

# TOWN OF WAYNESVILLE

## Zoning Board of Adjustment

9 South Main Street  
Waynesville, NC 28786  
Phone (828) 456-8647 • Fax (828) 452-1492  
[www.waynesvillenc.gov](http://www.waynesvillenc.gov)

George Escaravage (Chairman)  
Henry Kidder (Vice-Chair)  
Edward Moore  
Joshua Morgan  
Judi Donovan  
John Mason (Alternate)  
Sam Hyde (Alternate)

Development Services  
Director  
Elizabeth Teague

### TOWN OF WAYNESVILLE ZONING BOARD OF ADJUSTMENT REGULAR MEETING

**Town Hall – 9 South Main Street, Waynesville, NC 28786**  
**Tuesday, May 7, 2024, 5:30 PM**

#### **A. CALL TO ORDER:**

1. Welcome/Announcements/Introductions
2. Adoption of Minutes (as presented or amended) from April 2, 2024

#### **B. BUSINESS:**

1. A variance request to setback standards, Land Development Standards Section 2.4.1, on the unaddressed parcel off Cupp Lane in Waynesville, NC 28786 (PIN 8605-46-6671).
2. A variance to minimum lot size standards, Land Development Standards Section 2.4.1, at 55 Fifth Street, Waynesville, NC 28786 (PIN 8605-76-8086)

#### **C. ADJOURN**



# TOWN OF WAYNESVILLE Zoning Board of Adjustments

9 South Main Street  
Waynesville, NC 28786  
Phone (828) 456-8647 • Fax (828) 452-1492  
www.waynesvillenc.gov

**Board Members**  
George Escaravage, Chairman  
Henry Kidder, Vice-Chairman  
Judi Donovan  
John Mason  
Joshua Morgan  
Edward Moore

**Development Services  
Director**  
Elizabeth Teague

## MINUTES OF THE TOWN OF WAYNESVILLE ZONING BOARD OF ADJUSTMENT Regular Meeting Town Hall – 9 South Main St., Waynesville, NC 28786 April 2<sup>nd</sup>, 2024

THE WAYNESVILLE ZONING BOARD OF ADJUSTMENTS held a Regular Meeting on April 2<sup>nd</sup>, 2024, at 5:30 p.m. in the Boardroom of Town Hall, 9 South Main Street, Waynesville, NC. 28786.

### A. CALL TO ORDER

1. Welcome/Calendar/Announcements

The following members were present:

- Henry Kidder, Vice Chairman
- John Mason
- Judi Donovan (Alternate)
- Joshua Morgan

The following members were absent:

- George Escaravage, Chairman
- Edward Moore

The following Staff were present:

- Olga Grooman, Land Use Administrator
- Esther Coulter, Administrative Assistant

The Board's Attorney Ron Sneed was present.

Zoning Board of Adjustments Vice Chairman Henry Kidder welcomed everyone and called the meeting to order at 5:30 p.m.

2. Adoption of Minutes (as presented or amended) from February 6<sup>th</sup>, 2024.

Vice Chairman Henry Kidder asked if everyone had reviewed the minutes.

*A motion was made by Board member Josh Morgan, seconded by Board member Judi Donovan to approve the February 6<sup>th</sup>, 2024, meeting minutes (as presented or amended). The motion carried unanimously.*

Vice Chairman Henry Kidder explained to the applicants with only 4 Board members the vote must be unanimous to pass.

Attorney Ron Sneed verified his statement.

Vice Chairman Henry Kidder read through the procedures for the public hearing.

Land Use Administrator Olga Grooman introduced Kalon Stiggins and Attorney James Kirkpatrick representing the applicant, Brian Bacon.

Vice Chairman Henry Kidder asked for the people that wish to speak to please come to the front and get sworn in. Olga Grooman, James Kirkpatrick III, and Kalon Stiggins were sworn in.

Mr. Kidder asked the board if they had any conflict of interest. All four members said no.

Vice Chairman Henry Kidder opened the hearing at 5:38 pm.

#### **B. BUSINESS:**

1. Variance request to the permitted location of an accessory structure, Land Development Standards Section 4.5.2, on the property at 485 Oakdale Road in Waynesville, NC 28786 (PIN 8615-32-8897).

Olga Grooman stated that the property at 485 Oakdale Road is in the corporate limits of Waynesville and within the Pigeon Street Neighborhood Residential (PS-NR) zoning district. Ms. Grooman said the applicant would like to place a 12' by 7.6' storage shed (91.2 s.f.) at the end of the parking area and within the yard that is adjacent to Oakdale Road. Technically, this area is considered the front yard of the property. According to the Land Development Standards (LDS) Section 4.5, accessory structures on single family lot less than 0.5 acres, must be in the side or rear yard only. The variance is only requesting the placement of an accessory storage building on the lot. Ms. Grooman said all other regulations pertaining to accessory structures would apply, such as setbacks, keeping the parking area size, and compliance with NC building codes.

Ms. Grooman entered into evidence:

1. Staff Report
2. Application with payment
3. Agent Authorization form
4. Haywood County GIS maps: property, zoning, neighborhood
5. Site image
6. Public notices
7. Town of Waynesville LDS, by reference

Attorney James Kirkpatrick was representing Brian Bacon, the applicant. Mr. Kirkpatrick stated that 911 addressing does name roads that have 3 or more houses, but at this time, that has not happened. He also said that the address numbers are massively large. Mr. Kirkpatrick said that the shed will be placed to the left of the parking spaces.

Mr. Kidder asked for clarification on where the shed will be placed.

Board member Joshua Morgan wanted clarification on the measurement of the driveway.

Mr. Kidder asked if there were additional questions and then asked for a motion to close the hearing.

***A motion was made by Board member Joshua Morgan, seconded by Board member Judi Donovan, to close the public hearing at 6:00p.m. The motion carried unanimously.***

***A motion was made by Board member John Mason, seconded by Joshua Morgan to approve the variance request, and the board members agreed to all 4 of the variance criteria. The motion carried unanimously.***

2. Variance request to allow parking at the principal frontage of the lot, Land Development Standards Section 9.3, at 1471 Sulphur Springs Road in Waynesville, NC 28786 (PIN 8605-74-1259).

Vice Chairman Henry Kidder open the hearing at 6:02 pm.

Land Use Administrator Olga Grooman stated the proposed property is 1.12 acre located off Sulphur Springs Rd. The lot is currently vacant. The two houses that existed there were in a dilapidated state and were demolished. The old driveways for both houses were at the front of the lot with them connecting to Sulphur Springs Road. Ms. Grooman said that currently LDS section 9.3 does not allow parking at the principal frontage for townhomes, apartments, commercial, or any mixed-use buildings in Hazelwood Business District (H-BD). For these types of developments, parking is only allowed in the side and rear yards. However, all businesses surrounding the property have front parking. The rear side of the subject property is also in the floodway which makes development within it prohibitive. Ms. Grooman stated that the variance from LDS section 9.3 would allow parking on the principal frontage to avoid the floodway. Placing the parking in the front would trigger another variance- a variance to a maximum front and street-side setback allowed in H-BD. The district's front and street-side setbacks are 0 (min) -10 ft (max), side setback from adjacent lot is 0 ft, and rear setback is 20 ft. The setbacks between the buildings are 0 per LDS and a minimum of 6 ft between overhangs by the NC Residential Building Code.

Ms. Grooman said the applicant wants to develop the property and is requesting the variances to allow the parking to be at the principal frontage of the lot for the townhome development and allow the buildings to be set further back from the street.

Ms. Grooman entered into evidence:

- 1. Staff report
- 2. Application materials
- 3. Site plan and building elevations (as approved by the Planning Board)
- 4. LDS section 9.3
- 5. Maps: property, zoning, flood
- 6. Property street view
- 7. Public Notices

The applicant Kalon Stiggins stated that he and his wife own Root and Branch Property LLC. They have been investing in real estate for about 10 years in Haywood County and the goal of this project is to provide opportunity for first-time home buyers.

Mr. Stiggins was asked by Board member Joshua Morgan if the new townhomes will be in the same place as the previously existing homes, or whether they will be further back or closer to the road. Mr. Stiggins stated the older homes were in the floodway, so the new townhomes will be closer to the road.

Public Comment:

Attorney James Kirkpatrick stated that he grew up in Eagles Nest and now owns a pharmacy up the road from the proposed townhomes. He said that if you asked the police department, they would confirm that they responded to many domestic and drug related calls to that property, and he added that parking has always been limited in that area. He expressed his support for this project to make the property better.

*A motion was made by Board member Joshua Morgan, seconded by Board member Judi Donovan, to close the public hearing at 6:23p.m. The motion carried unanimously.*

*A motion was made by Board member Joshua Morgan, seconded by John Mason to approve the two variances and the board members agreed to all 4 hardships. The motion carried unanimously.*

**C. ADJOURN**

*A motion was made by Board member Joshua Morgan, seconded by Board member Judi Donovan to adjourn the meeting at 6:25pm. The motion carried unanimously.*

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Henry Kidder, Vice Chairman

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Esther Coulter, Administrative Assistant

## 1. Staff Report

### Zoning Board of Adjustment Staff Report

Subject: Setback variance request, Land Development Standards Section 2.4.1  
 Applicant: Ron Cramm and Joyce Schlapkohl  
 Authorized Agent:  
 Property Owner: Joyce Schlapkohl  
 Staff Presenter: Elizabeth Teague, Development Services Director  
 Meeting Date: May 7, 2024

### Summary Information:

Application Date: January 17, 2024  
 Property Location: Lot 4 Cupp Lane, (PIN 8605-46-6671).  
 Acreage of the Site: 1.12 acres  
 Zoning District: Eagles Nest Residential Low Density (EN-RL)  
 Existing Development: None

### Background:

This property is an undeveloped lot at the end of Cupp Lane. The lot slopes down from Cupp Lane and the applicant would like to construct a new single family home on the upper portion of the lot where the land is flatter. This would require a variance from the required setback of 20' in the front and street side boundaries.

The property is located in the corporate limits of Waynesville and within the Eagles Nest Low Density Residential District (EN-RL) zoning district. The lot contains a platted right-of-way that is 20' in width and that traverses the lot starting at Cupp Lane and continuing to the lot below (PIN 8605-46-6376). The applicant would like to build on the flattest part of the lot close to Cupp Lane in order to minimize disturbance of the natural topography with a cut and fill slope.

