

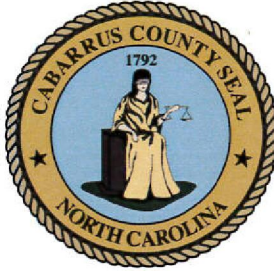


Cabarrus County Government

Cabarrus County Planning and Zoning Commission Meeting
May 12, 2015
7:00 P.M.
Board of Commissioners Meeting Room
Cabarrus County Governmental Center

Preliminary - Agenda

1. Roll Call
2. Approval March 10, 2015 Minutes
3. Approval of Findings of Fact for CUSE2015-00001 for Reception Facility, 9846 Flowes Store Road, PIN#5526-90-1880
4. Old Business – Board of Adjustment Function:
 - A. Petition-CUSE2015-00002 Request for Conditional Use Permit for Wireless Telecommunications Tower. Highwood Towers, LLC acting agent for Patricia Pruett Parrish Trust. Located at 5622 Zion Church Road (PIN#5528-80-7773).
***Request to Table**
5. New Business - Board of Adjustment Function:
 - A. Petition-CUSE2015-00004 – Request for a Conditional Use Permit for a Wireless Telecommunications (WTC) Tower. Branch Towers, LLC acting agent for Jacqueline Baucom. Located at 6070 Zion Church Road (PIN#: 5537-09-0677).
***Request to Table**
 - B. Petition-VARN2015-00002 – Request for variance from the setback requirements of the Low Density Residential zoning district. Michael Chandler is the applicant and property owner. Located at 3435 Cal Bost Road (PIN#5546-73-1752).
6. Directors Report
7. Legal Update



Cabarrus County Government - Planning and Development

Planning and Zoning Commission Minutes
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Mr. Richard Price, Vice-Chair, called the meeting to order at 7:05 p.m. Members present in addition to the Vice-Chair were Ms. Mary Blakeney, Mr. Adam Dagenhart, Mr. Andrew Deal, Mr. Andrew Graham, Mr. Jeff Griffin, Mr. Ted Kluttz, Mr. Chris Pinto, Mr. Jonathan Rett and Mr. Aaron Ritchie. Attending from the Planning and Zoning Division were Ms. Susie Morris, Planning and Zoning Manager, Mr. Phillip Collins, Sr. Planner, Ms. Arlena Roberts, Clerk to the Board and Mr. Richard Koch, County Attorney.

Roll Call

Old Business – Board of Adjustment Function:

The Vice-Chair introduced Petition, CUSE2015-00002, Request for Conditional Use Permit for Wireless Telecommunications Tower, Highwood Towers, LLC. Request to Table.

Ms. Susie Morris, Planning and Zoning Manager, said this cell tower that is proposed had comments from the Fire Marshal's office that needed to be addressed. When they addressed the comments for the Fire Marshal's office, they made some changes to the site plan, which then negated some of the information that they had submitted to us in terms of setbacks and different things.

The applicant will need to go back and change their document so that everything is in line with the actual site plan that they are going to submit. The applicant is asking to Table this request until the June 9, 2015, Planning and Zoning Commission meeting.

There being no further comments Mr. Aaron Ritchie **MOTIONED, SECONDED** by Ms. Mary Blakeney to **TABLE** CUSE2015-00002, until the June 9, 2015, Planning and Zoning Commission meeting. The vote was unanimous.

New Business – Board of Adjustment Function:

The Vice-Chair introduced Petition, CUSE2015-00004, Request for Conditional Use Permit for Wireless Telecommunications Tower, Branch Towers, LLC. Request to Table.

Ms. Morris said this Conditional Use is also in a similar situation. The applicant made some changes to their site plan which impacted the plans that they submitted as well as the narrative. They are working on making all of those documents consistent.

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Mr. Collins will be meeting with the applicant's representative on Friday. We believe that they will also be able to make the June 9, 2015, Planning and Zoning Commission meeting.

There being no further comments, Mr. Aaron Ritchie **MOTIONED, SECONDED** by Ms. Mary Blakeney to **TABLE** CUSE2015-00004, until the June 9, 2015, Planning and Zoning Commission meeting. The vote was unanimous.

New Business – Board of Adjustment Function:

The Vice-Chair asked those persons planning to address the Commission to stand to be sworn in.

The Vice-Chair introduced Petition, VARN2015-00002 – Request for variance from the setback requirements of the Low Density Residential zoning district. Michael Chandler is the applicant and property owner. Located at 3435 Cal Bost Road (PIN#5546-73-1752).

Mr. Phil Collins, Senior Planner, addressed the Board stating that the subject property is 5.17 acres in size. The applicant is requesting relief from the setback requirements of the Countryside Residential (CR) zoning district. Specifically, from the front yard setback requirement of 50 feet from a local road as listed in Section 5.5 Conventional Subdivision Standards.

The subject property is currently occupied by a single family residence and an accessory structure. Access to the site is provided through a recorded 60-foot private right of way that extends from Cal Bost Road and serves multiple parcels.

The land uses adjacent to the subject property are for the most part single family residential and vacant properties. The subject property is currently zoned Countryside Residential (CR) and is surrounded on all sides by Countryside Residential.

The application states that the residence was constructed in 1998 and that the accessory structure was constructed in 2003.

Setbacks are established from the edge of the existing right-of-way or from the proposed right of way for any roadway planned for widening as shown on the approved North Carolina Department of Transportation Comprehensive Transportation Plan.

The existing residence encroaches approximately 21 feet into the required 50 foot front setbacks at its closest point to the right of way. Therefore, the applicant is requesting a setback adjustment to approximately 29.4 linear feet from the established right of way as shown on the survey that was submitted.

The existing accessory structure encroaches approximately 33 feet into the 50 foot front setback at its closest point to the right of way. Therefore, the applicant is requesting an adjustment to approximately 17 linear feet from the established right of way as depicted and shown on the survey.

