report that the airstrip has been established on the subject property.
6. Applicant shall comply with all safety measures regarding construction and approach/departure standards as outlined in the letter dated December 21, 2017.



**Cabarrus County**  
**Register of Deeds**  
P.O. Box 707  
Concord, NC 28026  
(704)920-2112  
**Wayne Nixon, Register of Deeds**

Receipted By:  
Melissa Lilly

Receipt For : PLANNING & DEVELOPMENT

Instrument Type : ORDER  
Instrument # : 03431  
Book/Page : 12878 / 0250-00253 Pages : 4  
1st Grantor : CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
1st Grantee : CHRISTOPHER LOGAN  
Description: ORDER GRANTING A CONDITIONAL USE PERMIT

Receipt # : 2018-371678  
Date : 02/14/2018 02:53pm  
Document : 1 of 1

Description	Qty	Unit Cost	Extended
Miscellaneous document - first 15 pages	1	26.00	26.00
<b>Document 1</b>			<b>26.00</b>
Grand Total			26.00
Voucher			-26.00
Balance			0.00

ACCOUNT #00163230-6606

RECORDING FEES FOR GRANTING ORDER FOR CONDITIONAL USE PERMIT

CUSE2017-00002 – CHRISTOPHER LOGAN

COST \$26.00

BILL TO:

CHRISTOPHER LOGAN

9659 WIDESPREAD AVENUE NW

CONCORD NC 28027



# Memo

**To:** Union Power Cooperative and UC Synergetic, LLC  
**Cc:** Phillip Collins, Sr. Planner,  
**From:** Lynn Roberts, Clerk to the Planning and Zoning Commission  
**Date:** February 12, 2018  
**Re:** Granting Order for Conditional Use Permit CUSE2017-00003

---

Attached please find the recorded Granting Order for Conditional Use Permit CUSE2017-00003, Public Service Facility, approved at the February 13, 2018, Planning and Zoning Commission.

A condition of approval for your proposed project is that the Granting Order, stating restrictions and applicable conditions of approval, must be recorded with the deed to the property so that it appears during a due diligence search. The Granting Order has been submitted to the Register of Deeds Office for recordation. A bill from Cabarrus County Finance will be forwarded to the address you provided for the fees associated with recording documents with the Register of Deeds.

If you have any questions, please call our office at 704-920-2141.

*mailed 2/15/18 okp*

FILED  
CABARRUS COUNTY NC  
WAYNE NIXON  
REGISTER OF DEEDS  
FILED Feb 14, 2018  
AT 02:55 pm  
BOOK 12878  
START PAGE 0256  
END PAGE 0259  
INSTRUMENT # 03433  
EXCISE TAX \$0.00  
MKL

SCANNED AND RETURNED

Drawn by and Mail to:  
Richard M. Koch  
Cabarrus County Attorney  
(ROD Box 74)

Application Case # CUSE 2017-00003

COUNTY OF CABARRUS  
STATE OF NORTH CAROLINA

ORDER GRANTING A CONDITIONAL USE PERMIT

The Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment ("Board"), held a public hearing on January 9, 2018, to consider application number CUSE 2017-00003, submitted by Union Power Cooperative and UC Synergetic, LLC, a request for a conditional use permit to construct a Public Service Facility (electrical substation upgrade) at 4415 Joyner Road, Cabarrus County, Concord, North Carolina. After hearing all of the evidence and arguments presented at the hearing, the Board makes the following factual and legal determinations.

1. The Board makes and adopts as FINDINGS OF FACT those contained in the General Requirements and Specific Requirements of the application. Based on these FINDINGS OF FACT, the Board makes the following Conclusions.
2. It is the Board's CONCLUSION that the proposed use does satisfy the first General Standard listed in Section 8.3 of the Cabarrus County Zoning Ordinance ("Ordinance"); namely, that the use is not detrimental to the public health, safety and general welfare, if

4 pgs 26-

located where proposed and developed and operated according to the revised plan as submitted.

3. It is the Board's CONCLUSION that the proposed use does satisfy the second General Standard listed in the Ordinance; namely, the use assumes the adequacy of sewage disposal facilities, solid waste and water, police, fire and rescue, equal protection, schools, transportation systems (in and around the site) and other public facilities.
4. It is the Board's CONCLUSION that the proposed use does satisfy the third General Standard listed in the Ordinance; namely, that the use will maintain or enhance the value of contiguous property.
5. It is the Board's CONCLUSION that the proposed use does satisfy the fourth General Standard listed in the Ordinance; namely, the use is in compliance with the general plans for the physical development of the County as embodied in the Ordinance or in the applicable land use plan adopted by the Cabarrus County Board of Commissioners.
6. It is the Board's CONCLUSION that the proposed use does satisfy the specific standards listed in the Ordinance for this use.

