

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

Henry Kidder (Chairman)
Stephanie Strickland (Vice-Chair)
Edward Moore
Joshua Morgan
George Escaravage
John Baus
Robert Herrmann

Development Services
Director
Elizabeth Teague

TOWN OF WAYNESVILLE ZONING BOARD OF ADJUSTMENT REGULAR MEETING

**Town Hall – 9 South Main Street, Waynesville, NC 28786
Tuesday, December 7, 2021, 5:30 PM**

A. CALL TO ORDER/BUSINESS ITEMS:

1. Welcome/Announcements
2. Adoption of Minutes (as presented or amended) from September 7, 2021
3. Election of Chair and Vice-Chair for a one year term.
4. Request for Variance at 315 Hall Top Road, PIN 8616-04-9569, within the Hall Top Low Density Residential District (HT-RL).

B. ADJOURN



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

Henry Kidder (Chairman)
Stephanie Strickland (Vice-Chair)
Edward Moore
Joshua Morgan
George Escaravage
John Baus
Margaret Chandler
Robert Herrmann

Development Services
Director
Elizabeth Teague

Regular Meeting Town Hall, 9 South Main Street, Waynesville, NC 28786 Tuesday, September 7th, 2021, 5:30 pm

THE WAYNESVILLE ZONING BOARD OF ADJUSTMENT held a regular meeting on September 7th, 2021 at 5:30 p.m. in the board room of the Town Hall, 9 South Main Street, Waynesville NC.

A. CALL TO ORDER

Zoning Board of Adjustment Chairman, Henry Kidder called the meeting to order at 5:30 p.m.

The following members were present:

Henry Kidder, Chairman
George Escaravage
John Baus
Robert Herrmann

The following members were absent:

Stephanie Strickland, Vice-Chair
Edward Moore
Joshua Morgan

The following staff members were present:

Elizabeth Teague, Director
Byron Hickox, Land Use Administrator
Olga Grooman, Planner
Esther Coulter, Administrative Assistant

In attendance:

Town Attorney Ron Sneed

Zoning Board of Adjustment Minutes
Regular Meeting
September 7th, 2021

2. Election of Chair and Vice-Chair

A motion was made by Board Member George Escaravage, seconded by Board Member Robert Herrmann to continue the postponement of the election for Chair and Vice-Chair for FY 21-22 until next month's meeting. The motion passed unanimously (4-0).

3. Adoption of Minutes

A motion was made by Board Member John Baus, seconded by Board Member Robert Hermann, to approve the minutes of the August 3rd, 2021 board meeting as presented or corrected. The motion passed unanimously (4-0).

4. Public Hearing to consider a request for a variance at property known as PIN 8615-21-2584, an unaddressed lot on Springview Drive within the Country Club Low Density Residential District.

Chairman, Henry Kidder opened the hearing and proceeded with the meeting and read through the protocols for a Quasi-judicial hearing and the rules of conduct. All speakers were sworn in. Mr. Kidder advised the applicant that 4 votes were required to pass.

Land Use Administrator Byron Hickox presented the Staff Report for a request for a variance of the minimum lot size standards for the Country Club Low Density Residential District, Land Development Standards Section 2.4.1(3) a. The subject property consists of 0.45 acres, with frontage along Springview Drive. The lot is currently undeveloped and unimproved. The lot is surrounded by single-family lots.

The applicant would like to relocate the rear property line of the lot in question, making that lot smaller. The rear property line abuts a lot owned by Jason Fulton, described as 253 Auburn Park Drive (8615-21-3606). The purpose for moving the lot line is to match the existing topography, which creates a concentrated flow of water during heavy or prolonged rain events. The property which would increase in size would then be able to maintain this drainage area which impacts his yard.

Current zoning is Country Club Low Density Residential. The purpose and intent of this district as established by the Land Development Standards, Section 2.3.1(D) states:

The Country Club Residential—Low Density District (CC-RL) is an area predominately comprised of large lot subdivisions with the Waynesville Country Club serving as its social and recreational center. While single-family homes are the dominant residential use in this area, townhouses and accessory apartments are also permitted. Connections to the South Main Street Business District should be enhanced as new development takes place. A residential scale is required for all new development. Tree preservation and proliferation along the South Main Street corridor is critical to the ambiance of the area.

The subject property is surrounded by single-family and undeveloped lots. In the application materials, the applicant provided aerial lot information for the neighborhood documenting that many of the nearby lots are also smaller than the minimum lot size for the district.

The purpose and intent statement for this zoning district recognizes that it consists primarily of large lot subdivisions.