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Mr. Michael Chandler, Applicant, 3435 Cal Bost Road, Midland, NC, addressed the Board stating that the reason this house is set where it is, is because the prior owner had promised this property to a niece; one acre to build on. It only perked in one spot, so the owner decided to sell the land to Mr. Chandler, which he bought. In other words, the prior owner could not give the niece one acre, he would have to give her the whole five acres.

Mr. Chandler said if you take this piece of property from the northeast corner to the southwest corner and cut it in half, there is a creek bottom that runs through it. The only available section on this property is on the southeast corner. It just so happens that it perked exactly where zoning says this house needs to be. He has a copy of the perc test that shows that it perks. He showed where the shop sits and he said the septic lines run back parallel to the shop.

As far as the right of way, he has searched the ordinances and he has talked with the surveyor and he says it is not in there on a private right of way. He sees where it says in the overlay of the Zoning Ordinance where the setback has to be measured from the edge of the right of way, but he does not see it on a private road.

It lists the Cabarrus Rowan Metropolitan Planning Organization and he called them and his deed of right of way was not a part of that. This is not a publicly maintained right of way. It has been there since 1977, and he has been the sole provider of gravel on this right-of-way since that time.

He also questioned whether the state would even take this right of way over. He showed some pictures that he took today. He said if you come out of the right of way that is the view you will see when you come out on Cal Bost Road. He said it is very limited sight on this right of way where it enters Cal Bost Road and it has been dangerous. He called NCDOT about it one time, about putting a three-way stop there, but they said because there were no accident reports they could not protect anybody's driveway.

Mr. Chandler talked with Mr. Billy Faggert who owns the land next to his property. Mr. Faggert allowed Mr. Chandler to tie this right of way in so that he could go out on top of the hill. He does not think the State will ever take this road over, not in this situation over the crest and top of that hill.

He showed pictures of the house showing the setbacks and the property line. The main thing is the contours of the property. There is a creek that runs corner to corner of thru this property. If you look at the elevation of this property, the only buildable spot is where the house is sitting. He could not move the septic.

He has lived there for seventeen years and never had a problem. He went to sell this house and ran into this setback issue after he moved out and it cost him about five thousand dollars back to the buyers. He needs relief from this so that he can sell it to build on a twenty acre tract that he has in the county.

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The Vice-Chair opened the Public Hearing. There being no comments, the Vice-Chair closed the Public Hearing.

Ms. Blakeney asked how far over the line did he want to go.

Mr. Chandler said you can see on the photograph the setback line is between the last fence post and the zoning sign.

Ms. Blakeney asked if he wanted to go further away from that.

Mr. Chandler said no, he wants it to remain where it is. He cannot sell this house because of the encroachment. The North Carolina Real Estate requires a clear title and that is why he lost the sale of this house. He could not sell it without clear title.

The Vice-Chair read the following conditions directed by the state legislature and the local ordinance.

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 and 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.

There being no further comments, Mr. Richard Price **MOTIONED, SECONDED** by Mr. Jeff Griffin to **APPROVE** VARN2015-00002. The vote was unanimous.

It was the Consensus of the Board to have Mr. Koch prepare the Findings of Fact and for the Chair to sign the Granting Order.

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VARN2015-00002
FINDINGS OF FACT

1. Mr. Chandler is the owner of the Property. He desires relief from the front setback requirements of 50 feet from a local road, as provided in Section 5-5, Conventional Subdivision Standards of the Cabarrus County Subdivision Ordinance. The local road is a 60 foot private street right of way.

2. The Property is zoned Countryside Residential (“CR”) and is and has been used as a single family residence.

3. A single family residence constructed in 1998 and an accessory building constructed in 2003 are on the Property.

4. Setbacks are established from the edge of the right of way.

5. The existing residence encroaches approximately 21 feet into the 50 foot setback at the closest point to the right of way. The requested variance is approximately 29 feet from the established right of way.

6. The existing accessory structure encroaches approximately 33 feet into the 50 foot setback. The requested variance is approximately 17 feet from the established right of way.

7. A strict application of the Ordinance would create practical difficulties and unnecessary hardship relative to Mr. Chandler’s continued use of the Property as a residence for the following reasons:

a) Mr. Chandler’ residence was constructed with proper permits and passed inspections. The site for the residence was selected based on the location of the only approved perk site on the Property and the topography of the Property for location of a single family residence.

b) Mr. Chandler attempted to sell the Property and discovered this issue when a prospective purchaser attempted to purchase the Property and discovered the setback issues.

c) It is unlikely that a bank or mortgage company would fund a mortgage to a purchaser for a property with setback issues.

d) The Property is located on a private road extending from a public road. The situs of the residence and the accessory structure relative to the private road are such that the only likely persons to be affected would be others residing along the private road. No such person objected in any way to Mr. Chandler’s request for a variance or to the location of his residence or his accessory structure.

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

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a) Mr. Chandler's residence was constructed with proper permits and passed inspections. The site for the residence was selected based on the location of the only approved perk site on the Property and the topography of the Property for location of a single family residence.

b) Mr. Chandler attempted to sell the Property and discovered this issue when a prospective purchaser attempted to purchase the Property and discovered the setback issues.

c) It is unlikely that a bank or mortgage company would fund a mortgage to a purchaser for a property with setback issues.

d) The Property is located on a private road extending from a public road. The situs of the residence and the accessory structure relative to the private road are such that the only likely persons to be affected would be others residing along the private road. No such person objected in any way to Mr. Chandler's request for a variance or to the location of his residence or his accessory structure.

9. These practical difficulties and hardships did not result from actions taken by the Mr. Chandler.

a) Mr. Chandler's residence was constructed with proper permits and passed inspections. The site for the residence was selected based on the location of the only approved perk site on the Property and the topography of the Property for location of a single family residence.

b) Mr. Chandler attempted to sell the Property and discovered this issue when a prospective purchaser attempted to purchase the Property and discovered the setback issues.

c) It is unlikely that a bank or mortgage company would fund a mortgage to a purchaser for a property with setback issues.

d) The Property is located on a private road extending from a public road. The situs of the residence and the accessory structure relative to the private road are such that the only likely persons to be affected would be others residing along the private road. No such person objected in any way to Mr. Chandler's request for a variance or to the location of his residence or his accessory structure.

