



AGENDA

Regular Board of Adjustment Meeting

October 12, 2021 - 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 September 14, 2021 Regular Meeting Minutes

3. Hearing of Cases

3.A. Variance # 21-11 is a request by Louis F Molnar Jr from Article 3.2.3(d) (3) and Article 2.3.1 of the Huntersville Zoning Ordinance. The request is for a variance to allow construction of a subordinate structure (porch) within the rear setback. (*Lauren Speight*)

4. Other Business

5. Adjourn



AGENDA
Regular Board of Adjustment Meeting
September 14, 2021 - 6:30 PM
Meeting Location:
Town Hall
101 Huntersville-Concord Road
Huntersville NC 28078

1. Roll Call, Determination of Quorum

Quorum was determined, and Chairman Cecil called the meeting to order.

Regular Members in attendance: Chairman E. Cecil, Vice-Chairman P. Jacobson, S. Genenbacher, J. Bradshaw, J. Loucks, and M. Bennett.

Regular Member Absent: K. Burton

Alternate Members present: K. Bray, J. Carbonell, and J. Passarelli serving as a voting member.

Chairman Cecil read the conflict of interest disclosure statement and asked all Board members if there was any conflict. There was no conflict stated.

Prior to testimony, a group attestation was completed for all new parties involved or giving testimony to the case. This included: Chris Stanley, 3715 Northside Parkway Atlanta, GA and Chris Tinklenberg 200 South Tryon, #200 Charlotte NC.

2. Approval of Minutes

2.A. Consider approval of the August 10, 2021 Regular Meeting Minutes

J. Bradshaw made a Motion to Approve the August 10, 2021, minutes. J. Passarelli seconded the motion. The motion passed (7-0).

3. Hearing of Cases

3.A. Variance 21-05, 12802 Jamesburg Drive

Chairman Cecil explained that the Board would like to reopen questions.

Lauren Speight, Planner I (also referred to herein as "staff") presented, and entered the Staff Report into the record through verbal testimony as indicated below, and written documentation, which is attached hereto as Exhibit A1, and incorporated herein by reference.

L. Speight explained that the mitigation plan presented by the applicant has been approved by all parties. She then identified on the site plan the area being mitigated and the area that will be

specified for tree save.

Chairman Cecil asked how the mitigation compensates for the two auxiliary creeks. Staff responded that the mitigated area was previously identified for specimen tree save but will now be completely undisturbed for perpetuity.

Chairman Cecil asked how the two streams got onto the CAD drawing during the later cycle but not from the beginning. Austin Watts 200 S Tryon Street, #200 Charlotte NC responded that they were imported from the beginning however the layer which caused those streams to be visible was not turned on until later.

Chairman Cecil asked Chris Tinklenberg 200 South Tryon, #200 Charlotte NC if he walked the site and observed the streams and if he informed them of the streams. He stated that he did observe the streams and the information is uploaded digitally from his findings into CAD.

Chairman Cecil asked if it was human error, how does this type of human error occur and was it intentional. A. Watts responded there are thousands of options, and it was human error that had it inadvertently turned off.

J. Passarelli asked if the omitted information was present at the time that the land was presented to the Town, if the outcome would have been any different from what is being considered today. A. Watts responded it would not, the request would have been the same, but it would have been made before the start of the construction. Staff responded that variance and mitigation options would have been the same.

Chairman Cecil asked if there was anything that could have been done differently with the building to avoid the streams. A. Watts responded that the approximately 30' vertical aspect of the topography and the streams would have forced the building to be approximately half of its total size.

S. Genenbacher asked if any part of the streams still remain since the site plan appears to have only affected about one-third of the area and if any study has been done to identify if the water that was there which will now flow to the catch pond, be cleaned and filtered and then continue on in the same stream has caused damage or improvement. A. Watts responded that the streams are completely removed and that due to Huntersville Ordinances which require water quality measures all of the water must now flow through the two parallel sand filters before going into the same stream.

A. Watts commented that the mitigation plan is a 2 to 1 so there is approximately double the square footage being preserved and that effectively makes the corner lot unbuildable.

The property owner, Chris Stanley, 3715 Northside Parkway Atlanta, GA commented that the process was not intentional or to cut corners. The mistake was human error and as soon as it was identified, all of the correct parties including Army Corp of Engineers and NCDEQ permits have been obtained for the impact.

P. Jacobson commented that the failure may not have been on purpose but there was in addition to a human error, an oversight error and a duty and responsibility that being the agent in charge of this involves.

C. Tinklenberg submitted photos of the streams in question from his initial survey of the land. J. Bradshaw made a Motion to Admit the evidence as Exhibit A without objection. In response to the statement on the oversight duties, as soon as the error was identified the owner was notified, the Army Corp of Engineers, NC Water Resources and the Town of Huntersville to determine a path forward. While this does address the buffer impact, the Army Corp of Engineers deemed it a minimal impact.

S. Genenbacher asked Staff if Mecklenburg County has accepted the mitigation and asked what the options are for the applicant if the Board does not grant the variance. Would they have to remove the

parking lot and would we then lose the tree save? Staff responded that they would be required to remove the parking lot and the tree save mitigation would likely still be required as the streams were already impacted.

Chairman Cecil closed the public discussion and asked the Board if they had any comments.

J. Passarelli commented that the result appears to be the same that would have been achieved if there had been no error and the applicant had come to the Board prior to construction.

Chairman Cecil commented that the third requirement has not been met because it specifically states that the hardship did not result from actions taken by the applicant. The actions were not taken by their applicant, but they were taken by their agent. Agency law states that the principle is responsible for the actions of the agent. Therefore, it is his position that item 3 has not been met.

J. Passarelli disagreed with Chairman Cecil and stated that the negligence is being judged versus the circumstances that would have existed without the negligence which to his understanding it is not the role of the Board to judge on the applicant's actual conduct. The situation is that if this were presented at the outset of construction it would be no significant difference from what is being considered at the moment. The only intervening factor is the negligence. If you view the situation from the initial construction that the issue of agency responsibility would not exist because it would have been an early detection which would have resulted in an application that would have been virtually identical to what is being considered now.

Chairman Cecil stated he agrees with the statement, however, that is not what is being presented now. It is being presented after the negligence. The situation as it stands now is hardship number 3 has not been met because they were caused by the agent representing the applicant.

P. Jacobson seconded Chairman Cecil's point and from a technical point item 3 has not been met. He continued that this does not mean that the variance should not be granted. It means that that point was not met. Personally, he agrees we would likely have ended up at this same point and while it bothers him that it is out of order there is a need to be pragmatic.

Chairman Cecil commented that he is not here to change any possible outcome but rather as a Chair and an attorney he is looking at what agency law is and whether it affects the voting, it may not but to him and to others we would not be here on this issue, we would have four clear hardships had this been brought up prior.

Jacob Glass, Staff Attorney requested to make a point of clarification. Chairman Cecil acknowledged. J. Glass stated that all hard hardship items must be met for the granting of a variance. Chairman Cecil stated that the Board is not bound to that requirement, they are quasijudicial. J. Glass restated that all hard hardship items must be met for the granting of a variance. Chairman Cecil commented that the Board has granted variances when all four hardships have not been met previously. J. Glass stated that the Board has not been correct in that.

J. Passarelli objected to the intervention of outside individuals that are not the Boards attorney. Chairman Cecil followed up with the statement that the Board is an equitable Board and can make equitable decisions. The meeting of all four hardships is the technical requirement however, the Board is quasijudicial and acts as judge, if a determination that three of the four hardships have been met the Board may then vote on the item as they deem equitable.

J. Passarelli made a Motion to Approve V21-05, the Board of Adjustment finds that the request meets four of the four criteria for granting a variance. The Board grants Variance 21-05 and incorporates by reference all of the findings of fact and testimony that have been presented by staff and the applicant.

Chairman Cecil commented that even though hardship three was not technically met the Boards motion

finds all four have been met.

J. Bradshaw seconded the motion. The motion passed unanimously (7-0).

4. Other Business

Chairman Cecil commented that he has not been able to meet with the three alternates regarding the corrections to the Rules of Procedure. He then reviewed the potential scheduling for October and asked the Board if they would have any objection to a Special Meeting being called after the Rules of Procedure have been updated by himself and P. Jacobson. There was no objection.

5. Adjourn

J. Passarelli made a Motion to Adjourn. M. Bennett seconded the motion. The motion passed unanimously (7-0).

**Town of Huntersville
Board of Adjustment
October 12, 2021**

To: Town Board

From: Lauren Speight, Planner II

Date: October 12, 2021

Subject: V 21-11

EXPLAIN REQUEST:

Variance # 21-11 is a request by Louis F Molnar Jr from Article 3.2.3(d) (3) and Article 2.3.1 of the Huntersville Zoning Ordinance. The request is for a variance to allow construction of a subordinate structure (porch) within the rear setback.

ACTION RECOMMENDED:

Consider a decision on V21-11.

