



## **AGENDA**

### **Regular Board of Adjustment Meeting January 10, 2023 - 6:30 PM**

**Meeting Location:**

**Town Hall**

**101 Huntersville-Concord Road**

**Huntersville NC 28078**

- 1. Roll Call, Determination of Quorum**
- 2. Approval of Minutes**
  - 2.A. Consider approval of the December 13, 2022 regular meeting minutes ()
- 3. Hearing of Cases**
  - 3.A. V22-02 12109 EASTFIELD RD HUNTERSVILLE NC 28078  
The applicant is requesting a variance from Article 8.16.7 of the Huntersville Zoning Ordinance. The request is to allow the construction of a detached garage not fully located in the rear yard. (*Nathan Farber*)
- 4. Other Business**
- 5. Adjourn**

## **Minutes of the Town of Huntersville Board of Adjustments**

The Town of Huntersville Board of Adjustments met at 6:30 p.m. on Tuesday, December 13, 2022.

### **Call to Order/Roll Call**

Vice-Chairman Jacobson called the meeting to order at 6:30 pm.

**Present:** P. Jacobson, S. Genenbacher, J. Bradshaw, K. Burton & M. Bennett

**Absent:** E. Cecil & J. Loucks

**Alternate Members Present & Voting:** J. Carbonell & C. Price

**Alternate Members Absent:** J. Passarelli

### **Approval of Minutes**

#### **Item 2A. Consider approval of the revised June 14, 2022, Regular Meeting Minutes**

**Motion:** J. Bradshaw made a Motion to Approve the June 14, 2022, minutes. C. Price seconded the motion.

**Vote:** The motion passed unanimously (7-0).

### **Public Comments**

No comments

### **Attestation**

The applicant Christopher Fogleman and staff N. Farber, Planner II were sworn in.

### **Quasi-judicial**

J. Glass, Town Attorney completed the reading of the quasi-judicial statement.

### **Conflict of Interest**

Vice-Chair P. Jacobson asked the Board if there was any conflict of interest. There was no conflict.

### **Hearing of Cases**

**Item 3A: V22-02 12109 EASTFIELD RD HUNTERSVILLE NC 28078** The applicant is requesting a variance from Article 8.16.7 of the Huntersville Zoning Ordinance. The request is to allow the construction of a detached garage not fully located in the rear yard.

**Motion:** J. Bradshaw made a Motion to Continue the case V22-02 into our January meeting. We have some business before this Board, or within this Board that needs to be addressed with all members present before we can adjudicate or hear any cases." J. Carbonell seconded the motion.

**Vote:** The motion passed unanimously (7-0).

### **Other Business**

#### **Item 4A: Election of Chair & Vice-Chair**

**Nomination:** At the June 2022 meeting E. Cecil was nominated for Chairman. There were no other nominations.

**Vote:** The motion for E. Cecil for Chairman passed (5-1-1) with S. Genenbacher opposed and C. Price abstaining.

**Nomination:** At the June 2022 meeting P. Jacobson was nominated for Vice-Chairman. There were no other nominations.

**Vote:** The motion for P. Jacobson for Vice-Chairman passed (6-0-1) with C. Price abstaining.

**Adjourn**

**Motion:** C. Price made a Motion to Adjourn. K. Burton seconded the motion.

**Vote:** The motion passed unanimously (7-0).

Approved this \_\_\_\_ day of \_\_\_\_\_ 2022.

\_\_\_\_\_

Chairman or Vice Chairman

\_\_\_\_\_

Board Secretary

**Town of Huntersville  
Board of Adjustment  
January 10, 2023**

**To:** Town Board

**From:** Nathan Farber, Planner I

**Date:** January 10, 2023

**Subject:**

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**EXPLAIN REQUEST:**

The applicant is requesting a variance from Article 8.16.7 of the Huntersville Zoning Ordinance. The request is to allow the construction of a detached garage not fully located in the rear yard.