10. 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.

a) The variance does not adversely impact adjacent property owners as the status quo of the condition of the common boundaries and structures will not change.

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

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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 a Variance.
2. Unnecessary hardship would result from the strict application of the Ordinance. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the Property.
3. The hardship results from conditions that are peculiar to the Property, such as location, size and topography.
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.
5. Granting the variance 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 variance consistent with and limited to the variance requested in the application and described in this Order. No special conditions are imposed in connection with this variance approval. This variance Order shall run with the land with reference to the Property and shall be recorded by the Mr. Chandler in the Cabarrus County Public Registry.

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Directors Report

Ms. Morris said Mr. Price, Mr. Pinto and Mr. Griffin have signed up for the Quasi-Judicial training in Mooresville on June 4, 2015. She said if anyone else is interested to let her know.

She said Harrisburg is working on a Bicycle and Pedestrian Study and will be having an open house today. We will probably bring that plan to the Board. There is a very small section in that plan that extends out into the Harrisburg area, which is the Harrisburg Area Plan area. They would like for us to co-adopt that with them. The impact to the County is very small because it mainly recognizes state bike routes and the areas where they intend to put in sidewalks. Since we are not in the sidewalk business that would come with the expansion of the city limits.

Legal Updates

Mr. Rich Koch, County Attorney, received an email this afternoon about the Ritchie Road issue. Apparently, the contractor is close to being finished. The request is that we go out and take a look at it and we will when it will be represented that it is essentially finished. Apparently, they did get a good start on it, but where they are with it, is hopefully close to being completed.

You may recall that their deadline was May 31, 2015. The court, on the direction of the Judge, set the case back on for the first term of the Superior Court beginning in June. Which as it turns out is Monday, June 8, 2015. There was a notice sent out to all the residents along that road to advise them that it was back on the calendar. It is, and if the road is in compliance with the Ordinance, or at least the Ordinance and the Exception that was granted way back in 1996, that we have agreed that they would be in compliance with and we would take a dismissal of the case. Specifically, that was that they had to have 18 feet wide of gravel, six inches deep all the way to the end of the road.

Mr. Koch said this predates probably everyone on this Board except for Mr. Ritchie. There was an exception request granted back then, nearly 20 years ago, to allow them to step up into compliance of that private road with the Ordinance. Which, ultimately requires it to be paved with asphalt. The Board at that time allowed them to, as more houses were built along the road to get further into compliance with that. When they have eleven out there they actually have to pave it. But, right now with ten or less, gravel to the specifications that he mentioned earlier is all they need to do. It appears that we may be headed for compliance at the moment, but there is going to be another day of reckoning, because there is some development out that way and there is one of the property owners out there that wants to subdivide his and sell a couple of lots on the front on that road, which means that we may be temporarily finished with this matter but not completely.

We will take it a step at a time. This is an improvement, if it is in fact constructed the way it is required to be. It will be much improved over what it was, particularly, in the back end where it had whittled down to nothing more than a pig path. We will see what we are dealing with and he

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will let the Board know next month because by then we will have passed the deadline and we will have had a court appearance and then we will see where we are.

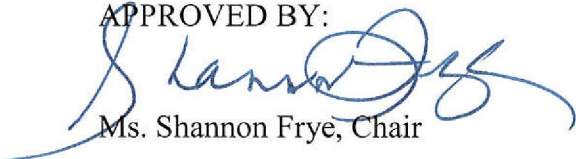
Mr. Koch said the other matter involves our friend Mr. Phillip Little and his signs out there across from the Speedway. His time to answer passed, as a courtesy Mr. Koch sent his attorney a letter. We can technically default him but the protocol around here is to send a letter first. Mr. Koch talked with Mr. Little's counsel on Monday when they were in court on another matter and he said that they were getting their answer together. He will have a little more to report on that next month.

Mr. Koch thinks this has happened since we were last here, Mr. Little has actually put another sign out there, so they have had to send him a Notice of Violation (NOV) on that. This was a digital or electronic sign. He just keeps racking up additional violations and we will just deal with it.

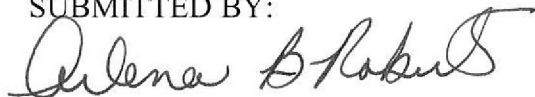
Mr. Koch said there are a few other matters that have not been brought to the Boards attention. He thinks some notices have been sent out, but we will see if there is compliance, or if we have to bring a law suit against them to enforce it.

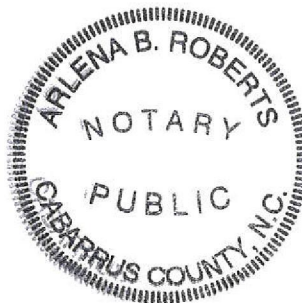
There being no further discussion, Mr. Aaron Ritchie, **MOTIONED, SECONDED** by Ms. Mary Blakeney to **ADJOURN** the meeting. The vote was unanimous. The meeting ended at 7:30 p.m.

APPROVED BY:



Ms. Shannon Frye, Chair

SUBMITTED BY:


Arlena B. Roberts



ATTEST BY:


Susie Morris, Planning and Zoning Manager

Memo

To: Cabarrus County Planning and Zoning Commission
From: Susie Morris, AICP, CZO, Planning and Zoning Manager
CC: File
Date: 5/6/2015
Re: CUSE2015-00002 Highwood Towers, LLC

- Staff is requesting that CUSE2015-00002 be continued for the applicant to address outstanding review comments. Due to site plan adjustments required by the Fire Marshal's office, the application materials originally submitted by the applicant need to be updated.
 - The Planning and Zoning Commission will need to make a motion and vote to continue the case to the June 9, 2015 meeting.
-

Memo

To: Cabarrus County Planning and Zoning Commission

From: Susie Morris, AICP, CZO, Planning and Zoning Manager

CC: File

Date: 5/6/2015

Re: CUSE2015-00004 Branch Towers, LLC

- Staff is requesting that CUSE2015-00004 be continued for the applicant to address outstanding review comments.
- The Planning and Zoning Commission will need to make a motion and vote to continue the case to the June 9, 2015 meeting.