Since the Board has determined that all of the general and specific conditions precedent to the issuance of a CONDITIONAL USE PERMIT have been satisfied, IT IS ORDERED that the application for the issuance of a conditional use permit be GRANTED, subject to the conditions contained in the staff report, which are attached. IT IS FURTHER ORDERED that the applicant fully comply with all the applicable, specific requirements of the Ordinance and develop the property in accordance with the revised site plan submitted and approved. If any of the conditions shall be held invalid, this permit shall become void and of no effect.

ORDERED this 13<sup>th</sup> day of February, 2018, *nunc pro tunc* to January 9, 2018.



Chair  
CABARRUS COUNTY PLANNING  
AND ZONING COMMISSION  
sitting as the BOARD OF ADJUSTMENT

ATTEST:



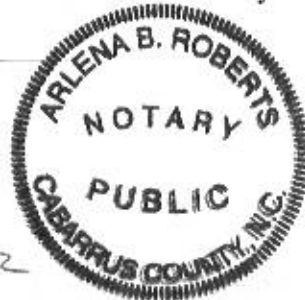
Secretary

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

I, Arlena B Roberts, a Notary Public in and for the said State and County do hereby certify that Chris Pinto as Chair of the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment personally appeared before me this day and acknowledged the due execution of the foregoing Order.

*Arlena B Roberts*

Witness my hand and notarial seal,  
this 13 day of February, 2018.



*My Commission expires on 3/21/2022*

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Cabarrus County within thirty (30) days after the date of this order. See Section 12-25 of the Ordinance.

Exhibit B

Applicant

Union Power Cooperative and UC Synergetic, LLC

CONDITIONS OF APPROVAL

1. Site plan review and approval is required subsequent to Board of Adjustment approval in order to ensure compliance with all applicable development requirements and conditions.
2. A granting order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
3. The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of the project.
4. Expansion of this project, as well as modifications or changes to the approved site plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit.
5. The applicant is proposing that existing landscaping will be used to meet the buffer requirements. In the event the buffer does not meet the intent of the ordinance, or qualify for waiver, the applicant agrees to install the buffer as required by the Ordinance.
6. Soil and Erosion control measures shall comply with Federal and State water quality laws, regulations and rules. The applicant shall submit the revised plan relocating the driveway and landscape buffers to NCDENR for review and comment to see if a modification to the permit is required.
7. The project is subject to design standards as outlined in Stormwater Permit #SW3171001. The applicant shall submit the revised plan relocating the driveway and landscape buffers to NCDENR for review and comment to see if a modification to the permit is required.
8. Deed Restrictions as outlined in the Stormwater Permit Schedule of Compliance must be recorded in the Cabarrus County Office of the Register of Deeds and a copy provided to NCDENR and to Cabarrus County Planning after recordation. (NCDENR, Planning)
9. The project is subject to design standards as outlined in Driveway Permit C-1768-SR 1105. Applicant shall submit the revised plan to NCDOT for review and approval.
10. Copies of revised permits from NCDENR and NCDOT (if required) shall be submitted for the permanent project file prior to zoning permitting. (Planning)
11. The applicant must fully comply with all the applicable, specific requirements of the Ordinance and develop the property in accordance with the revised site plan submitted and approved. If any of the conditions shall be held invalid, this permit shall become void and of no effect.



**Cabarrus County**  
**Register of Deeds**  
P.O. Box 707  
Concord, NC 28026  
(704)920-2112  
**Wayne Nixon, Register of Deeds**

Received By:  
Melissa Lilly

Receipt For : PLANNING AND ZONING COMMISSION

Instrument Type : ORDER  
Instrument # : 03433  
Book/Page : 12878 / 0256-00259 Pages : 4  
1st Grantor : CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
1st Grantee : UNION POWER COOPERATIVE  
Description: ORDER GRANTING A CONDITIONAL USE PERMIT

Receipt # : 2018-371680  
Date : 02/14/2018 02:55pm  
Document : 1 of 1

Description	Qty	Unit Cost	Extended
Miscellaneous document - first 15 pages	1	26.00	26.00
	<b>Document 1</b>		<b>26.00</b>
	Grand Total		26.00
	Voucher		-26.00
	Balance		0.00



ACCOUNT #00163230-6606

RECORDING FEES FOR GRANTING ORDER FOR CONDITIONAL USE PERMIT:

CUSE2017-00003 – UNION POWER AND UC SYNERGETIC, LLC

COST \$26.00

BILL TO:

UC Synergetic, LLC  
Attention: Nathan Bass  
123 North White Street  
Fort Mill SC 29715

# Memo

**To:** Ginger Moore, Carlos Moore Architect, PA  
**Cc:** Jason Earliwine, Sr. Planner  
JR Construction & Remodeling Inc.  
**From:** Lynn Roberts, Clerk to the Planning and Zoning Commission  
**Date:** February 12, 2018  
**Re:** Granting Order for Variance VARN2017-00003

---

Attached please find the recorded Granting Order for Variance, VARN2017-00003, for five variances, approved at the February 13, 2018, Planning and Zoning Commission.