Staff offers the following comments regarding the findings that must be considered by the Zoning Board of Adjustment:

- (1) That there are unnecessary hardships in the way of carrying out the strict letter of this chapter.
 - The existing conditions on the ground related to stormwater on the lot in question and the above-referenced adjacent lot could be better managed and maintained if the shared property line matched the topography.
 - The abutting property owners, the Fulton's, are negatively impacted and would like to take over ownership of the drainage area so that they can manage the stormwater.
- (2) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings located in the same land development district.
 - The lot's topography does not correspond to the rear property line. Such topographic features are frequently used to determine the placement of lot lines.
 - The lot to be reduced does not have a structure on it so that relocation of the property line does not create any setback issues with existing structures.
 - Any possible future development on the property in question would still have to comply with the district setbacks.
- (3) That the special conditions and circumstances do not result from the actions of the applicant. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - The hardship is not the result of actions taken by the property owner. In fact, the property owner has done considerable work and incurred considerable expense to manage the stormwater that ultimately affects properties other than his own.
- (4) That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit.
 - Many properties within this zoning district do not meet the minimum lot standards. The proposed lot line relocation is in harmony with other existing lots in the district.
- (5) That the variance is the minimum necessary to afford relief.
 - A variance is the minimum necessary to encompass the drainage area in order for the Fulton's to address stormwater impacts.
- (6) That the public safety and welfare have been assured and substantial justice has been done.

- While the relocation of the rear lot line would increase the degree of nonconformity, it would encourage cooperation between adjacent owners to create and maintain improved stormwater management measures.

Notice of this Public Hearing was mailed to owners of property within 100 feet of the subject property on August 20, 2021. A public notification sign was posted on the subject property on August 20, 2021. Notice was submitted to local media.

Items Entered as Evidence:

1. Staff Report
2. Variance Request Application
3. Chart Showing Lot Sizes in the Surrounding Area
4. Zoning Map Showing Lot Sizes in the Surrounding Area
5. Topographic Map of the Subject Property
6. Topographic Map of the Property at 253 Auburn Park Drive
7. Survey Showing the Proposed Lot Line Relocation
8. Photograph Showing Stormwater Runoff on Subject Property
9. Town of Waynesville Land Development Standards by Reference
10. Notification Materials

Jason Fulton
Waynesville

Adjacent property owner Jason Fulton came to the podium and told the history of his home belonging to his Grandfather and he would help him with the stormwater drainage. Mr. Fulton is an engineer major from NC State, and he has dealt with property lines and stormwater. Mr. Fulton stated that this would benefit both properties and will not change the feel of the neighborhood.

Commission Member John Baus asked in what way would this change the flow of the water. Mr. Fulton said he was not changing the flow. What he is interested in is maintaining the stormwater. If Mr. Sutton was to sell the property and the new owner brought something in it could cause problems with the drainage of the stormwater. Mr. Fulton said Mr. Sutton and his Grandfather had a great relationship over the years and it just continued with them both. Mr. Fulton said he has put a lot of money into keeping the stormwater out of his basement. Mr. Fulton stated that it is important to him that the stormwater is maintained and protected in a logical way.

Commission Member George Escaravage stated to Mr. Sutton that he has a non-conforming lot now and you're making it less non-conforming lot and if Mr. Sutton wants to sell the land later the board then might not grant him variance. Mr. Sutton said that lot has a huge water line and sewer line that runs through the property. Mr. Hickox made the statement that the land could be built upon as long as it meets setbacks.

With no further questions from the board and no public comment.

Zoning Board of Adjustment Minutes
Regular Meeting
September 7th, 2021

Mr. Kidder asked for a motion to close the Public Hearing at 6:03 pm. Motion granted by Commission Member George Escaravage and seconded by Commission Member John Baus. The motion passed unanimously (4-0).

The Board deliberated through the variance worksheet:

1. yes
2. yes
3. no
4. yes

A motion was made by Board Member George Escaravage, seconded by Board Member Robert Hermann, to approve the variance at Springview Drive. The motion passed unanimously (4-0).

D. ADJOURN

With no further business, A motion was made by board member Robert Herrmann and seconded by board member John Baus to adjourn the meeting at 6:07 pm. The motion passed unanimously.