PLANNING STAFF REPORT
CABARRUS COUNTY PLANNING AND ZONING COMMISSION
05/12/2015

Staff Use Only:
Approved: _____
Denied: _____
Tabled _____

Variance: VARN2015-00002

Applicant Information: Michael Chandler
3435 Cal Bost Road
Midland, NC 28107

Owner Information: Chandler Michael Glen
3435 Cal Bost Road
Midland, NC 28107

PIN#: 5546-73-1752

Area in Acres: 5.17

Purpose of Request: The applicant is requesting relief from the setback requirements of the Countryside Residential (CR) zoning district. More specifically, the applicant is seeking relief from the front yard setback requirement of 50' from a local road as listed in Section 5-5, Conventional Subdivision Standards. The local road is a 60' private street right of way.

Site Description: The subject property is currently occupied by a single family residence and an accessory structure. Access to the site is provided through a recorded 60-foot private right of way that extends from Cal Bost Road and serves multiple parcels.

Current Land Uses: Single Family Residential

Adjacent Land Uses: Single Family Residential and vacant

Permitted Uses: All uses permitted within the Countryside Residential District are currently permitted on the subject property.

Existing Zoning: CR (Countryside Residential)

Surrounding Zoning: North: CR (Countryside Residential)
East: CR (Countryside Residential)
South: CR (Countryside Residential)
West: CR (Countryside Residential)

Signs Posted: 04/27/2015

Newspaper Notification: 04/29/2015

Newspaper Notification 2: 05/06/2015

Notification Letters: 04/24/2015

Exhibits

- Exhibit A - Staff Report
- Exhibit B – Application
- Exhibit C - Site Plan
- Exhibit D – Maps

Agency Review Comments

Zoning Review: Approved

Phillip Collins: no Comments

Fire Review: Approved

Steven Langer: no Comments

NCDOT Review: Approved

Leah Wagner: no Comments

History / Other Information

1. The subject property is currently zoned Countryside Residential and has historically been used as a single family.
2. A single family residence and an accessory structure are located on the subject property.
3. The application states that the residence was constructed in 1998 and that the accessory structure was constructed in 2003.
4. Setbacks are established from the edge of the existing right of way or from the proposed right of way for any roadway planned for widening as shown on the approved North Carolina Department of Transportation Comprehensive Transportation Plan.
5. The existing residence encroaches approximately 21 feet into the 50 foot setbacks at its closest point to the right of way. Therefore, the applicant is requesting a setback adjustment to approximately 29.4 linear feet from the established right of way as shown on the survey that was submitted.
6. The existing accessory structure encroaches approximately 33 feet into the 50 foot right of way. Therefore, the applicant is requesting an adjustment to approximately 17 linear feet from the established right of way as depicted and shown on the survey that was submitted.

CABARRUS COUNTY VARIANCE APPLICATION



STAFF USE ONLY:

Application/Accela#: VAR172015-0002

Received By: PEC

Date Filed: 4/8/15

Amount Paid: 463.50

Instructions

1. Schedule a pre-application meeting with Staff. During this meeting, Staff will assess the proposed variance request to evaluate options that may be available to you through the zoning ordinance. If it is necessary to proceed with the request, Staff will explain the procedures and requirements, including the thresholds of consideration for Variance requests.
2. Submit a complete application to the Planning Division. All applications must include the following:
 - Cabarrus County Land Records printout of all adjacent property owners. This includes properties located across the right-of-way and all on-site easement holders. The list must include owner name, address, and Parcel Identification Number.
 - A recent survey or legal description of the property.
 - 18 folded copies of the proposed site plan. At a minimum, the site plan shall show the following:
 - The subject property and any adjacent properties.
 - All existing buildings, including setbacks from property lines.
 - All proposed buildings, parking facilities and accessory uses, including setbacks from property lines (if applicable).
 - The location and type of screening and buffering proposed (if applicable).
 - Impervious surface ratio (if applicable).
 - Waterbody buffers (if applicable).
 - Delineation of the proposed Variance on the site plan so that type of variance the applicant is seeking is clear. (This may be accomplished by submitting two site plans. One to show the requirements of the ordinance and a second to show what the variance request will achieve.)
 - Any additional item(s) that should be illustrated on the plan as determined during the pre-application meeting.
 - Any additional documents essential for the application to be considered complete. (Determined at pre-application meeting)
3. Submit cash, check, or money order made payable to Cabarrus County.
Fees: Residential Variance request = \$450 or Non-residential Variance request = \$550 +3% technology fee based on total application fee

The deadline for submittal is always the same day as the Planning and Zoning Commission Meeting which is the second Tuesday of the month. Applications must be submitted before 2:00 PM that day for consideration on the next available agenda.

Incomplete applications will be returned to the applicant and will not be processed.

Process Summary:

1. Hold a pre-application meeting with Staff to discuss your request and the variance process.

3/19/2015

2. Submit a complete application with the appropriate fees to the Cabarrus County Planning Division.
3. When the complete application is received, Staff and appropriate agents will review the application and site plan and will make comments on the proposed request.
4. Staff will begin to prepare a staff report, schedule a public meeting date and notify adjacent property owners of the public meeting/public hearing date. A sign advertising the public hearing will also be placed on the property being considered for the Variance request.

Meeting Information: Meetings are held the second Tuesday of each month at 7:00 PM in the Cabarrus County Governmental Center located in downtown Concord at 65 Church Street, SE.

Variance: Variance requests are considered by the Board of Adjustment during a quasi-judicial hearing. This means that anyone wishing to speak regarding the application must be sworn in. The vote requirement for the Variance request to pass is 80% or greater. Additional conditions may be added as part of the Variance approval process.

Questions: Any questions related to the Variance process may be directed to the Planning Division at 704-920-2141, between 8 AM and 5 PM, Monday through Friday.