The drawing submitted by Mr. Cramm of the proposed building footprint, appears to have the building setback 16' from the platted right-of-way, and 20' from the existing pavement of Cupp Lane. However, the platted right-of-way of Cupp Lane extends into the Schlapkohl lot over 30'.

The setback variance request is to allow the corner of the garage of a proposed home to abut the right-of-way so that part of the garage would be within the 20' setback from the platted road right of way. Because of the way Cupp Lane was paved within the right-of-way, the footprint of the proposed garage would actually be 20' from the edge of the existing pavement of Cupp Lane.

### Public Notice:

This Hearing was originally scheduled for March 6 and duly advertised. The notice for this Public Hearing was mailed to owners of the properties within 100 feet of the subject property on April 15, 2024. The hearing was advertised in the Mountaineer newspaper on April 14<sup>th</sup> and April 21<sup>st</sup>, 2024. The notice was also submitted to local media.

### **Zoning District:**

The LDS Section 2.3 describes the purpose and intent of the Eagles Nest Low Density Residential District as follows:

The **Eagles Nest Residential—Low Density District (E-RL)** is a rural district characterized by beautiful views afforded by steep terrain. Water service is available throughout much of the area but sewer service is limited. Future development shall be sensitive to the terrain with grading minimized through the use of good design, clustered development and large lot development. Clear cutting for views is unacceptable; appropriate trimming of trees for vistas is preferred. As this is an area dominated by private development, it will be important in the future to acquire public park land especially at elevations exceeding three thousand (3,000) feet above mean sea level. Land conservation easements are encouraged. Possible road connections shall be evaluated as new streets are constructed in an effort to improve connectivity without jeopardizing the natural beauty of the area. Sidewalks are not required except in major residential developments due to the rural mountain character of the district.

The granting of a variance would be consistent with the desire of being sensitive to the terrain and to minimize grading.

### **Surrounding Land Use/Zoning Patterns:**

The subject property is surrounded by large single family lots and the Laurel Ridge Golf Course that are all within the EN-RL District. The property is adjacent to an undeveloped lot which would need to utilize the right-of-way which passes through the “Lot 4” property.

### **Proposed Variance:**

Elizabeth Teague and Town Fire Marshall Darrell Calhoun went to look at the site and conclude that a variance would be permissible as long as the construction did not interfere with future access to the lot below and that the 20’ right-of-way is maintained across the property.

While the proposed building footprint would encroach into the 20’ setback from the Cupp Lane right-of-way as platted, it would be 20’ from the actual edge of pavement of Cupp Lane and would not interfere with the platted 20’ right-of-way itself, or with usage of the existing paved roadway as it now lies.

This is important because both the development seeking the variance, and any future development of the property below, have to comply with the requirements of the LDS Section 9.8 related to Driveway Access. This means that the driveway to the proposed home and garage must include room for a driveway apron to be installed to the right-of-way line or at least 10’ from the edge of the traveled way (9.8.3 Driveway Standards). Driveways serving single family and duplex residences should have a minimum driveway width of 10’ and shall not exceed a maximum width of 18’. Based on the drawing, it appears that the proposed location of the garage and the setback encroachment would not interfere with driveway placement of lot 4 or the lot below, but this would need to be carefully staked out prior to construction.

However, a 20’ paved surface is required for fire access roads. If the lot below were to be developed to the level of something that required a fire access road, such as a tri-plex or townhome, then the lot below could still be accessed via the existing right-of-way. However, any roadway placed would have to take into consideration the driveway of the proposed lot to avoid being too close to the paved travel way of the road.

If needed in such a case, there is available property on the other side of the right-of-way and within the lot in question, so that the right-of-way could be adjusted or expanded in the other direction.

Staff offers the following comments regarding the findings that must be considered by the Zoning Board of Adjustment (*LDS 15.13, NC GS 160D-705(d)*):

- a) **Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.**

The property is a large lot in which the regulatory setback could be achieved. Achieving the setback, however, would mean greater land disturbance on a slope.

- b) **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.**

The platted right-of-way of Cupp Lane encroaches into the Lot 4 property at the location of the most desirable building site. This proposed building site is at the flattest point of the lot. The builder could leave a significant area of the property un-disturbed, protecting a wooded area of significant slope if the variance is granted.

**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 is not a self-created hardship.**

The hardship was not created by the owner of the lot. The Schlopkohls have owned the lot since 2010.

- c) **The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.**

The setback variance would allow the builder to preserve vegetation and land to the rear of the proposed building, and to minimize cut into a slope, therefore meeting the spirit of the Eagles Nest zoning district. Under no circumstances however, would the proposed building be allowed to encroach into the platted right-of-way, or interfere with other adjacent properties and the use and access to other lots, particularly the lot below that is PIN 8605-46-6376. This variance would not interfere with the 20' platted right-of-way required for a driveway for future development of the lot below. However, should a fire access road be required, then – depending on the design of the driveway – additional right-of-way may need to be created on the other side of Lot 4.

**Additional Comments:**

With the requested variance, the proposed structure would still be 20' or more from the existing pavement of Cupp Lane. This would be adequate if a future driveway were to be brought through the existing right-of-way. If however, a fire access road is required to serve other lots, then placement of the garage and the



driveway for the proposed home on Lot 4 should be designed to meet the apron requirements of LDS Section 9.8.3, or the property owner should be asked to adjust the right-of-way as needed to accommodate the needs of adjoining properties.

**Items Entered as Evidence:**

1. Staff Report
2. Application with payment
3. Haywood County GIS maps: property, zoning, neighborhood
4. Site image
5. Public notices
6. Town of Waynesville LDS, by reference

2. Application

Rec 1/17/24

\$ 300 Fee

PAID 1-23-24

10.



# TOWN OF WAYNESVILLE

Development Services Department

PO Box 100

9 South Main Street

Waynesville, NC 28786

Phone (828) 456-8647 • Fax (828) 452-1492

[www.waynesvillenc.gov](http://www.waynesvillenc.gov)

## Variance Request

Property Address / Location: Lot 4 Cupp Ln., Waynesville

Property PIN: 8605-46-6671 Property Zoning District: Eagles Nest Low Density Residential

Flood Zone: No Historic Property or District: \_\_\_\_\_

Signature of property owner of record: Jayce Schlapkehl Date: 01/17/24

Applicant's Name: Ron Craun Applicant's Phone #: 828-421-1703

Applicant's Address: 1778 Jonathan Creek Rd. Waynesville NC 28785

*Application must be filed by the property owner or by an agent specifically authorized by the owner.*

I, Ron Craun, hereby petition the Board of Adjustment for a variance from the provisions of the Town of Waynesville Land Development Standards for this property as described below.

Applicable Ordinance Section: 2.4

Ordinance requirement from which relief is sought: Need variance from street side secondary front setback 20' setback

Variance requested and why (attach additional sheets, maps, or other information as necessary):

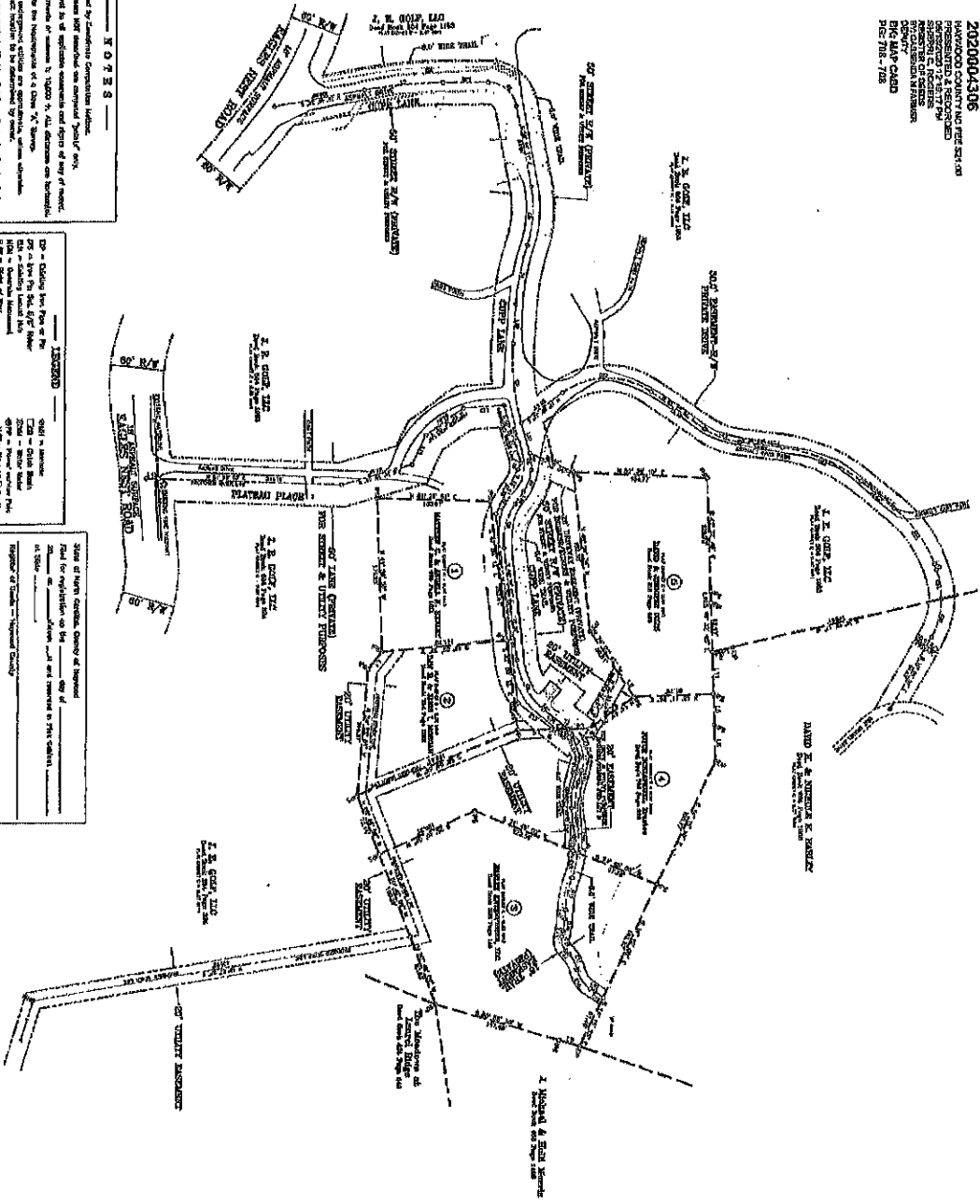
Need Variance from street side secondary front setback. From a platted street that does not exist

Applicant's Signature: [Signature] Date: 01/17/24

ron@bluemidgepostandbeam.com

11.