FINANCIAL IMPLICATIONS:

N/A

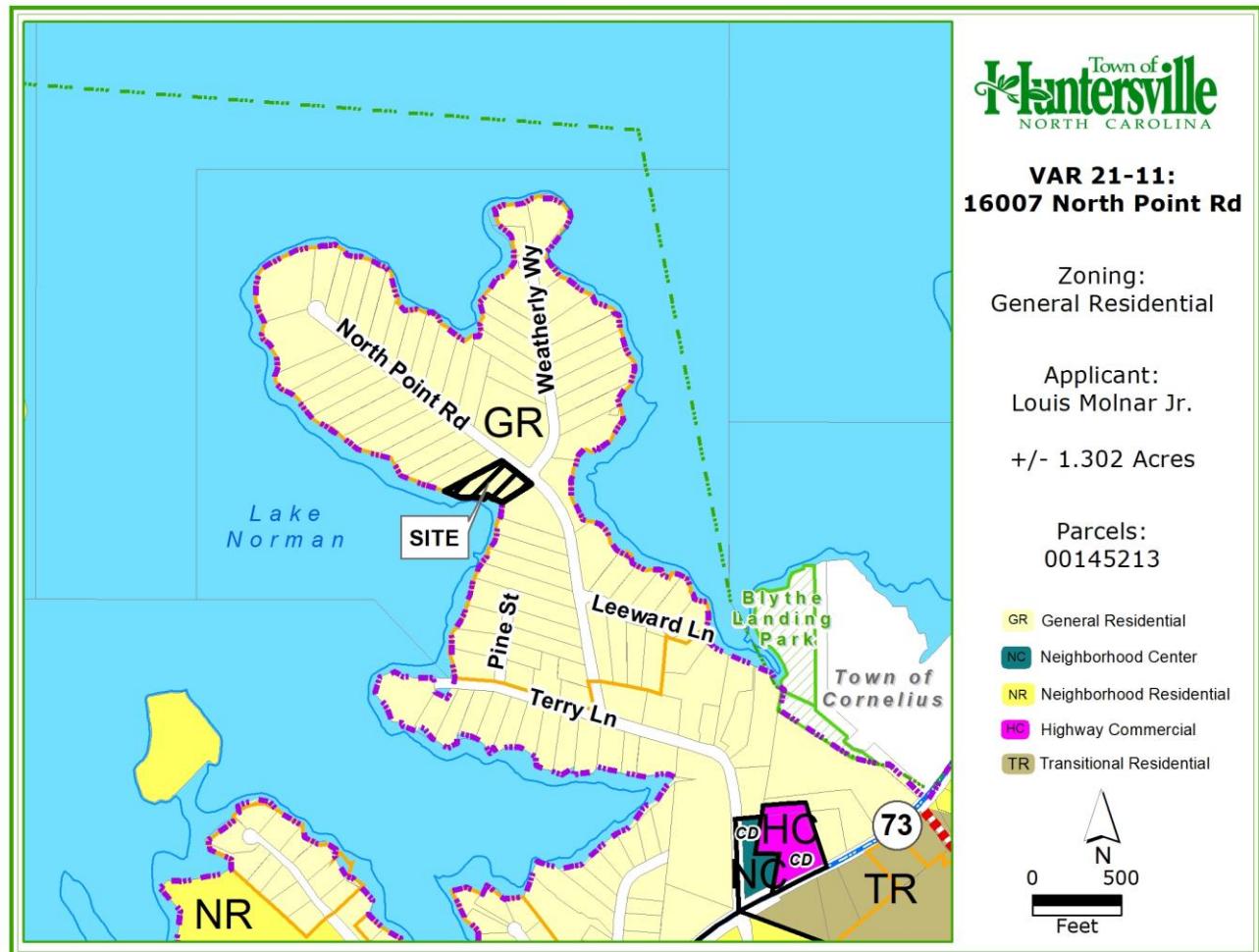
ATTACHMENTS:

1. V21-11 Staff Report_10.12.21_v2
2. Exhibit 1 - Variance Application - 16007 North Point Rd
3. Exhibit 2 - Plat MB 21 P 47
4. Exhibit 3 - Building Information
5. Exhibit 4 - MB 30 P 939 Annexation Map
6. Exhibit 5 - North Point Road

V 21-11, 16007 NORTH POINT ROAD
Parcel ID 00145213

Case #: V21-11
Address: 16007 North Point Road, Huntersville, NC 28078
Parcel #: 001-452-13
Acreage: 1.302 acres
Property Owner/Applicant: Louis F Molnar, Jr and Kari C Molnar
Owner/Applicant Address: 16007 North Point Road, Huntersville, NC 28078
Staff: Lauren Speight – Planner II

The applicant, Louis F Molnar, Jr, is requesting a variance from **Article 3.2.3(d) (3) and Article 2.3.1 of the Huntersville Zoning Ordinance**. The request is for a variance to allow construction of a subordinate structure (porch) within the rear set-back.



BACKGROUND:

1. The subject property is included within the map showing a portion of Phase II, Map 2 of Lookout Point (Map Book 21, Page 47) that was recorded August 22, 1985. (Exhibit 2 - Staff)
2. According to Mecklenburg County Property records the single family detached home at the property was built in 1986. (Exhibit 3 - Staff)

3. Historical imagery recorded by Polaris 3G or Google Earth Pro shows, the home has always existed as it is currently.

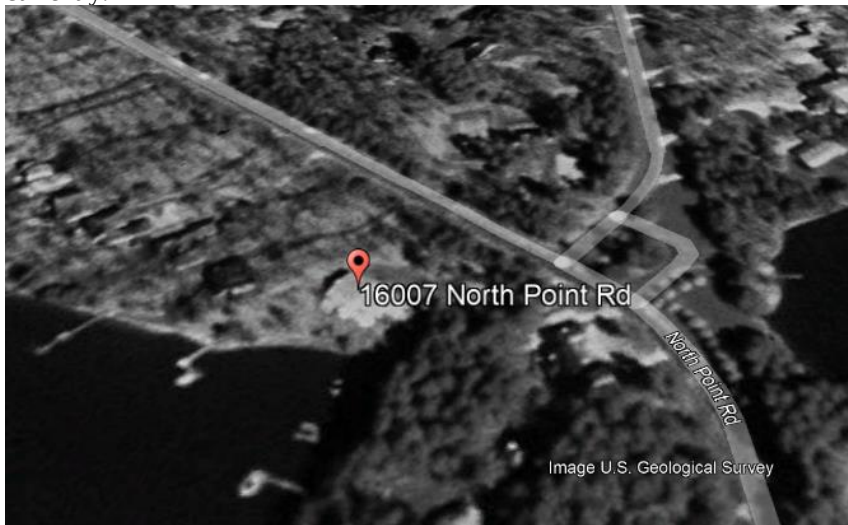


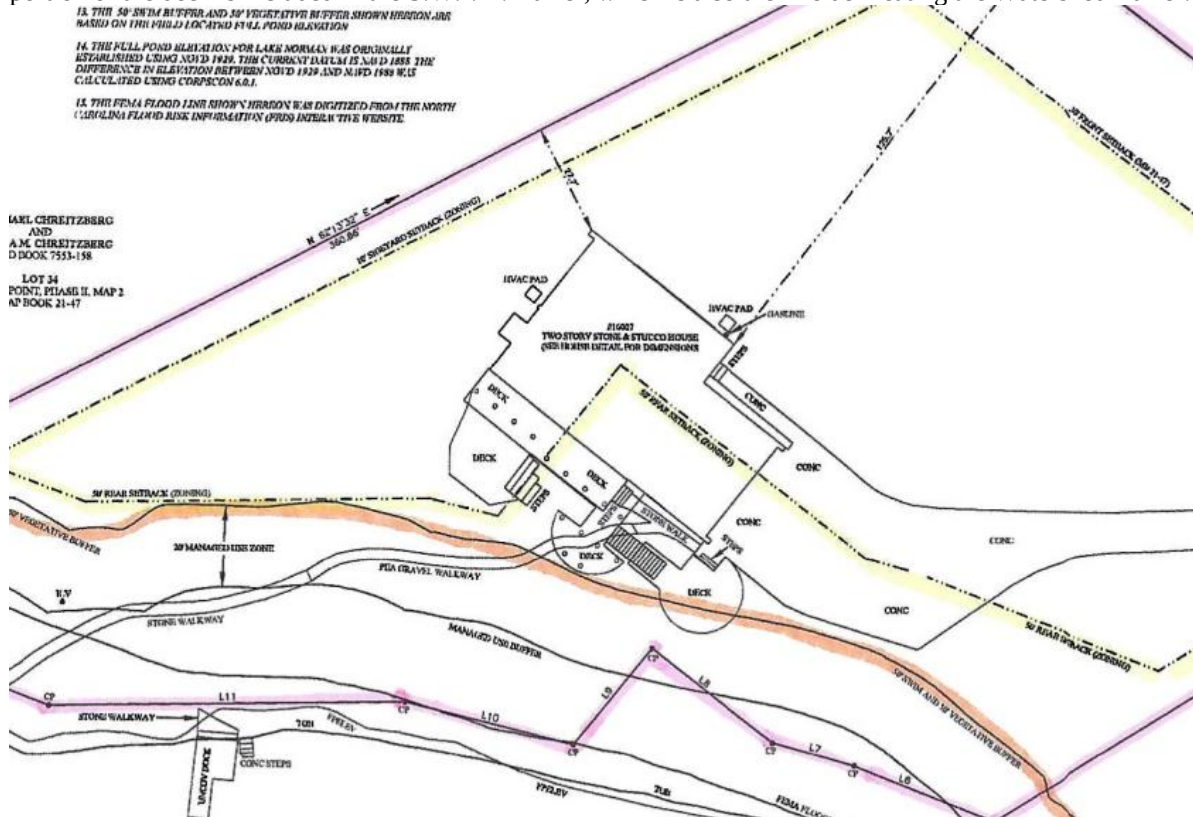
Image obtained from Google Earth dated March 1998



Image obtained from Google Earth dated April 2002

4. The current Zoning Ordinance was adopted November 1996 including the General Residential Zoning District.
5. The subject property was included in the area annexed into the Town of Huntersville by Ordinance #9702, which was adopted May 20, 1997. (Exhibit 4 - Staff)
6. The subject property, Parcel ID 001-452-13 is currently zoned General Residential, GR.
7. The subject property is located within the Lake Norman Critical Area Watershed.
8. The map that creates the subject property records a minimum front building setback line.
9. While the recorded plat that includes the subject property establishes the minimum front setback for the subject property, it does not record side and rear yard setbacks.
10. S.W.I.M. Buffer requirements became applicable October 19, 1999. The subject property is exempt from S.W.I.M. Buffer requirements because the property is subject to a recorded final plat.
11. Staff was initially contacted in July 2021 by the current property owner when they were considering purchasing the property about options to expand the existing structure. Staff replied to inquire if the property had obtained a current property survey given the significant impact of the Watershed Buffer for the property. The property owners replied they were obtaining a survey.
12. The property was purchased by the current owner on August 10, 2021.