Application Information

Applicant's Name	Property Owner's Name
<u>Michael Chandler</u>	<u>Michael & Tammy Chandler</u>
Applicant's Address	Property Owner's Address
<u>3435 Cal Bost Rd</u>	<u>3435 Cal Bost Rd</u>
<u>Midland, NC 28107</u>	<u>Midland NC 28107</u>
Applicant's Telephone Number	Property Owner's Telephone Number
<u>704-784-2075</u>	<u>704-784-2075</u>
Legal Relationship of Applicant to Property Owner	<u>Owner</u>
Existing Use of Property	<u>Residential</u>
Existing Zoning	<u>CR</u>
Property Location	<u>Midland, Cabarrus County</u>
Tax Map and Parcel Identification Number (PIN)	<u>5546 73 1752</u>

TO THE BOARD OF ADJUSTMENT

I, Michael Chandler, HEREBY PETITION THE BOARD OF ADJUSTMENT FOR A VARIANCE FROM THE LITERAL PROVISIONS OF THE ZONING ORDINANCE. UNDER THE INTERPRETATION GIVEN TO ME BY THE ZONING ADMINISTRATOR, I AM PROHIBITED FROM USING THE AFOREMENTIONED PARCEL OF LAND. I REQUEST A VARIANCE FROM THE FOLLOWING PROVISION(S) OF THE ORDINANCE.

The responsibility for presenting evidence to support the Variance request, as described during the meeting and to the Board of Adjustment, lies completely with the Applicant.

FINDING OF FACT CHECKLIST

Please provide an explanation to each point in the space provided.

- 1. The alleged hardships or practical difficulties are unique and singular to the property of the person requesting the variance and are not those suffered in common with other property similarly located.**

(The problem must be unique to the property and not a public hardship and must apply to the property, not the property owner).

Only one perk site on property per county and due to the topo of the property in relation to the private right of way.

- 2. The alleged hardships and practical difficulties, which will result from failure to grant the variance, extend to the inability to use the land in question for any use in conformity with the provisions of the ordinance and include substantially more than mere inconvenience and inability to attain a higher financial return.**

(This often will be the most difficult area in which to make a determination. The issue, as established by court decisions, deals with the nebulous term of "reasonableness." Generally, if the variance is sought to make a greater profit on this property at the expense of others in the area, this point cannot be met. This item is best reviewed with the concept of, "is the property barred from a reasonable use if the strict terms of the ordinance are adhered to"?)

Bank cannot acquire title insurance and therefore will not loan on the property.

- 3. The variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance.**

(This is a second way to address reasonableness. This is also where the issue of "where did the hardship originate from?" should be addressed. Self-inflicted hardships should be carefully reviewed for reasonableness.)

Residence and detached storage built with proper permits, house since 1998, shop since 2003, without complaint. Fire dept response to neighbors and accessed right of way without issue.

The following information shall be completed by applicant(s) seeking a variance:

1. Variance Request Including Related Zoning Ordinance Section(s)

Section: CR

Formally LDR

2. Reason(s) for Seeking a Variance

Unable to sell property, We need 17 feet
from the edge of the deeded right of
way on the detached shop and 29 feet on
the residence as they currently sit.

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a Variance. Direction is received by both state legislation and local ordinance. Under the state enabling act, the Board is required to reach four (4) conclusions as a prerequisite to the issuance of a Variance:

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.

In order to make its determination, the Board will review the evidence submitted in this application as well as receive public comment during the scheduled public hearing. This application will be entered into the official record of the public hearing.

4. The variance is in harmony with and serves the general intent and purpose of the ordinance.

(If a variance is granted, is the overall "spirit" of the zoning ordinance still intact? While difficult to explain, some types of variance are usually not in accord with the general intent and purpose of the ordinance and therefore must be cautiously reviewed. These often include extending a non-conforming use in scope, a use variance (clearly not allowed), and modifying a dimensional standard so as to the detriment of a neighborhood or area.

The second part relates to the question, if granted will the spirit of the adopted plan for proper development of the neighborhood or area be compromised?)

Yes - the property is still countryside residential without commercial buildings

5. The variance will result in substantial justice being done, considering both the public benefits intended to be secured by this ordinance and the individual hardships that will be suffered by a failure of the Board to grant a variance.

(This is the final way to address reasonableness via common sense. Simply put, does the variance make sense? Will its approval or denial endanger any one? Will the essential character of the area be altered if approved or denied?)

Yes. The residence was built ^{with proper} and passed permits and passed inspection.

Possible Conditions, suggested by the applicant

If the Board of Adjustment finds that a variance may be in order but the Board still has concerns in granting the variance, reasonable conditions can be imposed to assure that any of the five points will continue to be met and not violated. In your review of the five points, are there any conditions that you believe would clarify the justification of a variance? If so, suggest these conditions in the space below.

The private right of way has increased the set back footage for said property by 30 feet.

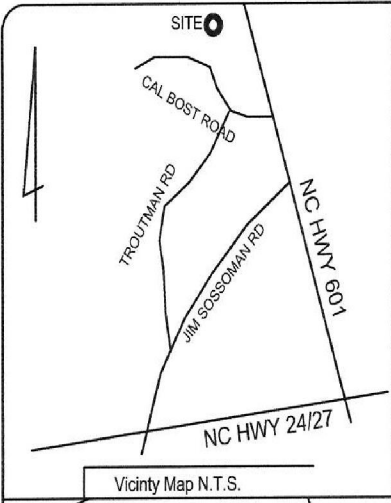
I CERTIFY THAT ALL OF THE INFORMATION PRESENTED BY ME IN THIS APPLICATION IS, TO THE BEST OF MY KNOWLEDGE, TRUE AND CORRECT.