Henry Kidder, Chairman

Esther Coulter, Administrative Assistant

Zoning Board of Adjustment Staff Report

Subject: Setback Variance, Land Development Standards Section 2.4.1 (4), on the property described as 315 Hall Top Rd.
Applicant: Floyd Conner, Heir to Annie Rose Conner
Meeting Date: December 7, 2021

Summary Information:

Application Date: November 11, 2021
Proposed Location: 315 Hall Top Rd; PIN 8616-04-9569
Property Owner: Annie Rose Conner (deceased)
Acreage of site: .289 acres
Zoning District: Hall Top Low Density Residential (HT-RL)
Existing Development: Single Family Home with a commercial garage and outbuilding

Background:

The subject property consists of one residential structure and two accessory buildings. Property is within the extra-territorial jurisdiction of Waynesville, and the Hall Top Low Density Residential District (HT-RL). The purpose and intent of this district as established by the Land Development Standards, Section 2.3.1(D) states:

The **Hall Top Residential—Low Density District (HT-RL)** is a rural district characterized by steep terrain and narrow winding roads. Despite the difficulty of developing in this district and the limited provision of services, the proximity to the Russ Avenue and Dellwood/Junaluska Town Centers makes the location an attractive one for the variety of residential developments permitted in this area. Large lot development is the standard with cluster development respecting the terrain encouraged so as to leave as much open space as possible. Road design will also consider the terrain with narrow road widths permitted and sidewalks not required. Linking developments with trails is encouraged.

The applicant would like to split the property into two lots to separate the home and commercial garage. Aerial data indicates that the structure has stood at its present location since at least 1963. The applicants mother Annie Rose Conner passed away in July, dividing her property in her will: giving the house to the applicant's brother, and the commercial garage to the applicant Mr. Conner. The applicant would like to split this property and recombine it with his and his brother's adjacent properties, so that he may continue his existing business within the existing building as a separate property, and allow his brother to have the house as a separate property.

Surrounding Land Use/Zoning Patterns:

The subject property is surrounded by residential uses within the HT-RL District. All of the abutting properties are owned by the applicant and his immediate family with the exception of one property owned by Clatterbuck properties. This property is accessed by another road, and existing dwellings on that property are located a large distance from the property requesting the variance.

Proposed Variance:

The requested variance would permit the property owner to split and recombine this lot in order to divide property granted to heirs. This action would eliminate an existing nonconformity because the lot as it exists now does not meet the Dimensional Standards for LDS Section 2.4 of minimum lot size for a house which is 0.5 acres. The split and combine would create two new conforming lots. However, this action would create a side setback nonconformity in that the existing buildings could not meet the minimum 10' side setback requirement also required in LDS Section 2.4. The buildings as they exist now, and as they have existed for many years, would not change their location relative to each other. In other words, the division of property that would be possible by granting this variance would not create any change to what exists now other than the underlying property ownership of the heirs.

Any improvements to existing structures will have to comply with the Town of Waynesville's standards and building codes, and no further encroachment into the new setback would be allowed. If granted, the setback variance will continue with the properties and would allow for formal subdivision and recombination of the land given to the brothers by their parent.

Staff offers the following recommendations for possible findings for the Zoning Board of Adjustment's consideration:

- (1) That there are unnecessary hardships in the way of carrying out the strict letter of this chapter.
 - The property owners would like to keep the buildings as they are now with the ability to convey ownership of underlying property to each brother: the building holding the existing business being transferred to one, and the house being transferred to another.
 - A strict enforcement of the zoning setback would require the structures to remain on one parcel thus making the business forever tied to the house on a single lot that was willed by a parent to two children.
- (2) That the special conditions and circumstances do not result from the actions of the applicant. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
 - The property and the building have existed for many years prior to Town regulations. The property is within the Town's ETJ and became subject to Town Zoning laws when the Town extended its planning and zoning jurisdiction in 1993.
- (3) That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit.
 - The granting of this variance will not change the nature of the existing lot, the density, or traffic pattern.
 - The granting of this variance will maintain the value of the neighborhood by promoting the continuation of an existing business
- (4) That the variance is the minimum necessary to afford relief.
 - The variance is the minimum necessary to afford relief to divide the property

(5) That the public safety and welfare have been assured and substantial justice has been done.

- The variance to the setback condition has not caused a public safety issue. The use of this building at its current location will not endanger the use of the roadway by the public.

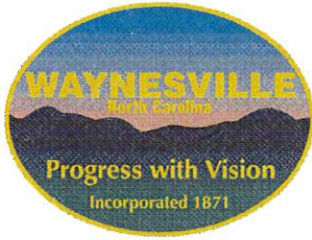
Public Notice:

Notice of this Public Hearing was mailed to owners of property within 100 feet of the subject property and sent to the media on November 17, 2021. Property was posted with a notification sign.

Items Entered as Evidence:

1. Staff Report
2. Variance Request Application
3. Zoning Map Showing Lots within District
4. Aerial Maps of Subject Property
5. Sketch of proposed recombination subdivision and lot lines
6. Photographs of buildings on subject property
7. Town of Waynesville Land Development Standards by Reference
8. Notification Materials

Dec 11/12/21 Dec 7.