A condition of approval for your proposed project is that the Granting Order, stating restrictions and applicable conditions of approval, must be recorded with the deed to the property so that it appears during a due diligence search. The Granting Order has been submitted to the Register of Deeds Office for recordation.

Also attached is a copy of the paid receipt for the fees associated with recording documents with the Register of Deeds.

If you have any questions, please call our office at 704-920-2141.

*Mailed 2/15/18 akr*

FILED  
CABARRUS COUNTY NC  
WAYNE NIXON  
REGISTER OF DEEDS  
FILED Feb 14, 2018  
AT 02:51 pm  
BOOK 12878  
START PAGE 0230  
END PAGE 0235  
INSTRUMENT # 03428  
EXCISE TAX \$0.00  
MKL

SCANNED AND RETURNED

STATE OF NORTH CAROLINA  
  
COUNTY OF CABARRUS

CABARRUS COUNTY PLANNING  
AND ZONING COMMISSION  
BOARD OF ADJUSTMENT  
VARN 2017-00003

In re

JR CONSTRUCTION & REMODELING, INC.	)	ORDER GRANTING
VARIANCE APPLICATION	)	VARIANCES
_____	)	

THIS MATTER came before the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment at its regular monthly meeting on January 9, 2018, on the application of Ginger Moore of Carlos Moore Architect, P.A. in behalf of JR Construction & Remodeling, Inc. ("JR") for several variances from the Cabarrus County Zoning Ordinance ("Ordinance") on the "Property" located at 2670 Cold Springs Road, Mt. Pleasant, Cabarrus County, North Carolina and designated as PIN 5559-86-9372.

Notice was given to JR and to adjacent property owners as required by law.

A full complement of nine members of the Board of Adjustment were present at the start of the hearing. All of the witnesses were duly sworn and documents were received in evidence. After hearing and receiving the evidence, the Board makes the following

1/26-

## FINDINGS OF FACT

1. JR is the owner of the Property. It desires to create a combination automobile repair garage, farm machinery repair shop, small engine repair shop and contractor or trade shop in two existing buildings on an approximately 3.0 acre tract.
2. The existing buildings encroach into the required 75 foot front setback. The west building (Building 1) encroaches 23 feet into the front setback and the east building (Building 2) encroaches 20.67 feet into the front setback.
3. Building 2 encroaches 6 inches into the required 20 foot side setback.
4. The septic field for Building 2 is located in the side buffer yard. Vegetation is required to exist or to be placed in the buffer yard, but planting of vegetation in the septic field is counterproductive to the effectiveness of the septic field.
5. JR desires to remove 2,273.6 square feet of the existing driveway and an 862 square feet carport and to widen the driveway to 24 feet to accommodate two way traffic and to add additional parking, totaling 5,200 square feet. This creates net total impervious area of about 23%.
6. Building 1 encroaches 14 feet into the required 100 foot rear setback.
7. Building 2 encroaches 11.75 feet into the required Level 2 landscape buffer yard.
8. The overall site contains two commercial buildings. It is currently zoned Agricultural Open ("AO") and is mostly vacant. The adjacent zoning is Countryside Residential ("CR") and the uses are residential and agricultural.
9. A strict application of the Ordinance would create practical difficulties and unnecessary hardship relative to JR's proposed use of the Property for the following reasons:
  - a) The two buildings already exist on the Property and have been in their present locations for many years, such that meeting the Ordinance setbacks would require demolition of parts of the buildings.
  - b) There exist some tree lines along the perimeter of the Property, such that there already exists some substantial buffer from adjacent properties.
  - c) In order to make reasonable use of the Property, the septic field for Building 2, which already is in place, needs to be located in the buffer.
  - d) On the east side of the Property, a landscape buffer would interfere with the location and use of the existing septic field.

e) The total impervious area prior to the proposed changes exceeded the Ordinance maximum of 15%, which was not in effect when the buildings were built. While the changes to the impervious area cause the total impervious area to continue to exceed 15%, the impervious area is now more useful to reasonable utilization of the Property.