**ACTION RECOMMENDED:**

Make Decision

**FINANCIAL IMPLICATIONS:**

NA

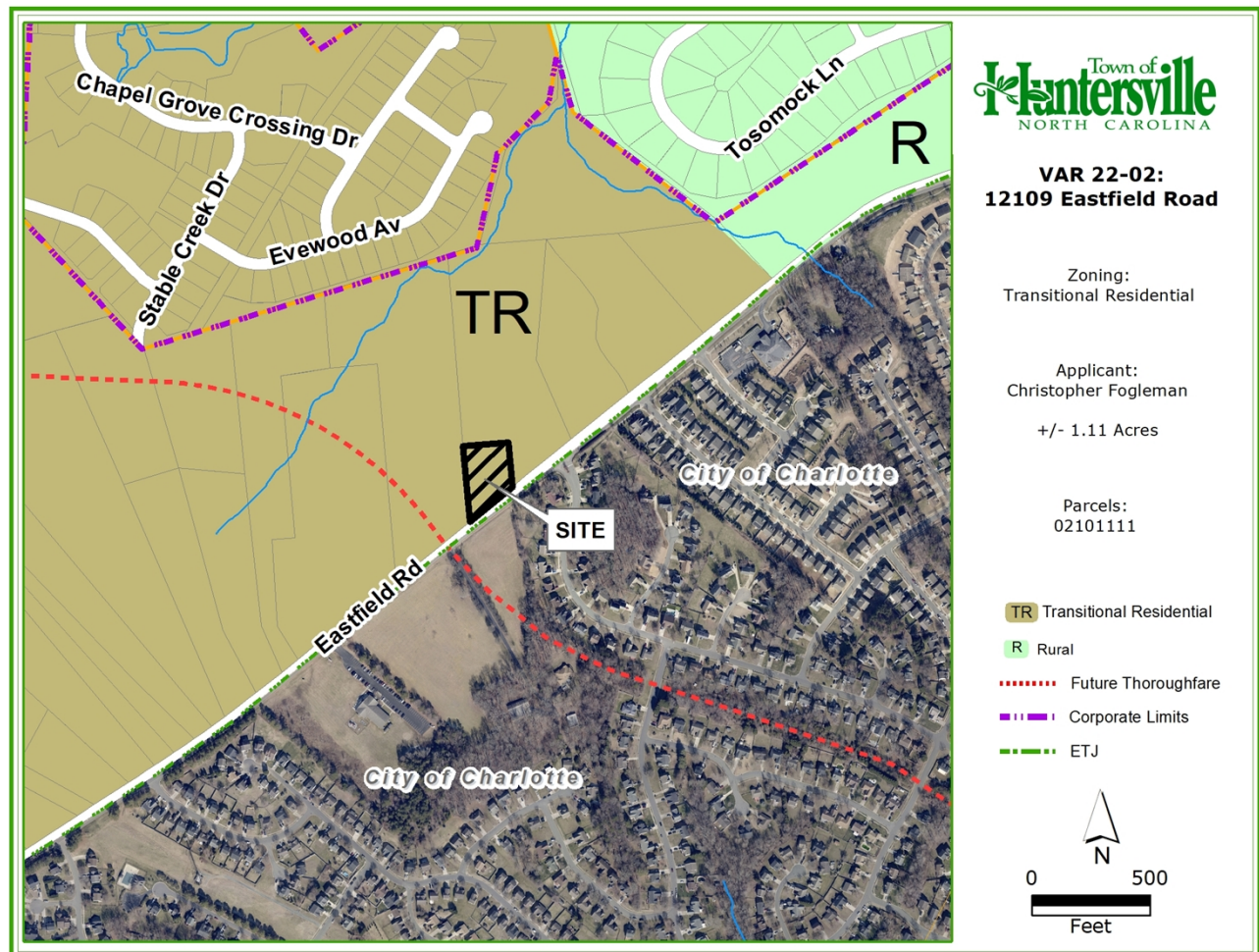
**ATTACHMENTS:**

1. V22-02 Staff Report
2. Building Permit Plot Plan Exhibit 1
3. Re Fogleman variance Exhibit 2
4. Fogleman Overhead map (street) Exhibit 3
5. Fogleman Overhead map (satellite) Exhibit 4
6. Photographs Exhibit 5
7. Application Exhibit 6
8. Overall Site View Exhibit 7
9. Email Chain Blue five Construction Exhibit 8
10. Slope EXHIBIT 9

**V 22-02, 12109 Eastfield Rd  
Parcel ID 02101111**

**Case #:** V22-02  
**Address:** 12109 Eastfield Rd Huntersville, NC 28078  
**Parcel #:** 021-011-11  
**Acreage:** 1.113ac  
**Property Owner/Applicant:** Christopher R Fogleman  
**Owner/Applicant Address:** 12109 Eastfield Rd Huntersville, NC 28078  
**Staff:** Nathan Farber - Planner II

The applicant, Christopher Fogleman, is requesting a variance from **Article 8.16.7 Rear Yard Requirement**, stated below, in order to allow the construction of a detached garage not fully located in the rear yard.



**BACKGROUND:**

1. The subject property, Parcel ID 021-011-11, is zoned Transitional Residential (TR).
2. The subject property is located within the extraterritorial jurisdictional (ETJ) of the Town of Huntersville.
3. The Subject property is owned by Christopher and Whitney Fogleman.

4. The applicant applied for a building permit to construct a detached garage in the rear yard of his property. Staff approved the permit on December 20, 2021. (Exhibit 1)
5. The applicant contacted staff in September of 2022 to notify us that the approved detached garage concrete footing was poured in the wrong location by his contractor and was seeking possible next steps, such as connecting it to the house via a breezeway. (Exhibit 2)
6. Staff replied that a breezeway as proposed would likely not be compliant with the Zoning Ordinance, and he could either move the foundation to the correct location that is compliant with Article 8.16.7 or apply for a variance. (Exhibit 2)
7. The applicant states that the structure is encroaching past the rear of the principle building toward the front yard by 11 feet. (Exhibit 3-5,7)



8. The applicant states that his contractor poured the concrete in the incorrect location. (Exhibit 6)
9. The applicant states that the slope of the property and overhead utility line are hardships that are peculiar to the property. (Exhibit 7,9)
10. The applicant would like to obtain a variance to relieve the requirements of Article 8.16.7: (Exhibit 6)

“Detached garages may only be placed in the established rear yard. Garages for more than two cars must be detached and located in the established rear yard or be attached side or rear loading.”

The **established rear yard** is defined (Article 12.2):

“Yard, rear, established: the distance between the rear of a principal building or structure and the lot line farthest from the street fronting the lot, projected to the side lines of the lot on which the building or structure is located.

**STAFF FINDINGS (ordinance standards are in italics):**

Please see Exhibit 6 for the applicant's responses to the required criteria for granting a variance.

In considering any variance request, the following Standards for Granting a Variance of the Huntersville Zoning Ordinance (Article 11.3.2.e) must be addressed:

Article 11.3.2.e Standards for Granting a Variance of the Huntersville Zoning Ordinance:

Before granting a variance, the Board of Adjustment shall have made the following findings:

*Standards for Granting a Variance. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:*

- 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.*

**Staff Findings:**

- A. The applicant applied for a building permit and received approval to build a detached garage on December 20<sup>th</sup>, 2021. (Exhibit 1)
- B. The building permit showed that the proposed 28ftx30ft detached garage in the established rear yard. (Exhibit 1)
- C. The applicant states that in order to fit the detached garage completely in the established rear yard he would need to remove a tree and an overhead powerline would need to be moved. (Exhibit 6)
- D. Staff finds that the property has enough room to build the detached garage fully in the established rear yard as demonstrated in the approved permit without interfering with the existing utility line, though the structure may affect the existing tree. (Exhibit 7)
- E. Staff finds that this requirement has not been met.

- 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.*

**Staff Findings:**

- A. According to the applicant, the property slope prevents the garage from being suitably placed farther back into the rear yard.
- B. According to the applicant, the lot contains an overhead utility line that prevents the garage from being placed farther back into the rear yard. (Exhibit 4-7)



- C. The building is substantially setback off Eastfield Road such that the rear yard where the garage can be placed represents about 20% of the lot.
  - D. Staff believes that the slope and overhead utility line would not prevent the detached garage from being placed in the established rear yard based on topographical data from Polaris3G. Based on the drawings submitted by applicant for the building permit, the detached garage could be moved 11 feet back into the rear yard without violating the required 5' accessory structure setback or encroaching into the overhead utility line as the utility line is located to the right of the structure not directly behind it. (Exhibit 4)
  - E. Staff finds this requirement has not been met.
- 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.*
- Staff Findings:**
- A. The applicant applied for and received a building permit showing that the structure would be located in the established rear yard. (Exhibit 1)
  - B. A contractor placed the detached garage concrete foundation 11 feet into the side yard and not completely in the established rear yard on behalf of the application.
  - C. Staff finds this requirement has not been met.
- 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.*
- Staff Findings:**
- A. According to the applicant, granting the variance would not harm public safety or welfare. (Exhibit 6)
  - B. The spirit, purpose, and intent of the ordinance is to provide a separation of uses between primary and accessory structures while also buffering these uses from surrounding properties.
  - C. Staff finds that the variance would be consistent with this requirement as it would not harm surrounding properties.

