

CITY OF SANFORD BOARD OF ADJUSTMENT
REGULAR MEETING
THURSDAY, JULY 23, 2020, 6:00 PM

Sanford Municipal Center at 225 E. Weatherspoon Street, Sanford, NC- Council Chambers
Change of venue due to the safety precautions / social distancing requirements implemented in response to the COVID-19 (Coronavirus) pandemic.

The main entrance of the Sanford Municipal Center (City Hall) is located on the opposite side of the building from E. Weatherspoon Street / rear of the building. Please park in the large parking area at the rear of the building and enter via the main entrance into the large lobby area. Continue walking straight towards an open smaller lobby area. The Council Chambers is accessed via double doors on your left, next to the elevator.

If you need a shorter route / ADA accessible route, you may park in the parking area to the left of the main drive, opposite the Sanford Police Dept. entrance, take the elevator in the lobby to the first floor, and enter via the double doors on your right.

CALL TO ORDER – 6:00 PM

- A. APPROVAL OF AGENDA** - *No minutes to approve*
- B. DISCLOSURE OF CONFLICT OF INTEREST**
- C. ELECTION OF CHAIR & VICE-CHAIR**
- D. OLD BUSINESS** – *None*
- E. NEW BUSINESS**

1. VARIANCE APPLICATION

Application by Thomas M. Joyner, for property owned by Thomas M. Joyner and Charles S. Hazlewood, **requesting a 70ft variance** from the Unified Development Ordinance (UDO), Article 4 Zoning District Regulations, Section 4.7 Dimensional and Density Regulation, Table 4.7-1 Density and Dimensional Standards, “Residential Single-family (R-20), Minimum Lot Width, 100ft”, **to allow a parcel to have a minimum of 30ft of public road frontage on Columbine Road/Lord Ashley Drive**. The subject property is identified as Tax Parcel 9633-23-6390-00, depicted on Lee County Tax Map 9633.03, and illustrated as Lot 55 on a 1974 survey labeled “Section 4, Westlake Valley” recorded at Plat Cabinet 14, Slide 41 of the Lee County Register of Deeds Office. The subject property adjoins 1415 Columbine Road to the south and is located on the opposite side of/west of an unimproved right-of-way for a section of Columbine Road from 2307 Lord Ashley Drive.

Per the direction of the City of Sanford Legal Department, this would be the first step in the reconfiguration of a parcel off of Columbine Road/Lord Ashley Drive. If the variance is approved, a road closure request for the unimproved portion of Columbine Road will be placed on a future Sanford City Council agenda for consideration.

- F. OTHER BUSINESS** - *None, unless added by the board*
- G. ADJOURNMENT**

CITY OF SANFORD BOARD OF ADJUSTMENT OPENING STATEMENT

To be read by the Chair at the start of the meeting.

“This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this board must make its decisions. These rules are different from other types of land use decisions like rezoning cases.

This board’s discretion is limited. This board must base its decision on competent, relevant, and substantial evidence in the record. A quasi-judicial decision is not a popularity contest. It is a decision limited by the standards in the City of Sanford Unified Development Ordinance (the UDO) and based on the facts presented at this hearing. If you are speaking as a witness, please focus on the facts as standards, not personal preference or opinion.

This meeting is open to the public. Everyone is welcome to watch. Participation is limited. Only parties with Standing may participate by presenting evidence, calling witnesses and making legal arguments. Parties with Standing are limited to the applicant, local governments (including the City of Sanford) and persons who can show that they will suffer special damages.

Other individuals may serve as witnesses when called by the Board. Witness testimony is limited to facts, not opinions. For certain topics the Board is required to hear opinions on the impact on property values and increased traffic caused by the proposal. Individuals providing expert opinions must be qualified as experts and provide the factual evidence upon which they base their expert opinion.

Witnesses must swear or affirm their testimony. Witnesses must be recognized by the Chair, speak into the microphones and begin their testimony with their name and address. The secretary will use the recording to make the minutes.

At this time, we will administer the oath for all individuals who intend to speak tonight. The secretary will hold the Bible. The Chair (I) will read the oath.”

Retyped 2020-04-27 by Amy J. McNeill, Zoning Administrator, Sanford/Lee County Community Development.

Based on Owens and Lovelady, *Quasi-Judicial Handbook: A Guide for Boards Making Development Regulation Decisions* UNC School of Gov’t (2017) at page 35

APPRAISAL OF REAL PROPERTY



LOCATED AT

Lot # 55 TBD Columbine Rd
Sanford, NC 27330
Lot # 55, Sec IV, PC 14/Slide 41; Book 436/Page 859 Lee Co Registry

FOR

Sanford Board of Adjustments

Sanford, NC 27330

OPINION OF VALUE

AS OF

BY

Thomas M Joyner
Joyner Appraisal Services
2307 Lord Ashley Dr
Sanford, NC 27330
(919) 770-6349
tjoyner40@charter.net

Generic Map

Borrower	Jeff & Hope Frye						
Property Address	Lot # 55 TBD Columbine Rd						
City	Sanford	County	Lee	State	NC	Zip Code	27330
Lender/Client	Sanford Board of Adjustments						

\$500 FEE, VARIANCE

Application No. _____
Energov Case No. _____



City of Sanford-Lee County-Town of Broadway VARIANCE APPLICATION

Circle the Jurisdiction that Applies:

City of Sanford

Lee County

Town of Broadway

The Variance Process

A Variance is necessary when a proposed land use may have some consequences that may warrant review by the Board of Adjustment. This review is to insure there will be no detrimental effects to surrounding properties nor will it be contrary to the public interest.

In order to apply for a Variance, a completed application, fee, and all supporting documentation is required to be turned in to the Sanford-Lee County Community Department. Information regarding the submittal requirements, deadline dates, and meeting dates is provided in a separate handout specific to each jurisdiction that is available upon request. In order for the Board of Adjustment to grant approval of the Variance, the applicant must provide all of the information required.

If the Board finds that all approval criteria has been met, they may impose reasonable conditions upon the granting of any Variance to ensure public health, safety, and general welfare. If the application is approved the applicant may proceed with securing all required local, state, and federal permits necessary for the endeavor. Failure to follow conditions set in the approval process would result in a violation of the Sanford-Broadway-Lee County Unified Development Ordinance (UDO).

For questions concerning this process, you may contact the Sanford-Lee County Community Development Department, Zoning & Design Review Division, on the first floor of the historic Buggy company Building at 115 Chatham Street in downtown Sanford, N.C. during regular business hours M-F 8:00am to 5:00pm. Staff does require an in person consultation with the applicant and property owner prior to accepting a Variance request submittal to explain the process and legalities associated with this request. For additional information or questions please contact Amy J. McNeill, Zoning Administrator at 919-718-4656, ext. 5397 or amy.mcneill@sanfordnc.net.

Generic Map

Borrower	Jeff & Hope Frye						
Property Address	Lot # 55 TBD Columbine Rd						
City	Sanford	County	Lee	State	NC	Zip Code	27330
Lender/Client	Sanford Board of Adjustments						

Applicant Information

Name: Thomas (Tom) M. Joyner
Address: 2307 Lord Ashley Drive, Sanford, NC 27330
Telephone No.: 919-770-6349
Email Address: tjoyner40@charter.net

Property Owner(s) Information

Name(s): Thomas (Tom) M. Joyner and Charles S. Hazlewood
Address: 2307 Lord Ashley Drive, Sanford, NC 27330
Telephone No.: 919-770-6349
Email Address: tjoyner40@charter.net and cshazlewood@windstream.net

TO THE BOARD OF ADJUSTMENT:

I, Thomas (Tom) M. Joyner (name of applicant) hereby petition the Board of Adjustment for a Variance from the literal provisions of the City of Sanford-Town of Broadway-Lee County Unified Development Ordinance (UDO) because under the interpretation given to me by the Zoning Enforcement Officer, I am prohibited from using the parcel of land described below in a manner shown by the plot plan attached to this application.

I request a Variance from the following provisions of the Ordinance (cite paragraph numbers):
City of Sanford-Town of Broadway-Lee County Unified Development Ordinance (UDO)
Article 4 Zoning District Regulations,
Section 4.7 Dimensional and Density Regulation
Table 4.7-0 Density and Dimensional Standards,
Residential Single-family (R-20), "Minimum Lot Width, 100ft"
Specifically, requesting a variance to allow a parcel to have a minimum of 30ft of public road frontage on Columbine Road/Lord Ashley Drive, as opposed to the 100ft required.

so that the property described below can be used in a manner indicated by the plot plan attached to the application or, if the plot plan does not adequately reveal the nature of the variance, as more fully described herein: Lot 55 as illustrated on a 1974 plat labeled "Section 4, Westlake Valley" recorded in the Lee County Register of Deeds Office in Plat Cabinet 14, Slide 41 of the Lee County Register of Deeds Office.

(If a Variance is requested for a limited time only, specify duration requested).

Lee County Deed Book 436, Page 859

Lee County Tax Parcel No. (PIN): 9633-23-6390-00

Property address: (Vacant/no address) Columbine Road/Lord Ashley Drive, Sanford, NC 27330

Generic Map

Borrower	Jeff & Hope Frye						
Property Address	Lot # 55 TBD Columbine Rd						
City	Sanford	County	Lee	State	NC	Zip Code	27330
Lender/Client	Sanford Board of Adjustments						

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a Variance. Under the state enabling act, the Board is required to reach four conclusions before it may issue a variance (see 1-4 below). Additionally, please note that each of the four criteria will be voted upon individually and 4/5th of the Board members must find in favor for each item in order to pass. If any of the four criteria fails to pass, the Variance cannot be granted. In the spaces provided below and/or on additional sheets of paper submitted with the application, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach the required conclusions.

- (1) *If he/she complies with the provisions of the ordinance, an 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. However, it is not sufficient that failure to grant the Variance simply makes the property less valuable.*

If you comply with the minimum lot frontage requirements of 100' on a public street, an unnecessary hardship would result because the property would not be able to be accessed from the public street & would be land locked for building purposes. It was estimated that the cost to run sewer & pave the street would cost around \$100,000 to benefit one lot as the lot across the street from the subject is being combined with the seller/requestor primary residents at 2307 Lord Ashley Drive

- (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.*

The hardship results from conditions that are peculiar to the property such as the lot was created in 1974 prior to the adoption of the current subdivisions requiring all public streets within a sub divisions to be installed or financial guarantee. The street was created by the developer in 1974 with plans to develop the area south of the subject site into residential building sites on almost 12 acres of land that was later sold to Donald Simpson who built one of the largest homes in Sanford with a hobby shop, pond and pastures. The subject public street is no longer needed to access that property as the above property has road frontage on Cool Springs Road.