2020004306  
HAYWOOD COUNTY RECORDER'S OFFICE  
RECORDED TO 2020004306  
PLAT NUMBER  
PAGE 1054  
BOOK 004  
PAGE 1054



**NOTES**

- 1. All property shown on this plat is owned by Laurel Ridge Country Club, Inc.
- 2. The plat is subject to all existing easements, covenants, and restrictions.
- 3. The plat is subject to all existing zoning ordinances.
- 4. The plat is subject to all existing utility easements.
- 5. The plat is subject to all existing deed restrictions.
- 6. The plat is subject to all existing survey monuments.
- 7. The plat is subject to all existing survey monuments.
- 8. The plat is subject to all existing survey monuments.
- 9. The plat is subject to all existing survey monuments.
- 10. The plat is subject to all existing survey monuments.

**LEGEND**

- 1. Clubhouse
- 2. Restaurant
- 3. Pro Shop
- 4. Tennis Courts
- 5. Golf Course
- 6. Roads
- 7. Utilities
- 8. Survey Monuments
- 9. Survey Monuments
- 10. Survey Monuments

**STATE OF NORTH CAROLINA**

County of Haywood

Plat of Land for Laurel Ridge Country Club, Inc.

Prepared by: J. E. GOLF, LLC

Recorded on: 06/13/2020

Book: 004, Page: 1054

**OWNER OF RECORD:**  
J. E. GOLF, LLC

SCALE: 1" = 100'

**TYPE OF SURVEY INSTRUMENT**

- 1. This survey was made by a licensed professional surveyor.
- 2. The survey was made in accordance with the laws of North Carolina.
- 3. The survey was made in accordance with the rules and regulations of the State Board of Surveying and Mapping.
- 4. The survey was made in accordance with the standards of the International Geodetic Association.
- 5. The survey was made in accordance with the standards of the International Association of Professional Surveyors.
- 6. The survey was made in accordance with the standards of the International Union of Pure and Applied Chemistry.
- 7. The survey was made in accordance with the standards of the International Union of Pure and Applied Physics.
- 8. The survey was made in accordance with the standards of the International Union of Pure and Applied Mathematics.
- 9. The survey was made in accordance with the standards of the International Union of Pure and Applied Biology.
- 10. The survey was made in accordance with the standards of the International Union of Pure and Applied Geology.



1 of 1  
PLAT PREPARED FOR  
**LAUREL RIDGE COUNTRY CLUB**  
Waynesville Township Haywood County, N.C.

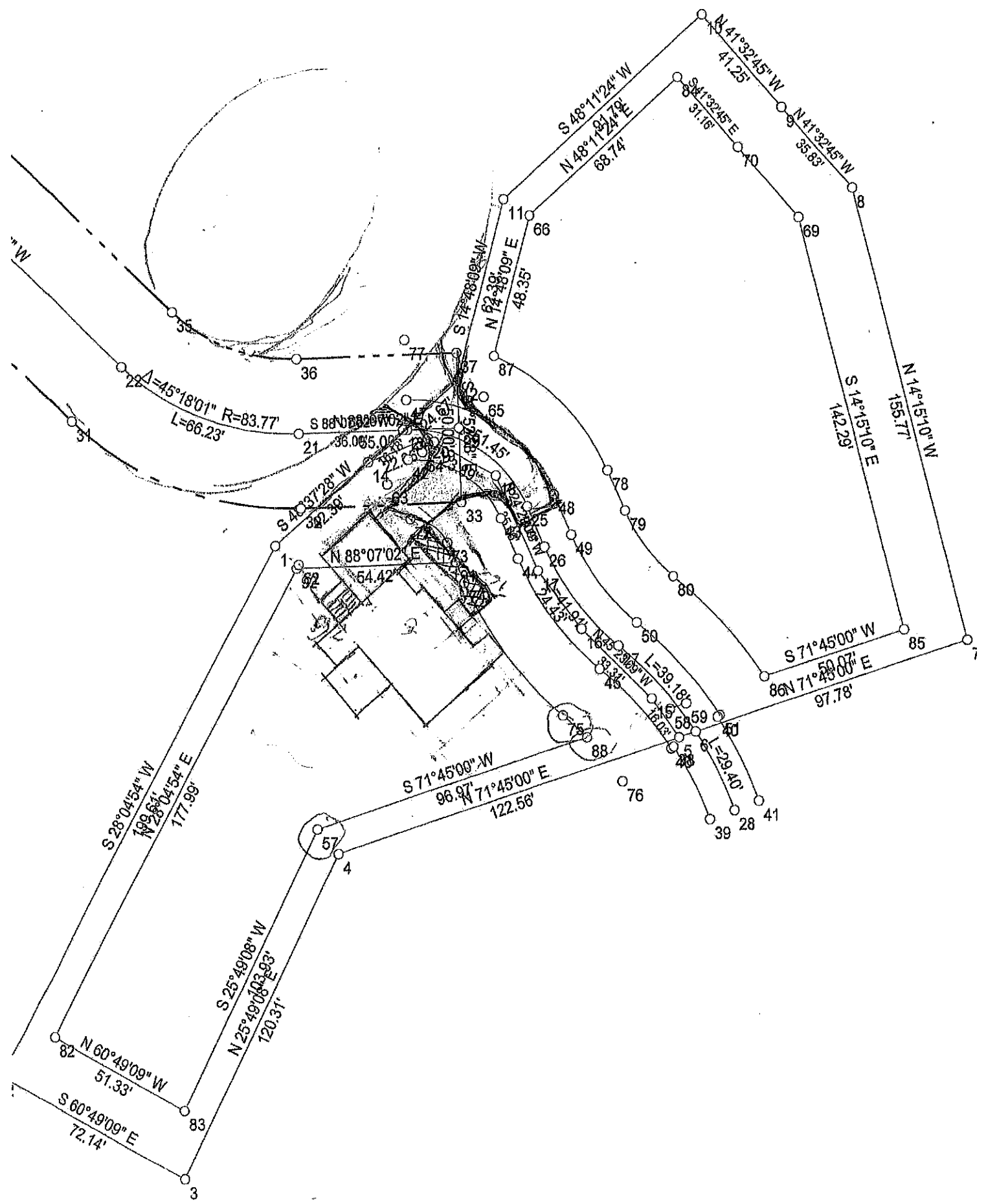
PLAT PREPARED FOR  
**LAUREL RIDGE COUNTRY CLUB**  
Waynesville Township Haywood County, N.C.

BY CONTRACT LICENSE NUMBER C-1182  
**HERRON ASSOCIATES**  
SURVEYING & MAPPING  
1000 W. HERRON BLVD.  
WAYNESVILLE, NC 27586  
PHONE: 919.761.1111  
FAX: 919.761.1112  
WWW.HERRONASSOCIATES.COM

DATE: 06/13/2020  
DRAWN BY: JEH  
CHECKED BY: SEEH  
SCALE: 1" = 100'

REFERENCED Deed Book 004 Page 1054  
PLAT NUMBER: C - 1054  
BOOK: 004  
PAGE: 1054





PAYMENT SUMMARY RECEIPT

TOWN OF WAYNESVILLE  
16 S MAIN ST

DATE: 01/23/24 CUSTOMER#:  
TIME: 11:16:43  
CLERK: 2044ecou

RECPT#: 3007361 PREV BAL: 300.00  
TP/YR: P/2024 AMT PAID: 300.00  
BILL: 3007361 ADJSTMNT: .00  
EFF DT: 01/23/24 BAL DUE: .00

Misc Cash Receipts

-----TOTALS-----

PRINCIPAL PAID: 300.00  
INTEREST PAID: .00  
ADJUSTMENTS: .00  
DISC TAKEN: .00

AMT TENDERED: 300.00  
AMT APPLIED: 300.00  
CHANGE: .00

PAID BY: B Ridge P&B Variance  
PAYMENT METH: CHECK  
PAYMENT REF: 19283

TOT PREV BAL DUE: 300.00  
TOT BAL DUE NOW : .00

3. Map A: Property Info.

Report For

SCHLAPKOHL, JOYCE/TR  
JOYCE SCHLAPKOHL REV LIVING TR  
126 DEER RUN DR  
WAYNESVILLE, NC 28786

Account Information

PIN: 8605-46-6671

Legal Ref: 796/328

Add Ref: CABD/2573

CABD/708

Site Information

CUPPLN

Heated Area:

Year Built:

Total Acreage: 1.12

Township: Town of Waynesville

Site Value Information

Land Value: \$108,200

Building Value: \$0

Market Value: \$108,200

Deferred Value: \$0

Assessed Value: \$108,200

Sale Price: \$0

Sale Date: 12/30/2010



1 inch = 100 feet

February 16, 2024

14.

Disclaimer: The maps on this site are not surveys. They are prepared from the inventory of real property found within this jurisdiction and are compiled from recorded deeds, plats and other public records and data. Users of this site are hereby notified that the aforementioned public primary information sources should be consulted for verification of any information contained on these maps. Heywood county and the website provider assume no legal responsibility for the information contained on these maps.

3. Map B: Zoning

Report For

SCHLAPKOHL, JOYCE/TR  
JOYCE SCHLAPKOHL REV LIVING TR  
126 DEER RUN DR  
WAYNESVILLE, NC 28786

Account Information

PIN: 8605-46-6671  
Legal Ref: 796/328

Add Ref: CABD/2573  
CABD/708

Site Information

CUPP LN  
Heated Area:  
Year Built:  
Total Acreage: 1.12  
Township: Town of Waynesville

Site Value Information

Land Value:  
Building Value:  
Market Value:  
Deferred Value:  
Assessed Value:  
Sale Price:  
Sale Date: 12/30/2010



1 inch = 100 feet

February 16, 2024

15.