10. These practical difficulties and hardships result from conditions peculiar to the Property.

a) The two buildings already exist on the Property and have been in their present locations for many years, such that meeting the Ordinance setbacks would require demolition of parts of the buildings.

b) There exist some tree lines along the perimeter of the Property, such that there already exists some substantial buffer from adjacent properties.

c) In order to make reasonable use of the Property, the septic field for Building 2, which already is in place, needs to be located in the buffer.

d) On the east side of the Property, a landscape buffer would interfere with the proposed location and use of the existing septic field.

e) The total impervious area prior to the proposed changes exceeded the Ordinance maximum of 15%, which was not in effect when the buildings were built. While the changes to the impervious area cause the total impervious area to continue to exceed 15%, the impervious area is now more useful to reasonable utilization of the Property.

11. These practical difficulties and hardships did not result from actions taken by JR.

a) The two buildings already exist on the Property and have been in their present locations for many years, such that meeting the Ordinance setbacks would require demolition of parts of the buildings.

b) There exist some tree lines along the perimeter of the Property, such that there already exists some substantial buffer from adjacent properties.

c) In order to make reasonable use of the Property, the septic field for Building 2, which already is in place needs to be located in the buffer.

d) On the east side of the Property, a landscape buffer would interfere with the location and use of the existing septic field.

e) The total impervious area prior to the proposed changes exceeded the Ordinance maximum of 15%, which was not in effect when the buildings were built. While the changes to the impervious area cause the total impervious area to continue to exceed 15%, the impervious area is now more useful to reasonable utilization of the Property.

12. The requested variances are consistent with the spirit, purpose and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.

a) The variances collectively do not adversely impact adjacent property owners as the status quo of the condition of the common boundaries will not change and the two buildings have been on the Property for many years.

b) No property owner adjacent to the Property has expressed any objection to this application for the variances.

Based on the foregoing Findings of Fact, the Board makes the following

### **CONCLUSIONS OF LAW**

1. The foregoing Findings of Fact are incorporated by reference as Conclusions of Law so as to give full effect to the provisions of this Order Granting Variances.

2. Unnecessary hardship would result from the strict application of the Ordinance. It is not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the Property.

3. The hardships result from conditions that are peculiar to the Property, such as the location, size, or topography.

4. The requested variances are consistent with the spirit, purpose and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.

5. Granting the five variances in this situation is consistent with the spirit, purpose and intent of the Ordinance.

Based on the foregoing Findings of Fact and Conclusions of Law, the Cabarrus County Board of Adjustment hereby grants the five variances consistent with and limited to the variances requested in the application. Special conditions are imposed in connection with this variance approval and are attached as Exhibit A. This Variance Order shall run with the land with reference



to the Property and shall be recorded by JR in the Cabarrus County Public Registry.

This 13<sup>th</sup> day of February, 2018, *nunc pro tunc* to January 9, 2018.

*CP*

Chris Pinto  
Chair  
CABARRUS COUNTY PLANNING  
and ZONING COMMISSION sitting  
as the BOARD OF ADJUSTMENT

ATTEST:

*Arlena B. Roberts*

Secretary

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

I, Arlena B. Roberts, a Notary Public in and for the said State and County do hereby certify that Chris Pinto as Chair of the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment personally appeared before me this day and acknowledged the due execution of the foregoing Order.

*Arlena B. Roberts*

Witness my hand and notarial seal,  
this 13<sup>th</sup> day of February, 2018.

*my commission expires  
on March 21, 2022*



### Conditions of Approval

1. Site plan review and approval is required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions.  
(Zoning)
2. The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property. (Zoning)
3. The applicant shall procure any and all applicable federal, state and local permits prior to commencement of project. (Zoning)
4. The applicant shall supplement buffers according to the site plan due to building encroachment. (Applicant)
5. The applicant will add a 24 foot driveway width note to the zoning site plan and change the newly approved rezoning to AO (Agriculture/Open Space). (Applicant)
6. Where the WSACC forcemain is located at the pavement, the applicant will remove the plantings and replant if a repair is required.
7. A six foot wide mix of shrubs and ornamental trees shall be planted in the building yard area where the buildings encroach.
8. No plantings shall be required in the Building 2 septic area.



**Cabarrus County  
Register of Deeds**

**P.O. Box 707  
Concord, NC 28026  
(704)920-2112**

**Wayne Nixon, Register of Deeds**

Received By:  
Melissa Lilly

Receipt For : PLANNING & DEVELOPMENT

Instrument Type :	ORDER	Receipt # :	2018-371676
Instrument # :	03428	Date :	02/14/2018 02:51pm
Book/Page :	12878 / 0230-00235	Pages :	6
1st Grantor :	CABARRUS COUTNY PLANNING AND ZONING COMMISSION		
1st Grantee :	JR CONSTRUCTION & REMODELING, INC.		
Description:	ORDER GRANTING VARIANCES		

Description	Qty	Unit Cost	Extended
Miscellaneous document - first 15 pages	1	26.00	26.00
	<b>Document 1</b>		<b>26.00</b>
	Grand Total		26.00
	Voucher		-26.00
	Balance		0.00