Generic Map

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

The hardship did not result from action taken by the current owners & buyer because the lot was existing with no public improved street when we purchased in 1989. No changes or improvements have been made to the subject site or street since the purchase. The need of the public street has changed since the sale of the adjoining property to the south of the subject site mentioned in # 2 above & the development of the subject property street is not practical.

- (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.*

The requested variance is consistent with the spirit, purpose, and intent of the ordinance as the proposed development of the lot with a single-family dwelling appears to comply with the Suburban Neighborhood definition of the Westlake Valley in Sanford. The site as exists requiring public paved street is not practical due to the street only being used by one site (after combining the two sites across the street) and development of the area south is not practical due to the sale of the adjoining tract of land and the building of the large home and other facilities eliminating the need for the area ever being developed and ever needing the subject street to access the adjoining property to the south of the subject property.

Please consider our request and hopefully approve the adjustment request as presented.

Required Attachments/Submittals

Please submit 12 paper copies and one digital copy of a to-scale site plan and/or civil set, whichever is appropriate for the project (created at a standard engineering scale that is legible) and 12 paper copies of all supporting documentation for inclusion with the agenda packages. Also, submit a Lee County tax map of the property and a copy of the latest recorded deed.

Generic Map

Borrower	Jeff & Hope Frye			
Property Address	Lot # 55 TBD Columbine Rd			
City	Sanford	County	Lee	State NC Zip Code 27330
Lender/Client	Sanford Board of Adjustments			

CERTIFICATION

I certify that all of the information in this application is true and accurate to the best of my knowledge, information, and belief. It is further understood that this application will be reviewed for completeness and accuracy and that it shall not be scheduled for official consideration until all required contents in proper form and fee made payable to the City of Sanford are submitted to the City of Sanford-Lee County Community Development Department.

Thomas M Joyner / Thomas M Joyner 4/30/2020
Signature of Applicant (Print & Sign) Date
This signature must be notarized below.

STATE OF NORTH CAROLINA
LEE COUNTY

I, _____, a Notary Public for Lee County and State of North Carolina do hereby certify that _____ personally appeared before me on this day and acknowledged the due execution of the foregoing Instrument. Witness my hand and official seal, this the _____ day of _____, 20_____.

(OFFICIAL SEAL) Notary Public Signature
My Commission expires: _____

Thomas M Joyner / Charles S Hazelwood
Thomas M Joyner / Charles S Hazelwood 4/30/2020
Signature of Property Owner (Print & Sign) Date
This signature must be notarized below.

STATE OF NORTH CAROLINA
LEE COUNTY

I, _____, a Notary Public for Lee County and State of North Carolina do hereby certify that _____ personally appeared before me on this day and acknowledged the due execution of the foregoing Instrument. Witness my hand and official seal, this the _____ day of _____, 20_____.

(OFFICIAL SEAL) Notary Public Signature
My Commission expires: _____

L: Forms & Certifications/BOA- Variance Application (Updated 2019-10-14 by AJMc)

Subject Photo Page

Borrower	Jeff & Hope Frye						
Property Address	Lot # 55 TBD Columbine Rd						
City	Sanford	County	Lee	State	NC	Zip Code	27330
Lender/Client	Sanford Board of Adjustments						



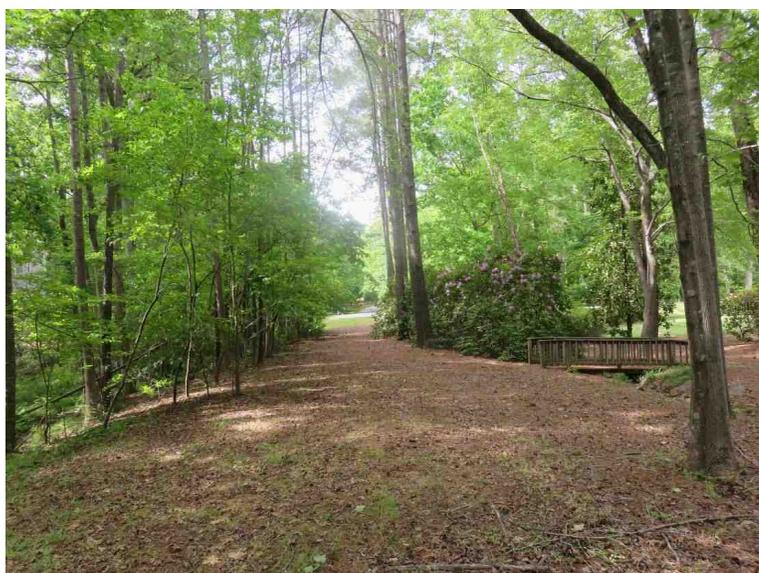
Subject Front Of Site

Lot # 55 TBD Columbine Rd
Sales Price
Gross Living Area
Total Rooms
Total Bedrooms
Total Bathrooms
Location
View
Site
Quality
Age



Subject From Columbine Rd

From Columbine Rd to the south to subject site



Subject Street

From subject street facing Columbine Rd & Lord Ashley Dr with subject site being at bottom left

Subject Photo Page

Borrower	Jeff & Hope Frye				
Property Address	Lot # 55 TBD Columbine Rd				
City	Sanford	County	Lee	State	NC Zip Code 27330
Lender/Client	Sanford Board of Adjustments				

Subject Adjoining Street

Lot # 55 TBD Columbine Rd
Sales Price Photo from Columbine Rd
Gross Living Area down Lord Ashley Drive
Total Rooms
Total Bedrooms
Total Bathrooms
Location
View
Site
Quality
Age



Subject Lord Ashley Dr & Corner of Columbine Rd



Subject Street Sign



Subject Photo Page

Borrower	Jeff & Hope Frye				
Property Address	Lot # 55 TBD Columbine Rd				
City	Sanford	County	Lee	State	NC Zip Code 27330
Lender/Client	Sanford Board of Adjustments				

Subject Adjoining Property

Lot # 55 TBD Columbine Rd
Sales Price Photo of adjoining Horner Hse
Gross Living Area
Total Rooms
Total Bedrooms
Total Bathrooms
Location
View
Site
Quality
Age



Additional Subject Site



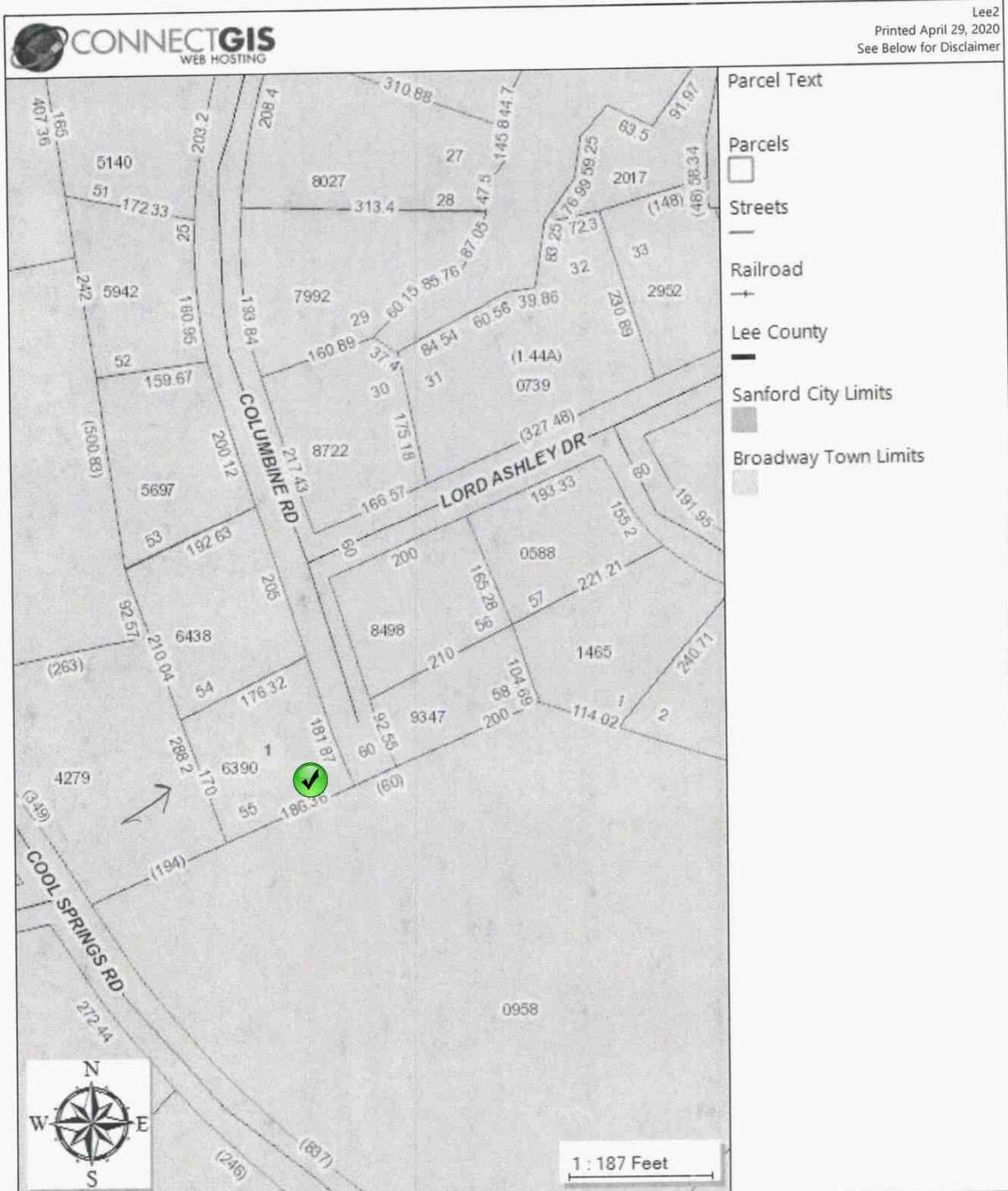
Subject Proposed Street

From Columbine Rd



Generic Map

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Lender/Client	Sanford Board of Adjustments			

