



CITY OF BURLINGTON

PLANNING DEPARTMENT

Telephone (336) 222-5085 • Fax (336) 513-5410

P.O. Box 1358

Burlington, North Carolina 27216-1358

THE REGULAR MEETING of the **BOARD OF ADJUSTMENT** of the City of Burlington, North Carolina to be held on Tuesday August 11th, 2020 at 8:30 a.m. in the Municipal Conference Room, City of Burlington Municipal Building, 425 S. Lexington Avenue, for the purpose of hearing the following appeals:

***Due to Covid 19 the meeting room will be limited to no more than 10 people and we will be practicing social distancing and face coverings will be required. Staff will be available to assist anyone attending the meeting.*

AGENDA

ITEM NO. 1:

Call meeting to order.

ITEM NO. 2:

Approval of the minutes of the meeting July 14, 2020.

ITEM NO. 3:

CASE NO. 03-20 VARIANCE

Applicant: Mr. Dean Jones

Location: 590 Parkview Dr., Alamance County Tax Map number 124508

Details: Mr. Dean Jones has applied for a 9-foot variance from the 10-foot side setback requirement to allow for an addition to rear the of the house. The house is currently 1.44 feet from the side property line and the request is to allow the addition to be 1 foot from the side property line.

UDO Section: § Section 3.10 Medium Density Residential District, 10-foot minimum side setback.

All persons interested in the above mentioned appeal(s) are requested to appear before the BOARD OF ADJUSTMENT at the time and place mentioned above when, and where, they will be given the opportunity to be heard. For auxiliary aids and services please call (336) 222-5073 five days prior to the date of the public hearing.

H. E. Wilson, III
Chairman, Board of Adjustment



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JOHN H. VERNON, JR. (1911-1986)
JOHN H. VERNON, III
WILEY P. WOOTEN (1943-2018)
E. LAWSON BROWN, JR.
MARK A. JONES
BENJAMIN D. OVERBY
JENNIFER L. BOGACKI*

PATRICIA A. McALLISTER
KRISTEN L. DELFORGE
THOMAS S. WHITAKER**
RYAN D. MOFFITT
JOHN W. MOSS

*ALSO ADMITTED IN MASSACHUSETTS
**CERTIFIED SUPERIOR COURT MEDIATOR

July 31, 2020

Via E-Mail to jlea@burlingtonnc.gov

City of Burlington Board of Adjustment
c/o Mr. Joey Lea, Board Advisor
P.O. Box 1358
Burlington, N.C. 27216

Re: *Variance Application – Dean C. Jones, 590 Parkview Drive, Burlington, NC 27215 (the “Subject Property”)*
Our File: TBD

Dear Mr. Chairman and Board Members:

This firm represents Ms. Camille Euliss, owner of the property located at 586 Parkview Drive, Burlington, NC 27215. Ms. Euliss' property is adjacent to the north of the Subject Property in the above-referenced Variance Application. It is my understanding that the Variance Application involves a request to encroach into the required 10-foot side setback of the Subject Property by expanding the footprint of the Applicant's home. Ms. Euliss, whose mutual property line with the Applicant is directly impacted by the requested variance, opposes the request and has retained our firm to represent her at the hearing on the Variance Application.

I will be traveling out of the state on the August 11, 2020 hearing date. After seeking other counsel which were unable to represent her due to conflicts of interest, Ms. Euliss has elected to proceed with our firm's representation in this matter. On that basis, and due to the noted scheduling conflict, I would respectfully request that the Board continue the hearing in this matter until the September 8, 2020 meeting of the Board of Adjustment.