Disclaimer: The maps on this site are not surveys. They are prepared from the inventory of real property found within this jurisdiction and are compiled from recorded deeds, plats and other public records and data. Users of this site are hereby notified that the aforementioned public information sources should be consulted for verification of any information contained on these maps. Haywood county and the website provider assume no legal responsibility for the information contained on these maps.

3. Map C: Topography

Haywood County



February 16, 2024

↓ slope

elevation of 2,865'  
↓  
2,850'



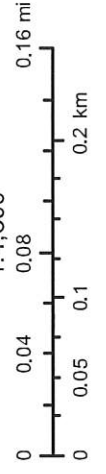
3. Map D: Neighborhood

Haywood County

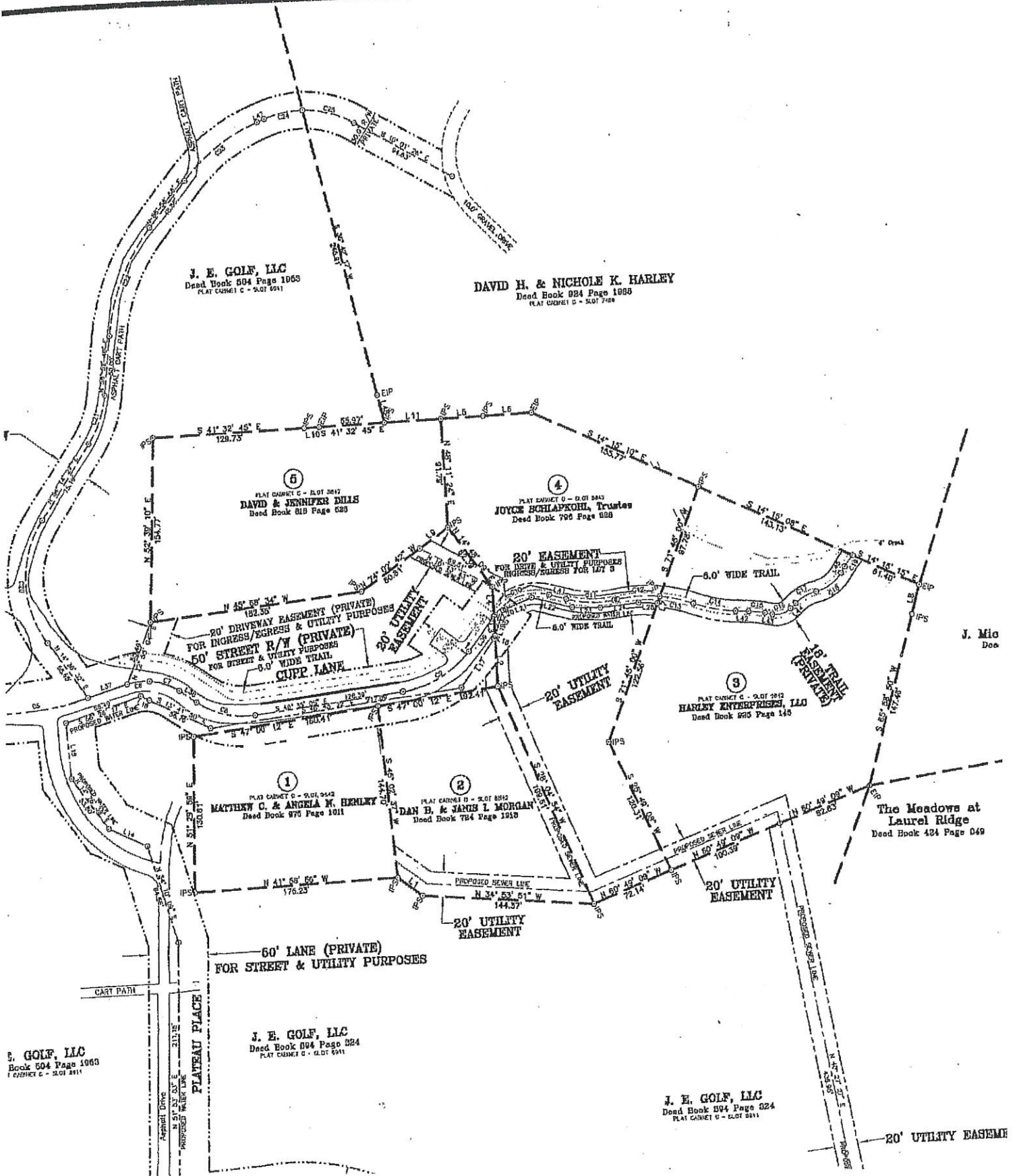


May 2, 2024

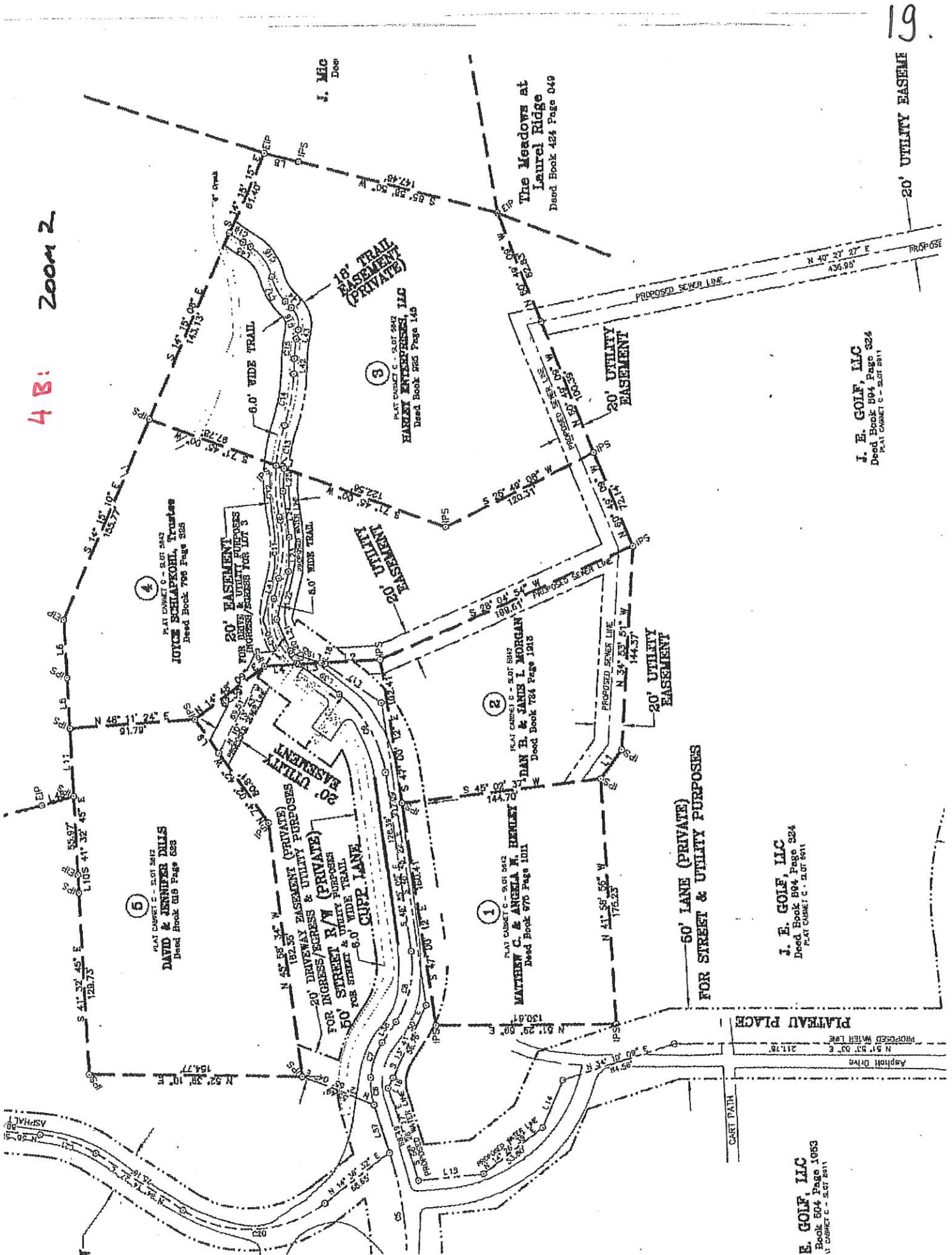
1:4,800



A: Zoom 1



**4 B: Zoom 2**



**J. MIC**  
Deed

**The Meadows at**  
**Laurel Ridge**  
Deed Book 424 Page 049

**16' TRAIL**  
**EASEMENT**  
**(PRIVATE)**

**1**  
**HARVEY ENTERPRISES, LLC**  
Deed Book 265 Page 146

**J. E. GOLF, LLC**  
Deed Book 504 Page 324  
PLAT CASE# 1 C - S.07 2011

**4**  
**JOYCE SCHLAPROH, Trustee**  
Deed Book 706 Page 388

**2**  
**DAN H. & JAMES I. MORGAN**  
Deed Book 764 Page 1013

**3**  
**MATTHEW C. & ANGELA M. HENLEY**  
Deed Book 970 Page 1011

**20' UTILITY**  
**EASEMENT**

**J. E. GOLF, LLC**  
Deed Book 804 Page 324  
PLAT CASE# 1 C - S.07 2011

**5**  
**DAVID & JENNIFER DULLS**  
Deed Book 618 Page 023

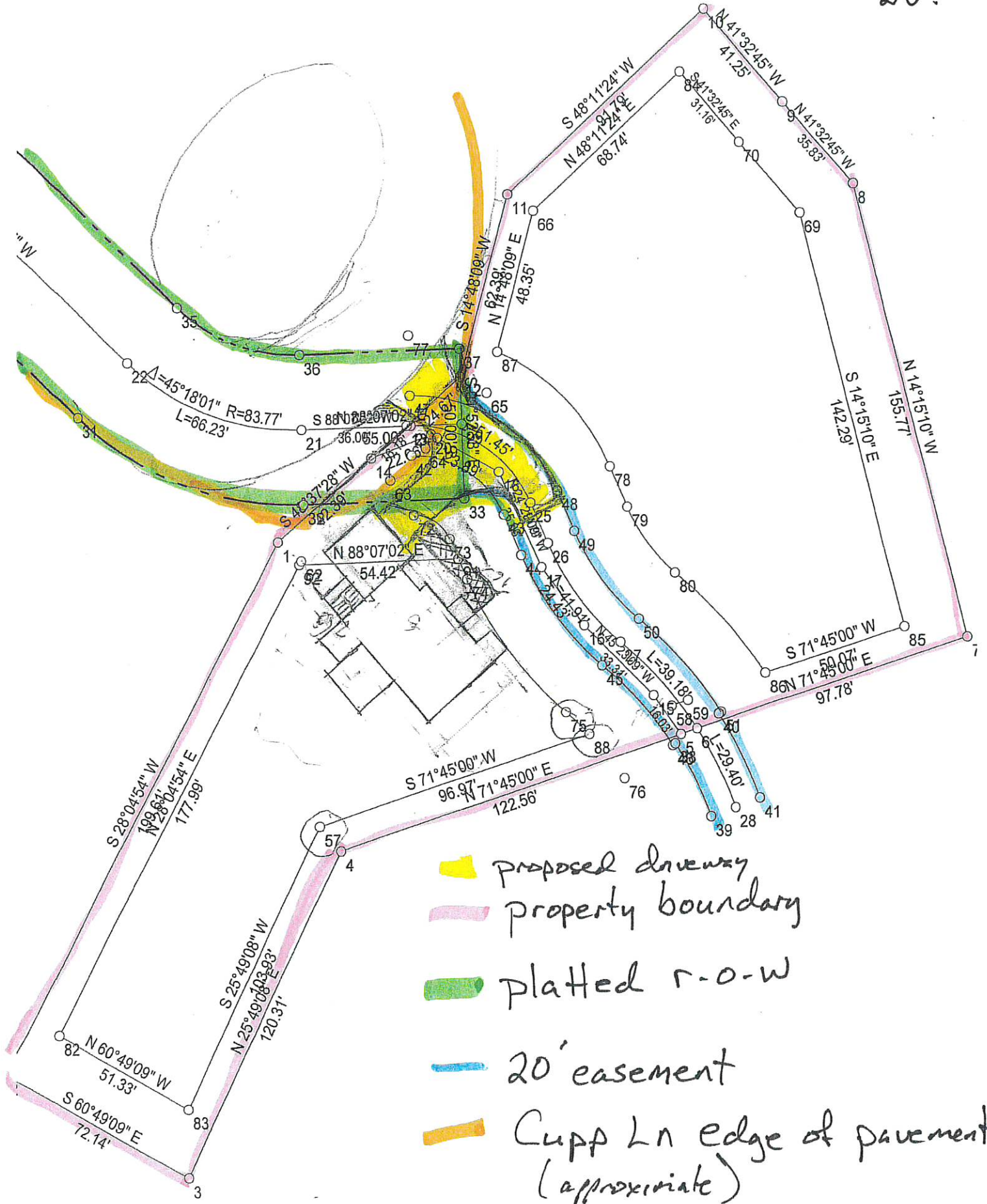
**1**  
**MATTHEW C. & ANGELA M. HENLEY**  
Deed Book 970 Page 1011

**PLATEAU PLACE**

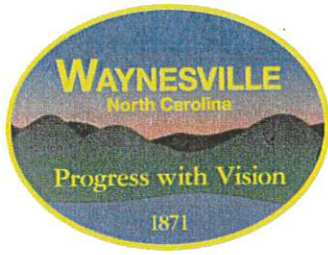
**J. E. GOLF, LLC**  
Book 504 Page 1063  
PLAT CASE# 1 C - S.07 2011

**20' UTILITY EASEMENT**

**19.**



- proposed driveway
- property boundary
- platted r.o.w
- 20' easement
- Cupp Ln edge of pavement (approximate)



**TOWN OF WAYNESVILLE**  
Development Services Department  
PO Box 100  
9 South Main Street  
Waynesville, NC 28786  
Phone (828) 456-8647 • Fax (828) 452-1492  
[www.waynesvillenc.gov](http://www.waynesvillenc.gov)

5.  
**Public 21.**  
**Notices**  
**1 of 4**

FOR PUBLICATION IN THE MOUNTAINEER: April 14<sup>th</sup> and April 21<sup>st</sup> (Sunday) editions

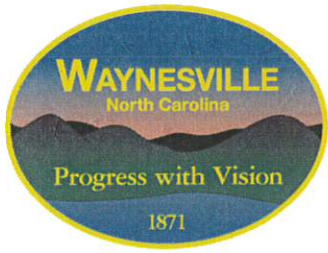
Date: April 8, 2024  
Contact: Olga Grooman, (828) 356-1172

**Notice of Two (2) Public Hearing**  
**Waynesville Zoning Board of Adjustment**

The Town of Waynesville Zoning Board of Adjustment will hold two (2) public hearings on **Tuesday, May 7, 2024 at 5:30 pm** in the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC, to consider:

1. A variance request to setback standards, Land Development Standards Section 2.4.1, on the unaddressed parcel off Cupp Lane in Waynesville, NC 28786 (PIN 8605-46-6671).
2. A variance to minimum lot size standards, Land Development Standards Section 2.4.1, at 55 Fifth Street, Waynesville, NC 28786 (PIN 8605-76-8086)

For more information contact the Development Services Department at: (828) 356-1172, email: [ogrooman@waynesvillenc.gov](mailto:ogrooman@waynesvillenc.gov), mail: 9 South Main Street, Suite 110, Waynesville, NC 28786.



# TOWN OF WAYNESVILLE

Development Services Department  
 PO Box 100  
 9 South Main Street  
 Waynesville, NC 28786  
 Phone (828) 456-8647 • Fax (828) 452-1492  
 www.waynesvillenc.gov

April 15, 2024

## Town of Waynesville Board of Adjustment NOTICE OF VARIANCE HEARING

The Town of Waynesville Zoning Board of Adjustment will hold a public hearing on **Tuesday, May 7, 2024 at 5:30 pm** in the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC, to consider a variance request to setback standards, Land Development Standards Section 2.4.1, on the unaddressed parcel off Cupp Lane in Waynesville, NC 28786 (PIN 8605-46-6671):