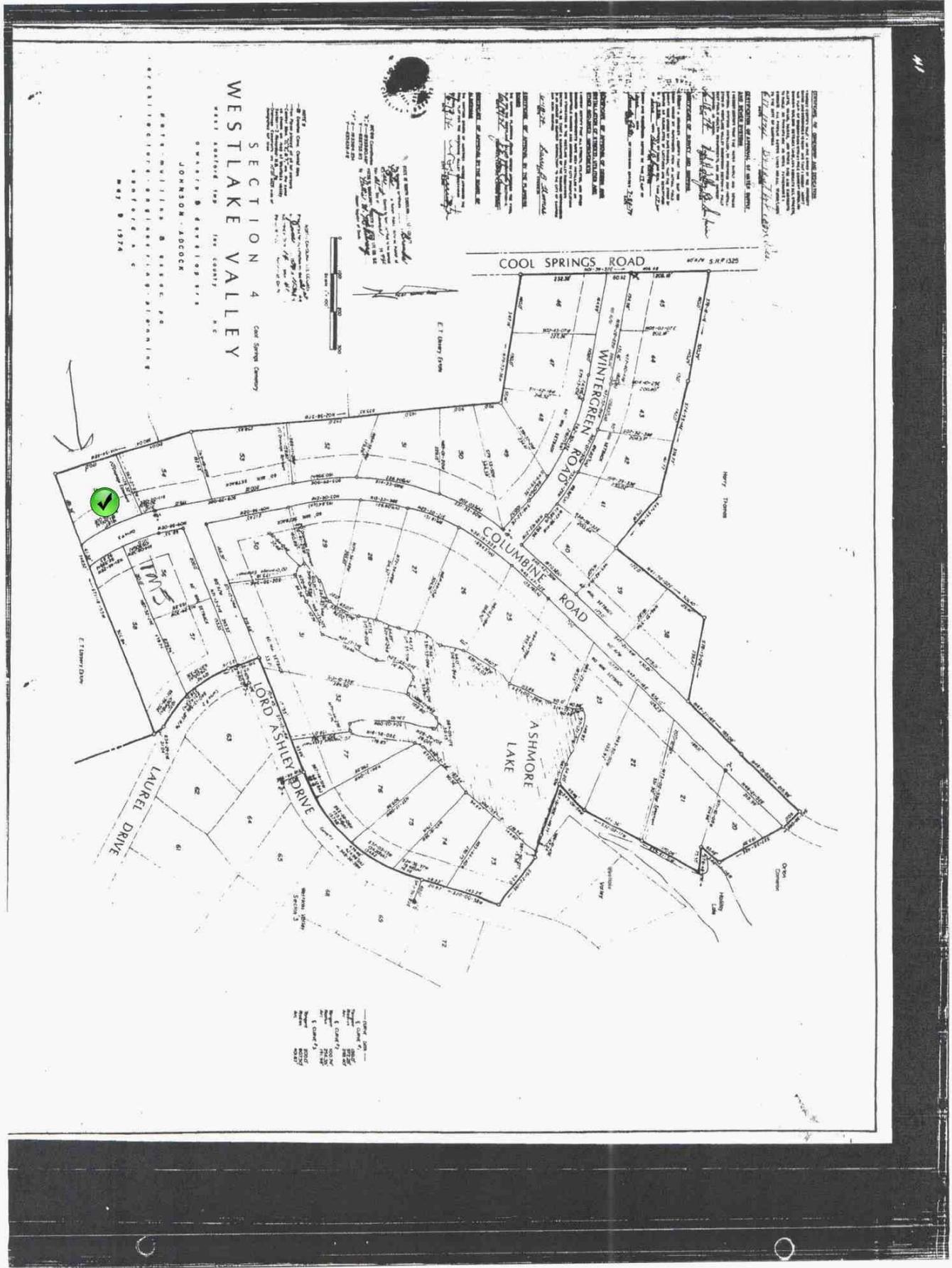


This site is prepared for the inventory of real property found within this jurisdiction and is compiled from recorded deeds, plats and other public records and data. Users of this site are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained on this site. The County of Lee and Dude Solutions, Inc. assume no legal responsibility for the information contained on this site. Please be advised that you must contact the Lee County Tax Office for accurate tax values. Please contact the Lee County Appraisal Department if any building information is incorrect. The map, layer, data and website (collectively known as "the layer") are for graphical and illustration purposes only. The Lee County Strategic Services Department (hereinafter "the Department") provides the layer and the information contained within to the general public and has not customized the information for any specific or general purpose. Such information was generated from data maintained by different sources and agencies and as such, some limitations may apply based upon restrictions imposed by other sources or agencies supplying data to Lee County (hereinafter "the County"). While the Department strives to make the information on the GIS website as timely, reliable and accurate as possible, neither the Department nor the County local governments make any claims, promises, or guarantees about the accuracy, completeness or

https://lee2.connectgis.com/DownloadFile.ashx?i=_ags_map189a684ed21c4e3c8801fa7fc... 4/29/2020

Generic Map

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Lender/Client	Sanford Board of Adjustments						



Generic Map

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Lender/Client	Sanford Board of Adjustments		

0436
0859
3977

STATE OF
NORTH CAROLINA
SEP 29 '89 RR:10673

BOOK 436 PAGE 859

Real Estate
Excise Tax

05.60

NORTH CAROLINA, LEE COUNTY

Presented for registration on the 31st day
of Sept 1989 at 2:31 PM
recorded in Book 436 page 859
Nelle W Thomas, Register of Deeds

Excise Tax
Recording Time, Book and Page

Tax Lot No. _____ Parcel Identifier No. _____

Verified by _____ County on the _____ day of _____, 19 _____

by _____

Mail after recording to Thomas M. Joyner 2307 Lord Ashley Dr., Sanford, N.C. 27330

This instrument was prepared by Orton J. Cameron, Attorney - To title certification

Brief description for the Index

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 18th day of September, 19 89, by and between

GRANTOR	GRANTEE
<p style="text-align: center;">JEAN P. JOHNSON, WIDOW</p>	<p style="text-align: center;">THOMAS M. JOYNER AND CHARLES S. HAZLEWOOD</p> <p style="text-align: center;">2307 Lord Ashley Dr. Sanford, N.C. 27330</p>

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of _____ West Sanford Township, _____ Lee County, North Carolina and more particularly described as follows:

All of Lot 55 as shown on map entitled "Westlake Valley, Section 4" dated May 9, 1974 and recorded in Map Book 14, page 41, Lee County Registry. Reference to said map is hereby made for more exact description and for the location of the drainage easement over 10 feet of said lot.

N.C. Bar Assoc. Form No. 3-D 1976, Revised 1977.

Generic Map

Borrower	Jeff & Hope Frye		
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City	Sanford	County Lee	State NC Zip Code 27330
Lender/Client	Sanford Board of Adjustments		

8436
8868

BOOK 436 PAGE 860

The property hereinabove described was acquired by Grantor by instrument recorded in _____

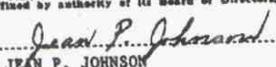
A map showing the above described property is recorded in Plat Book _____ page _____
TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

(Corporate Name)
 BY: _____
President
 ATTEST: _____
Secretary (Corporate Seal)

USE BLACK INK ONLY


 _____ (SEAL)
 JEAN P. JOHNSON
 _____ (SEAL)
 _____ (SEAL)
 _____ (SEAL)

SEAL-STAMP **NORTH CAROLINA, LEE** County.
 I, a Notary Public of the County and State aforesaid, certify that _____ Grantor,
Jean P. Johnson, Widow
 personally appeared before me this 14th day of September _____ and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 14th day of _____
 My commission expires: 6-27-91 _____ Notary Public



SEAL-STAMP **NORTH CAROLINA, _____** County.
 I, a Notary Public of the County and State aforesaid, certify that _____ Secretary of
 personally came before me this day and acknowledged that _____ he is _____
 a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its
 President, sealed with its corporate seal and attested by _____ as its Secretary.
 Witness my hand and official stamp or seal, this _____ day of _____ 19____
 My commission expires: _____ Notary Public

The foregoing Certificate(s) of Donald S. Jankins, Notary Public
 is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.
 By Nellie W. Loman REGISTER OF DEEDS FOR _____ COUNTY
 Deputy/Assistant - Register of Deeds

Generic Map

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Lender/Client	Sanford Board of Adjustments				
				Zip Code	27330



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- [Comm Bldg Summary](#)
- [Agricultural Maintenance](#)
- [Values/Asmt](#)
- [Value History](#)
- [Exemptions](#)
- [Parcel History](#)
- [Map](#)
- [Photos](#)

PARID: 96323639000 0 COLUMBINE RD VACANT
HAZELWOOD, CHARLES S

To print a property record card or export search results into a CSV format that can be used with Excel please follow these steps:
 - Select the desired report option from the right menu (e.g. CSV Export, Residential PRC) and hit GO
 - Click Open when prompted for an export. Property record cards will open as a PDF.

Parcel

ParID / PIN: 96323639000 /
 Tax Year: 2021
 Tax Jurisdiction: CSF : CITY OF SANFORD
 Neighborhood: 859 : Westlake Valley Area

Valuation

Appraised Land: 11,700
 Appraised Building: 0
 Appraised Total: 11,700
 Deferred: 0
 Exempts/Excluded: 0
 Assessed Real: 11,700
 Total Assessed: 11,700

Owner

Account Number: 50846
 Name: HAZELWOOD, CHARLES S
 Name 2:
 Own %: 50
 Mailing Address: 2009 PAUL ST
 SANFORD NC 27330

Linked Sale: 436/859

Additional Owners

Own #	CID	Owner Name	Owner2 Name	Own %
1	92584	JOYNER, THOMAS M/TR	THOMAS M JOYNER LIVING TRUST AGREEMENT	25
2	92585	JOYNER, SHIRLEY W/TR		25

Legal

Physical Address: 0 COLUMBINE RD
 Legal Description 1: LOT 55 SEC IV
 Plat Cabinet/Slide: /

Description

NBHD Code / Name: 859 : Westlake Valley Area
 Class: R1 : RESIDENTIAL
 Land Use: 101 : RESIDENTIAL
 Zoning: R-20
 Living Units:
 Deeded Acres:
 Calculated Acres: .7355

Recorded Transaction

Date	Book	Page	Instrument	Sale Price	Validity Code
26-AUG-98	436	859	-	0	8

1 of 1
 My Tax Year: 2021

- Actions**
- [Printable Summary](#)
 - [Printable Version](#)