### **STAFF POSITION:**

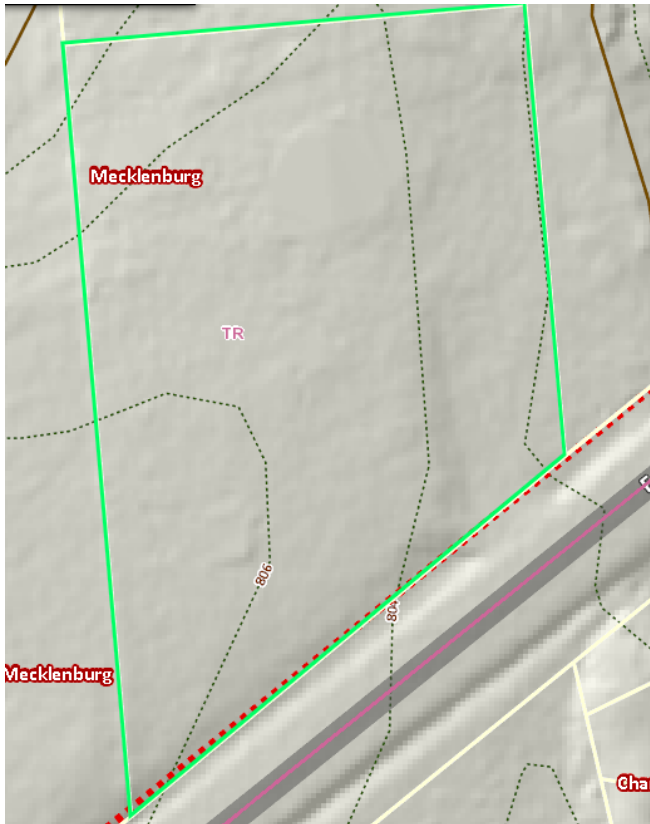
The applicant is seeking a variance from Article 8.6.7 of the Huntersville Zoning Ordinance, which requires any detached garage to be placed in the established rear yard. Staff finds that the approved building permit shows that the applicant did not previously think any conditions on the lot would prevent the detached garage from being constructed in the established rear yard. The conditions now outlined by the applicant would not prevent the detached garage from being constructed in the established rear yard. Staff finds the application only meets one of the four requirements for granting a variance and therefore recommend denial of the request based on the below findings:

1. The subject property, Parcel ID 021-011-11, is zoned Transitional Residential (TR).
2. The subject property is located within the extraterritorial jurisdictional (ETJ) of the Town of Huntersville.
3. The subject property is owned by Christopher and Whitney Fogleman.

4. The applicant applied for a building permit to construct a detached garage in the rear yard of his property. Staff approved the permit on December 20, 2021. (Exhibit 1)
5. The applicant contacted staff in September of 2022 to notify us that the approved detached garage concrete footing was poured in the wrong location by his contractor and was seeking possible next steps, such as connecting it to the house via a breezeway. (Exhibit 2)
6. Staff replied that a breezeway as proposed would likely not be compliant with the Zoning Ordinance, and he could either move the foundation to the correct location that is compliant with Article 8.16.7 or apply for a variance. (Exhibit 2)
7. The applicant states that the structure is encroaching past the rear of the principle building toward the front yard by 11 feet. (Exhibit 3-5,7)
8. The rear of the structure located closest to the detached garage is an attached covered patio. (Exhibit 5)



9. The applicant states that his contractor poured the concrete in the incorrect location. (Exhibit 6)
10. The applicant states that the slope of the property and overhead utility line are hardships that are peculiar to the property. Staff find that the slope does not prohibit the construction of the detached garage and that there is adequate room in the rear yard to place the detached garage without interfering with the overhead utility line. (Exhibit 7,9)



11. The applicant would like to obtain a variance to relieve the requirements of Article 8.16.7: (Exhibit 6)

“Detached garages may only be placed in the established rear yard. Garages for more than two cars must be detached and located in the established rear yard or be attached side or rear loading.”

The **established rear yard** is defined (Article 12.2):

“Yard, rear, established: the distance between the rear of a principal building or structure and the lot line farthest from the street fronting the lot, projected to the side lines of the lot on which the building or structure is located.

**EXAMPLE MOTION: V22-02, 12109 Eastfield Rd Huntersville, NC 28078**

| Planning Department | Board of Adjustment                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                     | <p><b>APPROVAL:</b> In considering the application for V22-02, a request by Christopher Fogleman for a variance from Article 8.16.7 of the Zoning Ordinance, the Board of Adjustment approves the variance request based on a finding that the request meets ____ of the four criteria, outlined in the ZONING ORDINANCE, for granting a variance.</p> <p>The Board of Adjustment finds the request meets ____ of the four criteria for granting a variance based on the following findings of fact: <i>(explain findings of fact)</i></p> |

|                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p><b>DENIAL:</b> In considering the application for V22-02, a request Christopher Fogleman for a variance from Article 8.16.7 of the Zoning Ordinance, the Planning Department recommends denial of the variance request based on a finding that 1 of 4 standards for granting a variance have been met. Staff finds the 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> requirements for granting a variance have not been met.</p> | <p><b>DENIAL:</b> In considering the application for V22-02, a request by Christopher Fogleman for a variance from Article 8.16.7 of the Zoning Ordinance, the Board of Adjustment denies the variance request based on a finding that the request meets _____ of the four criteria, outlined in the ZONING ORDINANCE, for granting a variance.</p> <p>The Board of Adjustment finds the request does not meet the criteria for granting a variance based on the following findings of fact: <i>(explain findings of fact)</i></p> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Exhibit 1** –Building Permit Plot Plan