SIGNATURE OF OWNER: Michael Chard DATE: 4-8-2015

SIGNATURE OF APPLICANT: _____

DATE: _____

ELECTRONIC COPY FOR REVIEW ONLY



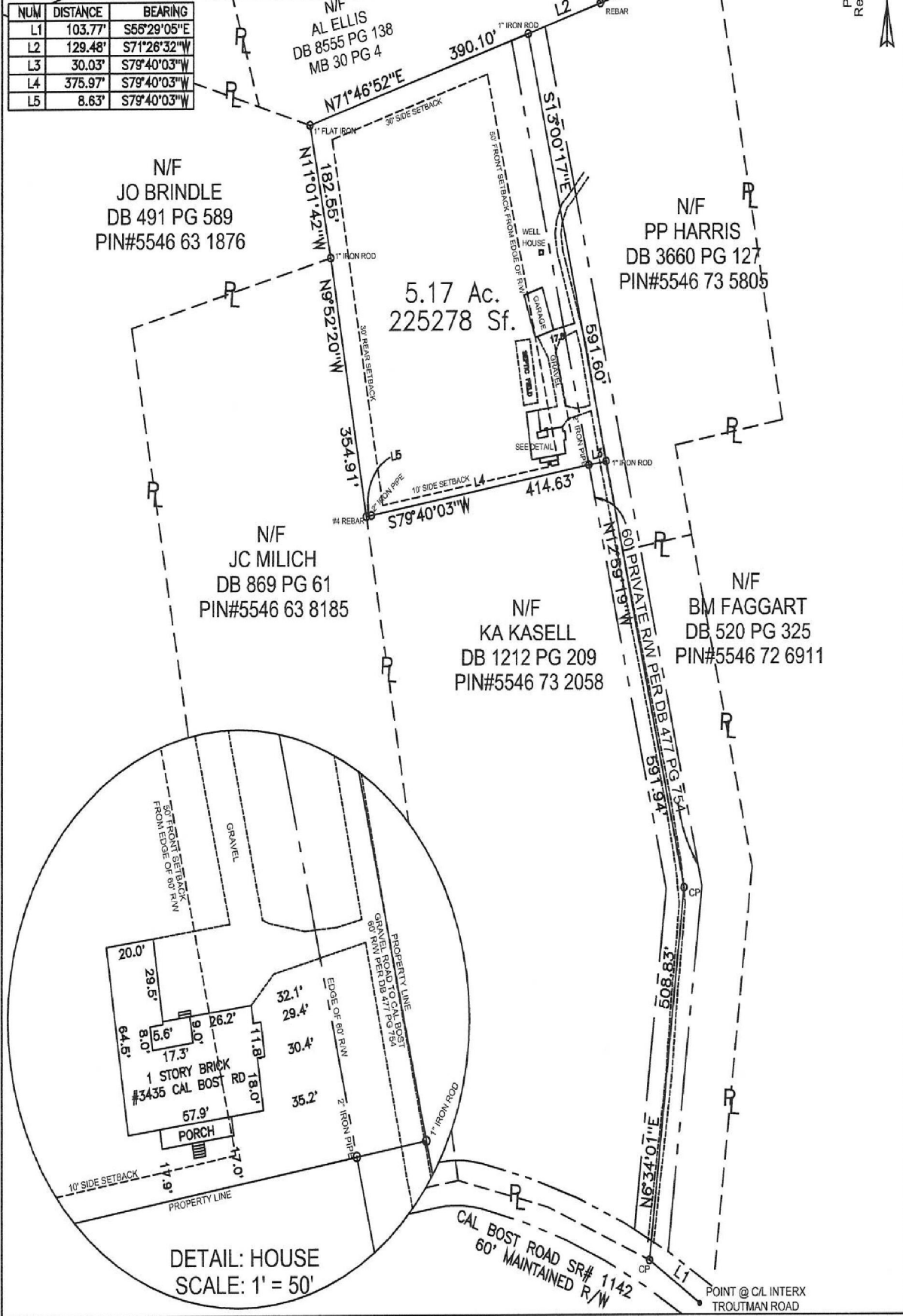
HARRISBURG SURVEYING
 DEUT. V: 27-17/PROV. V: 22-28
 115 Plaza Dr Harrisburg, N.C.
 (704)-456-9553 PHONE
 (704)-456-9008 FAX
 http://www.harrisburgsurveying.com

This property is subject to any and all R/W's or easements of record not uncovered by this survey
 This survey was performed without the benefit of a Title Report.