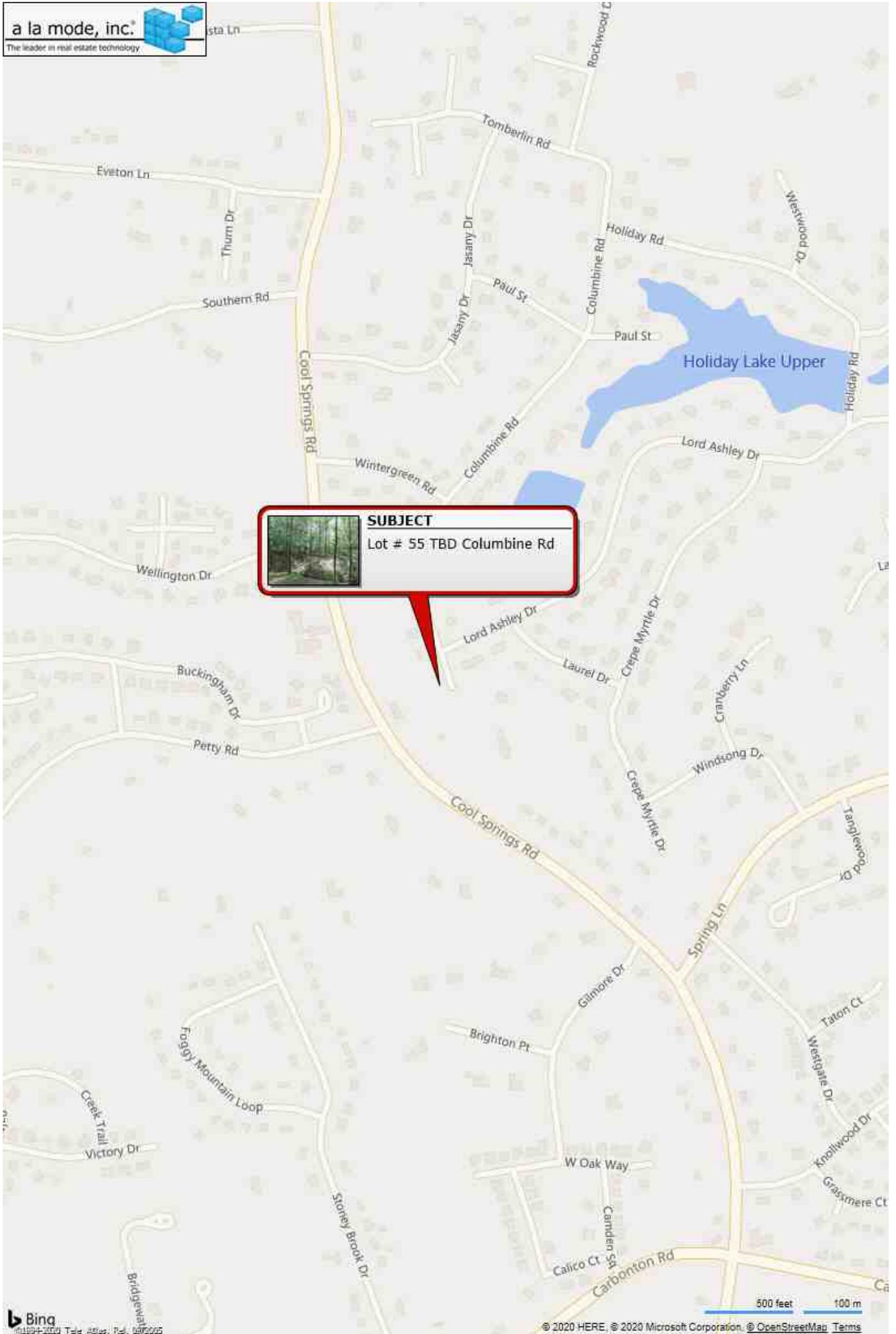
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Go

External Links
[Linksat=server>External Links](#)

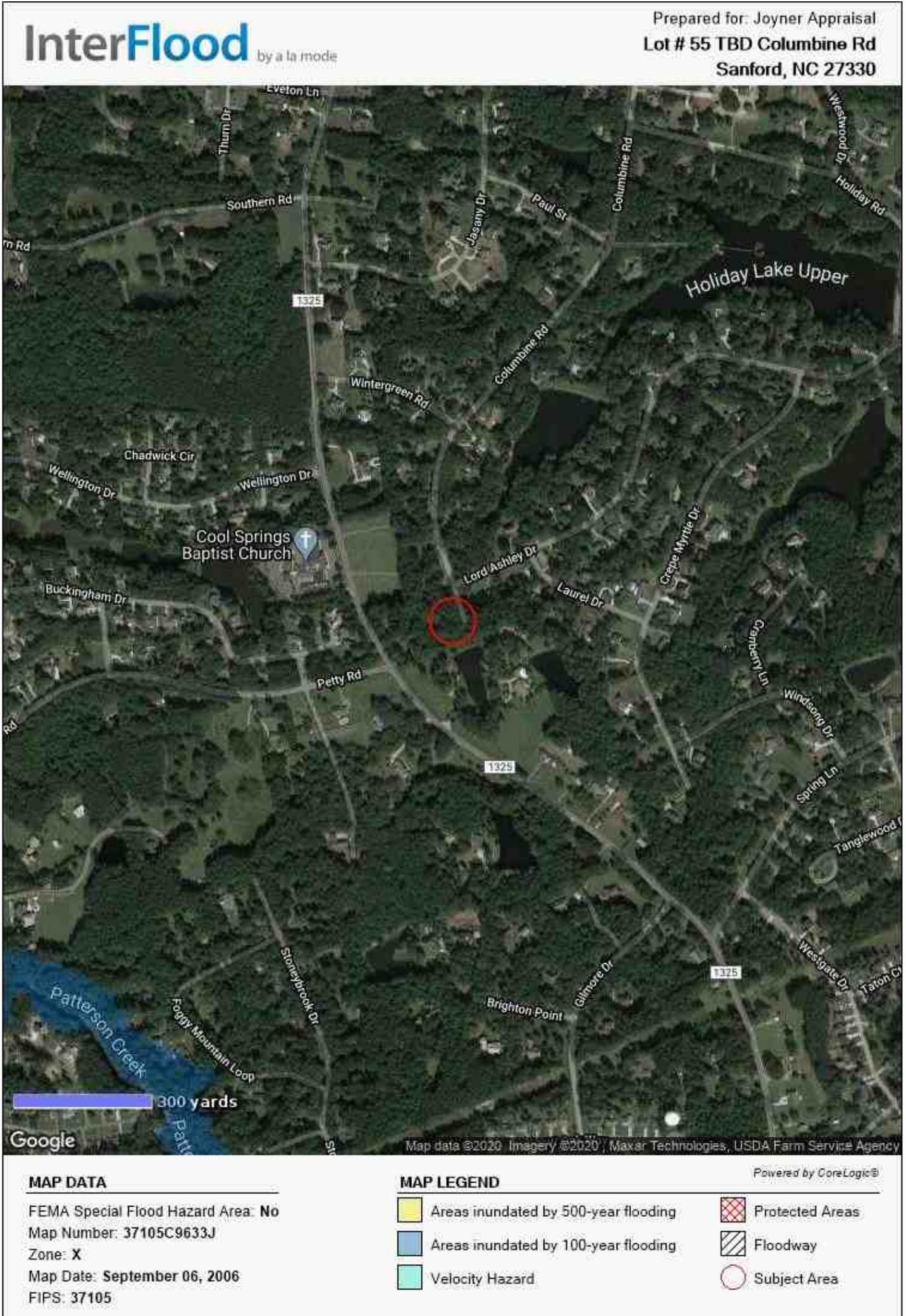
Location Map

Borrower	Jeff & Hope Frye			
Property Address	Lot # 55 TBD Columbine Rd			
City	Sanford	County	Lee	State NC Zip Code 27330
Lender/Client	Sanford Board of Adjustments			



Flood Map

Borrower	Jeff & Hope Frye			
Property Address	Lot # 55 TBD Columbine Rd			
City	Sanford	County	Lee	State NC Zip Code 27330
Lender/Client	Sanford Board of Adjustments			



City of Sanford Board of Adjustment

Public Hearing Information for a Variance Request

July 23, 2020 – *Special Called Meeting*

APPLICATION# 2020-0701 FOR A VARIANCE

Applicant: Thomas (Tom) M. Joyner
Owner: Thomas M. Joyner and Charles S. Hazlewood
Request: Variance from the required public road frontage
Location: (Vacant) Columbine Road / Lord Ashley Drive, Sanford, NC 27330
Township: West Sanford
Tax Parcel: 9633-23-6390-00
Adjacent Zoning: North: Residential Single-family (R-20)
South: Residential Single-family (R-20)
East: Residential Single-family (R-20)
West: Residential Single-family (R-20)

Introduction: Mr. Joyner would like to sell an existing lot of record for the development of a new home, but has encountered a dilemma. The existing lot is at the end of an unimproved right-of-way, not a paved public street. In order to develop the lot, it must front a paved public street. Therefore, he has submitted a request to close the unimproved right-of-way that extends from his lot to Columbine Road/Lord Ashley Drive, which would create 60ft of public road frontage that would be split between Mr. Joyner and the property owners on the opposite side of the right-of-way (Ronald and Betty Horner). Mr. Joyner would then have 30ft of paved public road frontage that he would combine with the lot that he would like to sell. This requires a variance to be granted that allows a newly created lot in the Residential Single-family (R-20) zoning district to have a minimum of 30ft of width/road frontage instead of the 100ft required; therefore, he is requesting a 70ft variance.

Per the direction of the City of Sanford Legal Department, the variance is required as the first step in the reconfiguration of this parcel. If the variance is approved, the road closure request for the unimproved portion of Columbine Road will be placed on a future Sanford City Council agenda for consideration.

Site and Area Description: The subject property is identified as Lot 55 of Westlake Valley Subdivision, which is located on the western side of US Hwy 1 within the corporate City limits. Specifically, it adjoins 1415 Columbine Road to the south and is located on the opposite side of/west of an unimproved right-of-way for a section of Columbine Road from 2307 Lord Ashley Drive.

Surrounding Land Uses: The area is zoned Residential Single-family (R-20) and is developed with site built single-family homes.

Zoning District Information: The subject property is zoned Residential Single-family (R-20) zoning district, which is established to provide areas for low-density single-family uses, with a maximum of two dwelling units per acre, which may provide buffers between the agricultural and R-20 classifications and the higher density areas of the County of Lee. It includes density and minimum lot size requirements in order to allow for market and design flexibility while preserving the neighborhood character. The dimensional requirements include a minimum lot width of 100 feet, a minimum lot depth of 125 feet, a minimum lot size of 20,000 square feet, with principal building setbacks of 30 feet from the front property line, 30 feet from the rear property line, and 15

feet from the side property lines, with a maximum building height of 40 feet. Examples of uses permitted by right within the R-20 zoning district include single-family detached homes (site-built or modular, no “mobile” homes), parks, playgrounds & athletic fields operated on a noncommercial basis, and churches under 350 seats.

Overlay Districts and LongRange Plan: This site is not located within a Flood Hazard Area/Floodplain, a Watershed Conservation Overlay District or a designated historic district.

Long Range Plan: The *Plan SanLee* Land Use Plan identifies the future land use place type for this tract of land as “Suburban Neighborhood”, which has the following characteristics:

- Residential areas on the outskirts of a core urbanized area
- Facilitates large scale development of single-family residential
- Walkable, with a high degree of transportation connectivity between neighborhoods and surround network thoroughfares
- A local example is the Westlake Valley neighborhood in Sanford.