13. Staff was subsequently contacted for follow-up by the current property owner with the survey included in the variance application as Exhibit #1 about the development options under the proposed Ordinance.
14. As shown within Exhibit #1 of the variance application, the survey included in the variance application shows a portion of the deck is included in the S.W.I.M. Buffer, which is also the line delineating the Watershed Buffer.



15. As shown within the survey included in the variance application, the minimum rear yard setback bisects the home parallel with the rear yard property line.
16. Per Article 3.2.3 (d) (3), in the absence of a subdivision sketch or preliminary plan approved prior to the effective date of this ordinance, the following lot dimensions shall apply:

Minimum Lot Size	Minimum Lot Width	Minimum Front Yard Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Minimum Corner Lot Side Yard Setback
20,000 square feet	90 feet	40 feet	50 feet	10 feet	20 feet

17. Exhibit #3 of the variance application demonstrates the expansion of the home proposed and the proposed removal of the section of deck that encroaches into the Watershed Buffer. The hatched area is intended to be expanded vertically. The property owner proposes to add a covered porch in the sections labeled "1," "2," and "3." Section 1 of the proposed covered porch is compliant with the rear setback. Section 2 is permitted per Article 8.8.9 of the Zoning Ordinance. Section 3 of the proposed covered porch exceeds the setback of the General Residential Zoning District, the allowed expansion per Article 8.8.9 of the Zoning Ordinance and allowed expansion per Article 2.3.1 of the Zoning Ordinance.
18. Article 8.8.9 allows subordinate structures attached to single family homes, such as decks, garages, porches, utility rooms, and similar features may extend into the required rear yard up to 25% of its depth, and may consume up to 20% of its area. However, such extensions may not exceed 50% of the width of the dwelling at the rear building line.
19. Because the Watershed Buffer and minimum rear yard setbacks encroach within the home, the home is considered a non-conforming structure and is subject to Article 11.5.3 for any redevelopment.
20. Per Article 11.5.3, non-conforming structures are permitted normal repair and maintenance to allow the continuation the nonconforming structure.
21. The expansion of non-conforming structures must comply with the criteria of Section 2.3 of the Zoning Ordinance.

22. Per Article 2.3 of the Zoning Ordinance:

.1 Individual structures which become non-conforming as of the effective date of these regulations may be expanded upon a finding by the Planning Director that:

- a. the proposed expansion meets the requirements of these regulations to the extent practicable, given the shape and topography of the tract and the location of existing buildings and site improvements; and
- b. the proposed expansion does not cause the structure to exceed maximum building size for the district; and
- c. the development site taken as a whole, including parking, sidewalks, screening, landscaping and signage, will be brought into conformance with these regulations to the extent practicable.

Subsection “b” of Article 2.3.1 does not apply as there is no maximum building size for single family detached homes for the General Residential Zoning District. Subsection “c” of Article 2.3.1 does not apply as there are no parking, sidewalk, screening, landscaping requirements applicable and signage is not the subject of the variance application request.

23. Staff met with the owner of the subject property August 31, 2021 to discuss the proposed development at the property, which elements of the proposed development were compliant, which were not, applicable Zoning Ordinances, and the variance process. The property owner subsequently submitted their variance application.

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. When the map of the area including the subject property was recorded, the area was not within the zoning jurisdiction of the Town of Huntersville.
- B. The map that records the subdivision of land including this subject property only records a minimum front yard setback.
- C. Because the original subdivision map does not record minimum side and rear yard setbacks, the adoption of the 1996 Zoning Ordinance imposed the current side and rear yard minimum setbacks upon the property.
- D. Based on historical imagery, the existing home including the entire section of the home that encroaches into the setback is original to the first home build in 1986.
- E. The minimum setbacks of the General Residential Zoning District included in the 1996 Zoning Ordinance and the subsequent annexation of the area including the subject property imposed the current rear yard setback that made the single-family home a non-conforming structure.
- F. Because the rear setback bisects the property any expansion of the structure may not meet the requirements of Article 2.3.1 (a) because any rear expansion of the existing structure would be within the rear setback or Watershed Buffer.
- G. While there is no record of the original building permit and setbacks applied for the building permit application, there is no previous variance for the property to indicate the property received a variance for the placement of the home.

- 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 person with a disability.*

Staff Findings:

- A. Exhibit 1 of the variance application demonstrates the property has an irregular rear property line. And, thus, the property has an irregular rear yard setback line.
- B. Most of the surrounding properties have relatively straight rear yard property lines in comparison to the subject property and an irregular rear yard property line is not common to the neighborhood. (Exhibit #5 – Staff)
- C. While the other properties within the area subdivided with the subject property also became subject to the minimum rear yard setback for the General Residential Zoning District, the
- D. Because the map that records the subdivision of land including this subject property only records a minimum front yard setback, the property was forced to adopt the minimum setbacks of the General Residential Zoning District 11 years after the construction of the home.

- 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 current property owner was not involved in the original subdivision of the area including the subject parcel and was not the original builder of the home on the subject property.

- 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. While not required, the applicant proposes to remove the section of the rear deck that encroaches into the Watershed Buffer.
- B. The proposed expansion is above existing impervious area for the property and will not encroach into the Watershed Buffer.
- C. The proposed expansion will be approximately 80 ft from the adjoining property line to the east and approximately 200 ft from the adjoining home to the east.

STAFF POSITION:

The applicant is seeking a variance from Article 3.2.3(d) (3) and Article 2.3.1 of the Huntersville Zoning Ordinance. Article 3.2.3 (d) (3) sets the minimum lot dimensions and setbacks for new lots in the General Residential Zoning District and properties, such as the subject property, that do not have a final plat that does not record setbacks. Article 2.3.1 sets the requirements for expansion for non-conforming structures. Staff find that while the final plat for the property does not record rear and side yard setbacks, the regulations of the Zoning Ordinance for the rear setbacks in the General Residential Zoning District in conjunction with the unique rear setback line create an unnecessary hardship for compliant expansion for the property owner. The current property owner was not involved with the original subdivision or home construction. The proposed expansion is above existing impervious area and a significant distance from the adjoining side-yard property line and neighboring home. Additionally, the property owner proposes to remove the portion of the home within the Watershed Buffer and does not propose to encroach in the Watershed Buffer with the expansion. Staff finds the application meets the four requirements for granting a variance and therefore recommend approval of the request based on the below Staff Findings:

- 1. The subject property is included within the map showing a portion of Phase II, Map 2 of Lookout Point (Map Book 21, Page 47) that was recorded August 22, 1985. (Exhibit 2 - Staff)
- 2. According to Mecklenburg County Property records the single family detached home at the property was built in 1986. (Exhibit 3 - Staff)
- 3. When the map of the area including the subject property was recorded, the area was not within the zoning jurisdiction of the Town of Huntersville.
- 4. As far as historical imagery recorded by Polaris 3G or Google Earth Pro shows, the home has always existed as it is currently.



Image obtained from Google Earth dated March 1998



Image obtained from Google Earth dated April 2002

5. The current Zoning Ordinance was adopted November 1996 including the General Residential Zoning District.
6. The subject property was included in the area annexed into the Town of Huntersville by Ordinance #9702, which was adopted May 20, 1997. (Exhibit 4 - Staff)
7. The subject property, Parcel ID 001-452-13 is currently zoned General Residential, GR.
8. The subject property is located within the Lake Norman Critical Area Watershed.
9. The map that creates the subject property records a minimum front building setback line.
10. While the recorded plat that includes the subject property establishes the minimum front setback for the subject property, it does not record side and rear yard setbacks.
11. Because the original subdivision map does not record minimum side and rear yard setbacks, the adoption of the 1996 Zoning Ordinance imposed the current side and rear yard minimum setbacks upon the property.
12. S.W.I.M. Buffer requirements became applicable October 19, 1999. The subject property is exempt from S.W.I.M. Buffer requirements because the property is subject to a recorded final plat.
13. Because the rear setback bisects the property any expansion of the structure may not meet the requirements of Article 2.3.1 (a) because any rear expansion of the existing structure would be within the rear setback or Watershed Buffer.