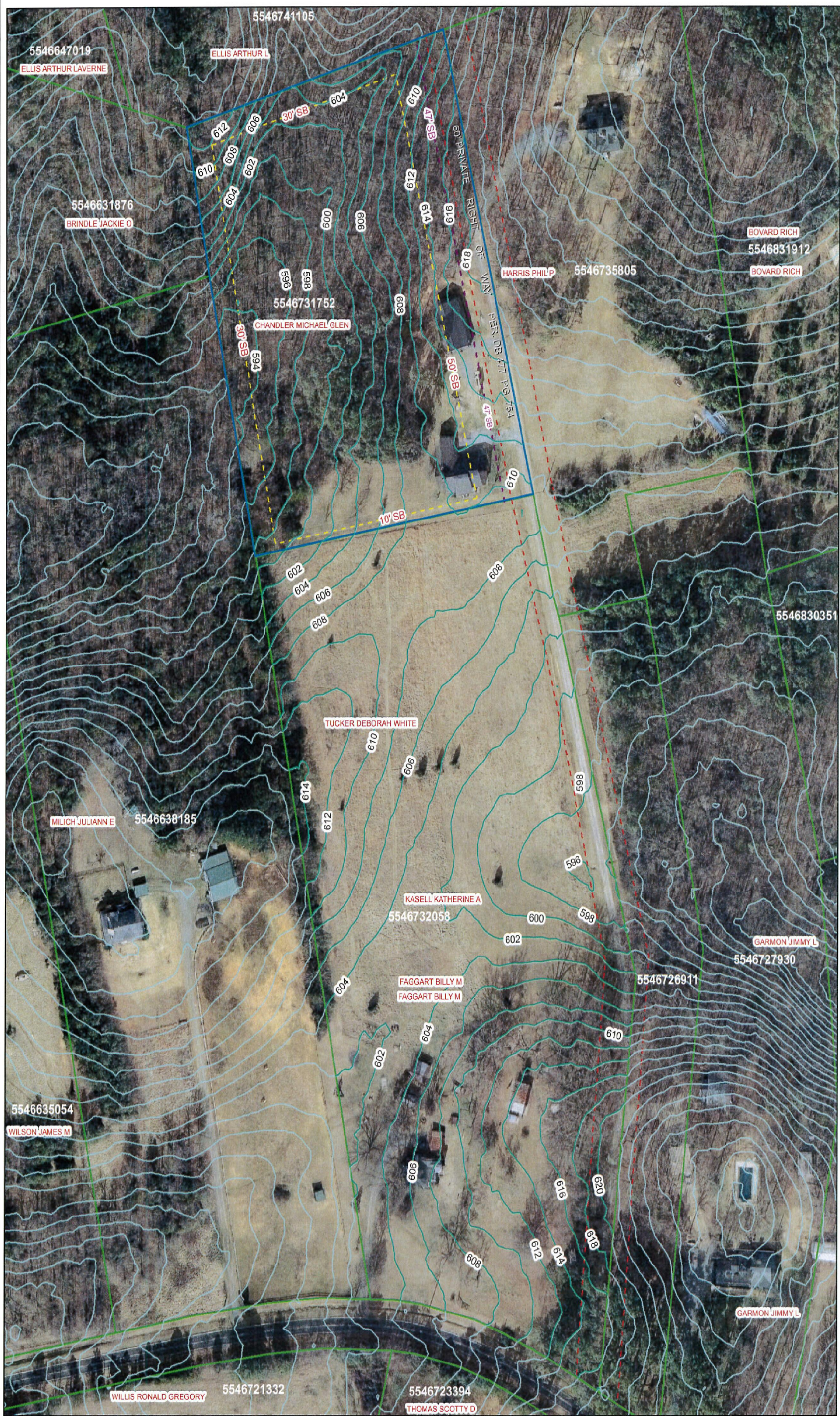
Present Zoned : CR
 Setbacks shown as LDR
 Front : 50'
 Side : 10' - 30' / 40' Total
 Rear : 30'
 Home was built under LDR zoning requirements



NUM	DISTANCE	BEARING
L1	103.77'	S66°29'05"E
L2	129.48'	S71°26'32"W
L3	30.03'	S79°40'03"W
L4	375.97'	S79°40'03"W
L5	8.63'	S79°40'03"W



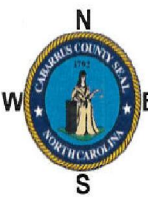
EIP - Existing Iron Pin / Pipe NIP - New Iron Pin (1/2" Iron Rod/Rebar) CP - Computed Point P/P - Power Pole R/W Mon - Right-of-Way Monument R/W - Right of Way Asph. - Asphalt Conc. - Concrete	B/C - Back of Curb Tele - Telephone PWR - Power HVAC - Heating Vent & Cooling OVHD - Overhead Utility Util - Utilities Esmt. - Easement C - Center Line	--- R/W --- ESMT. --- PROPERTY LINE --- SETBACK --- FENCE --- UTIL. LINE (PWR, TELE, ETC.) --- APPX. LOCATION OF PROP. LINE	This property is not in a 100 year flood hazard area. Reference FIRM map #3710554600J Effective date Nov.5, 2008
Survey of 5.17 ACRES OFF OF CAL BOST ROAD, SR# 1142; DB 2269 PG 110; PIN#5546 73 1752			
Survey for MICHAEL AND TAMMY CHANDLER			
NO. 10 Township,		CABARRUS COUNTY	
Scale: 1" = 200'		Date: FEBRUARY 12, 2015	
References: DB 2269 PG 110 ALL OTHER DEEDS AS SHOWN		Drawn By: SDG Checked By: JTW	
MSCAD- 150113			



CABARRUS COUNTY PROPERTY MAP
 Printed: April 08, 2015

CHANDLER - PIN# 5546731752

DISCLAIMER:
 Cabarrus County shall not be held liable for any errors in the data represented on this map. This includes errors of omission, commission, concerning the content of the data, and relative positional accuracy of the data. Tax data cannot be guaranteed to be a legal document. Primary sources from which this data was compiled must be consulted for verification of information represented on this map document.