ACCOUNT #00163230-6606

RECORDING FEES FOR GRANTING ORDER FOR CONDITIONAL USE PERMIT

VARN2017-00003 – VIRGINIA MOORE FOR JR CONSTRUCTION & REMODELING

COST \$26.00

BILL TO:

VIRGINIA MOORE

222 CHURCH STREET N

CONCORD NC 28025

# Memo

**To:** Union Power Cooperative and UC Synergetic, LLC  
**Cc:** Phillip Collins, Sr. Planner,  
**From:** Lynn Roberts, Clerk to the Planning and Zoning Commission  
**Date:** February 12, 2018  
**Re:** Granting Order for Conditional Use Permit CUSE2017-00003

---

Attached please find the recorded Granting Order for Conditional Use Permit CUSE2017-00003, Public Service Facility, approved at the February 13, 2018, Planning and Zoning Commission.

A condition of approval for your proposed project is that the Granting Order, stating restrictions and applicable conditions of approval, must be recorded with the deed to the property so that it appears during a due diligence search. The Granting Order has been submitted to the Register of Deeds Office for recordation. A bill from Cabarrus County Finance will be forwarded to the address you provided for the fees associated with recording documents with the Register of Deeds.

If you have any questions, please call our office at 704-920-2141.

*mailed 2/15/18 okp*

FILED  
CABARRUS COUNTY NC  
WAYNE NIXON  
REGISTER OF DEEDS  
FILED Feb 14, 2018  
AT 02:55 pm  
BOOK 12878  
START PAGE 0256  
END PAGE 0259  
INSTRUMENT # 03433  
EXCISE TAX \$0.00  
MKL

SCANNED AND RETURNED

Drawn by and Mail to:  
Richard M. Koch  
Cabarrus County Attorney  
(ROD Box 74)

Application Case # CUSE 2017-00003

COUNTY OF CABARRUS  
STATE OF NORTH CAROLINA

ORDER GRANTING A CONDITIONAL USE PERMIT

The Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment ("Board"), held a public hearing on January 9, 2018, to consider application number CUSE 2017-00003, submitted by Union Power Cooperative and UC Synergetic, LLC, a request for a conditional use permit to construct a Public Service Facility (electrical substation upgrade) at 4415 Joyner Road, Cabarrus County, Concord, North Carolina. After hearing all of the evidence and arguments presented at the hearing, the Board makes the following factual and legal determinations.

1. The Board makes and adopts as FINDINGS OF FACT those contained in the General Requirements and Specific Requirements of the application. Based on these FINDINGS OF FACT, the Board makes the following Conclusions.
2. It is the Board's CONCLUSION that the proposed use does satisfy the first General Standard listed in Section 8.3 of the Cabarrus County Zoning Ordinance ("Ordinance"); namely, that the use is not detrimental to the public health, safety and general welfare, if

4 pgs 26-



located where proposed and developed and operated according to the revised plan as submitted.

3. It is the Board's CONCLUSION that the proposed use does satisfy the second General Standard listed in the Ordinance; namely, the use assumes the adequacy of sewage disposal facilities, solid waste and water, police, fire and rescue, equal protection, schools, transportation systems (in and around the site) and other public facilities.
4. It is the Board's CONCLUSION that the proposed use does satisfy the third General Standard listed in the Ordinance; namely, that the use will maintain or enhance the value of contiguous property.
5. It is the Board's CONCLUSION that the proposed use does satisfy the fourth General Standard listed in the Ordinance; namely, the use is in compliance with the general plans for the physical development of the County as embodied in the Ordinance or in the applicable land use plan adopted by the Cabarrus County Board of Commissioners.
6. It is the Board's CONCLUSION that the proposed use does satisfy the specific standards listed in the Ordinance for this use.

Since the Board has determined that all of the general and specific conditions precedent to the issuance of a CONDITIONAL USE PERMIT have been satisfied, IT IS ORDERED that the application for the issuance of a conditional use permit be GRANTED, subject to the conditions contained in the staff report, which are attached. IT IS FURTHER ORDERED that the applicant fully comply with all the applicable, specific requirements of the Ordinance and develop the property in accordance with the revised site plan submitted and approved. If any of the conditions shall be held invalid, this permit shall become void and of no effect.

ORDERED this 13<sup>th</sup> day of February, 2018, *nunc pro tunc* to January 9, 2018.