19. As shown within the survey included in the variance application, the minimum rear yard setback bisects the home parallel with the rear yard property line.
20. Exhibit 1 of the variance application demonstrates the property has an irregular rear property line. And, thus, the property has an irregular rear yard setback line.
21. Most of the surrounding properties have relatively straight rear yard property lines in comparison to the subject property and an irregular rear yard property line is not common to the neighborhood. (Exhibit #5 – Staff)
22. While the other properties within the area subdivided with the subject property also became subject to the minimum rear yard setback for the General Residential Zoning District, the
23. Because the map that records the subdivision of land including this subject property only records a minimum front yard setback, the property was forced to adopt the minimum setbacks of the General Residential Zoning District 11 years after the construction of the home.
24. Per Article 3.2.3 (d) (3), in the absence of a subdivision sketch or preliminary plan approved prior to the effective date of this ordinance, the following lot dimensions shall apply:

Minimum Lot Size	Minimum Lot Width	Minimum Front Yard Setback	Minimum Rear Yard Setback	Minimum Side Yard Setback	Minimum Corner Lot Side Yard Setback
20,000 square feet	90 feet	40 feet	50 feet	10 feet	20 feet

25. Exhibit #3 of the variance application demonstrates the expansion of the home proposed and the proposed removal of the section of deck that encroaches into the Watershed Buffer. The hatched area is intended to be expanded vertically. The property owner proposes to add a covered porch in the sections labeled “1,” “2,” and “3.” Section 1 of the proposed covered porch is compliant with the rear setback. Section 2 is permitted per Article 8.8.9 of the Zoning Ordinance. Section 3 of the proposed covered porch exceeds the setback of the General Residential Zoning District, the allowed expansion per Article 8.8.9 of the Zoning Ordinance and allowed expansion per Article 2.3.1 of the Zoning Ordinance.
26. Article 8.8.9 allows subordinate structures attached to single family homes, such as decks, garages, porches, utility rooms, and similar features may extend into the required rear yard up to 25% of its depth, and may consume up to 20% of its area. However, such extensions may not exceed 50% of the width of the dwelling at the rear building line.
27. Because the Watershed Buffer and minimum rear yard setbacks encroach within the home, the home is considered a non-conforming structure and is subject to Article 11.5.3 for any redevelopment.
28. Per Article 11.5.3, non-conforming structures are permitted normal repair and maintenance to allow the continuation the nonconforming structure.
29. The expansion of non-conforming structures must comply with the criteria of Section 2.3 of the Zoning Ordinance.
30. Per Article 2.3 of the Zoning Ordinance:
 - .1 Individual structures which become non-conforming as of the effective date of these regulations may be expanded upon a finding by the Planning Director that:
 - a. the proposed expansion meets the requirements of these regulations to the extent practicable, given the shape and topography of the tract and the location of existing buildings and site improvements; and
 - b. the proposed expansion does not cause the structure to exceed maximum building size for the district; and
 - c. the development site taken as a whole, including parking, sidewalks, screening, landscaping and signage, will be brought into conformance with these regulations to the extent practicable.

Subsection “b” of Article 2.3.1 does not apply as there is no maximum building size for single family detached homes for the General Residential Zoning District. Subsection “c” of Article 2.3.1 does not apply as there are no parking, sidewalk, screening, landscaping requirements applicable and signage is not the subject of the variance application request.
31. Staff met with the owner of the subject property August 31, 2021 to discuss the proposed development at the property, which elements of the proposed development were compliant, which were not, applicable Zoning Ordinances, and the variance process. The property owner subsequently submitted their variance application.
32. While not required, the applicant proposes to remove the section of the rear deck that encroaches into the Watershed Buffer.
33. The proposed expansion is above existing impervious area for the property and will not encroach into the Watershed Buffer.
34. The proposed expansion will be approximately 80 ft from the adjoining property line to the east and approximately 200 ft from the adjoining home to the east.

EXAMPLE MOTION: V21-11, 16007 North Point Rd, Parcel ID 001-452-13, Huntersville, NC 28078

Planning Department	Board of Adjustment
APPROVAL: In considering the application for V21-11, a request by , Louis F Molnar, Jr for a variance from Article 3.2.3(d) (3) and Article 2.3.1 of the Huntersville Zoning Ordinance, the Planning Department recommends approval of the variance request based on a finding that the request meets all of the four criteria, outlined in the Zoning Ordinance for granting a variance.	APPROVAL: : In considering the application for V21-11, a request by , Louis F Molnar, Jr for a variance from Article 3.2.3(d) (3) and Article 2.3.1 of the Huntersville Zoning Ordinance, the Board of Adjustment recommends approval of the variance request based on a finding that the request meets four of the four criteria, outlined in the ZONING ORDINANCE, for granting a variance. The Board of Adjustment finds the request meets four of the four criteria for granting a variance. The Board grants Variance _____ and incorporates (Staff/Applicant's – please choose one) Findings of Fact for the standards to grant a variance. <u>OR</u> The Board grants Variance _____ based on the following Findings of Fact: (explain the findings of fact for each of the 4 standards). If conditions are to be added: This variance is granted based on the condition(s)_____.
	DENIAL: : In considering the application for V21-11, a request by , Louis F Molnar, Jr for a variance from Article 3.2.3(d) (3) and Article 2.3.1 of the Huntersville Zoning Ordinance, the Board of Adjustment recommends denial of the variance request based on a finding that the request meets _____ of the four criteria, outlined in the ZONING ORDINANCE, for granting a variance. The Board of Adjustment finds the request does not met the criteria for granting a variance based on the following findings of fact: <i>(explain findings of fact)</i>

Exhibit 1 – Variance Application

Exhibit 2 – Plat Map

Exhibit 3 – Building Information

Exhibit 4 – Annexation Map

Exhibit 5 – Aerial of Vicinity



Variance Application

Date of Application: 09/10/21

Property/Building Address: 16007 North Point Rd Parcel Size (ac): 1.302

Tax Parcel ID (PIN) Number: 00145213

Ordinance to be Varied

Ordinance (Zoning, Floodplain, etc.): Zoning Article: Article : 3.2.3 (d)(3) - Setbacks for GR Zoning District
Article : 2.3.1 - Expansion/Redevelopment of Existing Structures & Projects Section: _____

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.):

SEE ATTACHMENT

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/ (Select How Do I > Pay Planning and Zoning Fees)
- Email completed application to 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.

See Attachment page 2

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.

See Attachment page 2

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.

See Attachment page 2

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.

See Attachment page 2

Applicant

Printed Name Louis Molnar Jr Phone 704-578-0846

☐ 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 [Signature] Date 09/08/21

Title Home Owner Applicant Phone 704-578-0846

Applicant Email loumolnar@hotmail.com

Address of Applicant 16007 North Point 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.**

Attachment for Variance Application

16007 North Porth Road; Parcel ID 00145213

Page 1 of 2

List of addresses that abut the site:

16015 North Point Road

Parcel ID 00145214

Michael & Lucinda Chreitzberg

15915 North Point Road

Parcel ID 00145212

Michael & Linda Bonasso

Description of Variance Request:

I am requesting a variance to redevelop an existing structure that **partially** lies within the rear setback; this request is to convert unheated space (garage) to heated space. The area of redevelopment within the setback is approximately 520sqft (see Exhibits 2 & 3). The redevelopment will utilize the **existing** footprint, part of which is NOT in the setback, and then expanding forward from the rear setback. The redevelopment will also have a 2nd level directly above the 520sqft. accessed by existing stairs within the house.

This redevelopment includes an addition of a covered porch that encroaches into the rear setback; it would encroach 20' into the setback and have a porch depth of 12' to give an area 240 sqft (see Exhibit 3). Using Article 8.8.9 to allow for a subordinate structure to encroach into the rear setback I would be allowed to encroach 12.5' and have an area of 3000 sqft (50 ft setback X 300 ft of shoreline X 0.2) . I am under the area criteria. As a result, I am requesting a variance for the additional 7.5' of covered porch to encroach into the setback to architecturally flow with the redevelopment of the existing structure. The area would be $7.5 \times 12 = 90$ sqft

In an effort to bring the property more into compliance with today's ordinances I would remove some nonconforming structures; 2 existing decks and a long (tall) set of stairs that lie in the setback AND lie in the swim buffer; these decks total approximately 512 sqft. See Exhibits 2 & 4.

Exhibit #1 – Property Survey

Exhibit #2 – Enlarged Survey showing how setbacks relate to the existing structures