Land use designations include open space, civic, and residential. The proposed zoning districts are medium density residential (primary) and low density residential (secondary). Suggested infrastructure includes public water and wastewater/sewer. The preferred characteristics are interconnected curvilinear streets with 600ft block lengths, curb & gutter & sidewalks with street trees. Reference the attached information from the *Plan SanLee* Land Use Plan.

Utilities: Per GIS, there is an 8-inch water main line along Lord Ashley Drive and an 8-inch water main line along Columbine Road that continues along the unimproved right-of-way of Columbine Road and terminates at the end of the right-of-way. The existing easement (typically 20ft in width) associated with this water main line must be taken into consideration when developing this area.

There is also an 8-inch sanitary sewer main line along Lord Ashley Drive and a manhole in the right-of-way adjoining the area of the proposed right-of-way closure, which whomever builds a house would be able to utilize if the right-of-way is legally closed.

If the variance is approved and this area is proposed for development, all public water connections and sewer connections for the new use must be approved by the City of Sanford Public Works Department to verify compliance with all applicable regulations, such as the installation of backflow prevention devices, etc. Staff has conferred with the City Engineering Dept. regarding this matter and, based on the information available at this time, it does not appear that the proposed water and sewer connections required to develop a new house at this location would be problematic.

Transportation: A 1974 survey labeled “Section 4, Westlake Valley” recorded at Plat Cabinet 14, Slide 41 of the Lee County Register of Deeds Office illustrates a 60ft right-of-way associated with Columbine Road as the public road frontage/access for the subject property; however, the roadway ends at the intersection of Columbine Road and Lord Ashley Drive. There are no plans to improve the right-of-way in front of this site.

Staff Comments: The applicant has researched the costs associated with extending the public street and the sewer main to serve the existing lot of record and it is cost prohibitive to do so. Also, staff has conferred with the City Engineering Dept., the Sanford Fire Dept. and our Long Range/Transportation Planner and they all agree that the closure of this unimproved right-of-way does not appear to create a utility or safety issue. There are no plans to extend this roadway and Mr. Joyner owns all of the land on both sides of the unimproved right-of-way, with the exception of the portion adjoining the Horner’s property at 1415 Columbine Road. He has spoken with the Horner’s son regarding this matter (Perry Horner, the property owner’s son handles most matters for his parents at this time) and they are not interested in selling any of their existing property or the 30ft of additional property that they would have if the unimproved right-of-way is closed by the Sanford City Council. If, however, Mr. Joyner or whomever he sells his property to, were able to acquire additional road frontage for the subject property in the future, this would be permitted since the variance (if granted) would allow a minimum of 30ft of frontage, but does not prohibit the lot from having more than 30ft.

ATTACHMENTS

- GIS Maps of Property - tax information, aerial images, and zoning of the site and area
- Unified Development Ordinance (UDO) reference
- Legal Notice for Special Use Permit Application
- Adjoining Property Owner Notification of Public Hearing
- Certification of Adjacent Property Owner Notification
- List of Adjoining Property Owners
- Variance Hearing Procedures

VARIANCE PROCEDURES: The variance procedures are intended to protect the rights of applicants, landowners, & affected persons by providing procedures for appeals from decisions of administrative officials and variances from the provisions of UDO.

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board is required to reach four conclusions before it may issue a variance:

- A. If he complies with the provisions of the ordinance, the property owner will suffer unnecessary hardship. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- B. The hardship of which the applicant complains 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.
- 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 shall not be regarded as a self-created hardship.
- D. 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.

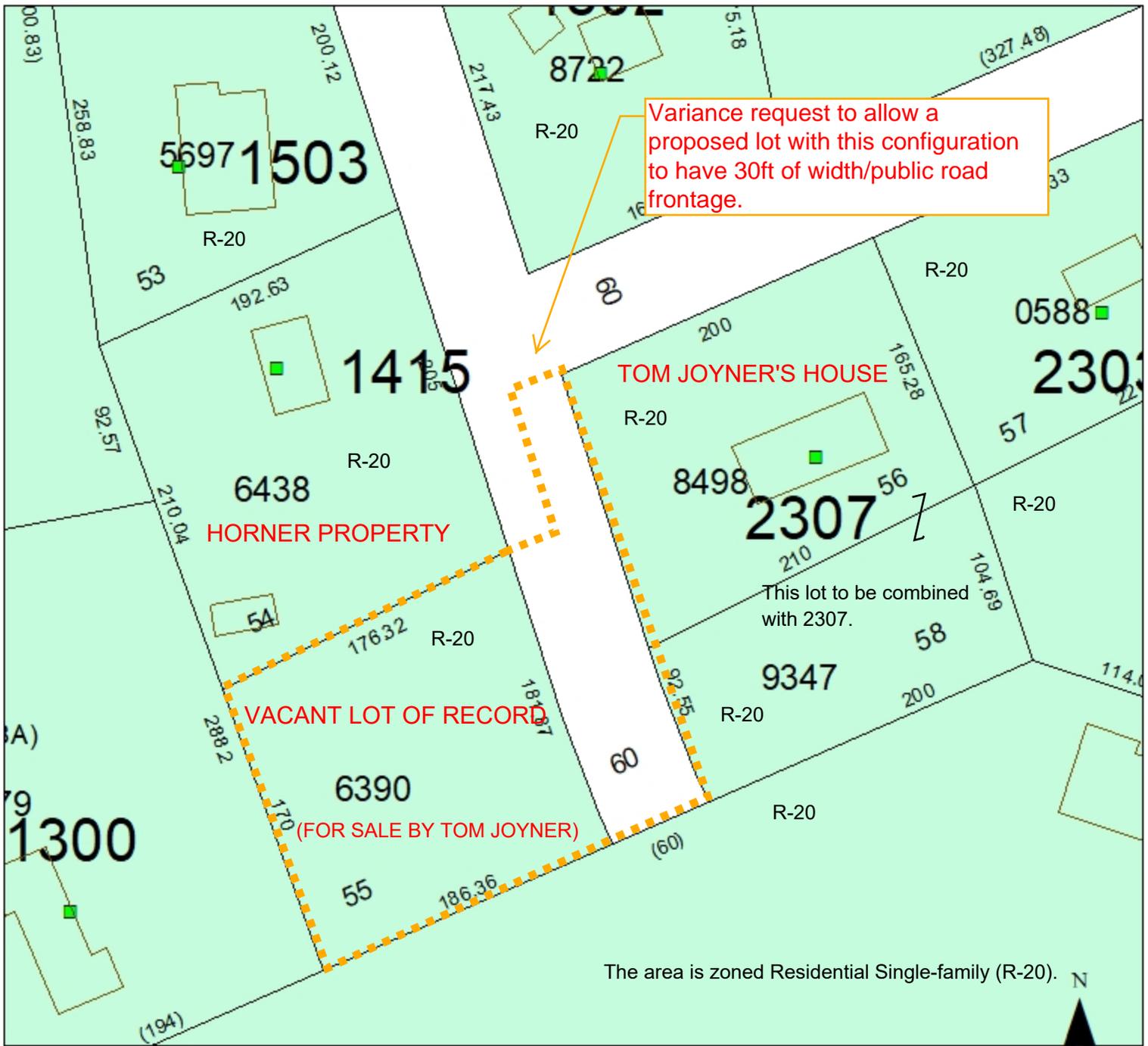
Note: Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. A concurring vote of four-fifths of all members of the Board of Adjustment is required in order to grant the variance. Decisions of the Board of Adjustment shall be appealed to the Lee County Superior Court within 30 days of the Board final decision.



VARIANCE REQUEST:

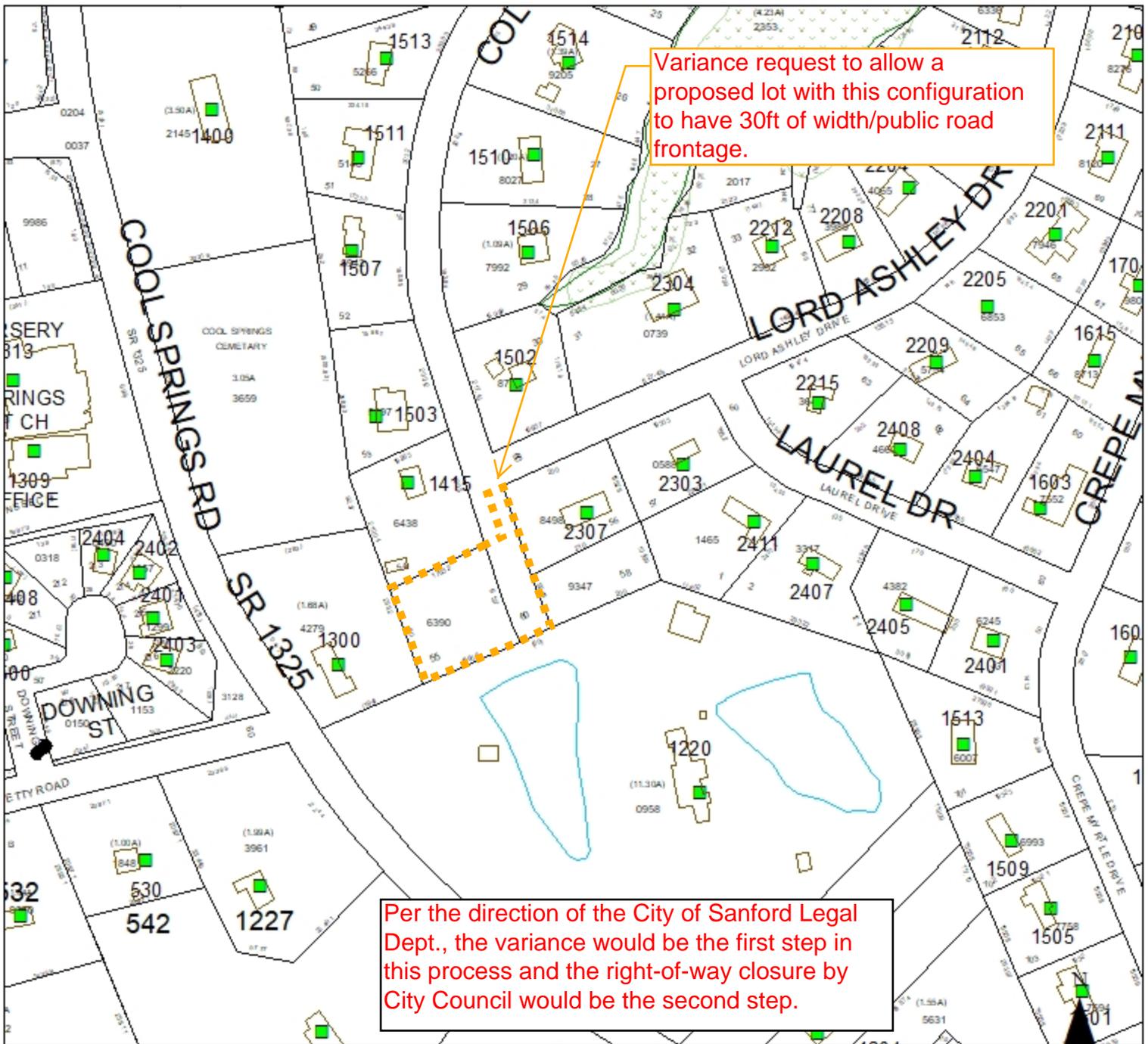
Thomas M. Joyner is requesting a 70ft variance to allow a lot to have 30ft of public road frontage, as opposed to the 100ft required.
PIN 9633-23-6390-00

This is a graphic illustration and not a legal document.