Chair  
CABARRUS COUNTY PLANNING  
AND ZONING COMMISSION  
sitting as the BOARD OF ADJUSTMENT

ATTEST:



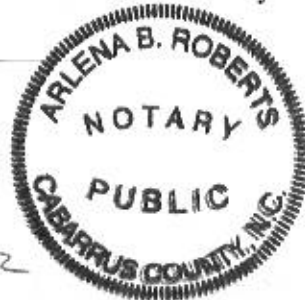
Secretary

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

I, Arlena B Roberts, a Notary Public in and for the said State and County do hereby certify that Chris Pinto as Chair of the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment personally appeared before me this day and acknowledged the due execution of the foregoing Order.

*Arlena B Roberts*

Witness my hand and notarial seal,  
this 13 day of February, 2018.



*My Commission expires on 3/21/2022*

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Cabarrus County within thirty (30) days after the date of this order. See Section 12-25 of the Ordinance.

Exhibit B

Applicant

Union Power Cooperative and UC Synergetic, LLC

CONDITIONS OF APPROVAL

1. Site plan review and approval is required subsequent to Board of Adjustment approval in order to ensure compliance with all applicable development requirements and conditions.
2. A granting order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property.
3. The applicant shall procure any and all applicable federal, state, and local permits prior to commencement of the project.
4. Expansion of this project, as well as modifications or changes to the approved site plan, must receive Board of Adjustment approval in the form of an amendment to the Conditional Use Permit.
5. The applicant is proposing that existing landscaping will be used to meet the buffer requirements. In the event the buffer does not meet the intent of the ordinance, or qualify for waiver, the applicant agrees to install the buffer as required by the Ordinance.
6. Soil and Erosion control measures shall comply with Federal and State water quality laws, regulations and rules. The applicant shall submit the revised plan relocating the driveway and landscape buffers to NCDENR for review and comment to see if a modification to the permit is required.
7. The project is subject to design standards as outlined in Stormwater Permit #SW3171001. The applicant shall submit the revised plan relocating the driveway and landscape buffers to NCDENR for review and comment to see if a modification to the permit is required.
8. Deed Restrictions as outlined in the Stormwater Permit Schedule of Compliance must be recorded in the Cabarrus County Office of the Register of Deeds and a copy provided to NCDENR and to Cabarrus County Planning after recordation. (NCDENR, Planning)
9. The project is subject to design standards as outlined in Driveway Permit C-1768-SR 1105. Applicant shall submit the revised plan to NCDOT for review and approval.
10. Copies of revised permits from NCDENR and NCDOT (if required) shall be submitted for the permanent project file prior to zoning permitting. (Planning)
11. The applicant must fully comply with all the applicable, specific requirements of the Ordinance and develop the property in accordance with the revised site plan submitted and approved. If any of the conditions shall be held invalid, this permit shall become void and of no effect.



**Cabarrus County**  
**Register of Deeds**  
P.O. Box 707  
Concord, NC 28026  
(704)920-2112  
**Wayne Nixon, Register of Deeds**

Received By:  
Melissa Lilly

Receipt For : PLANNING AND ZONING COMMISSION

Instrument Type : ORDER  
Instrument # : 03433  
Book/Page : 12878 / 0256-00259 Pages : 4  
1st Grantor : CABARRUS COUNTY PLANNING AND ZONING COMMISSION  
1st Grantee : UNION POWER COOPERATIVE  
Description: ORDER GRANTING A CONDITIONAL USE PERMIT

Receipt # : 2018-371680  
Date : 02/14/2018 02:55pm  
Document : 1 of 1

Description	Qty	Unit Cost	Extended
Miscellaneous document - first 15 pages	1	26.00	26.00
	<b>Document 1</b>		<b>26.00</b>
	Grand Total		26.00
	Voucher		-26.00
	Balance		0.00

ACCOUNT #00163230-6606

RECORDING FEES FOR GRANTING ORDER FOR CONDITIONAL USE PERMIT:

CUSE2017-00003 – UNION POWER AND UC SYNERGETIC, LLC

COST \$26.00

BILL TO:

UC Synergetic, LLC  
Attention: Nathan Bass  
123 North White Street  
Fort Mill SC 29715

# Memo

**To:** Ginger Moore, Carlos Moore Architect, PA  
**Cc:** Jason Earliwine, Sr. Planner  
JR Construction & Remodeling Inc.  
**From:** Lynn Roberts, Clerk to the Planning and Zoning Commission  
**Date:** February 12, 2018  
**Re:** Granting Order for Variance VARN2017-00003

---

Attached please find the recorded Granting Order for Variance, VARN2017-00003, for five variances, approved at the February 13, 2018, Planning and Zoning Commission.

A condition of approval for your proposed project is that the Granting Order, stating restrictions and applicable conditions of approval, must be recorded with the deed to the property so that it appears during a due diligence search. The Granting Order has been submitted to the Register of Deeds Office for recordation.

Also attached is a copy of the paid receipt for the fees associated with recording documents with the Register of Deeds.