Exhibit #3 – Redevelopment Proposal

Exhibit #4 – Photo of Nonconforming structures to be removed

Attachment for Variance Application

16007 North Porth Road; Parcel ID 00145213

Page 2 of 2

Standards for Granting Variance

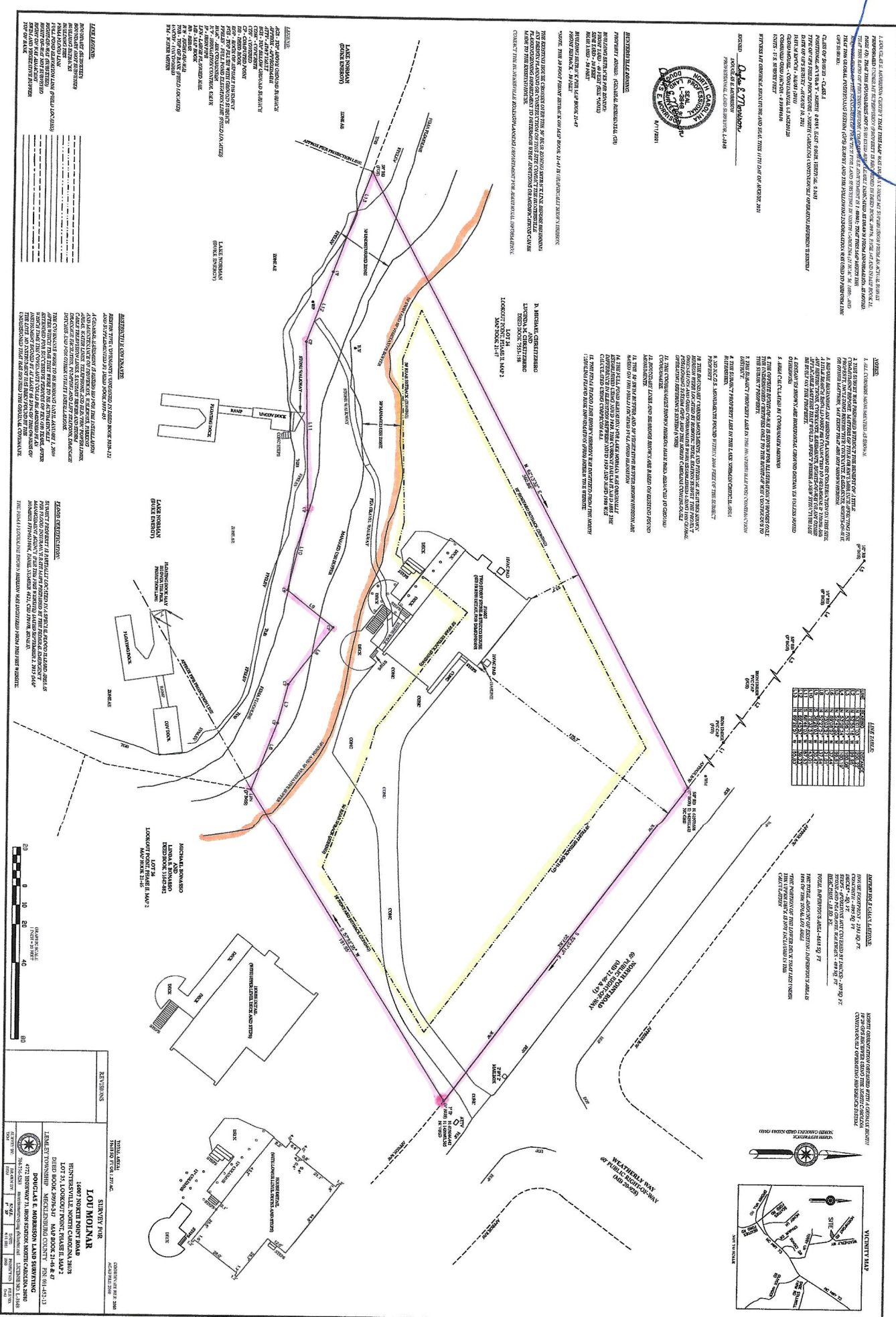
1. Unnecessary hardship would result from the strict application of the ordinance.
 - a. The house was built in 1986 using the setbacks of that time; the unique characteristics of the property line have made to current setbacks an unnecessary hardship for the redevelopment of the existing structure. The current setback line runs through approximately 1/3 of the structure; both heated and unheated.
 - b. The current setback creates a situation where redeveloping space that does NOT lie in the setback would require redeveloping space that DOES lie in the setback since it's the same "room"; in other words, the room straddles the setback line.
 - c. Because of how the house is positioned I could not redevelop a significant portion of the house that is NOT in the setback (this is a result of the unique property line that creates a unique setback line)
 - d. In order to redevelop the areas NOT in the setback I need to be able to redevelop the space that IS in the setback
2. Hardship results from conditions that are peculiar to the lot:
 - a. The property line for this lot is peculiar in that it does not follow the contour of the lake and has 1 specific spot where it zig-zags sharply to create this unusual setback line that ends up running through the existing structure
 - b. Reviewing the other lots on Polaris for the Lookout Point neighborhood revealed that no other lot had such a peculiar property line that resulted in the peculiar setback.
 - c. In addition, there is no record of the original setback and as a result the current setback applies.
 - d. The angle of the house as it sits on the lot per the setbacks of 1986 did not take into account how future development could be affected by ordinance changes
3. Hardship not by actions taken by applicant:
 - a. House was built in 1986 using the setbacks at the time
 - b. There is NO record of original setbacks, as a result, current setbacks create challenges for the redevelopment of the existing footprint.
4. The requested variance is in the spirit, purpose, and intent of the ordinance:
 - a. I am proposing to bring the property MORE into compliance by removing existing decks of approximately 512 sqft. and stairs that are in the setback and the swim buffer (see decks shaded in pink for removal on Exhibit 2) Also see Exhibit 4.
 - b. I am proposing to redevelop existing space from unheated to heated using the existing footprint and expanding forward.
 - c. This redevelopment plan was designed to bring the house/property up today's standards while making the house more suited to the existing neighborhood