0 50 100 200 Feet
 1 inch = 113 feet

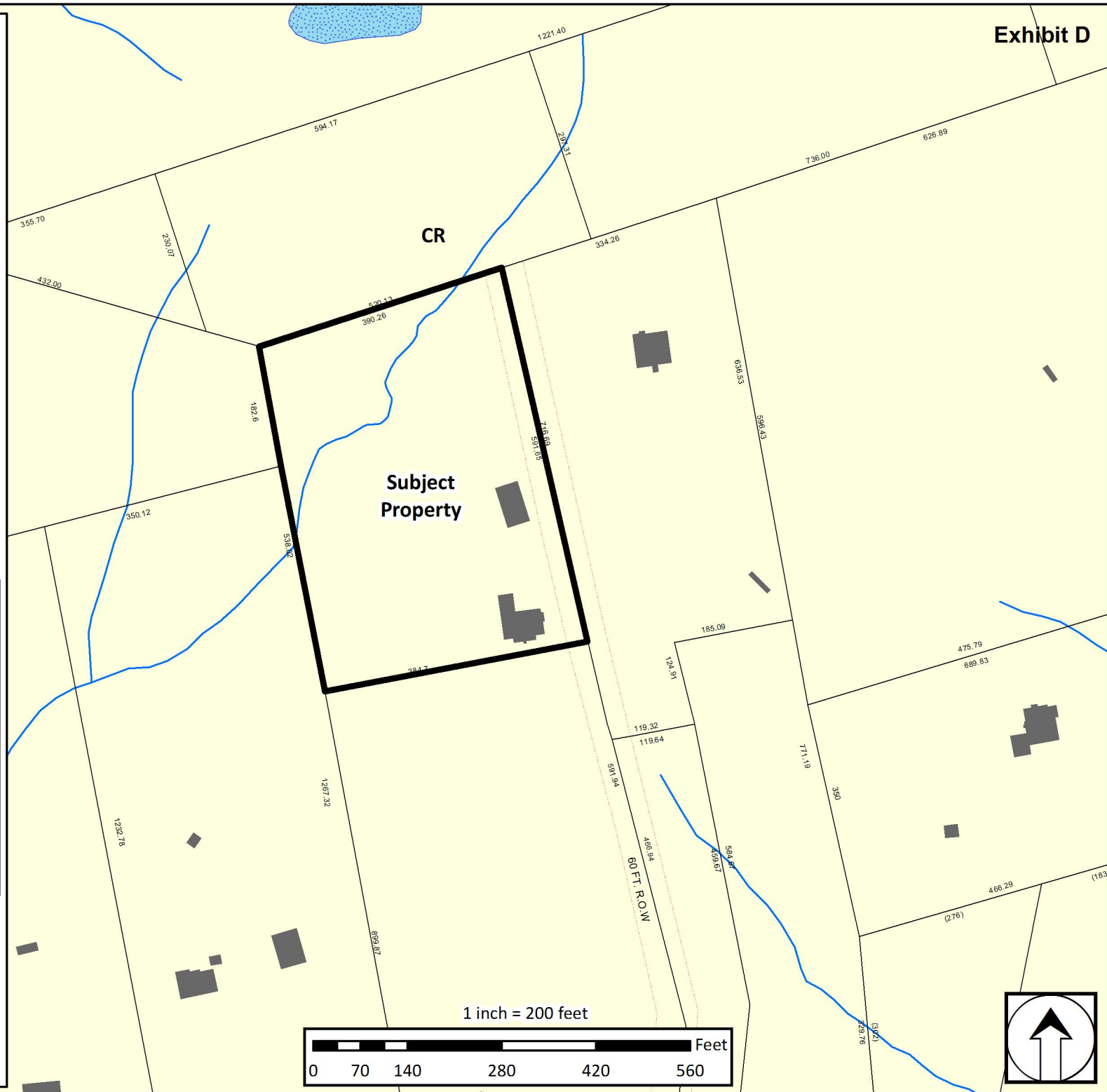
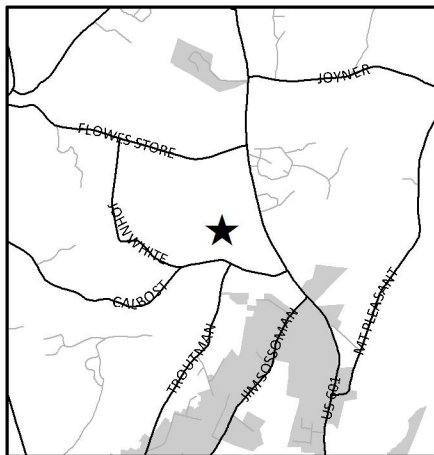
- Parcels
- - - 60' Right of Way Esmt.
- - - Setback Lines
- - - 47' Fl. from ctr of 60' ROW
- Topology 2ft

Existing Zoning



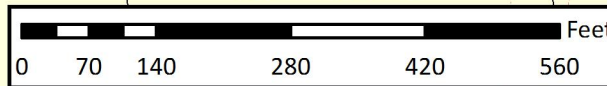
Applicant: Michael Chandler
Owner: Michael & Tammy Chandler
Case: VARN2015-00002
Address: 3435 Cal Bost Road
Purpose: Setback Encroachment
PIN: 5546-73-1752

-  Parcels
-  Ponds
-  Water Supply Watershed
-  Streams
-  Structures
-  Ingress/Egress Easement



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Map Prepared by Cabarrus County Planning & Development - May 2015

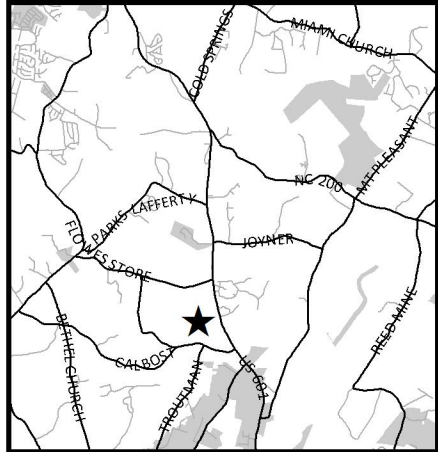


Aerial Map



Applicant: Michael Chandler
Owner: Michael & Tammy Chandler
Case: VARN2015-00002
Address: 3435 Cal Bost Road
Purpose: Setback Encroachment
PIN: 5546-73-1752

- Parcels
- Cabarrus County
- City Limits



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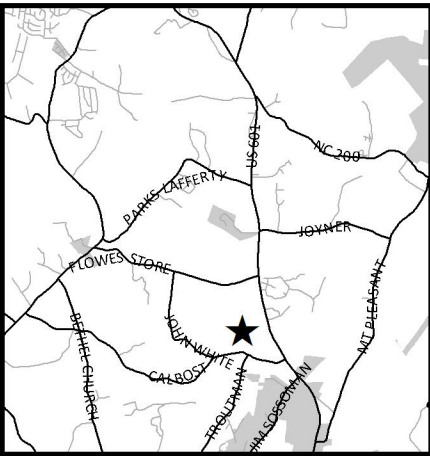
Map Prepared by Cabarrus County Planning & Development - May 2015



Midland Area Plan Future Land Use



Applicant: Michael Chandler
 Owner: Michael & Tammy Chandler
 Case: VARN2015-00002
 Address: 3435 Cal Bost Road
 Purpose: Setback Encroachment
 PIN: 5546-73-1752



Cabarrus County shall not be held liable for any errors in this data. This includes errors of omission, commission, errors concerning the content of the data, and relative and positional accuracy of the data. These data cannot be construed to be a legal document. Primary sources from which these data were compiled must be consulted for verification of information contained within the data.

Map Prepared by Cabarrus County Planning & Development - May 2015