If you have any questions, please call our office at 704-920-2141.

*Mailed 2/15/18 akr*



FILED  
CABARRUS COUNTY NC  
WAYNE NIXON  
REGISTER OF DEEDS  
FILED Feb 14, 2018  
AT 02:51 pm  
BOOK 12878  
START PAGE 0230  
END PAGE 0235  
INSTRUMENT # 03428  
EXCISE TAX \$0.00  
MKL

SCANNED AND RETURNED

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

CABARRUS COUNTY PLANNING  
AND ZONING COMMISSION  
BOARD OF ADJUSTMENT  
VARN 2017-00003

In re

JR CONSTRUCTION & REMODELING, INC.	)	ORDER GRANTING
VARIANCE APPLICATION	)	VARIANCES
_____	)	

THIS MATTER came before the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment at its regular monthly meeting on January 9, 2018, on the application of Ginger Moore of Carlos Moore Architect, P.A. in behalf of JR Construction & Remodeling, Inc. ("JR") for several variances from the Cabarrus County Zoning Ordinance ("Ordinance") on the "Property" located at 2670 Cold Springs Road, Mt. Pleasant, Cabarrus County, North Carolina and designated as PIN 5559-86-9372.

Notice was given to JR and to adjacent property owners as required by law.

A full complement of nine members of the Board of Adjustment were present at the start of the hearing. All of the witnesses were duly sworn and documents were received in evidence. After hearing and receiving the evidence, the Board makes the following

1/26-

## FINDINGS OF FACT

1. JR is the owner of the Property. It desires to create a combination automobile repair garage, farm machinery repair shop, small engine repair shop and contractor or trade shop in two existing buildings on an approximately 3.0 acre tract.
2. The existing buildings encroach into the required 75 foot front setback. The west building (Building 1) encroaches 23 feet into the front setback and the east building (Building 2) encroaches 20.67 feet into the front setback.
3. Building 2 encroaches 6 inches into the required 20 foot side setback.
4. The septic field for Building 2 is located in the side buffer yard. Vegetation is required to exist or to be placed in the buffer yard, but planting of vegetation in the septic field is counterproductive to the effectiveness of the septic field.
5. JR desires to remove 2,273.6 square feet of the existing driveway and an 862 square feet carport and to widen the driveway to 24 feet to accommodate two way traffic and to add additional parking, totaling 5,200 square feet. This creates net total impervious area of about 23%.
6. Building 1 encroaches 14 feet into the required 100 foot rear setback.
7. Building 2 encroaches 11.75 feet into the required Level 2 landscape buffer yard.
8. The overall site contains two commercial buildings. It is currently zoned Agricultural Open ("AO") and is mostly vacant. The adjacent zoning is Countryside Residential ("CR") and the uses are residential and agricultural.
9. A strict application of the Ordinance would create practical difficulties and unnecessary hardship relative to JR's proposed use of the Property for the following reasons:
  - a) The two buildings already exist on the Property and have been in their present locations for many years, such that meeting the Ordinance setbacks would require demolition of parts of the buildings.
  - b) There exist some tree lines along the perimeter of the Property, such that there already exists some substantial buffer from adjacent properties.
  - c) In order to make reasonable use of the Property, the septic field for Building 2, which already is in place, needs to be located in the buffer.
  - d) On the east side of the Property, a landscape buffer would interfere with the location and use of the existing septic field.

e) The total impervious area prior to the proposed changes exceeded the Ordinance maximum of 15%, which was not in effect when the buildings were built. While the changes to the impervious area cause the total impervious area to continue to exceed 15%, the impervious area is now more useful to reasonable utilization of the Property.

10. These practical difficulties and hardships result from conditions peculiar to the Property.

a) The two buildings already exist on the Property and have been in their present locations for many years, such that meeting the Ordinance setbacks would require demolition of parts of the buildings.

b) There exist some tree lines along the perimeter of the Property, such that there already exists some substantial buffer from adjacent properties.

c) In order to make reasonable use of the Property, the septic field for Building 2, which already is in place, needs to be located in the buffer.

d) On the east side of the Property, a landscape buffer would interfere with the proposed location and use of the existing septic field.

e) The total impervious area prior to the proposed changes exceeded the Ordinance maximum of 15%, which was not in effect when the buildings were built. While the changes to the impervious area cause the total impervious area to continue to exceed 15%, the impervious area is now more useful to reasonable utilization of the Property.