Exhibit 1
SURVEY

Property line

Setback

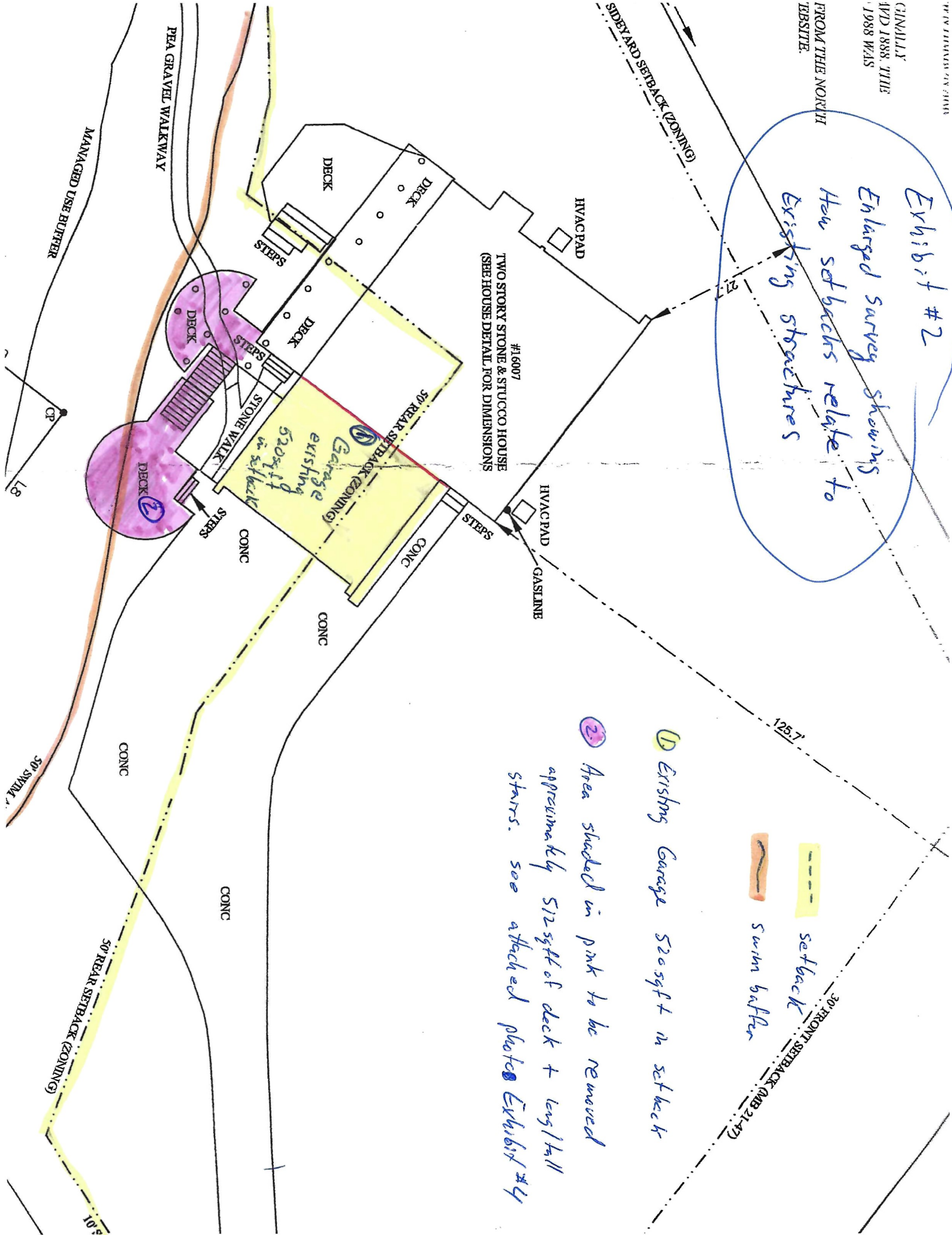
Swim buffer



CIN/LLJ
JWD 1888, TUE
1988 WAS

FROM THE NORTH
TESITE

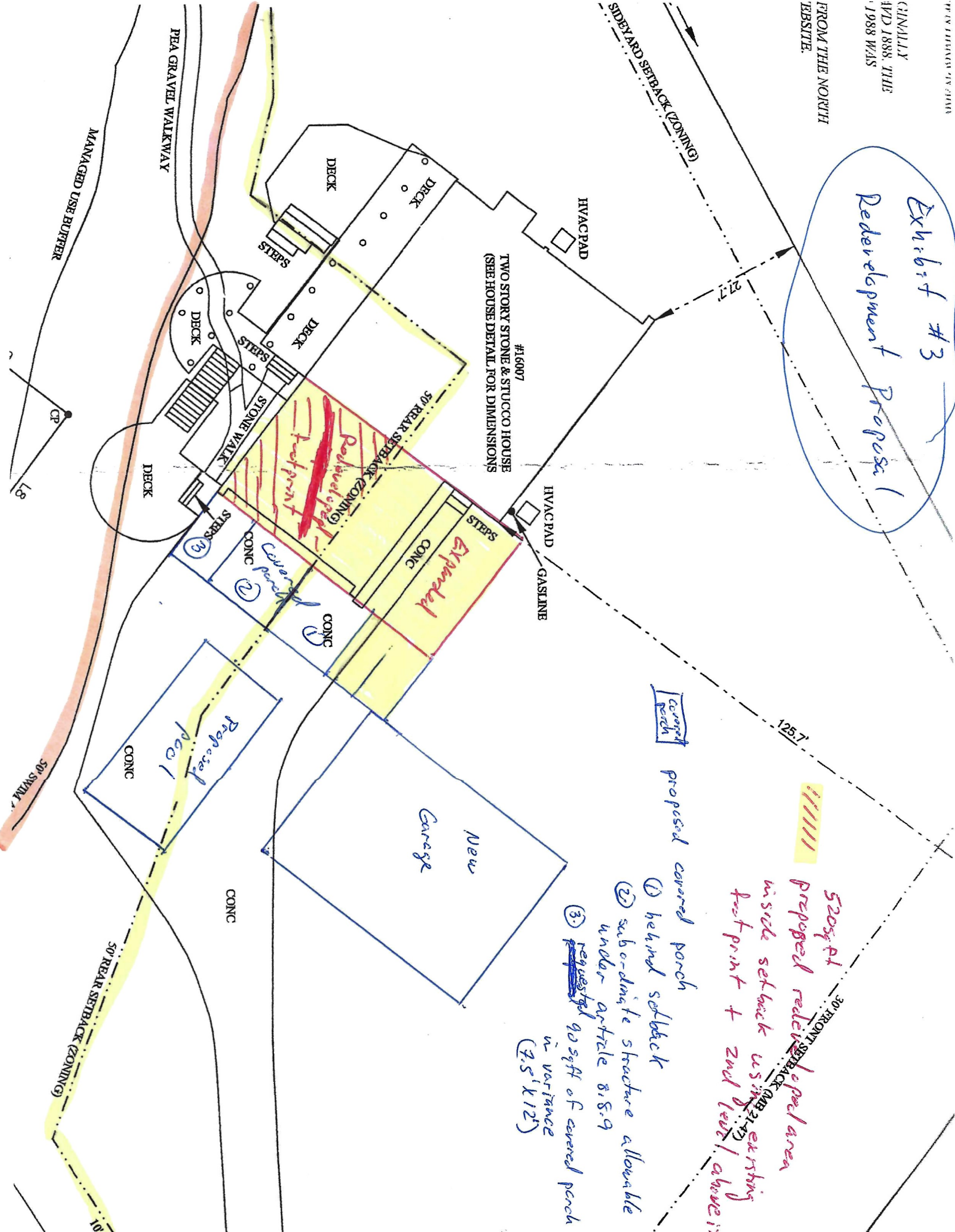
Exhibit #2
Enlarged survey showing
How setbacks relate to
Existing structures



CINALLY
WED 1888. THE
1988 WAS

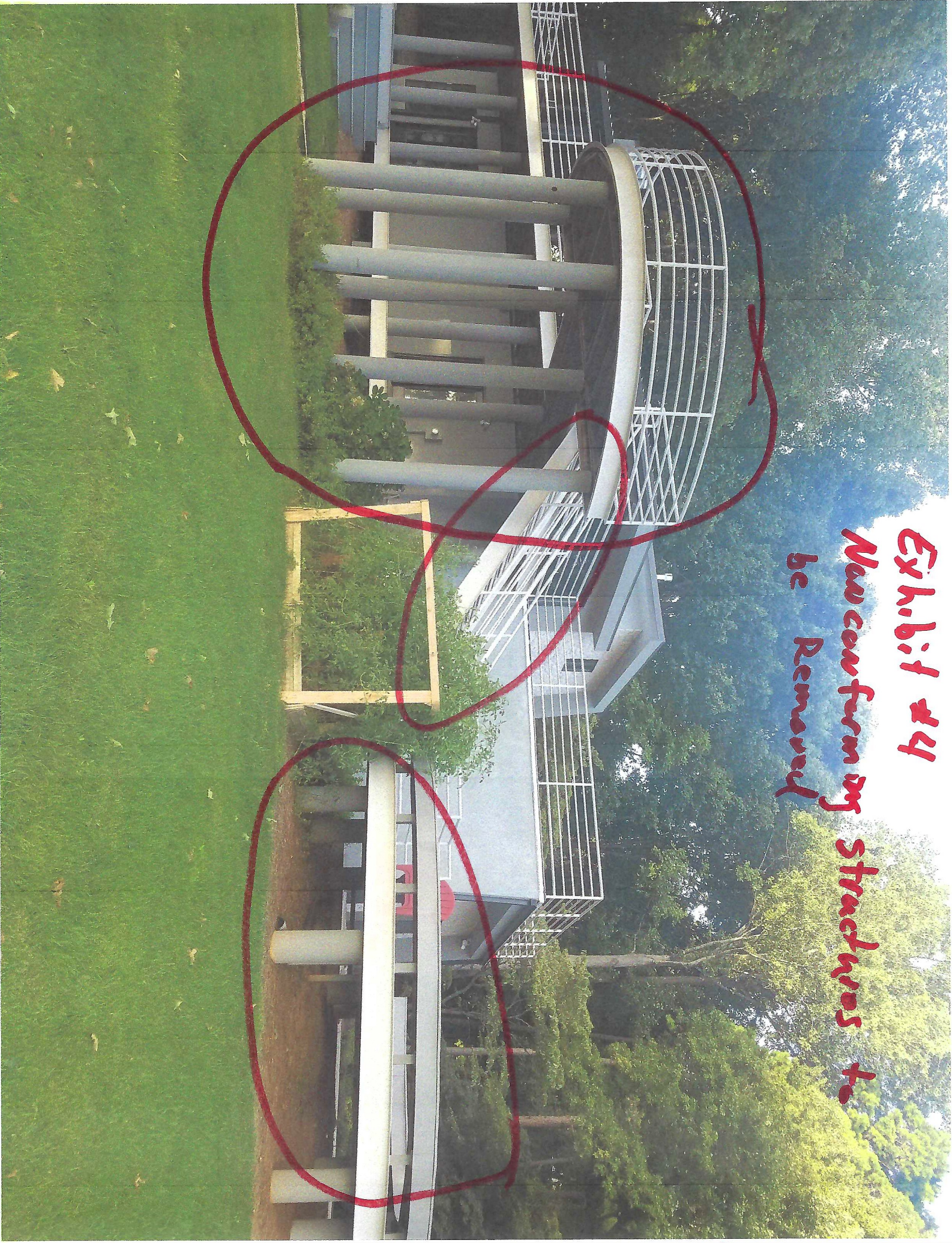
FROM THE NORTH
WEBSITE.

Exhibit #3
Redevelopment Proposal



- 520541
PROPOSED REDEVELOPED AREA
INSIDE SETBACK USING EXISTING
FOOTPRINT + 2ND LEVEL ABOVE IT
- 30' FRONT SETBACK (AMB 21-47)
- PROPOSED COVERED PORCH
- ① behind setback
 - ② sub-grade structure allowable under article 8.8.9
 - ③ ~~requested~~ 90 sqft of covered porch in variance (7.5' x 12')

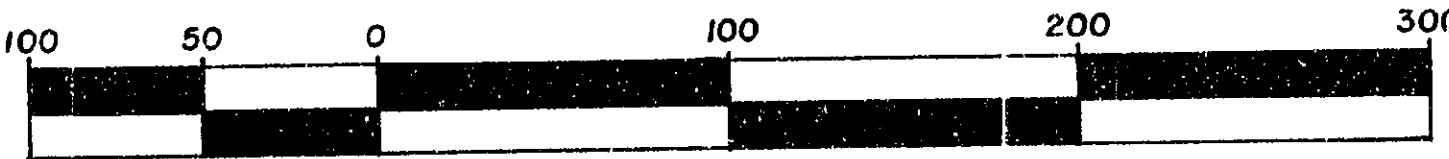
Exhibit #4
Nonconforming Structures to
be Removed



A MAP SHOWING A
PORTION OF
PHASE II, MAP 2
LOOKOUT POINT
LEMLEY TOWNSHIP, MECKLENBURG COUNTY, N.C.
PROPERTY OF MARTIN DEVELOPMENT GROUP
SCALE: 1" = 100'
DATE: JULY 18, 1985
R.B. PHARR & ASSOC., P.A.
REGISTERED SURVEYORS
CHARLOTTE, N.C.

Map Book 21 Page 47

PRESENTED
FOR
REGISTRATION
Aug 22 10 28 AM '85
CHARLES E. CROWDER
REGISTER OF DEEDS
MECKLENBURG CO. N.C.



NOTE: IRON PINS AT ALL PROPERTY CORNERS
UNLESS OTHERWISE NOTED.