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

Variance Request

Property Address/Location: 315 Hall Top Rd. Waynesville 28786
8616-04-9569

Property PIN: 8616-04-9472 Property Zoning District: HT-RL

Flood Zone?: No Historic Property or District?: No

Signature of property owner of record: Joyce Beck
Annie Rose Conner Date: 11-12-21

*Applicant Name: Floyd E. Conner Jr. Applicant Phone #: 828-593-9373

Applicant Address: 359 Hall Top Rd Waynesville NC 28786
Application must be filed by the owner of the property or by an agent specifically authorized by the owner.

I, Floyd E. Conner Jr., hereby petition the Board of Adjustment for a variance from the provisions of the Town Ordinance Land Development Standards for this property as described below.

Applicable Ordinance Section: 2.4.1 - Setbacks

Ordinance requirement from which relief is sought: We are seeking relief
from set back requirements

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

Property was willed to me by my mother who passed
away July 3rd 2021. Along with the shop, a house which
was willed to my brother. Is what we are trying to
split property for tax purposes.

Applicant Signature: Floyd E. Conner Jr. Date: 11-12-21

RECEIPT

DATE 11-12-21

No. 177162

RECEIVED FROM FLOYD E. CONNER SR.

\$ 250.00

DOLLARS

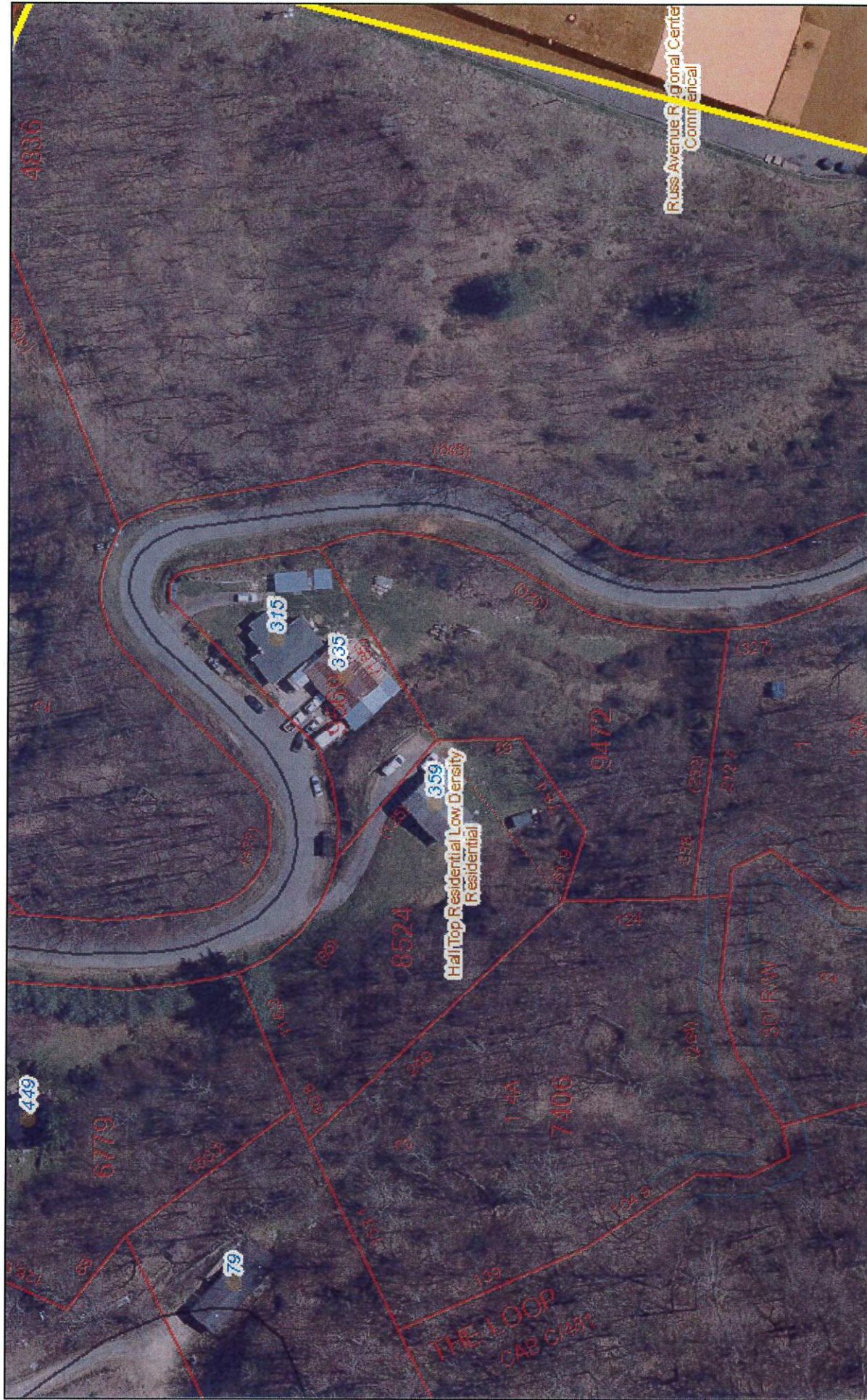
FOR RENT VARIANCE APP.