For more information contact the Development Services Department at: (828) 456-2004, email: [eteague@waynesvillenc.gov](mailto:eteague@waynesvillenc.gov), mail: 9 South Main Street, Suite 110, Waynesville, NC 28786.

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SCHLAPKOHL, JOYCE/TR  
JOYCE SCHLAPKOHL REV LIVING TR  
126 DEER RUN DR  
WAYNESVILLE, NC 28786

HARLEY, DAVID HARDMAN  
HARLEY, NICHOLE KING  
745 RICE COVE RD  
CANTON, NC 28716

PHOENIX REAL ESTATE LLC  
416 STONE HAVEN DR  
WAYNESVILLE, NC 28786

DILLS, DAVID  
DILLS, JENNIFER  
141 CUPP LN  
WAYNESVILLE, NC 28786

MORGAN, DAN B  
MORGAN, JANIS I  
6003 HAMMOCK HILL AVE  
LITHIA, FL 33547

HENLEY, MATTHEW CHAPIN  
HENLEY, ANGELA NORRIS  
66 PLATEAU PL  
WAYNESVILLE, NC 28786

HARLEY ENTERPRISES LLC  
745 RICE COVE RD  
CANTON, NC 28716

5.

24

PROPERTY POSTED ON  
4-15-24

THE TOWN OF WAYNESVILLE  
ZONING BOARD OF ADJUSTMENT  
WILL HOLD A PUBLIC HEARING  
ON MAY 7, 2024, AT 5:30 PM  
IN THE TOWN HALL BOARD ROOM  
AT 9 SOUTH MAIN ST.  
TO CONSIDER A  
VARIANCE REQUEST  
CONTACT THE DEVELOPMENT SERVICES DEPARTMENT  
T: 828-456-8647



## Zoning Board of Adjustment Staff Report

### Summary Information:

Meeting Date: May 7, 2024  
Subject: Variance to the minimum lot size, Land Development Standards, Section 2.4.1  
Property Location: 55 Fifth Street, Waynesville, NC 28786 (PIN 8605-76-8086)  
Acreage of the Site: 0.32 acre  
Zoning District: Sulphur Springs Neighborhood Residential (SS-NR)  
Existing Development: Single-family residence  
Applicant: Cowan Properties LLC / DMS Concepts LLC (Dennis Downey and Gene Sandlin)  
Application Date: February 27, 2024  
Property Owner: Toby Hartsell, State Employees' Credit Union Real Estate, Inc. (SECU\*RE, Inc.)  
Staff Presenter: Olga Grooman, Assistant Development Services Director

### Background:

The property at 55 Fifth Street is located in the corporate limits of Waynesville and Sulphur Springs Neighborhood Residential (SS-NR) zoning district. The property consists of 0.32 acres, with frontage along Fifth Street. It is approximately 188 feet wide along the road frontage. The property has one single-family residence, and it is surrounded on all sides by single-family lots. The Haywood County GIS maps still show two additional structures on the property- a manufactured home and an accessory structure, but they have been demolished. The property has two driveways connecting to Fifth Street. One driveway leads to the existing residential structure, while the other provided access to the manufactured home that was once on the lot. The property is not in the floodplain and has a flat topography.

The applicants would like to subdivide the property into two (2) lots.. In Sulphur Springs Neighborhood Residential (SS-NR), the minimum lot size is 1/6 acre, or 0.1666... ac, or 7,230 square feet, per LDS 2.4.1. The attached survey shows that if subdivided, both lots would be 0.160 ac, or approximately 6,970 square feet each. The subdivision would create two (2) nonconforming lots, with each one 0.007 ac or approximately 305 square feet below the minimum lot size for this district.

The SS-NR district has the base density of 10 units/acre. Therefore, a new single-family home may be placed on the newly created lot outright (LDS 2.4.1). Any increase in density, such as the placement of a duplex, would trigger a Special Use Permit (SUP)- a quasi-judicial procedure by the Planning Board. A SUP could increase the density up to 16 units/acre and allow the placement of a two-family dwelling on the lot in SS-NR. The density cannot be increased further, and no triplexes, quadruplexes, etc. could be allowed there even with a SUP (LDS 2.4.1).

The applicants originally applied for this variance on January 8, 2024. On February 6, 2024, the Zoning Board of Adjustment held a public hearing during which the applicants withdrew the application. The applicants re-applied on February 27, 2024.