**Exhibit 2** – Correspondence Between Town Planning Staff and Applicant

**Exhibit 3** – Overhead Map Street View provided by Applicant

**Exhibit 4** – Overhead Map Satellite View provided by Applicant

**Exhibit 5** – Photographs

**Exhibit 6** – Application

**Exhibit 7** – Overall Site Plan provided by Staff

**Exhibit 8** – Contractor Correspondence

**Exhibit 9** - Slope

Street # 12109      N,S,E,W N/E      Street Name Eastfield rd      AV, RD, ST, etc. RD      Suite N/A

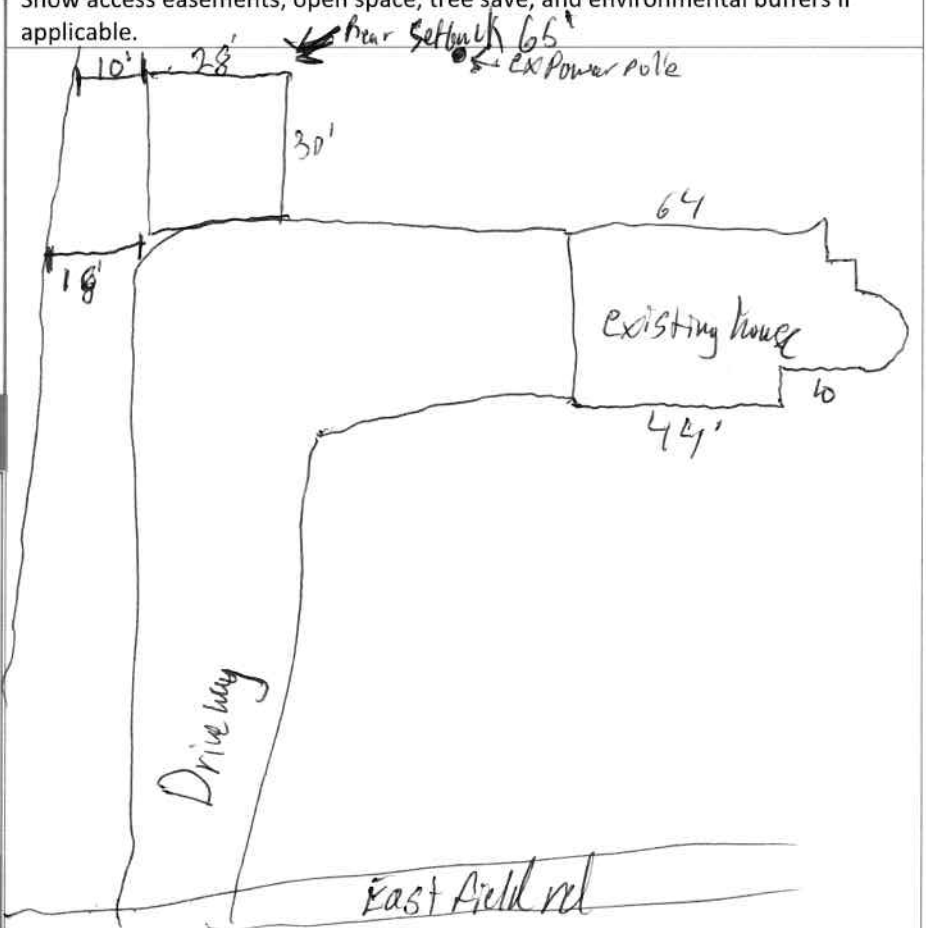
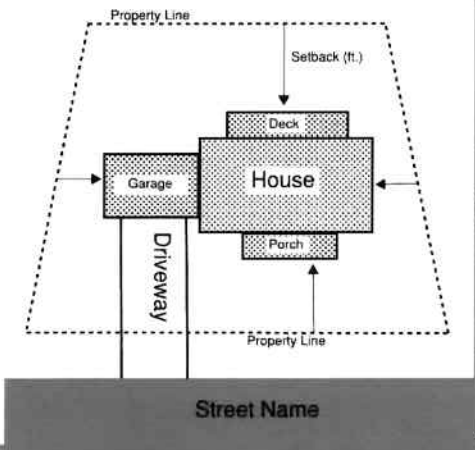
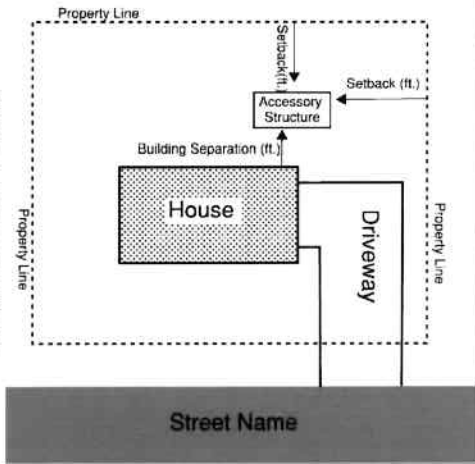
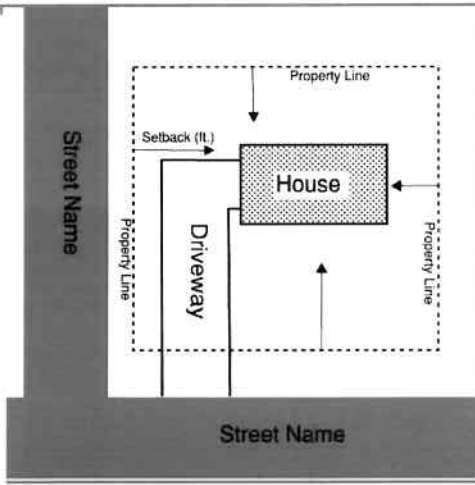
### INSTRUCTIONS:

In the space provided, draw plot plan as neatly and accurately as possible, from a survey if available. Separate applications and plot plans are required for each building.

1. Draw street(s) and right-of-ways(s).
2. Draw property lines and show the distance in feet of setbacks for proposed structure.
3. Draw proposed buildings and existing structures including any driveway(s), walkway(s), attached porch(es), deck(s), chimney(s), carport(s), garage(s), shed(s), barn(s), pool(s), accessory dwelling(s), etc.
4. Show area of existing and proposed structures with dimensions.
5. List amount of existing impervious use and area of proposed structure, if subject to impervious area regulations.

Show access easements, open space, tree save, and environmental buffers if applicable.