ACCOUNT		
PAYMENT		
BAL. DUE		

<input checked="" type="radio"/> CASH	FROM	TO
<input type="radio"/> CHECK		
<input type="radio"/> MONEY ORDER		
<input type="radio"/> CREDIT CARD		

BY *[Signature]*

Hall Top Low-Density Residential District



December 2, 2021

Report For

CONNER, ANNIE ROSE
315 HALL TOP RD
WAYNESVILLE, NC 28786

Account Information

PIN: 8616-04-9569

Legal Ref: 148/614

Add Ref: DC104/90
423/227

Site Information

DWELLING

315 HALL TOP RD

Heated Area: 1139

Year Built: 1963

Total Acreage: 0.29

Township: Waynesville

Site Value Information

Land Value: \$25,200

Building Value: \$91,800

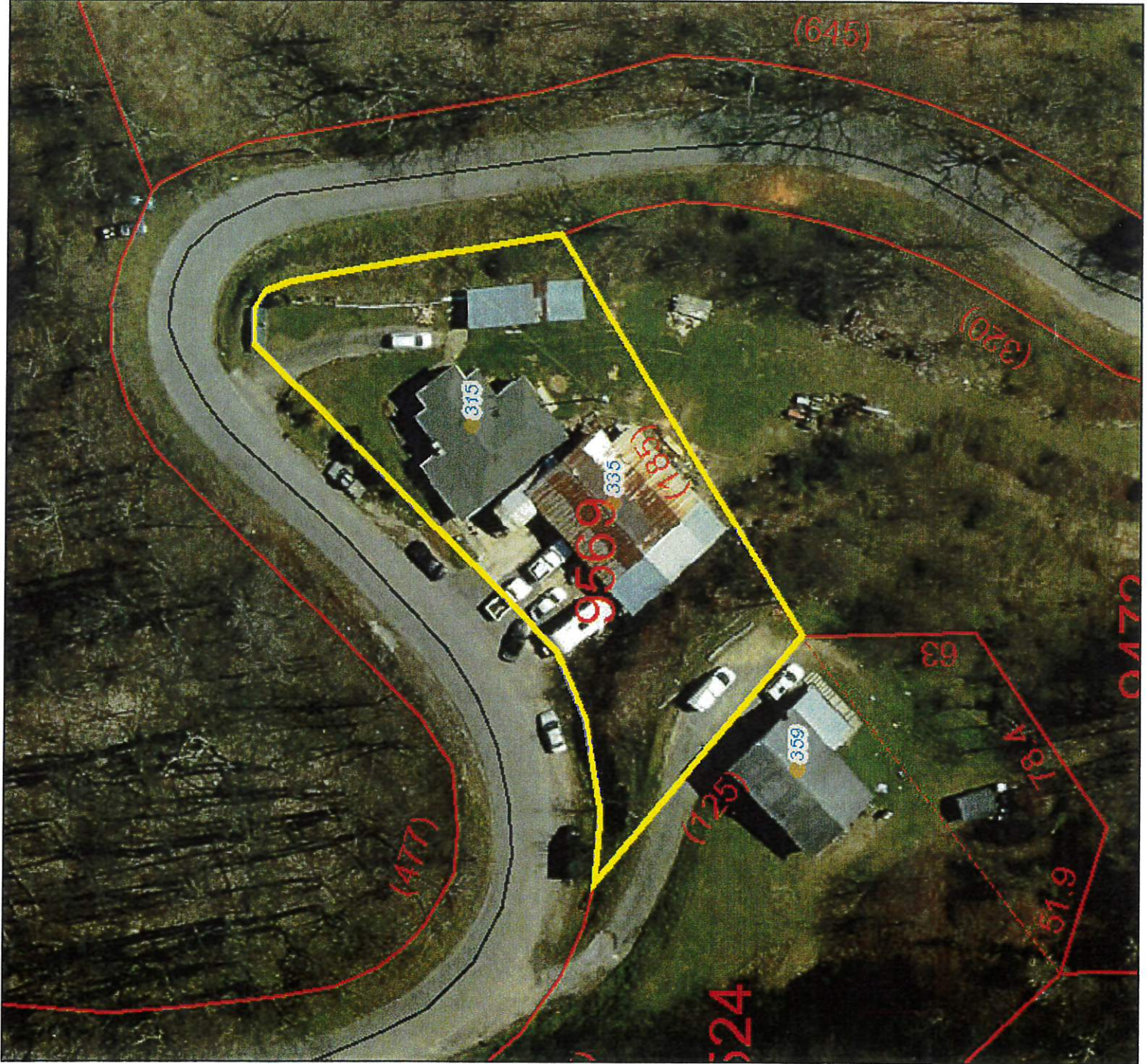
Market Value: \$117,000

Deferred Value: \$0

Assessed Value: \$117,000

Sale Price: \$500

Sale Date: 1/6/1951



1 inch = 50 feet

October 13, 2021

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

CONNER, ANNIE ROSE
315 HALL TOP RD
WAYNESVILLE, NC 28786

Account Information

PIN: 8616-04-9472

Legal Ref: 2017E/541

415/1229

Add Ref:

Site Information

HALL TOP RD

Heated Area:

Year Built:

Total Acreage: 0.91

Township: Waynesville

Site Value Information

Land Value: \$37,500

Building Value: \$0

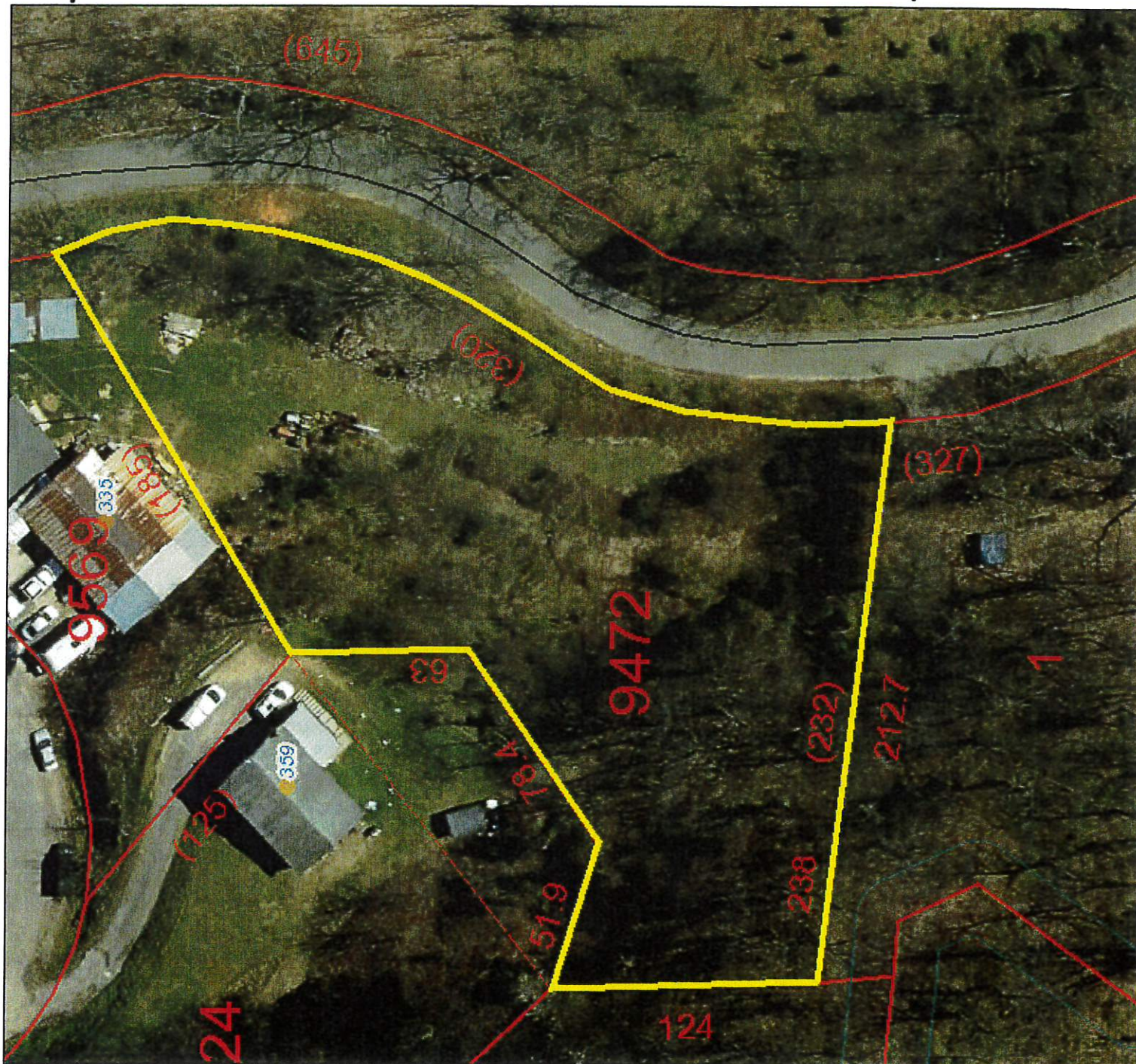
Market Value: \$37,500

Deferred Value: \$0

Assessed Value: \$37,500

Sale Price: \$0

Sale Date: 10/10/2017



1 inch = 50 feet

October 13, 2021

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.