11. These practical difficulties and hardships did not result from actions taken by JR.

a) The two buildings already exist on the Property and have been in their present locations for many years, such that meeting the Ordinance setbacks would require demolition of parts of the buildings.

b) There exist some tree lines along the perimeter of the Property, such that there already exists some substantial buffer from adjacent properties.

c) In order to make reasonable use of the Property, the septic field for Building 2, which already is in place needs to be located in the buffer.

d) On the east side of the Property, a landscape buffer would interfere with the location and use of the existing septic field.

e) The total impervious area prior to the proposed changes exceeded the Ordinance maximum of 15%, which was not in effect when the buildings were built. While the changes to the impervious area cause the total impervious area to continue to exceed 15%, the impervious area is now more useful to reasonable utilization of the Property.

12. The requested variances are consistent with the spirit, purpose and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.

a) The variances collectively do not adversely impact adjacent property owners as the status quo of the condition of the common boundaries will not change and the two buildings have been on the Property for many years.

b) No property owner adjacent to the Property has expressed any objection to this application for the variances.

Based on the foregoing Findings of Fact, the Board makes the following

### **CONCLUSIONS OF LAW**

1. The foregoing Findings of Fact are incorporated by reference as Conclusions of Law so as to give full effect to the provisions of this Order Granting Variances.

2. Unnecessary hardship would result from the strict application of the Ordinance. It is not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the Property.

3. The hardships result from conditions that are peculiar to the Property, such as the location, size, or topography.

4. The requested variances are consistent with the spirit, purpose and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.

5. Granting the five variances in this situation is consistent with the spirit, purpose and intent of the Ordinance.

Based on the foregoing Findings of Fact and Conclusions of Law, the Cabarrus County Board of Adjustment hereby grants the five variances consistent with and limited to the variances requested in the application. Special conditions are imposed in connection with this variance approval and are attached as Exhibit A. This Variance Order shall run with the land with reference

to the Property and shall be recorded by JR in the Cabarrus County Public Registry.

This 13<sup>th</sup> day of February, 2018, *nunc pro tunc* to January 9, 2018.

*CP*

Chris Pinto  
Chair  
CABARRUS COUNTY PLANNING  
and ZONING COMMISSION sitting  
as the BOARD OF ADJUSTMENT

ATTEST:

*Arlena B. Roberts*

Secretary

STATE OF NORTH CAROLINA  
COUNTY OF CABARRUS

I, Arlena B. Roberts, a Notary Public in and for the said State and County do hereby certify that Chris Pinto as Chair of the Cabarrus County Planning and Zoning Commission, sitting as the Board of Adjustment personally appeared before me this day and acknowledged the due execution of the foregoing Order.

*Arlena B. Roberts*

Witness my hand and notarial seal,  
this 13<sup>th</sup> day of February, 2018.

*my commission expires  
on March 21, 2022*



### Conditions of Approval

1. Site plan review and approval is required subsequent to Board of Adjustment approval to ensure compliance with all applicable development requirements and conditions.  
(Zoning)
2. The Granting Order, stating restrictions and applicable conditions of approval, shall be recorded with the deed of the property. (Zoning)
3. The applicant shall procure any and all applicable federal, state and local permits prior to commencement of project. (Zoning)
4. The applicant shall supplement buffers according to the site plan due to building encroachment. (Applicant)
5. The applicant will add a 24 foot driveway width note to the zoning site plan and change the newly approved rezoning to AO (Agriculture/Open Space). (Applicant)
6. Where the WSACC forcemain is located at the pavement, the applicant will remove the plantings and replant if a repair is required.
7. A six foot wide mix of shrubs and ornamental trees shall be planted in the building yard area where the buildings encroach.
8. No plantings shall be required in the Building 2 septic area.



**Cabarrus County  
Register of Deeds**

**P.O. Box 707  
Concord, NC 28026  
(704)920-2112**

**Wayne Nixon, Register of Deeds**

Received By:  
Melissa Lilly

Receipt For : PLANNING & DEVELOPMENT

Instrument Type :	ORDER	Receipt # :	2018-371676
Instrument # :	03428	Date :	02/14/2018 02:51pm
Book/Page :	12878 / 0230-00235	Pages :	6
1st Grantor :	CABARRUS COUTNY PLANNING AND ZONING COMMISSION		
1st Grantee :	JR CONSTRUCTION & REMODELING, INC.		
Description:	ORDER GRANTING VARIANCES		

Description	Qty	Unit Cost	Extended
Miscellaneous document - first 15 pages	1	26.00	26.00
	<b>Document 1</b>		<b>26.00</b>
	Grand Total		26.00
	Voucher		-26.00
	Balance		0.00



ACCOUNT #00163230-6606

RECORDING FEES FOR GRANTING ORDER FOR CONDITIONAL USE PERMIT

VARN2017-00003 – VIRGINIA MOORE FOR JR CONSTRUCTION & REMODELING

COST \$26.00

BILL TO:

VIRGINIA MOORE

222 CHURCH STREET N

CONCORD NC 28025