EXAMPLE PLOT PLANS



|                             |                 |                     |           |
|-----------------------------|-----------------|---------------------|-----------|
| Applicant Name              | Date            | Applicant Signature |           |
| <u>Christopher Fogleman</u> | <u>12-22-21</u> | <u>CF</u>           |           |
| Zoning Approved By          | Date            | Notes               | Parcel ID |
|                             |                 |                     |           |

**From:** Nathan Farber  
**Sent:** Friday, October 21, 2022 2:12 PM  
**To:** Chris Fogleman  
**Subject:** Re: Fogleman variance

Chris,

I have not had a chance to go through the application yet, but will update you when I officially get this submitted. Since this was dropped off on October the 19<sup>th</sup> it will be scheduled for December the 13th.

Please let me know if you have any further questions!

**Nathan Farber**

Planner I | Town of Huntersville  
105 Gilead Road | Third Floor  
P.O. Box 664 | Huntersville, North Carolina 28070  
(704) 766-2237  
[www.huntersville.org](http://www.huntersville.org)

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**From:** Chris Fogleman <[chrisfogleman9@hotmail.com](mailto:chrisfogleman9@hotmail.com)>

**Sent:** Wednesday, October 19, 2022 1:30 PM

**To:** Nathan Farber <[nfarber@huntersville.org](mailto:nfarber@huntersville.org)>

**Subject:** Re: Fogleman variance

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Nathan,

Just letting you know I just dropped off the variance application paperwork and a USB with photos and documents. I will be going on to pay the variance fee this evening so hope to hear from you guys soon about the timing of variance meeting.

Thanks,

Christopher Fogleman

Sent from my iPhone

On Oct 7, 2022, at 9:49 AM, Nathan Farber <[nfarber@huntersville.org](mailto:nfarber@huntersville.org)> wrote:

Chris,

Please look through the below link for the application and information on the variance process.

<https://www.huntersville.org/2651/Variances-Appeals>

Please let me know if you have any questions!

**Nathan Farber**

Planner I | Town of Huntersville  
105 Gilead Road | Third Floor  
P.O. Box 664 | Huntersville, North Carolina 28070  
(704) 766-2237  
[www.huntersville.org](http://www.huntersville.org)

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**From:** Au'Darius Blackwood <[ablackwood@huntersville.org](mailto:ablackwood@huntersville.org)>  
**Sent:** Friday, October 7, 2022 8:28 AM  
**To:** Chris Fogleman <[chrisfogleman9@hotmail.com](mailto:chrisfogleman9@hotmail.com)>  
**Cc:** Nathan Farber <[nfarber@huntersville.org](mailto:nfarber@huntersville.org)>  
**Subject:** Re: Fogleman variance  
Chris-

I apologize for the delay, I have copied Nathan on this email, as he can further assist you with the variance process.

Staff determined the proposed breezeway would be too long to give zoning approval.

Nathan-

Chris would like to move forward with the variance process.

Thanks,

Sent from my iPhone

> On Oct 6, 2022, at 4:05 PM, Chris Fogleman <[chrisfogleman9@hotmail.com](mailto:chrisfogleman9@hotmail.com)> wrote:  
>  
> CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.  
>  
> Au'darius,  
>  
> I never heard back from you about connecting my garage to home... the property at 12109 eastfield rd huntersville NC  
>  
> Also if I were to file for a variance would I need to come in to fill that form out? Please

let me know as I would like to pursue this route.