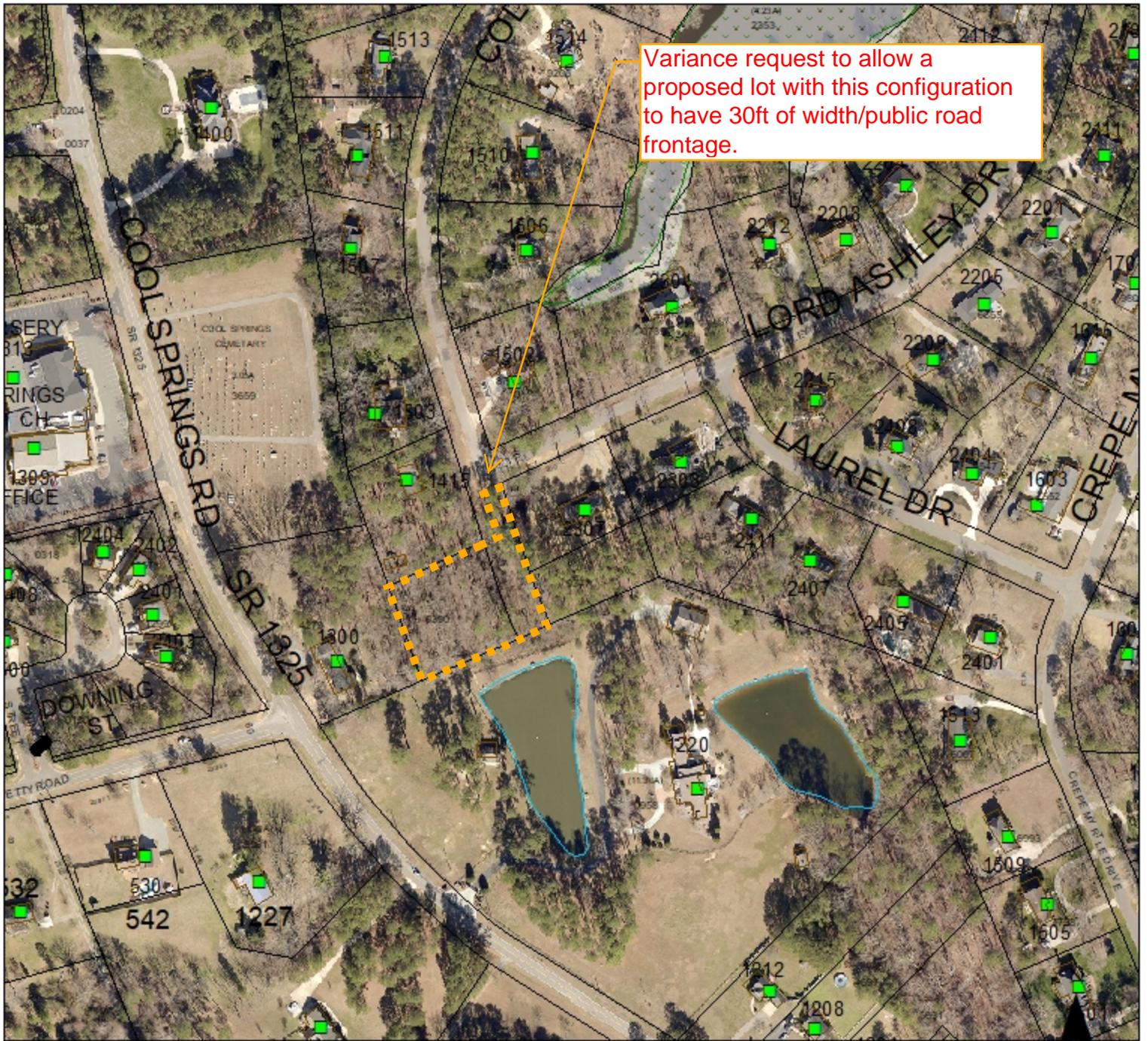
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PIN 9633-23-6390-00

This is a graphic illustration and not a legal document.

1974 PLAT OF SUBJECT PROPERTY

CERTIFICATE OF OWNERSHIP AND DEDICATION

I HEREBY CERTIFY THAT I AM THE OWNER OF THE PROPERTY SHOWN AND DESCRIBED HEREON AND THAT I HEREBY ADOPT THE PLAN OF SUBDIVISION WITH FREE CONSENT ESTABLISHING BOUNDARY LINES, SETBACKS, ALLEYS, WALKS, PARKS, AND OTHER SIDE AND EASEMENTS TO PUBLIC OR PRIVATE USE AS NOTED, FURTHERMORE I DEDICATE ALL PUBLIC SEWER LINES AND ALL WATER LINES TO THE CITY OF SANFORD.

DATE: 6-17-74
OWNER: Harry Thomas

CERTIFICATION OF APPROVAL OF WATER SUPPLY AND SEWER SYSTEMS

I HEREBY CERTIFY THAT THE WATER SUPPLY AND SEWER DISPOSAL SYSTEMS INSTALLED, OR PROPOSED FOR INSTALLATION IN WESTLAKE VALLEY SUBDIVISION SECTION 4 FULLY MEET PUBLIC HEALTH REQUIREMENTS, AND ARE HEREBY APPROVED AS SHOWN.

DATE: 6-18-74
OFFICIAL: [Signature]

CERTIFICATE OF SURVEY AND MAPPING

I HEREBY A BRACKEN, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL FIELD SURVEY MADE UNDER MY SUPERVISION, THAT THE ERRORS OF MEASUREMENT AS CALCULATED BY LATITUDES AND DEPARTURES DO NOT EXCEED THE TOLERANCES PERMITTED BY THE ACT OF MARCH 1874, AND I HEREBY CERTIFY THAT THIS MAP WAS DRAWN AND SUBMITTED BEFORE THE 17th DAY OF [Month] 1974, BY COMMISSION EXPIRES 7-24-77.

CERTIFICATE OF APPROVAL OF DESIGN AND INSTALLATION OF STREETS, UTILITIES AND OTHER REQUIRED IMPROVEMENTS

I HEREBY CERTIFY THAT ALL STREETS, UTILITIES, AND OTHER IMPROVEMENTS HAVE BEEN INSTALLED IN AN ACCEPTABLE MANNER AND ACCORDING TO CITY SPECIFICATIONS AND STANDARDS IN THE WESTLAKE VALLEY SUBDIVISION SECTION 4, OR THAT A SUMMARY OF THE REQUIRED IMPROVEMENTS IN AN AMOUNT OF BANNER SATISFACTORY TO THE CITY OF SANFORD HAS BEEN RECEIVED.

DATE: 6-18-74
OFFICIAL: Larry B. Thomas

CERTIFICATE OF APPROVAL BY THE PLANNING BOARD

THE SANFORD PLANNING BOARD HEREBY APPROVES THE FINAL PLAT FOR THE WESTLAKE VALLEY SUBDIVISION SECTION 4, OR THAT A SUMMARY OF THE REQUIRED IMPROVEMENTS IN AN AMOUNT OF BANNER SATISFACTORY TO THE CITY OF SANFORD HAS BEEN RECEIVED.

DATE: 6-18-74
OFFICIAL: [Signature]

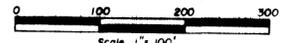
CERTIFICATE OF APPROVAL BY THE BOARD OF ALDERMEN

THE SANFORD BOARD OF ALDERMEN HEREBY APPROVES THE FINAL PLAT FOR THE WESTLAKE VALLEY SUBDIVISION SECTION 4, OR THAT A SUMMARY OF THE REQUIRED IMPROVEMENTS IN AN AMOUNT OF BANNER SATISFACTORY TO THE CITY OF SANFORD HAS BEEN RECEIVED.

DATE: 6-18-74
OFFICIAL: [Signature]

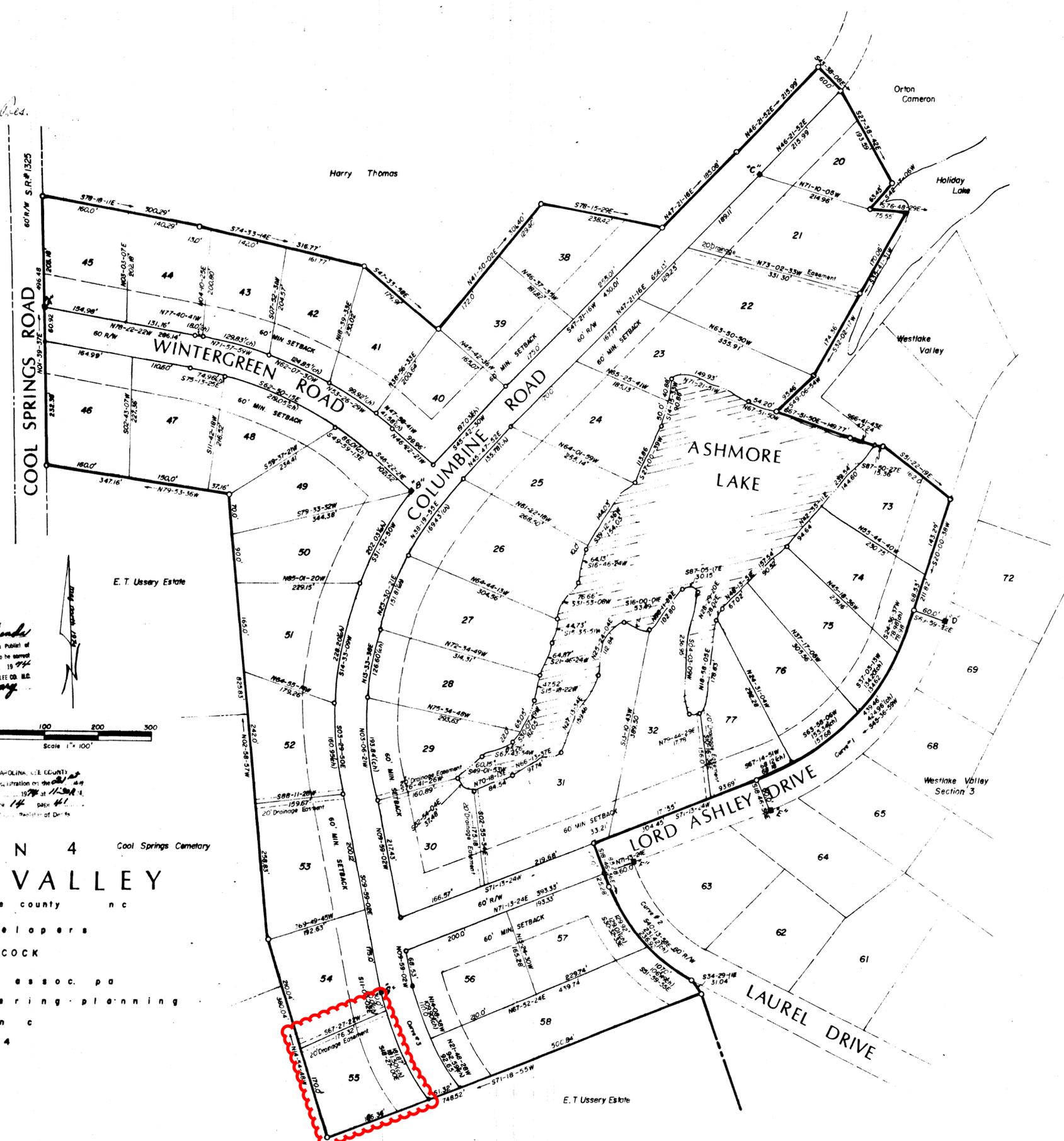
STATE OF NORTH CAROLINA... I, [Name], a Notary Public, do hereby certify that [Name] is the owner of the property described in the foregoing plat, and that he is qualified to execute the same.