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

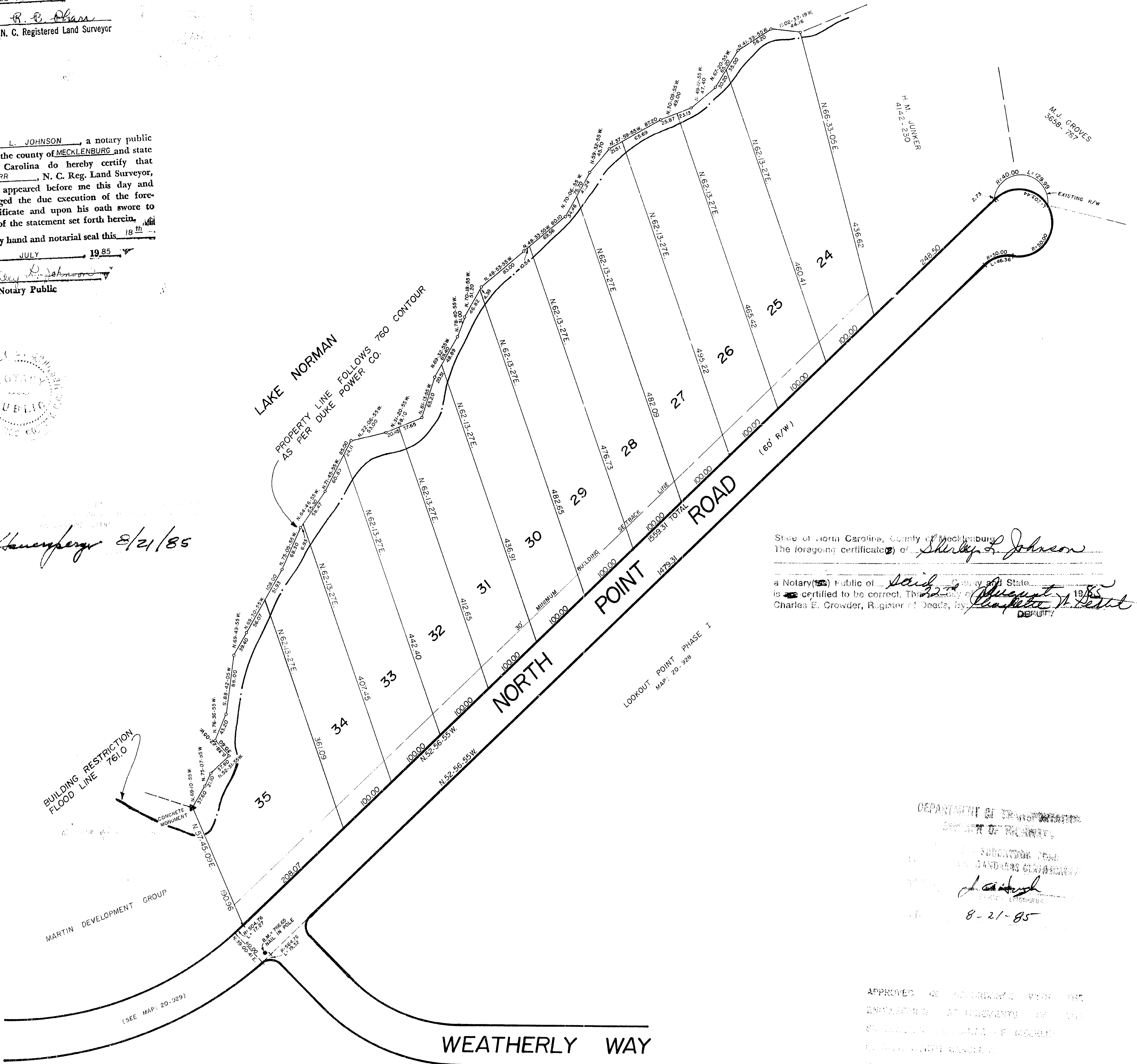
The undersigned surveyor, being duly sworn,
deposes and says that the plat upon which this
certificate appears was prepared in accordance
with G. S. 47-30 as amended, is in all respects
correct according to the best of his knowledge
and belief, and was prepared from an actual
survey made by him on the 18th day of
JULY, 1985, with
a maximum linear error of closure of 1:10,000
and a maximum field error of angular closure
of 7.5 SECONDS PER ANGLE.

Signed R. B. Pharr
N. C. Registered Land Surveyor

I, SHIRLEY L. JOHNSON, a notary public
in and for the county of MECKLENBURG and state
of North Carolina do hereby certify that
R. B. PHARR, N. C. Reg. Land Surveyor,
personally appeared before me this day and
acknowledged the due execution of the fore-
going certificate and upon his oath swore to
the truth of the statement set forth herein.
Witness my hand and notarial seal this 18th
day of JULY, 1985.
Shirley L. Johnson
Notary Public



R. B. Pharr 8/21/85



State of North Carolina, County of Mecklenburg
The foregoing certificate of Shirley L. Johnson

a Notary Public of Mecklenburg County and State
is certified to be correct. This day of August, 1985
Charles E. Crowder, Register of Deeds, by Charles E. Crowder
DEPUTY

DEPARTMENT OF TRANSPORTATION
OFFICE OF HIGHWAYS
SUBDIVISION ENGINEER
J. A. [Signature]
8-21-85

APPROVED FOR RECORDING BY THE
ENGINEER OF HIGHWAYS OF THE
STATE OF NORTH CAROLINA
[Signature]
8-21-85
E. K. Hoffman



KEY INFORMATION

Land Use Code	R122	Neighborhood	A120
Land Use Desc	SINGLE FAMILY RESIDENTIAL - WATERFRONT	Land	1 WATERFRONT
Exemption / Deferment	-	Municipality	HUNTERSVILLE
Last Sale Date	07/08/2016	Fire District	HUNTERSVILLE
Last Sale Price	\$880,000	Special District	FIRE SERVICE D
Legal Description	L35 M21-47		

ASSESSMENT DETAILS

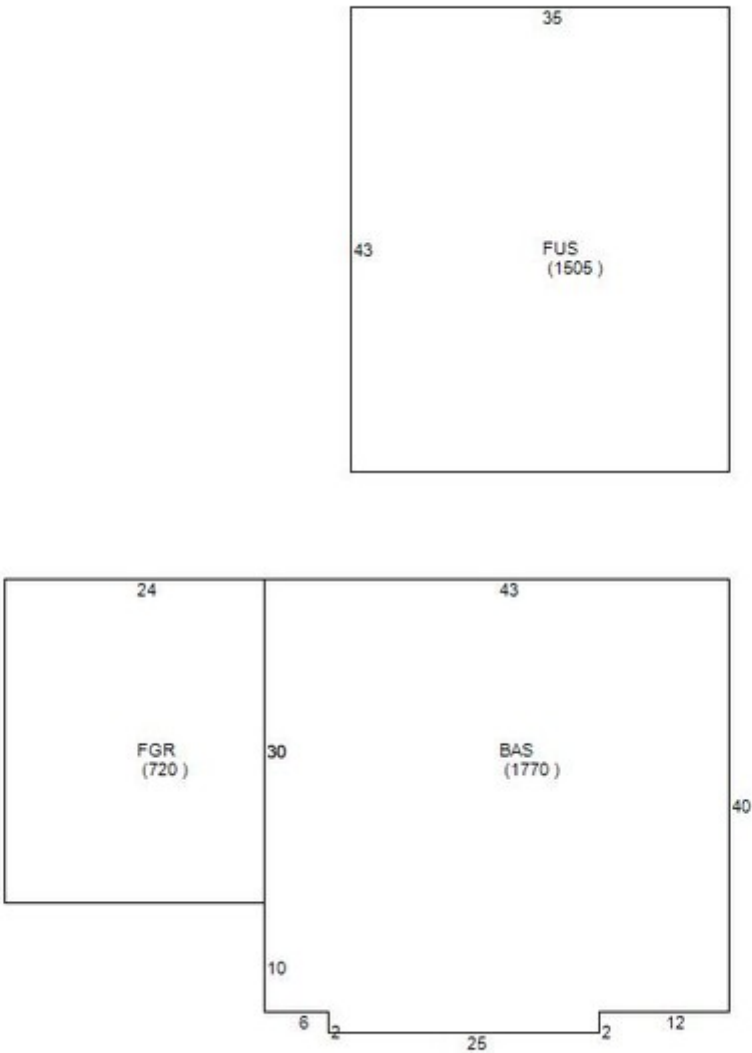
2021 Real Estate Assessed Value	
Land Value	\$511,900
Building Value	\$323,700
Features	\$31,100
Total	\$866,700

LAND

USE	UNITS	TYPE	NEIGHBORHOOD	ASSESSMENT
R122	1	WATERFRONT	A120	\$511,900

BUILDING

Year Built	1986
Built Use / Style	SINGLE FAMILY RESIDENTIAL
Story	2.0 STORY
Heat	HEAT PUMP
Fuel	ELECTRIC
Foundation	SLAB-RESIDENTIAL
External Wall	STUCCO, HARDCOAT
Fireplace(s)	1
Full Bath(s)	2
Half Bath(s)	1
Bedroom(s)	4
Total (SqFt)	3,995



FEATURES

YEAR BUILT	TYPE	QUANTITY	UNITS	VALUE
1986	PIER	1	140	\$2,500

RECENT SALES HISTORY

PARCEL ID: 00145213
**16007 NORTH POINT
RD HUNTERSVILLE NC**

MOLNAR LOUIS F JR,MOLNAR KARI C
PO BOX 2570
DAVIDSON NC 28036

Total Appraised Value
\$866,700

SALE DATE	SALE PRICE	LUC AT SALE	LEGAL REFERENCE	DEED TYPE	SOLD AS VACANT	GRANTOR	GRANTEE
07/08/2016	\$880,000	R122	30976	"WARRANTY DEED"	No	"VENDARGON JOSEPH UMESH"	"GREENE JEFFREY H"

VALUE CHANGES

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

DATE OF VALUE CHANGE	EFFECTIVE FOR TAX YEAR	REASON FOR CHANGE	NEW VALUE
01/14/2019	2019	COUNTYWIDE REVALUATION	\$866,700
04/07/2015	2015	REMODELED IMPROVEMENTS AND/OR NEW ADDITION	\$698,400
01/25/2014	2011	REVALUATION REVIEW - PEARSON	\$689,600
02/04/2011	2011	COUNTYWIDE REVALUATION	\$689,600
01/02/2003	2003	COUNTYWIDE REVALUATION	\$549,900

PERMITS

For information on building, electrical, mechanical or plumbing permits issued for this property in the last six years, please visit Mecklenburg County Code Enforcement’s [searchable permit site](#).