>

> Thanks,

>

> Chris Fogleman

>

>

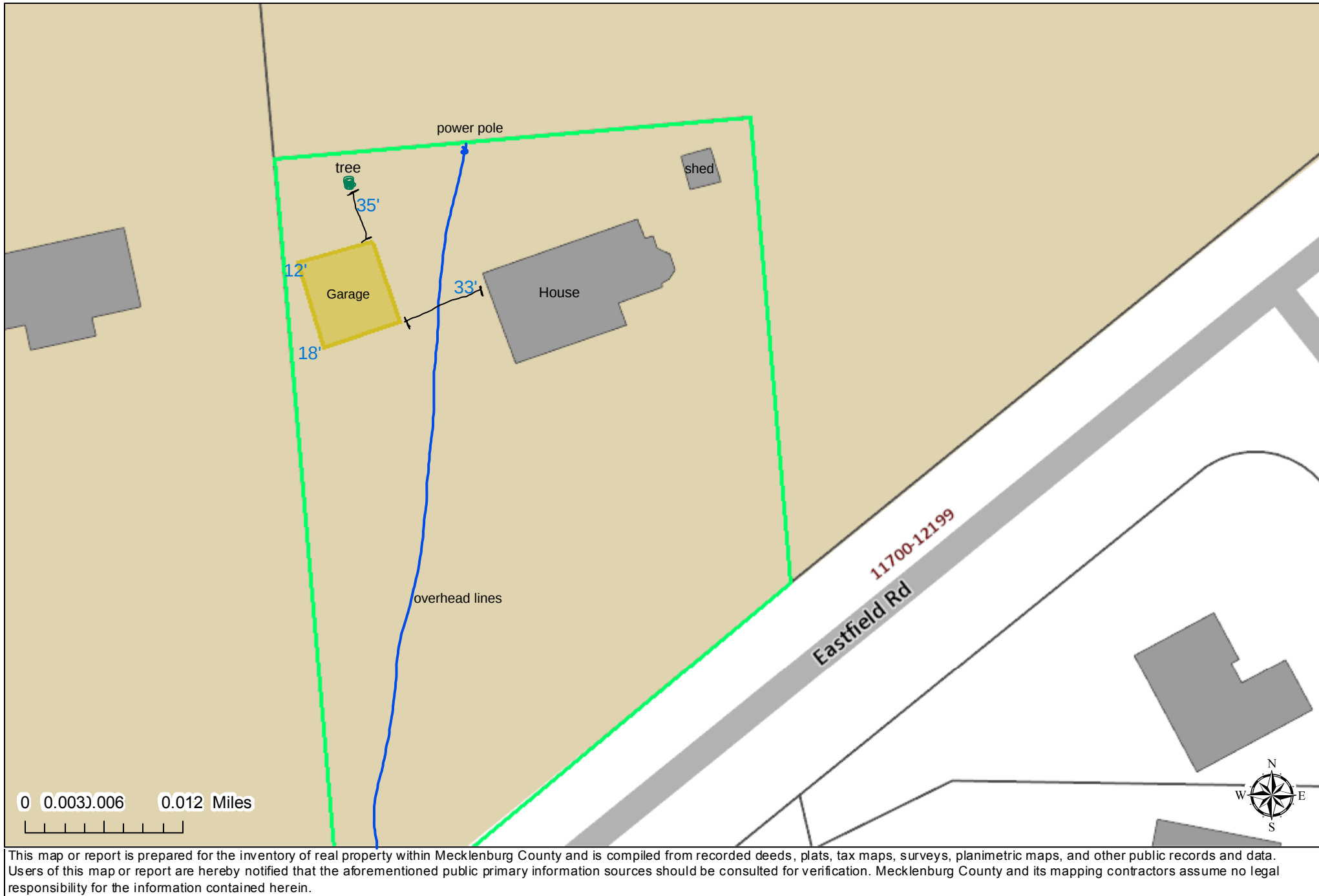
> Sent from my iPhone

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# Polaris 3G Map – Mecklenburg County, North Carolina

overlap of the Garage into the front yard is 11'

Date Printed: 11/21/2022 4:26:09 PM

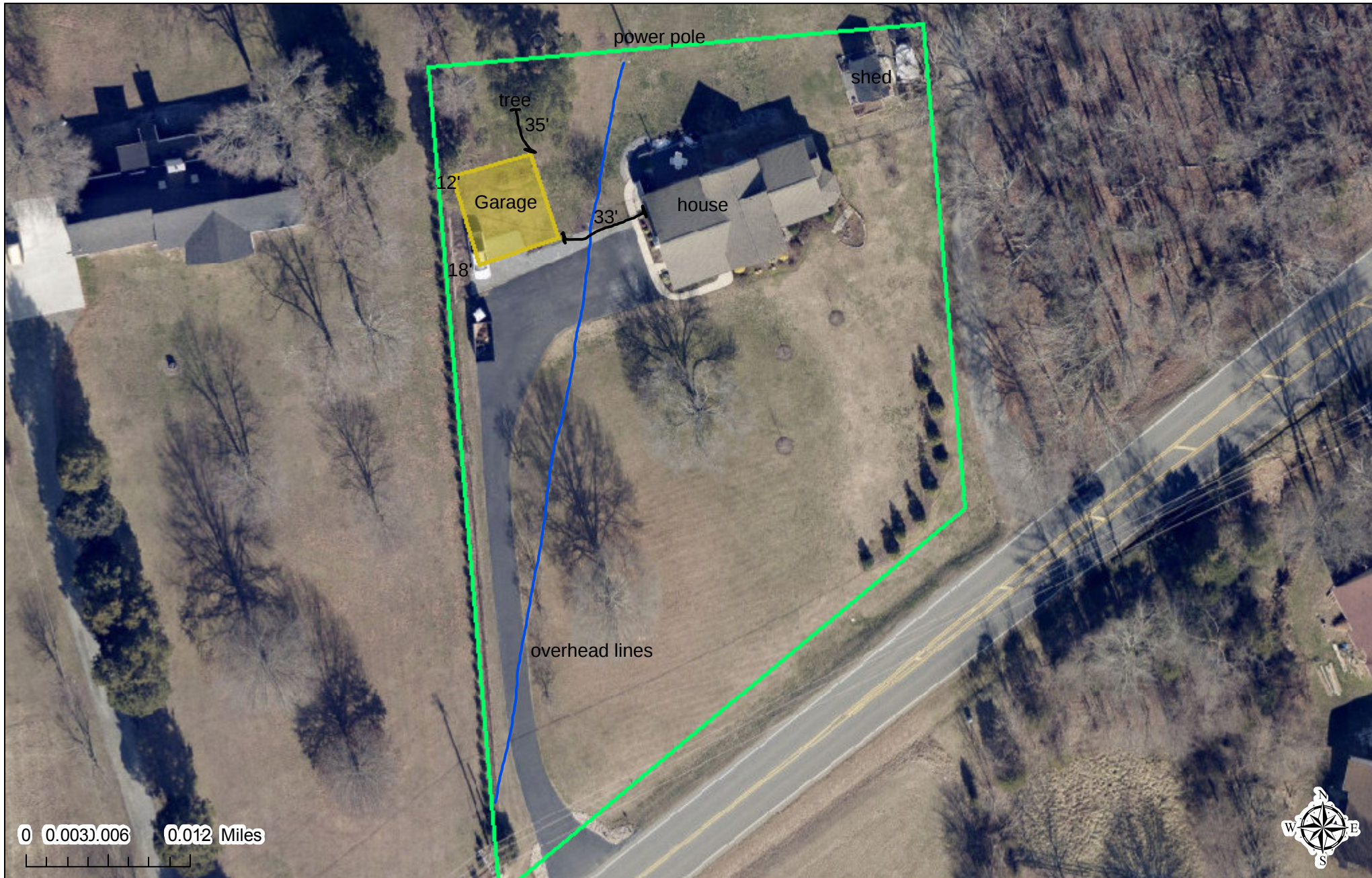


This map or report is prepared for the inventory of real property within Mecklenburg County and is compiled from recorded deeds, plats, tax maps, surveys, planimetric maps, and other public records and data. Users of this map or report are hereby notified that the aforementioned public primary information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

# Polaris 3G Map – Mecklenburg County, North Carolina

overlap of the Garage into the front yard is 11'

Date Printed: 11/21/2022 4:31:14 PM



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







Date of Application: 10/21/22

Property/Building Address: 12109 Eastfield rd, Huntersville, NC, 28078 Parcel Size (ac): 1.11

Tax Parcel ID (PIN) Number: 0210111

**Ordinance to be Varied**

Ordinance (Zoning, Floodplain, etc.): Zoning Article: 8.16 Section: 7

**Description of Request** (In this section describe what you are seeking to be allowed at this property. For example – According to Article 4: Detached House of the Huntersville Zoning Ordinance, mechanical equipment shall not encroach into any required setback. I am requesting a variance to allow mechanical equipment in the side yard at 000 Gilead Road, Huntersville, NC. ):

According to article 8.16 Section 7: Detached garages may only be placed in the established rear yard. I am requesting a variance to allow a partial overhang into the side yard of approximately 11' at 12109 Eastfield rd, Huntersville, NC 28078

**Submittal Procedure and Requirements**

See the current Board of Adjustment Submittal deadlines and Meeting Schedule for filing deadlines and meeting dates. The variance and appeals processes are quasi-judicial. Contact with the Board of Adjustment shall only occur under sworn testimony.