WCS Coordinates: E: X - 833380.487, Y - 833703.815, P: X - 833324.234, Y - 833639.412



NORTH CAROLINA... I, [Name], a Notary Public, do hereby certify that [Name] is the owner of the property described in the foregoing plat, and that he is qualified to execute the same.

SECTION 4
WESTLAKE VALLEY
west sanford twp lee county nc
owners & developers
JOHNSON ADCOCK
pate mullins & assoc. pa
architecture-engineering-planning
sanford nc
may 9 1974



CURVE DATA

Curve #1	Tangent	150.0'
Curve #1	Radius	572.25'
Curve #1	Arc	233.40'
Curve #2	Tangent	100.74'
Curve #2	Radius	256.33'
Curve #2	Arc	191.98'
Curve #3	Tangent	200.0'
Curve #3	Radius	807.50'
Curve #3	Arc	401.67'

1974 PLAT OF SUBJECT PROPERTY.

Table 4.7-1: Density and Dimensional Standards

Zoning District	Minimum Lot Size (Sq. ft.) (see note 2)	Maximum Density (Units per Acre)	Maximum Impervious Surface Ratio (see note 3)	Minimum Lot Width (in Feet) (see notes 2 and 5)	Minimum Lot Depth (in feet) (see note 5)	Maximum Building Height (in feet)	Maximum Lot Width-to-Depth Ratio (see note 6)	Minimum Front Setback (in feet) (see note 2)	Minimum Side Setback (in feet) (see note 2)	Minimum Rear Setbacks (in feet) (see note 2)
Residential Agricultural (RA)	40,000	1.0	—	100	150	40	1:4	30	15	30
Restricted Residential (RR)	30,000	1.5	—	100	125	40	1:4	30	15	30
Residential Single-Family (R-20)	20,000	2.0	—	100	125	40	1:4	30	15	30
Residential Single-Family (R-14)	14,000	3.0	—	75	100	40	1:4	30	12	20
Residential Single-Family (R-12SF)	12,000	3.5	—	75	100	40	1:4	30	12	20
Residential Mixed (R-12)	12,000	3.5	—	75	100	40	1:4	30	12	20
Residential Mixed (R-10)	10,000	4.0	—	70	100	40	1:4	25	10	20
Residential Mixed (R-6)	6,000	7.0	—	60	100	40	1:4	20	8	20
Multi-Family (MF-12)	—	12.0	—	50	100	60	—	20	20	20
Neighborhood Commercial (NC)	—	—	0.7	50	100	50	—	10	0	0
Office & Institutional (O&I)	—	—	0.7	50	100	60	—	10	0	0
Light Commercial & Office (C-1)	—	—	0.7	50	100	50	—	10	0	0
Highway Commercial (HC)	—	—	0.8	50	100	—	—	10	0	0
General Commercial (C-2)	—	—	0.8	50	100	—	—	10	0	0
Central Business District (CBD)	—	—	1	—	—	—	—	0	0	0
Light Industrial (LI)	—	—	0.8	80	100	—	—	30	0	0
Heavy Industrial (HI)	—	—	0.9	100	100	—	—	30	0	0

Note 1. A dash (—) indicates that the requirement does not apply within the particular zoning district. Fractions shall be rounded up.

Note 2. Minimum Lot Size and Minimum Lot Width applies to lots within a conventional subdivision. Lot size requirements for cluster subdivisions, PUDs and/or TND developments are governed within the specific sections of this Ordinance that addresses these optional development styles.

Note 3. The impervious surface ratio are expressed as a ratio (See Appendix A for definitions). Additional impervious surface restrictions might apply to portions of a site located within the Watershed Conservation Overlay Districts.

Note 4. Multifamily Dwellings, Townhouse, etc. are governed by additional dimensional standards. Refer to § 10.3 of this UDO for additional standards and regulations.

Note 5. For cul-de-sac and/or corner lots, see § 6.6 Lot Design Standards.

Note 6. The Maximum Lot-to-Depth ratio applies to all lots created under the Major Subdivision procedure as set forth in Article 6 of this UDO. Lots created under the Minor Subdivision procedures are exempt from these requirements.

Note 7: Any ramp or other structure constructed to comply with the standards of the Americans with Disabilities Act (ADA) or other similar Building Code requirement for the purpose of providing handicap access to a building shall be exempt from the required setbacks of this Table 4.7-1.

CITY OF SANFORD PUBLIC NOTICE

Notice is hereby given that the City of Sanford Board of Adjustment will conduct a public hearing at a Special Called Meeting on Thursday, July 23, 2020 in the Council Chambers of the Sanford Municipal Center at 225 E. Weatherspoon Street, Sanford, N.C. The public hearing will begin at 6:00p.m. or as soon thereafter as deemed practical by the Board. The variance application is described below:

1. VARIANCE APPLICATION: Application by Thomas M. Joyner, for property owned by Thomas M. Joyner and Charles S. Hazlewood, requesting a 70ft variance from the Unified Development Ordinance (UDO), Article 4 Zoning District Regulations, Section 4.7 Dimensional and Density Regulation, Table 4.7-1 Density and Dimensional Standards, “Residential Single-family (R-20), Minimum Lot Width, 100ft”, to allow a parcel to have a minimum of 30ft of public road frontage on Columbine Road/Lord Ashley Drive. The subject property is identified as Tax Parcel 9633-23-6390-00, depicted on Lee County Tax Map 9633.03, and illustrated as Lot 55 on a 1974 survey labeled “Section 4, Westlake Valley” recorded at Plat Cabinet 14, Slide 41 of the Lee County Register of Deeds Office. The subject property adjoins 1415 Columbine Road to the south and is located on the opposite side of/west of an unimproved right-of-way for a section of Columbine Road from 2307 Lord Ashley Drive. *(This would be the first step in the reconfiguration of a parcel off of Columbine Road/Lord Ashley Drive. If the variance is approved, a road closure request for the unimproved portion of Columbine Road will be placed on a future Sanford City Council agenda for consideration.)*

The public is cordially invited to attend this quasi-judicial hearing. Due process requirements for quasi-judicial decisions mandate that certain standards be observed when these decisions are made. This includes the right of parties for or against the proposal to offer evidence, have sworn testimony, and have findings of fact supported by competent, substantial and material evidence.

All interested parties have the right to be represented by an attorney. Further information may be obtained by contacting Amy J. McNeill, Zoning Administrator for the Sanford/Lee County Zoning & Design Review Department, 115 Chatham Street, Sanford, NC 27330 at 919-718-4656, Ext. 5397 or amy.mcneill@sanfordnc.net during regular business hours, Monday-Friday from 8:00am to 5:00pm. Upon request and with 24-hour notice, the City will provide an interpreter for the hearing impaired or any other auxiliary aid.

Cualquier ciudadano que tenga preguntas o comentarios de las cosas al referido, puede comunicarse a el departamento de desarrollo para Sanford/Condado de Lee, llame al (919) 718-4656.

If attending the meeting, please access the building via the ground level entrance from the large public parking area at the rear of the building located between Charlotte Avenue & McIver Street and take the elevator to the Buggy Conference Room on the first floor.

Please publish in the Legal Notices Section of the Sanford Herald on Friday, July 10, 2020 and Friday, July 17, 2020. If you have any questions regarding this notice, please call Amy J. McNeill at 718-4656, ext. 5397. Charge to Account 30031885 and refer to as Sanford Board of Adjustment Notice.

Please send publisher's affidavit to the Sanford/Lee County Community Development Dept., P.O. Box 3729, Sanford, NC, and attention: Angela Baker. Thank you.

July 10, 2020

Dear Adjacent Property Owner:

The Zoning Ordinance of Sanford, North Carolina requires that adjacent property owners be notified when a variance request has been scheduled for a public hearing before the City of Sanford Board of Adjustment.

CITY OF SANFORD PUBLIC NOTICE

Notice is hereby given that the City of Sanford Board of Adjustment will conduct a public hearing on Thursday, July 23, 2020 in the Council Chambers of the Sanford Municipal Center at 225 E Weatherspoon Street, Sanford, NC. The public hearing will begin at 6:00p.m. or as soon thereafter as deemed practical by the Board. The variance application is described below:

1. VARIANCE APPLICATION: Application by Thomas M. Joyner, for property owned by Thomas M. Joyner and Charles S. Hazlewood, requesting a 70ft variance from the Unified Development Ordinance (UDO), Article 4 Zoning District Regulations, Section 4.7 Dimensional and Density Regulation, Table 4.7-1 Density and Dimensional Standards, “Residential Single-family (R-20), Minimum Lot Width, 100ft”, to allow a parcel to have a minimum of 30ft of public road frontage on Columbine Road/Lord Ashley Drive. The subject property is identified as Tax Parcel 9633-23-6390-00, depicted on Lee County Tax Map 9633.03, and illustrated as Lot 55 on a 1974 survey labeled “Section 4, Westlake Valley” recorded at Plat Cabinet 14, Slide 41 of the Lee County Register of Deeds Office. The subject property adjoins 1415 Columbine Road to the south and is located on the opposite side of/west of an unimproved right-of-way for a section of Columbine d from 2307 Lord Ashley Dr. *This would be the first step in the reconfiguration of a parcel off of Columbine Road/Lord Ashley Drive. If the variance is approved, a road closure request for the unimproved portion of Columbine Road will be placed on a future Sanford City Council agenda for consideration.*

The public is cordially invited to attend this quasi-judicial hearing. Due process requirements for quasi-judicial decisions mandate that certain standards be observed when these decisions are made. This includes the right of parties for or against the proposal to offer evidence, have sworn testimony, and have findings of fact supported by competent, substantial and material evidence.