CONNER, FLOYD E JR
CONNER, CATHY C
359 HALL TOP RD
WAYNESVILLE, NC 28786

PIN: 8616-04-8524

370/129

Site Information

359 HALL TOP RD

1987

0.79

Wayn

tion

Land Value:

Market Value:

Delevered Value:

Sale Price:

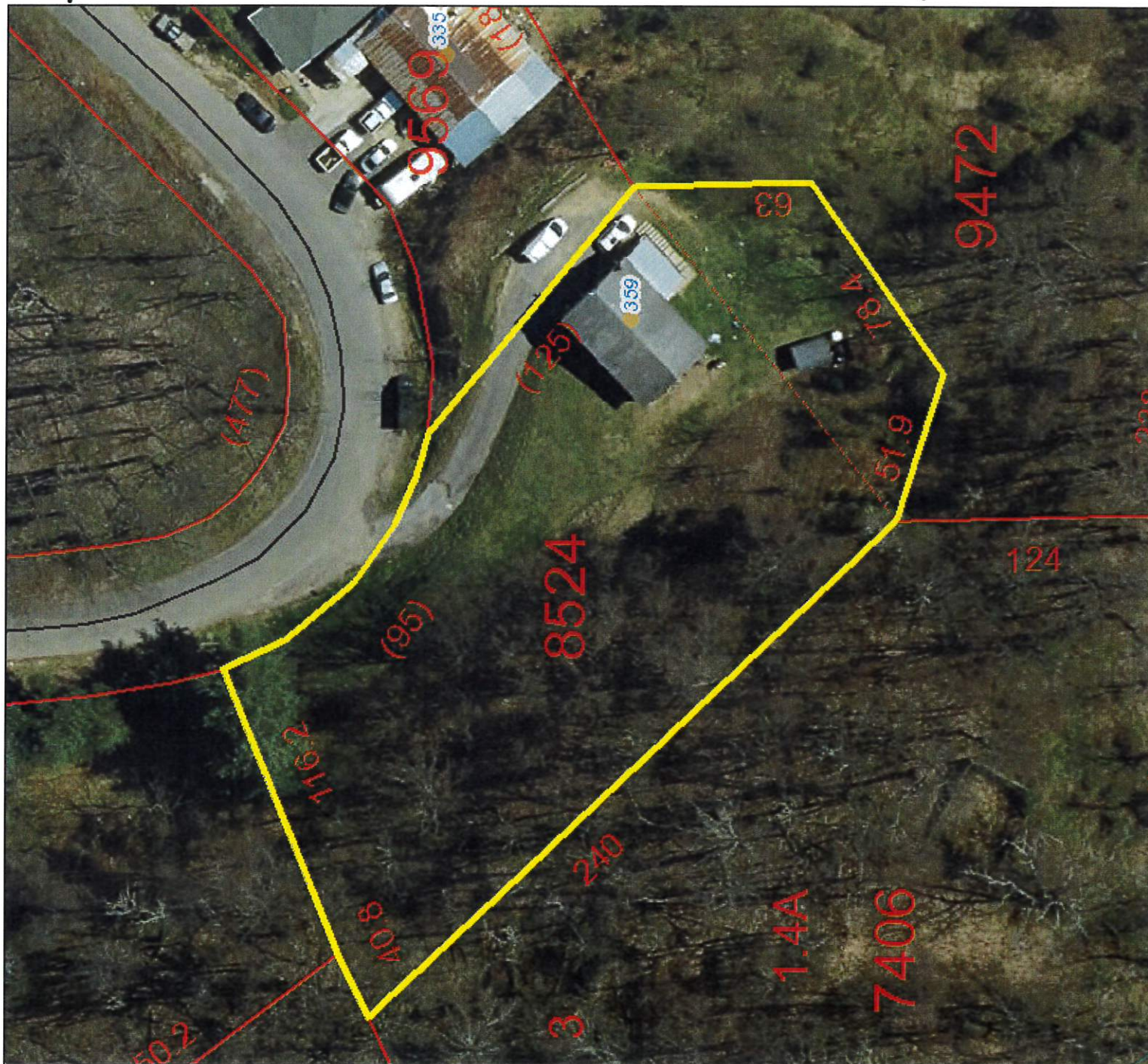
2/16/2000



1 inch = 50 feet

December 2, 2021

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.