**The property owner(s) or legal representative of the property owner must sign this application. If the applicant is different from the property owner, the applicant shall also sign.**

The following shall be submitted with a completed application:

- One (1) electronic copy by email or (1) hard copy of applicable map(s), site plans, exhibits, and applications showing exact location of property with respect to existing streets, adjoining lots and other important features on or contiguous to the property. Include any maps and/or illustrations (to scale), which are necessary to show the location, number and size of buildings, signs, etc., on the property.
- A list of names, addresses and tax parcel identification numbers of properties that abut the site, are across the street from the site or are otherwise within one hundred feet (100') of the site.
- Review Fee - Please check most recent version of Fee Schedule for applicable Variance Review Fee. Reviews shall be submitted by mail as directed below or through the Town website: [www.huntersville.org/](http://www.huntersville.org/) (Select How Do I > Pay Planning and Zoning Fees)
- Email completed application to [planning@huntersville.org](mailto:planning@huntersville.org) or mail as directed below.
- Submit the complete application, all supplemental documents, and the fee by noon on the filing deadline

Physical Address: 105 Gilead Road | Third Floor (**Fed Ex, UPS, and Couriers**)  
Mailing Address: P.O. Box 664 | Huntersville, North Carolina 28070 (**USPS**)  
Attention: Planning Department

Please make checks payable to: Town of Huntersville  
Include property address and/or Tax Parcel ID in memo

## **Notification Requirements**

Planning Staff will be required to notify in writing each adjoining property owner.

If you are seeking a variance from the requirements of the Mountain Island Lake or Lake Norman Watershed Overlay Districts, Planning Staff is required to notify, in writing, each local government having jurisdiction in the watershed and the entity using the water supply for consumption as follows:

- \* Mountain Island Lake Watershed Overlay. Local governments having jurisdiction in the watershed: Charlotte Mecklenburg, Cornelius and Huntersville. Entities using the water supply for consumption: Mecklenburg County, Gastonia and Mount Holly.
- \* Lake Norman Watershed Overlay. Local governments having jurisdiction in the watershed: Davidson, Cornelius and Huntersville. Entities using the water supply for consumption: Mooresville, Mecklenburg County and Lincoln County.

## **Variance Requirements**

### **STANDARDS FOR GRANTING A VARIANCE (Article 11.3.2.e.):**

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all the following:

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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a persona with a disability.
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.

Appropriate conditions, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed by the Board (Article 11.3.1.e.).

In the following spaces, indicate **FACTS** that demonstrate to the Board of Adjustment you meet all the standards for granting 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. The difficulty or hardship would result only from these regulations and from no other cause, including the actions of the owner or previous owners of the property.

From Strict application of this ordinance I would have to completely alter natural landscape on property as well as spend an additional 10-20 thousand dollars. Underground and overhead Utilities would need to be moved and existing trees would need to be cut down.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a persona with a disability.

Property Slope and Angle of property line forced slab location to reside partially in side yard. Location of overhead Utility lines do not allow garage to be moved away from property line

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

The slab was poured in an incorrect location due to a previous Contractors mistake. This Contractor is no longer employed due to unreliability and has been uncooperative with fixing his mistakes.

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.

Having the slab located partially in the side yard allows for a safe distance from overhead Utility lines as well as preserving the existing landscaping. Due to property set back this Variance will not negatively impact anyone or anything.

## Applicant

Printed Name Christopher R. Fogleman Phone (704) 491-7664

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: \_\_\_\_\_

☒ By signature below, I hereby acknowledge, as/on behalf of (circle one) the applicant my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Adjustment except through sworn testimony at the public hearing. (Applicable if box is checked)

Signature CF Date \_\_\_\_\_

Title Home Owner Applicant Phone (704) 491-7664

Applicant Email Chrisfogleman9@hotmail.com

Address of Applicant 17104 Eastfield rd Huntersville, NC, 28078

## Property Owner (if different than applicant)

\* Printed Name \_\_\_\_\_ Phone \_\_\_\_\_

☐ Corporation ☐ Limited Liability Company ☐ Trust ☐ Partnership ☐ Other: \_\_\_\_\_

☐ By signature below, I hereby acknowledge, as/on behalf of (circle one) the owner my understanding this application will be considered in a quasi-judicial proceeding and that neither I, nor anyone on my behalf, may contact the Board of Adjustment except through sworn testimony at the public hearing. (Applicable if box is checked)

Signature \_\_\_\_\_ Date \_\_\_\_\_

Title \_\_\_\_\_ Applicant Phone \_\_\_\_\_

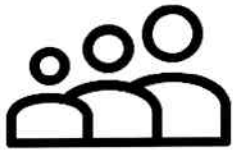
Applicant Email \_\_\_\_\_

Address of Property Owner \_\_\_\_\_

\* Property owner hereby grants permission to the Town of Huntersville personnel to enter the subject property for any purpose required in processing this application.

Every owner of each parcel included in this application, or the owner (s) duly authorized agent, must sign this application. If signed by an agent on behalf of the Owner, this petition MUST be accompanied by a Limited Power of Attorney signed by the property owner (s) and notarized, specifically authorizing the agent to act on the owner (s) behalf in signing this application. Failure of each owner, or their duly authorized agent, to sign, or failure to include the authority of the agent signed by the property owner, will result in an INVALID APPLICATION. **If additional space is needed for signatures, attach the Town of Huntersville Signature Addendum Form.**

W. Fogleman



# Board of Adjustment Variance Request



## Who is the Board of Adjustment?

The Board of Adjustment is a quasi-judicial board with 7 permanent members and 3 alternate members, comprised of citizens residing in Huntersville and its Extraterritorial Jurisdiction (ETJ). The Board of Adjustment is a volunteer board appointed by the Town Board of Commissioners.

## What is their function?

The Board of Adjustment considers two primary requests:

**Variance**-If certain hardships exist, the Board can vary the law to alleviate the hardship based on criteria established by NC Legislation.

**Appeals**-If you do not agree with Planning Staff's interpretation of the Zoning Ordinance, you may appeal the decision to the Board of Adjustment. The Board does not have power to change the Ordinance and is limited to its interpretation. Decisions are based on what the Board believes to be the actual meaning and intent of the ordinance. (Information regarding the appeal process may be found in a separate brochure).