**Public Notice:**

Staff provided notice of this public hearing by posting the subject property and mailing the notice to the adjacent property owners within 100 feet on April 15, 2024. The hearing was advertised in the Mountaineer newspaper on April 14<sup>th</sup> and April 21<sup>st</sup>, 2024. The notice was also submitted to local media.

**Zoning District:**

The purpose and intent of Sulphur Springs Neighborhood Residential district states (LDS 2.3.3):

**The Sulphur Springs Neighborhood District (SS-NR)** is located in a convenient in-town setting-bordered by the Hazelwood Town Center, the Central Business District, Highway 23/74 and Richland Creek. Due to the proximity to two town centers, **the area is ideal for high quality dense development.** The addition of pedestrian amenities and traffic calming measures will improve the walkability of the area. Interconnecting roads as the area develops is paramount to keeping Sulphur Springs Road from becoming overly traveled. The passive park that exists where the spring house for the old Sulphur Springs Hotel was located should be redesigned to become more of an amenity and center for those who live in the area. Connections with the greenway that is developed along Richland Creek will add to the beauty of this neighborhood.

Per LDS 2.4.1, SS-NR district has one of the highest allowed densities with up to 10 units/acre allowed outright and up to 16 units/acre with a Special Use Permit. Additionally, 2035 Future Land Use Map of the 2035 Comprehensive Land Use Plan shows that the subject property is within the area designated as *Residential: Medium to High Density* for future development.

**Surrounding Land Use/Zoning Patterns:**

The subject property is surrounded by single-family lots. All surrounding properties are also located within the Sulphur Springs Neighborhood Residential district. In the application materials, the staff provided aerial lot information for the neighborhood documenting that many of the nearby lots are also smaller than the minimum lot size and narrower than the minimum lot width for the district, with some buildings located across the property lines or non-compliant with current setback standards. The staff notes that it is one of the older neighborhoods, with several houses built as early as 1930-s and 1940-s.

**Proposed Variance:**

The requested variance would permit the property owner to subdivide the lot in question into two (2) lots, creating the nonconformities related to the LDS minimum lot size standards. Each lot would be 0.160 ac, which is 0.007 ac below the minimum lot size of 0.1666, for the district. The purpose and intent statement for this zoning district recognizes that it consists primarily of small lot subdivisions. The variance would allow a subdivision of the lot which once held two residential units, served by two driveways.

Staff offers the following comments regarding the findings that must be considered by the Zoning Board of Adjustment (LDS 15.13, NC GS 160D-705(d)):

- a) **Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.**

The applicants consider it to be an unnecessary hardship because they would be unable to create a new lot to place a new house due to a decimal point of nonconformity.

- b) 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.**

As stated earlier, the intent of this zoning district is to allow for more density in this neighborhood. Because of the age of this neighborhood, zoning is not congruent with existing property lines on many surrounding lots which are also less than the minimum lot size. The subject property is currently one of the larger lots in the neighborhood, and held two houses: the existing residence and the manufactured home which was removed. The subdivision would allow new construction in the area where the manufactured home stood and which would be served by an existing driveway. In effect, the variance would facilitate construction of a new home on its own lot, but in a location where a home once existed as part of the larger lot. This area is zoned for infill development, which in this case requires a lot size variance of 0.007 ac.

- c) 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 is not a self-created hardship.**

The hardship is a result of the current zoning laws applied to the neighborhood that is much older.

- d) The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.**

There was an already additional structure on the lot- a manufactured home that was dilapidated and torn down. The manufactured home was removed from the property to eliminate health and safety hazards. The applicants would like to replace it with a nicer, site-built structure.

#### **Additional Comments:**

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance (LDS 15.13). This variance would pertain exclusively to the lot size for two (2) proposed lots on the subject property. Both newly created lots will need to comply with all Waynesville zoning standards, Building and Fire Codes, and all other requirements of the Waynesville ordinances, including but not limited to minimum lot width, density, setbacks, building height and other dimensional requirements for all new development on the property.

#### **Items Entered as Evidence:**

- Staff Report
- Application materials with payment and agent authorization form
- Survey showing the proposed lot line
- Maps: property, zoning, neighborhood, street view

- Public notices
- Town of Waynesville LDS, NC Building and Fire Codes, and NC GS 160D by reference

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TOWN OF WAYNESVILLE
Development Services Department
PO Box 100
9 South Main Street
Waynesville, NC 28786
Phone (828) 456-8647 • Fax (828) 452-1492
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Application
Materials
1 of 3

Variance Request

Property Address / Location: 55 5th St, Waynesville, NC, 28786

Property PIN: 8605-76-8086 Property Zoning District: SS-NR

Flood Zone: No Historic Property or District: No

Signature of property owner of record: Toby Hartsell

dotloop verified
03/12/24 11:30 AM EDT
GV4Q-R7KZ-SYQE-FZBS

Applicant's Name: DMS Concepts LLC Applicant's Phone #: 828-734-8349

Applicant's Address: PO Box 1140, Waynesville, NC, 28786
Application must be filed by the property owner or by an agent specifically authorized by the owner.

I, DMS Concepts LLC, hereby petition the Board of Adjustment for a variance from the provisions of the Town of Waynesville Land Development Standards for this property as described below.

Applicable Ordinance Section: 2.4.1

Ordinance requirement from which relief is sought: Minimum lot size of .167 acres, or 7230 sqft

Variance requested and why (attach additional sheets, maps, or other information as necessary):

Requesting to subdivide the above lot of .32 acres, to create another lot, to accommodate an additional house. By doing this, the lot is .007 acres (or 261 sqft) short of the minimum lot size.

Applicant's Signature: [Signature] Date: 02-27-2024

**AUTHORIZATION FOR AGENT TO  
APPEAR BEFORE WAYNESVILLE PLANNING BOARD,  
ZONING BOARD OF ADJUSTMENT, OR TOWN COUNCIL**

**Application  
Materials  
2 of 3**

The undersigned Owner or Party with a contract or option to purchase that real property located at 55 Fifth St., Waynesville, NC, 28786 in Waynesville or the ETJ area of Waynesville, North Carolina, has submitted an application which is to be heard in a proceeding by Board(s) of the Town of Waynesville, North Carolina. I hereby authorize the following named individual to present my application and case, as my agent at such hearings.

Name of Authorized Agent: DMS Concepts LLC

Title and Company: Managing Members, DMS Concepts LLC

Address: PO Box 1140, Waynesville, NC, 28786

Phone and email: 828-734-8349 dennistkett@gmail.com

This authorization shall be good through the completion of the project for which the zoning text or map amendment, special use permit, subdivision, variance or appeal, or other Town approval is requested, or until revoked in writing. The Town of Waynesville may rely on this authorization until it is given notice of the revocation of this authorization or of a change of property ownership takes place.

This the 27<sup>th</sup> day of February, 2024.

Owner or Party with Contractual Interest in Property:

Toby Hartsell dotloop verified  
03/12/24 11:30 AM EDT  
DW7L-BBSJ-YCPP-PBHF

Address and phone number:

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

PAYMENT SUMMARY RECEIPT

TOWN OF WAYNESVILLE  
16 S MAIN ST

**Application**  
**Materials**  
**3 of 3**

DATE: 04/17/24 CUSTOMER#:  
TIME: 13:53:06  
CLERK: 2044ecou

RECPT#: 3038219 PREV BAL: 300.00  
TP/YR: P/2024 AMT PAID: 300.00  
BILL: 3038219 ADJSTMNT: .00  
EFF DT: 04/17/24 BAL DUE: .00

Misc Cash Receipts

-----TOTALS-----

PRINCIPAL PAID: 300.00  
INTEREST PAID: .00  
ADJUSTMENTS: .00  
DISC TAKEN: .00

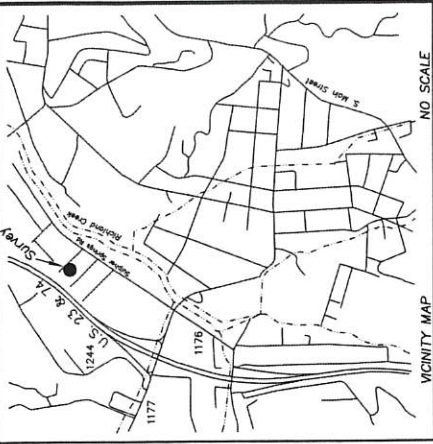
AMT TENDERED: 300.00  
AMT APPLIED: 300.00  
CHANGE: .00

PAID BY: D & S Capital Varian  
PAYMENT METH: CHECK  
PAYMENT REF: 1055

TOT PREV BAL DUE: 300.00  
TOT BAL DUE NOW : .00

CERTIFICATE OF "TOWN OF WAYNESVILLE"  
 COUNTY OF WAYNESVILLE  
 I, \_\_\_\_\_, PLANNING DIRECTOR, DO HEREBY CERTIFY THAT THE MAP OR PLAN IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE REGISTER OF DEEDS OF WAYNESVILLE COUNTY, N.C. AND THAT THE MAP OR PLAN IS IN ACCORDANCE WITH THE REQUIREMENTS OF THE REGISTER OF DEEDS OF WAYNESVILLE COUNTY, N.C.