Disclaimer

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

30 939

I, the undersigned mayor of the Town of Huntersville, hereby certify that this map reflects the territory annexed into the Town of Huntersville by Senate Bill 390 which was ratified on the 3rd day of July, 1997 (designated as 96-A-11), the territory annexed into the Town of Huntersville by Ordinance #9702 which was adopted on the 20th day of May, 1997, and the Huntersville municipal limits which correspond to the effective date for this document but not to any other municipal limit changes subsequent to March 4, 1997.

The provisions of G.S. 47-30 do not apply to this plat as set forth in paragraph 1 of G.S. 47-30 and this plat is not subject to review by the Charlotte-Mecklenberg Planning Commission.

The Town of Huntersville does not require that this plat meet the provisions described in Section 1600, Title 21, Chapter 56 of the North Carolina Administrative Code (Standards of Practice for Land Surveying in North Carolina).

North Carolina, Mecklenburg County
I, a Notary Public of the county and state aforesaid, certify that Randy A. Ogillen, Mayor of the Town of Huntersville, and Janet Pierson, Clerk for the Town of Huntersville, personally appeared before me this day and acknowledged to me that they executed the foregoing instrument of record and official from this day of April, 1999.

Notary Public
My commission expires 3-31-2004
MAP Book 30 PAGE 939

FILED FOR
REGISTRATION
4:09
RECEIVED BY 05/05/99
MECKLENBURG COUNTY, N.C.

SURVEYOR'S CERTIFICATE
I certify that the annexation limits and the municipal boundaries for the Town of Huntersville were derived from Mecklenburg County Tax Maps dated 1994 and from a property survey map supplied by Duke Power Company. No field work has been done at this time.

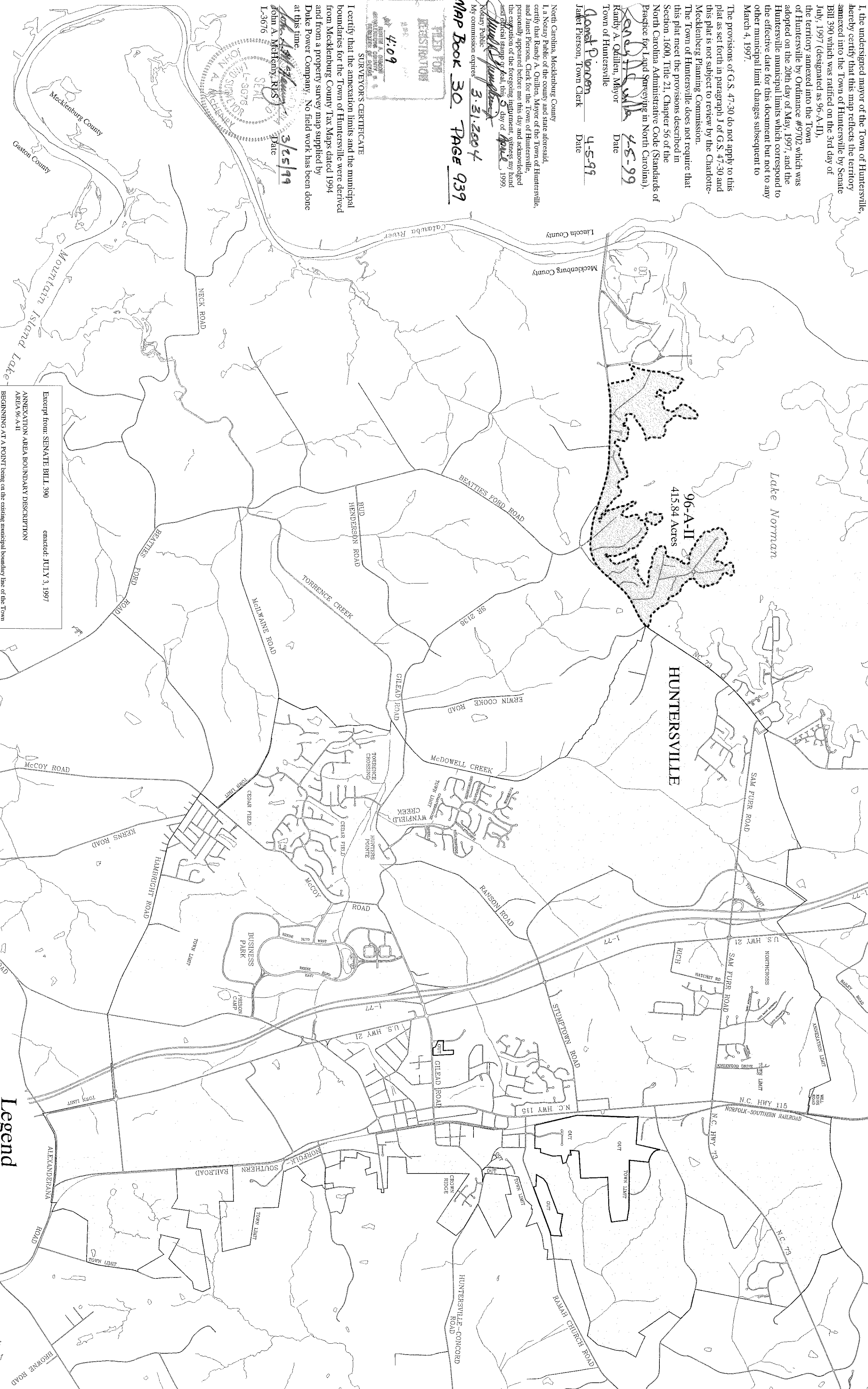
John A. McHenry, RLS
Date 3/25/99
L-3676

Areas Annexed effective June 30, 1998

Town of Huntersville

HUNTERSVILLE AND LEMLEY TOWNSHIPS
MECKLENBURG COUNTY, NORTH CAROLINA

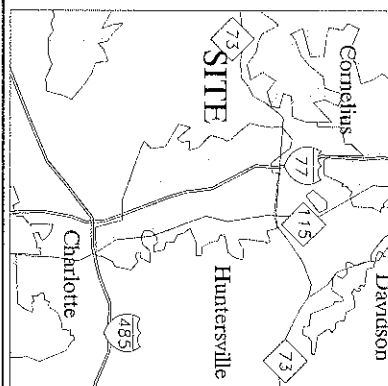
March 25, 1999



Except from: SENATE BILL 390 enacted: JULY 3, 1997
ANNEXATION AREA BOUNDARY DESCRIPTION
AREA 96-A-11

BEGINNING AT A POINT being at the existing municipal boundary line of the Town of Huntersville, said point being the centerline intersection of NC Highway 73 and Oliver Road, thence south 89° 54' 45" west 10.304 feet to a point being the intersection of said Oliver Road and the southern extension of the western property boundary line of parcel 11-6, tax map 01-41; thence north with the western property boundary line of parcels 11-6, 11-15, 11-16, 11-17, 11-18, 11-10, 11-9, and 11-19 of tax map 01-01 approximately 1,159 feet to a point being the southwestern property boundary corner of parcel 11-19; thence southwesterly with the southern property boundary line of parcels 11-7 and 11-8 of tax map 01-01 approximately 1,173 feet to a point being the intersection of said Oliver Road and the western property boundary line of parcel 11-8; thence north with the western property boundary line of parcel 11-8 crossing the Hagers Ferry Road right-of-way, and with the western property boundary lines for parcels 13-41 and 13-2 of tax map 01-01 approximately 1,413 feet to a point being a property boundary corner for parcel 13-2, said point also being a point being the intersection of said property boundary lines with the shore line of the impounded body of water known as Lake Norman, thence north along said shore line with a metes and bounds description of said shore line, and with the western property boundary line of parcel 11-8, thence north with the western property boundary line of parcel 11-8 crossing the Hagers Ferry Road right-of-way, and with the western property boundary lines for parcels 24-18, tax map 01-02, and 24-11, tax map 01-02, approximately 1,173 feet to a point being the intersection of the southeastern extension of the southern property boundary line of parcel 24-11 and the centerline of NC Highway 73, thence south along said centerline of said highway to the existing municipal boundary line of the Town of Huntersville, the western municipal boundary line of the Town of Huntersville, and the western municipal boundary line of the Town of Huntersville, to the POINT OF BEGINNING.

VICINITY MAP (not to scale)



SCALE: 1" = 2500'



Legend
Area to be Annexed
Municipal Territory
96-A Annexation Boundary

BENCHMARK INCORPORATED
Local Government Services
Planning, Community Development
and Administration

KANAWATOLIS, NC / KANAWATOLIS, NC / COLUMBIA, SC
209 CENTERSHORE ROAD, PO BOX 400, KANAWATOLIS, NC 28089
(704) 833-8890

North

from map produced by ADC, Corp of Charlotte, NC using photogrammetric methods and photography dated March 1999. This map is not a legal document and is not to be used as a source of annexation area and municipal boundaries.

1999070716

Polaris 3G Map – Mecklenburg County, North Carolina

North Point Road

221.31 ft(0.04 miles)

Date Printed: 10/5/2021 7:14:48 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.