All interested parties have the right to be represented by an attorney. Further information may be obtained by contacting Amy J. McNeill, Zoning Administrator for the Sanford/Lee County Zoning & Design Review Department, 115 Chatham Street, Sanford, NC 27330 at 919-718-4656, Ext. 5397 or amy.mcneill@sanfordnc.net during regular business hours, Monday-Friday from 8:00am to 5:00pm. Upon request and with 24-hour notice, the City will provide an interpreter for the hearing impaired or any other auxiliary aid.

Cualquier ciudadano que tenga preguntas o comentarios de las cosas al referido, puede comunicarse a el departamento de desarrollo para Sanford/Condado de Lee, llame al (919) 718-4656.

Thank you.

By Bonnie Davis, City Clerk

ADJACENT PROPERTY OWNERS NOTIFICATION CERTIFICATION

I, Amy J. McNeill, hereby certify that the property owners and adjacent property owners of the following rezoning petitions, as indicated on the Lee County Tax Maps, were notified by First Class U.S. Mail on Friday, July 10, 2020.

1. VARIANCE APPLICATION

Application by Thomas M. Joyner, for property owned by Thomas M. Joyner and Charles S. Hazlewood, requesting a 70ft variance from the Unified Development Ordinance (UDO), Article 4 Zoning District Regulations, Section 4.7 Dimensional and Density Regulation, Table 4.7-1 Density and Dimensional Standards, "Residential Single-family (R-20), Minimum Lot Width, 100ft", to allow a parcel to have a minimum of 30ft of public road frontage on Columbine Road/Lord Ashley Drive. The subject property is identified as Tax Parcel 9633-23-6390-00, depicted on Lee County Tax Map 9633.03, and illustrated as Lot 55 on a 1974 survey labeled "Section 4, Westlake Valley" recorded at Plat Cabinet 14, Slide 41 of the Lee County Register of Deeds Office. The subject property adjoins 1415 Columbine Road to the south and is located on the opposite side of/west of an unimproved right-of-way for a section of Columbine Road from 2307 Lord Ashley Drive.

Per the direction of the City of Sanford Legal Department, this would be the first step in the reconfiguration of a parcel off of Columbine Road/Lord Ashley Drive. If the variance is approved, a road closure request for the unimproved portion of Columbine Road will be placed on a future Sanford City Council agenda for consideration.

Signature: Amy J. McNeill Date: 2020.07.16

Title: ZONING ADMINISTRATOR

Lee County, North Carolina

I, William E. Moore, a Notary Public for Lee County and State of North Carolina do hereby certify that Amy J. McNeill personally appeared before me on this day and acknowledged the due execution of the foregoing Instrument. Witness my hand and official seal, this the 16th day of July, 2020.

William E. Moore
Notary Public Signature

My Commission expires May 24, 2021



ADJOINING PROPERTY OWNERS LIST

APPLICATION BY: Thomas (Tom) M. Joyner

REQUEST: Minimum Lot Width Variance

LOCATION: Vacant Lot at the terminus of a portion of unimproved right-of-way for Columbine Road, between 1415 Columbine Road and 2307 Lord Ashley Drive, Sanford, NC

PIN: 9633-23-6390-00

DATE: 2020-07-10

No.	PIN	PROP ADDR	OWNER 1	OWNER2	M #	MAIL ST	MAILCITY	ST	ZIP
01	9633-23-8498-00	2307 LORD ASHLEY DR	JOYNER, THOMAS M/TR	THOMAS M JOYNER LIVING TRUST AGREEMENT	2307	LORD ASHLEY DR	SANFORD	NC	27330
02	9633-23-9347-00	2307 LORD ASHLEY DR	JOYNER, THOMAS M/TR	THOMAS M JOYNER LIVING TRUST AGREEMENT	2307	LORD ASHLEY DR	SANFORD	NC	27330
03	9633-32-0958-00	1220 COOL SPRINGS RD	PURVIS, JARROD	PURVIS, MONICA	1220	COOL SPRINGS RD	SANFORD	NC	27330
04	9633-23-4279-00	1300 COOL SPRINGS RD	SIMPSON, BARBARA H	-	503	CARTHAGE STREET	SANFORD	NC	27330
05	9633-23-6438-00	1415 COLUMBINE RD	HORNER, RONALD GRAY	HORNER, BETTY HALES	2390	COTTON ROAD	SANFORD	NC	27330
06	9633-23-5697-00	1503 COLUMBINE RD	JONES, DAVID L	WOOLSEY-JONES, KATHLEEN D	1503	COLUMBINE RD	SANFORD	NC	27330
07	9633-23-8722-00	1502 COLUMBINE RD	DIAZ, KENNETH DAVID	GARNER-DIAZ, SHERRI R	1502	COLUMBINE RD	SANFORD	NC	27330
08	APPLICANT:	THOMAS M. JOYNER			2307	LORD ASHLEY DR	SANFORD	NC	27330
09	PROPERTY OWNER :	THOMAS M. JOYNER	CHARLES S. HAZELWOOD		2009	PAUL STREET	SANFORD	NC	27330

(o) = No address assigned to this parcel. Typically, it is vacant

Board of Adjustment Variance Hearing Procedures

1. PRELIMINARY MATTERS

- 1) Note for the record the presence of a quorum.
- 2) Chairman calls the meeting to order.
- 3) Approval of agenda. (Board members may add or delete items upon a majority vote.)
- 4) Approval of minutes of previous meeting.
- 5) Disclosure of conflict of interest and ex-parte communication by Board Members.

Conflict of Interest (Defined under new law) - A member of the board or any other body exercising quasi-judicial functions pursuant to this Ordinance shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

- 6) Old Business.
- 7) New Business.

2. VARIANCE HEARING

- 1) Chairman to announce the case:

“We will now hold a public hearing to consider the next matter on the agenda, which is the application of: Mr./Mrs. _____, seeking a variance for _____

2) Chairman to read statement:

A variance request is a quasi-judicial hearing which means that all parties have the right to offer evidence, cross-examine adverse witnesses, inspect documents, have sworn testimony, have the decision based only on evidence that is properly in the hearing record, and have written findings of fact supported by competent, substantial and material evidence.

Since this is a quasi-judicial hearing, it is improper for a member of the Board of Adjustment to discuss this case or to independently gather evidence outside of this hearing.

3) Chairman then ask:

Does any board member have a conflict that they need to disclose?

4) Chairman then states:

Those wishing to testify must be sworn; however, anyone in attendance may ask questions of the person testifying.

5) Chairman then ask the following questions:

A. Is the applicant Mr./Mrs. _____ present?

B. Are you ready to proceed?

C. Are you represented by counsel?

- 6) Chairman calls for all witnesses who will testify in favor of the application to come forward to be sworn.
- 7) Chairman then calls for all witnesses who will testify in opposition to the petition to come forward and be sworn.
- 8) Chairman then call on the applicant or his counsel to present their case *in favor* of granting the variance.

The procedure with applicant will be as follows:

- A) Applicant/counsel testifies
- B) Those in opposition cross-examine the applicant/counsel
- C) Questions from the Board of Adjustment
- D) Redirect examination of applicant/counsel
- E) Re-cross examination of applicant/counsel by those in opposition
- F) Further questions by Board of Adjustment
- G) Questions by public (Must give name and address for the record)
- 9) Chairman then call on witnesses in favor of application to speak, and observe the same procedure as noted above.
- 10)After the applicant has completed presenting his/her case, Chairman then call upon those in opposition to the application to present their witnesses.

The procedure with witnesses will be as follows:

- A) Witness/counsel in opposition testifies
- B) Applicant or his counsel cross-examines witness in opposition
- C) Questions from the Board of Adjustment
- D) Redirect examination by witness in opposition
- E) Re-cross examination of witness in opposition by applicant

- F) Further questions by Board of Adjustment
- G) Questions by public (Must give name and address for the record)

11) Chairman to call the next and each succeeding witness in opposition to speak, and observe the same procedure as noted above)

12) After all witnesses for the applicant and those in opposition have testified, call upon the applicant to present whatever evidence he has in rebuttal. (Note: This is not an invitation to rehash everything the applicant/counsel or those in opposition has gone over in their direct testimony, but is the opportunity to present new evidence that the applicant/council or those in opposition has in rebuttal to what the other has stated.)

REBUTTAL

- A) Applicant/counsel can present any new evidence they have for rebuttal.
 - B) After the applicant/counsel rebuttal has been presented, then the opponents have the opportunity to present new evidence in rebuttal.
- 13) This would complete the hearing of evidence in the matter unless either party should ask for a chance to present further evidence. This would be a matter within the discretion of the Board.
- 14) Chairman to call on the applicant/counsel to present their summation or argument to the Board in favor of granting the variance.
- 15) Chairman to call on those in opposition to present their summation or argument to the Board as to why the variance should be denied.

Finally, after all evidence and the rebuttals have been presented,

16)The Chairman should summarize the evidence. (The secretary should write this summary down for inclusion in the minutes.)

17)The Chairman should tell the parties that the summary is intended to be the record of what has been presented and that they may offer any objections, corrections, or additions that will more accurately present their case.

This concludes the hearing and the Board shall then deliberate and make a decision.

18)The Chairman should state for the Board and those in attendance, that the granting of the variance is based upon findings of fact. Each finding requires a 4/5-majority vote (80%) by the Board to be approved. When voting, the Board must render a decision on *each* of the required findings and *must state a reason for approval or denial of *each* finding of fact. (The Board members should indicate for each required finding the evidence on which the finding was based. On the basis of these findings, a Board member should offer a motion either to grant or deny the variance. This motion should be discussed and any suitable conditions appended to it.)

19)Chairman should also state that if one of the required findings fail, they all fail.

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board is required to reach four conclusions before it may issue a variance:

- A. If he complies with the provisions of the ordinance, the property owner will suffer unnecessary hardship. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- B. The hardship of which the applicant complains 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.

- 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 shall not be regarded as a self-created hardship.
- D. 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.

Note: Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

After the Board's decision has been rendered,

This decision is effective upon filing the written decision with the clerk to the board. This decision shall be subject to review by the superior court. If anyone is dissatisfied with the decision of the Board, an appeal may be taken to the Lee County Superior Court within 30 days after the decision has been filed in the clerk to the board in the Planning Department.