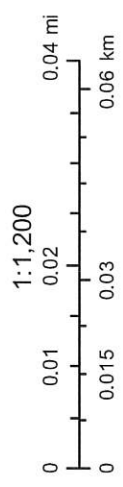
Proposed new property lines

Haywood County

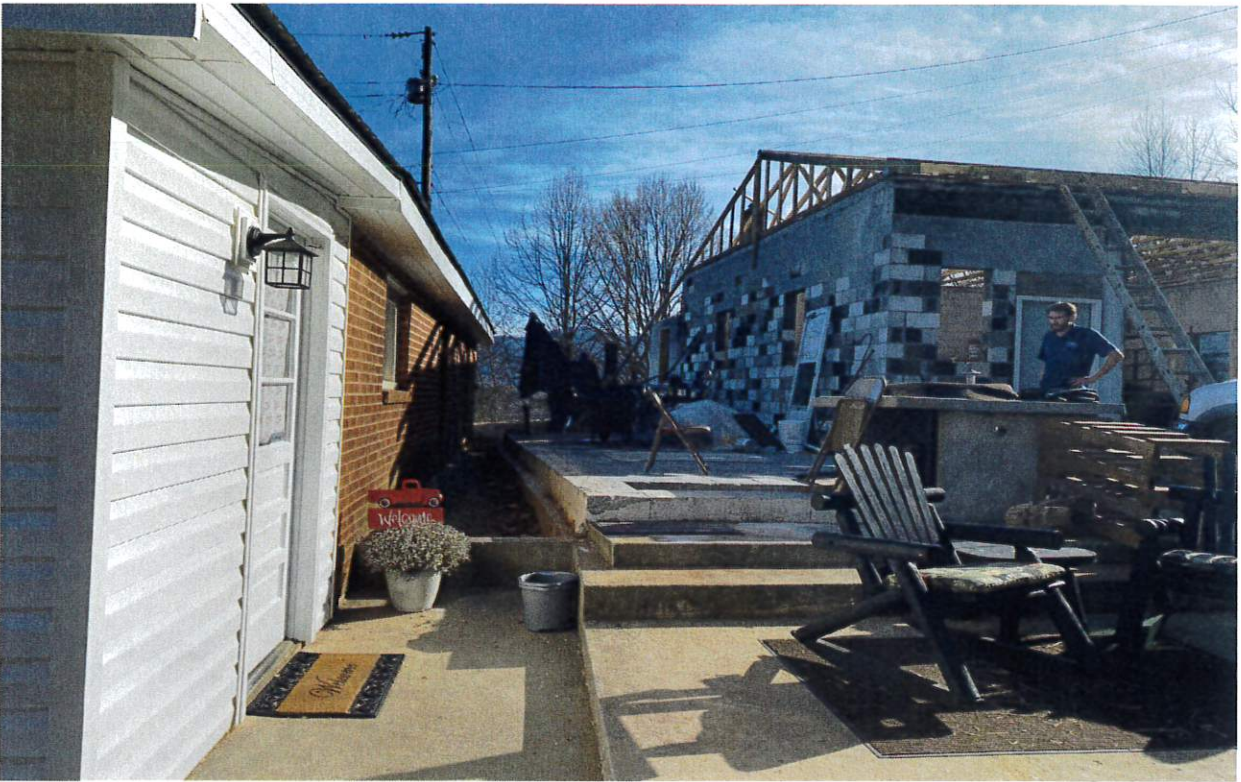
~~Property lines to be eliminated~~



December 2, 2021



315 & 335 Hall Top Road



View between buildings from front



View between buildings from rear



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

November 17, 2021

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, December 7, 2021 at 5:30 PM** in the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC, to consider a variance request at 315 Hall Top Rd, Waynesville, NC 28786 (PIN 8616-04-9569).



For more information, please contact Elizabeth Teague at (828) 456-8647 or by mail at 9 South Main Street, Suite 110, Waynesville, NC 28786.

Elizabeth Teague
Development Services Director
Town of Waynesville