REVIEW OFFICER \_\_\_\_\_ DATE \_\_\_\_\_  
 REVIEW DIRECTOR \_\_\_\_\_ DATE \_\_\_\_\_



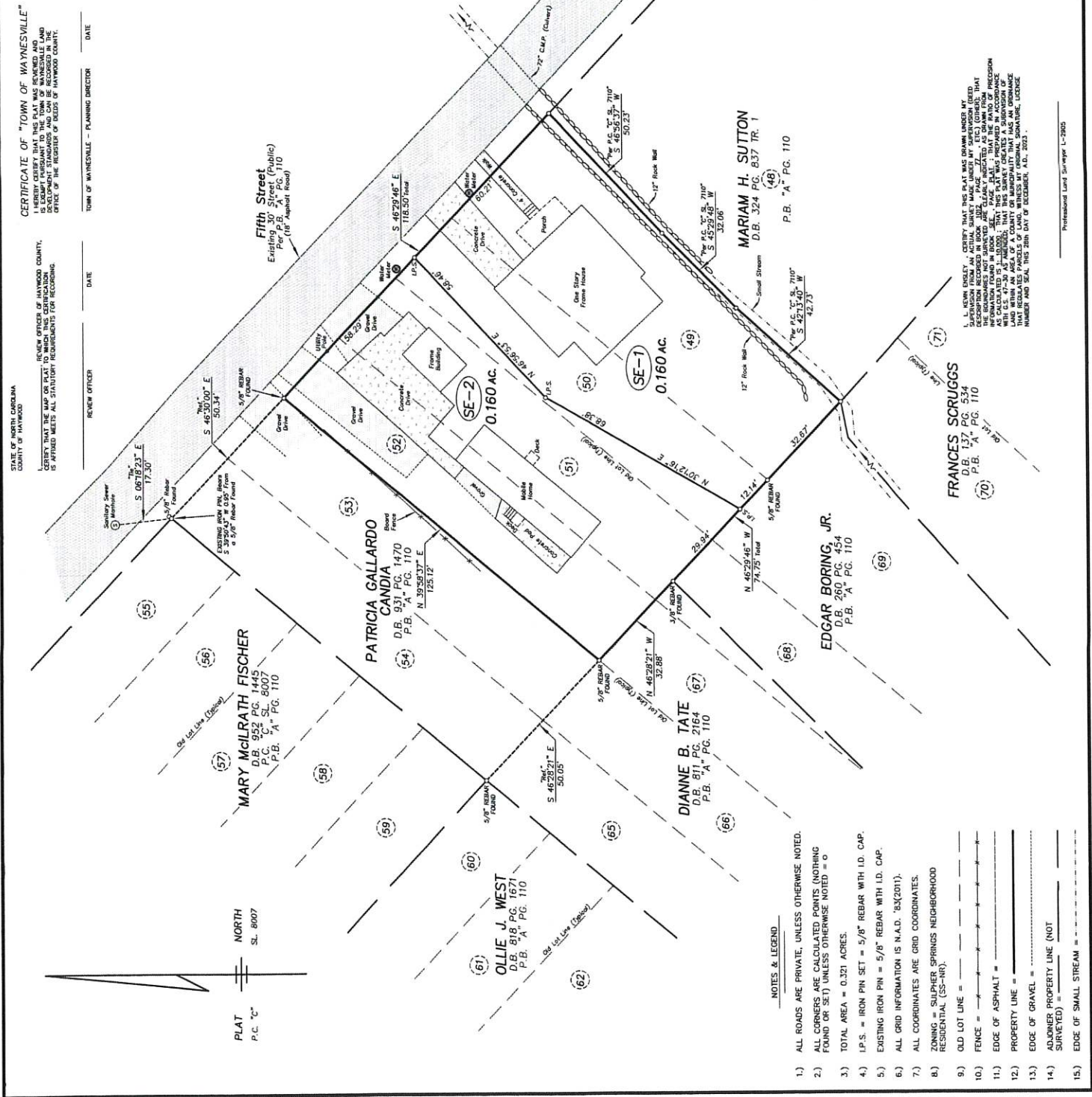
# Survey with the proposed lot line

"Preliminary - For Review Only"

SURVEY FOR  
**SECURE, INC.**  
 SECURE, INC. - OWNER  
 WAYNESVILLE TWP. HAYWOOD CO., N.C.  
 REFERENCES: D.B. 1012 PG. 77  
 P.C. "C" SL. 710  
 P.B. "A" PG. 110



32.  
 ENLEY LAND SURVEYING (FIRM NO. P-148)  
 426 BELLWOOD ROAD  
 WAYNESVILLE, N.C. 28786  
 (919) 666-9426  
 A-000-23



**NOTES & LEGEND**

- 1.) ALL ROADS ARE PRIVATE, UNLESS OTHERWISE NOTED.
- 2.) ALL CORNERS ARE CALCULATED POINTS (NOTHING FOUND OR SE1) UNLESS OTHERWISE NOTED = 0
- 3.) TOTAL AREA = 0.321 ACRES.
- 4.) I.P.S. = IRON PIN SET = 5/8" REBAR WITH I.D. CAP.
- 5.) EXISTING IRON PIN = 5/8" REBAR WITH I.D. CAP.
- 6.) ALL GRID INFORMATION IS N.A.D. '83(2011).
- 7.) ALL COORDINATES ARE GRID COORDINATES.
- 8.) ZONING = SURFER SPRINGS NEIGHBORHOOD RESIDENTIAL (SS-NR).
- 9.) OLD LOT LINE = - - - - -
- 10.) FENCE = - - - - -
- 11.) EDGE OF ASPHALT = - - - - -
- 12.) PROPERTY LINE = - - - - -
- 13.) EDGE OF GRAVEL = - - - - -
- 14.) ADJONNER PROPERTY LINE (NOT SURVEYED) = - - - - -
- 15.) EDGE OF SMALL STREAM = - - - - -



# Report For

SECU\*RE INC  
119 N SALISBURY ST  
RALEIGH, NC 27603-1739

**Maps**  
**1 of 4**

**Account Information**  
PIN: 8605-76-8086  
Legal Ref: 1012/77

**Add Ref:** CAB/7110  
860/307

**Site Information**  
BESSIE ATKINS  
DWELLING

55 FIFTH ST  
**Heated Area:** 1326  
**Year Built:** 1935  
**Total Acreage:** 0.32  
**Township:** Town of Waynesville

### Site Value Information

**Land Value:** \$21,600  
**Building Value:** \$117,000  
**Market Value:** \$138,600  
**Deferred Value:** \$0  
**Assessed Value:** \$138,600  
**Sale Price:** \$62,500  
**Sale Date:** 10/29/2020



1 inch = 50 feet  
July 10, 2023

33.

Disclaimer: The maps on this site are not surveys. They are prepared from the inventory of real property found within this jurisdiction and are compiled from recorded deeds, plats and other public records and data. Users of this site are hereby notified that the aforementioned public primary information sources should be consulted for verification of any information contained on these maps. Haywood county and the website provider assume no legal responsibility for the information contained on these maps.

# Report For

SECU\*RE INC  
119 N SALISBURY ST  
RALEIGH, NC 27603-1739

## Maps 2 of 4

**Account Information**  
PIN: 8605-76-8086  
Legal Ref: 1012177

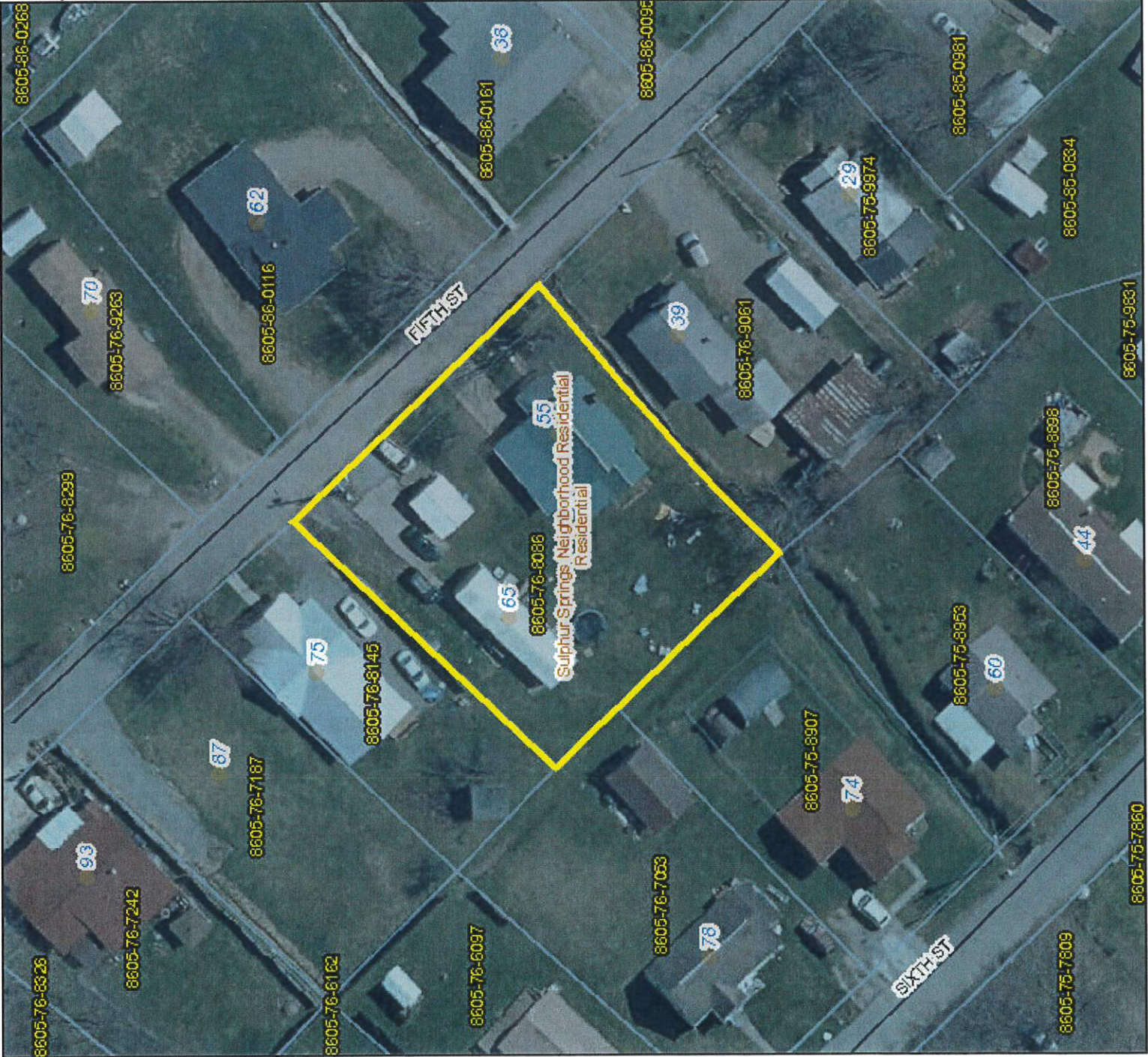
**Add Ref:** CABCF/110  
860/307

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BESSIE ATKINS  
DWELLING

55 FIFTH ST  
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Year Built: 1935  
Total Acreage: 0.32  
Township: Town of Waynesville