## What factors are considered?

Standards for granting a variance can be found in Article 11.3.2.e of the Zoning Ordinance.

Before granting a variance, the Board of Adjustment shall have made 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 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.

## How do I apply?

- Submit [application](#) with all applicable items
- Pay [fees](#)

## Variance granted?

If the Board decides to grant the variance, they may place certain restrictions or conditions on the variance to protect the public interest and neighboring property owners.

## Variance denied?

If your variance is denied, you may abide by the ordinance requirement, or you may choose to appeal the decision to the Mecklenburg County Superior Court. If you choose to appeal the decision, you will have 30 days to do so from date you receive the Board's decision letter.

## Reminder

When applying for a variance, it is important to realize that *you* have the responsibility of proving that you need the variance because of a hardship. Also, please note that Board members are not allowed to discuss the case outside the public hearing.

## Questions?

Town of Huntersville  
Planning Department  
IN PERSON:

105 Gilead Road, Third Floor  
Huntersville NC 28078  
Mon-Fri; 8am-5pm  
No appointments necessary

TEL: 704-875-7000

EMAIL: [planning@huntersville.org](mailto:planning@huntersville.org)

WEB: [www.huntersville.org](http://www.huntersville.org)



## Re: Garage - Delays

Taylor Robinson <taylor@bluefiveconstruction.com>

Wed 1/26/2022 12:58 PM

To: Chris Fogleman <chrisfogleman9@hotmail.com>

Thank you for the honesty. I would recommend talking with Taylor as he is also the only one who can withdrawal or issue that large of a deposit. Our goal is to please the client and we agree the lead up has been less than stellar. I will reach out to him personally to see if there is anything we can do in the meantime.

Thanks

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YII=

**Taylor Robinson**

BlueFive Construction

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[980.244.7065](tel:980.244.7065)

<http://www.BlueFiveConstruction.com>

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**From:** Chris Fogleman <chrisfogleman9@hotmail.com>

**Sent:** Wednesday, January 26, 2022 12:32:15 PM

**To:** Taylor Robinson <taylor@bluefiveconstruction.com>

**Subject:** Re: Garage - Delays

Due to the lack of communication i would like a refund issued at least until some sort of progress is made. I have tried touching base for over a week now and this is the first response I've gotten. I have no issue with your team doing the project as I have said from the beginning but the lack of trust I have right now I am willing to repay the down payment upon start and full amount upon completion. If this is satisfactory then ok but if not please let me know.

Sent from my iPhone

On Jan 26, 2022, at 12:21 PM, Taylor Robinson <taylor@bluefiveconstruction.com> wrote:

Chris,

Our apologies for the lack of communication. We understand your frustration and can issue a refund at your request. We have had some issues with the ongoing covid situation and are working through it as it arises. Our forces are dwindled from what they once were. Here is the last update received.

- Permit was approved on 1-25-2022
- Carter Lumber has been contacted to provide updated pricing and ship dates for material.
- Our concrete team is unable to do the pad and we have reached out to ARS concrete to supplement and are working with them to get a ground break date.
- To my knowledge the earliest date will be around 2-7 for concrete and Carter has packages 2-3 weeks out.

This has been a tedious project that has slipped through the crack on all sides. Taylor should be returning to work soon and will reach out when available. Please communicate through email to ensure everything is up to date.

I have attached the updates to this email.

Let us know how to proceed,

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BlueFive Construction



980.244.7065

[BlueFiveConstruction.com](http://BlueFiveConstruction.com)

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**From:** Chris Fogleman <chrisfogleman9@hotmail.com>

**Date:** Wednesday, January 26, 2022 at 11:39 AM

**To:** Taylor Robinson <taylor@bluefiveconstruction.com>

**Subject:** Re: Garage - Delays

Taylor,

I have tried calling and texting you so I'm giving you the benefit of the doubt that you don't have your phone... you need to touch base with me ASAP. I have paid you 17 thousand dollars and now I cannot get in touch with you. You need to refund my money if you can't do the job or you need to be here doing it soon. I don't like being a hard ass but I will sue you for breach of contract and ensure I get every dime back if this becomes an issue. Please touch base with me.

Sent from my iPhone

On Nov 8, 2021, at 6:41 AM, Taylor Robinson <taylor@bluefiveconstruction.com> wrote:

Chris,

Good morning, hopefully you are recovering from a great trip. Wanted to update you this Monday morning.

We have completed the preconstruction process other than permit acquisition (scanning, material, dumpsters, trade on boarding) . We still have a pending permit with mecklenburg county. I have my assistant amber looking into expediting the review period.

I do have a crew ready to form the pad and may proceed with that if i have not received the permit by Thursday. This will be all of the digging and soil removal. Once permit is received we can pour. In this case i am looking to add curing compound to the order. This will allow us to start the erecting process. As mentioned the dry in process should take about a week.

Will continue to update daily until we have everything we need.

Thank you for your patience.

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**Taylor Robinson**

BlueFive Construction

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[980.244.7065](tel:980.244.7065)

<http://www.BlueFiveConstruction.com>

RE: Blue Five Construction



David Carey <david.carey@carterlumber.com>

Yesterday at 7:20 PM

To: Michelle Dooley; Cc: Taylor Robinson



[Download All](#) • [Preview All](#)

Hey Taylor,  
I have attached the updated lumber. I will get the ewp updated as well

**David Carey**  
Outside Sales Representative  
2601 Westinghouse Blvd  
Charlotte, NC 28273  
Cell: (704) 572-6628  
[carterlumber.com](http://carterlumber.com)



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**From:** Michelle Dooley <michelle.dooley@carterlumber.com>  
**Sent:** Tuesday, January 25, 2022 3:18 PM  
**To:** David Carey <david.carey@carterlumber.com>  
**Cc:** [taylor@bluefiveconstruction.com](mailto:taylor@bluefiveconstruction.com)  
**Subject:** Blue Five Construction

David,  
One of your customers called today.  
You gave him a quote on a lumber package and an ewp package back in November.  
Can you please contact Taylor Robinson at 980-244-7065  
He would like to have his quote repriced and move forward with this project.  
Quote # 424035779  
EWP Job # 21100751

Taylor, please let me know if there is anything else that I can help you with.

Mecklenburg

TR

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