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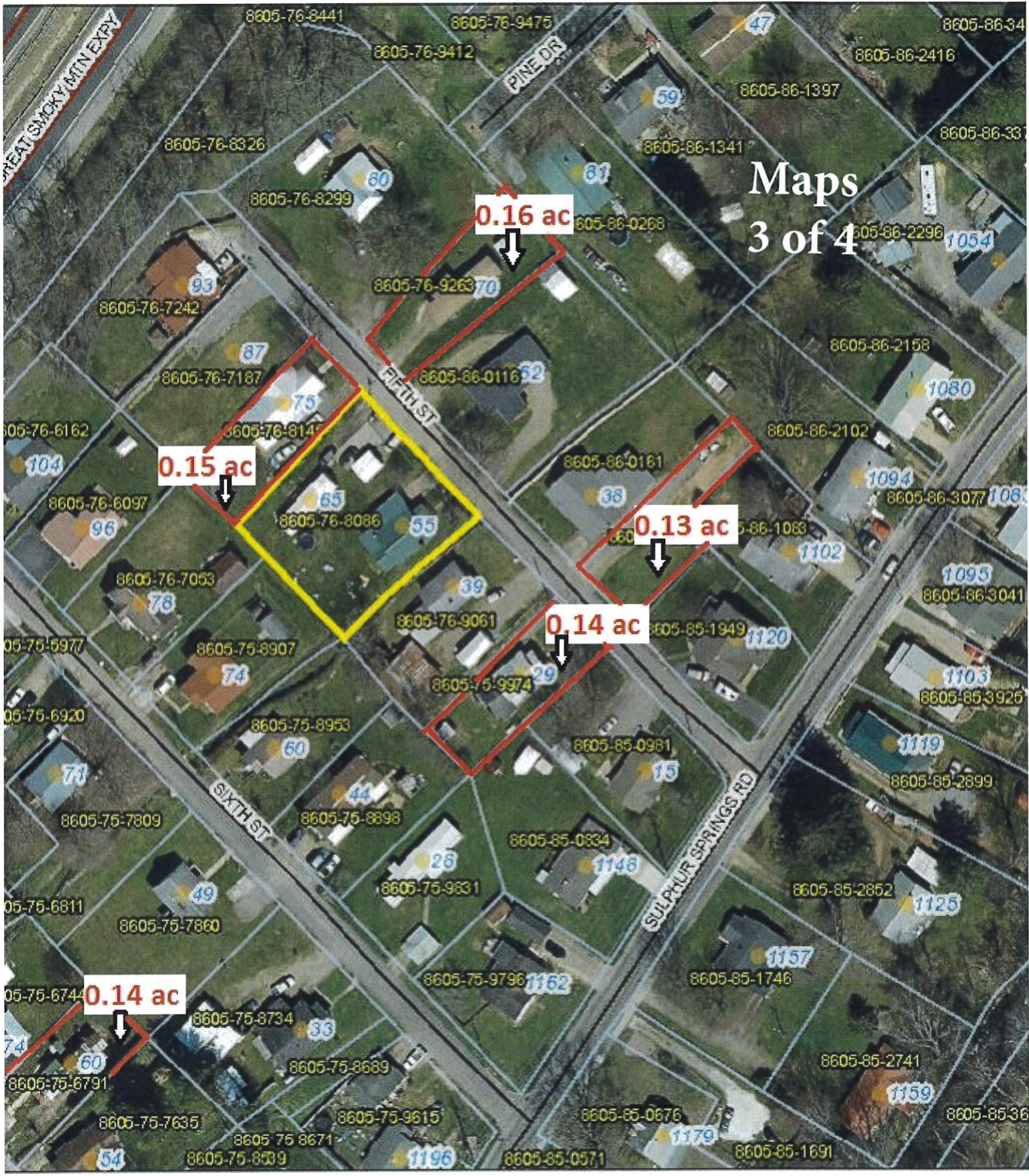
**Land Value:**  
**Building Value:**  
**Market Value:**  
**Deferred Value:**  
**Assessed Value:**  
**Sale Price:** 10/28/2020  
**Sale Date:**



1 inch = 50 feet  
January 12, 2024

34.

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Maps  
3 of 4



Search Google Maps

55 5th St  
Waynesville, North Carolina  
Google Street View  
Apr 2023 See more dates



Google

Maps  
4 of 4



# TOWN OF WAYNESVILLE

Development Services Department

PO Box 100

9 South Main Street

Waynesville, NC 28786

Phone (828) 456-8647 • Fax (828) 452-1492

[www.waynesvillenc.gov](http://www.waynesvillenc.gov)

**Public  
Notices  
1 of 4**

FOR PUBLICATION IN THE MOUNTAINEER: April 14<sup>th</sup> and April 21<sup>st</sup> (Sunday) editions

Date: April 8, 2024

Contact: Olga Grooman, (828) 356-1172

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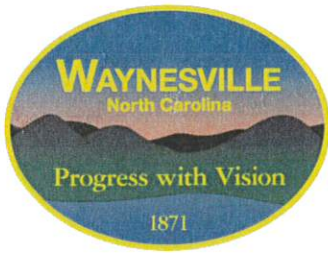
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PROPERTY  
POSTED  
ON 4-15-24

387

THE TOWN OF WAYNESVILLE  
ZONING BOARD OF ADJUSTMENT  
WILL HOLD A PUBLIC HEARING  
ON MAY 7, 2024, AT 5:30 PM  
IN THE TOWN HALL BOARD ROOM  
AT 9 SOUTH MAIN ST.  
TO CONSIDER A  
VARIANCE REQUEST  
CONTACT THE DEVELOPMENT SERVICES DEPARTMENT  
T: 828-456-8647





**TOWN OF WAYNESVILLE**  
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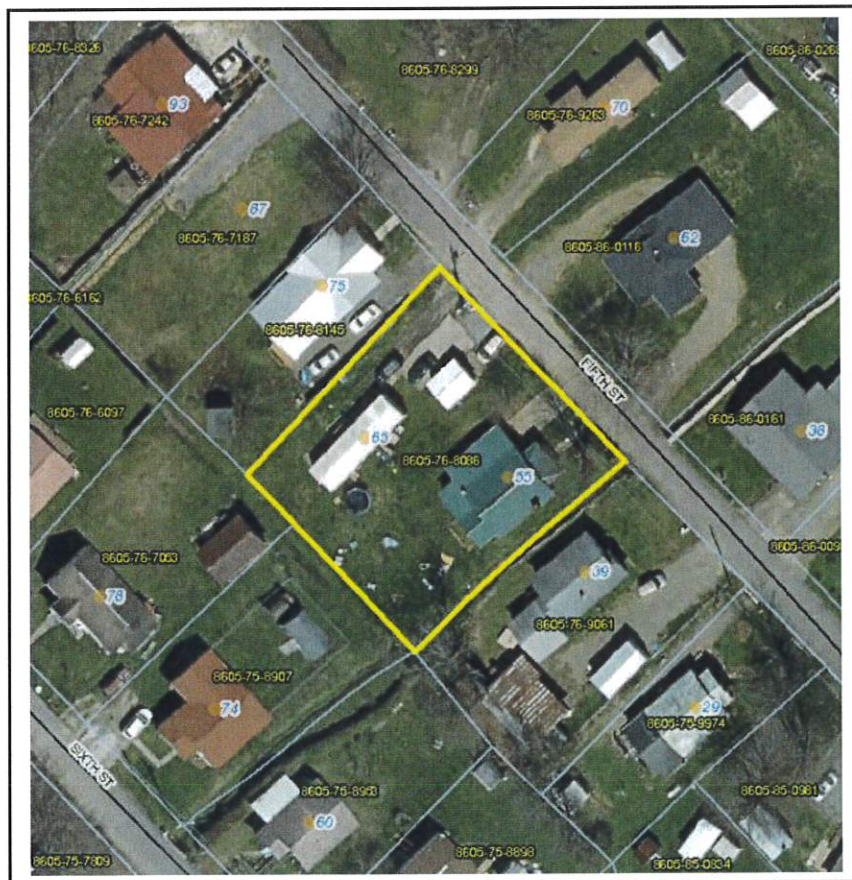
39.

**Public  
 Notices  
 3 of 4**

April 15, 2024

**Town of Waynesville Board of Adjustment  
 NOTICE OF VARIANCE HEARING**

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40

DENNIS DOWNEY  
PO BOX 1140  
WAYNESVILLE, NC 28786

SECU\*RE INC  
119 N SALISBURY ST  
RALEIGH, NC 27603

CANDIA, PATRICIA GALLARDO  
75 5TH ST  
WAYNESVILLE, NC 28786

FISCHER, MARY MCILRATH  
FISCHER, TIMOTHY DAVID  
87 5TH ST  
WAYNESVILLE, NC 28786

RAY, STEVE MICHAEL  
RAY, CAROL ROSE  
4 BUG HOLLOW  
WAYNESVILLE, NC 28786

BORING, EDGAR JR  
BORING, PATSY  
74 6TH ST  
WAYNESVILLE, NC 28786

TATE, DIANNE B  
TATE, JERRY  
78 6TH ST  
WAYNESVILLE, NC 28786

WEST, OLLIE J  
96 SIXTH ST  
WAYNESVILLE, NC 28786

BORING, NANCY JONES/LE  
HOFFPAUIR, ANGELA CALDWELL  
104 6TH ST  
WAYNESVILLE, NC 28786

SCRUGGS, FRANCES  
378 MAX PATCH RD  
CLYDE, NC 28721

BRAD SHIRLEY CONSTRUCTION LLC A NC  
LLC  
177 BREEZY HOLLOW DR  
CLYDE, NC 28721

SUTTON, MARIAM H  
39 FIFTH ST  
WAYNESVILLE, NC 28786

MOODY, JAMES C HEIRS  
BOLIN, JOHN CHRISTOPHER  
117 HIDEAWAY LN  
WAYNESVILLE, NC 28785

HANNAH, ROGER EARL  
HANNAH, FANCIS DARLENE  
38 FIFTH ST  
WAYNESVILLE, NC 28786

WALKER, JAKE GAHAGAN  
62 5TH ST  
WAYNESVILLE, NC 28786

GRIFFIN, DORIS ANN  
70 5TH ST  
WAYNESVILLE, NC 28786

PLEMMONS, MARY H  
80 5TH ST  
WAYNESVILLE, NC 28786

**Public  
Notices  
4 of 4**