As this matter will be heard in a quasi-judicial setting and will require the presentation of evidence according to specific, court-like procedures and subject to limitations under the North Carolina Rules Evidence, Ms. Euliss has determined that it is in her best interest to retain counsel to navigate the nuances of the hearing. Accordingly, and with respect for Ms. Euliss' right to due process and representation, and given the immediate proximity of the requested variance to Ms. Euliss' property line, we would appreciate your favorable consideration of Ms. Euliss' request for

Letter to City of Burlington Board of Adjustment
Re: Euliss Request for Continuance of Variance Hearing
July 31, 2020
Page 2

a continuance of the variance hearing from August 11, 2020 to September 8, 2020.

If you should have any questions or concerns, please do not hesitate to contact me.

Very truly yours,



Ryan D. Moffitt

Cc: Ms. Camille Euliss
Mr. Dean C. Jones

MINUTES
BOARD OF ADJUSTMENT
City of Burlington
July 14, 2020

Members Present

City:

Mike Gee, Vice Chairman
Bob Lewis
Robert Giles II
Eric Grant, (Alt.)

Members Absent

City:

John Glenn
Chairman Mr. Ed Wilson

ETJ:

Mrs. Sylvia Greeson (Alt. ETJ)

ETJ:

Also present was Mr. Joey Lea, Zoning Administrator.

Vice Chairman Mr. Mike Gee called the meeting of the Board of Adjustment to order at 8:30 a.m. Chairman Mr. Mike Gee stated, the city representatives to the Board of Adjustment are appointed by the City Council. This is a quasi-judicial hearing. Everyone speaking before the Board should state their name, sign the log on the podium, and swear or affirm that everything they say is true to the best of their knowledge. Appeals of the Board's decisions may be taken to the Alamance County Superior Court. The City will state their position because of their knowledge of the case and the technical codes. The applicant will state their case, and then anyone from the public may speak. After the applicant and the public have presented all evidence the Board will then close the meeting to the public and discuss the case and vote. During this time no more evidence shall be admitted, nor any other arguments made unless the Board wishes to ask the Applicant a question pertaining to the evidence already presented. Anyone that tries to make an argument or present any evidence at this time will be out of order. The Chairperson may order any individuals who willfully interrupts, disturbs, or disrupts to leave the meeting. Any person who fails to comply with this order is guilty of a class 2 misdemeanor. An affirmative four-fifths vote is required to grant a variance. A majority vote is required to grant a Special Use Permit or to determine an appeal.

DUE PUBLICATION: Mr. Joey Lea, Zoning Administrator with the City of Burlington stated, due notice and publication of this meeting of the Board of Adjustment has been made, and all required property owners were mailed a notice advising of this meeting.

SWORN TESTIMONY: Prior to testifying before the Board, each party was sworn in or affirmed that the testimony they were about to give was true to the best of their knowledge.

VOTING ON CHAIR AND VICE CHAIR AND SECRETARY:

Mr. Joey Lea Volunteered for job of secretary of the board. Mr. Bob Lewis nominated Ed Wilson as the chairman of the board. Mr. Eric Grant nominated Mike Gee as vice- chairman of the board. Robert Giles seconded the nominations.

Board voted unanimously.

MEETING MINUTES: Vice -Chairman Mr. Mike Gee asks if everyone had a chance to review the minutes from the November 12th meeting. Board member Ms. Sylvia Greeson submitted some typographical errors that needed to be fixed, nothing substantive. Mr. Eric Grant moved to accept minutes. Mrs. Sylvia Greeson seconds the motion to approve minutes.

The Board voted Unanimously to approve the minutes for the November 12, 2019 hearing.

ITEM NO. 2:

CASE NO. 02-20 SPECIAL USE PERMIT

Applicant: City of Burlington

Location: 827 S. Graham Hopedale Rd.
Alamance County Tax Map number 139644

Details: The City of Burlington is applying for a Special Use Permit for a Commercial Daycare Center that will care for 29 Children.

UDO Section: § Section 4.2 and section 4.4.B.6, Daycare Centers in residential districts.

Vice Chairman Mr. Mike Gee stated, the case that we have before us today is case number 02-2- a request for Special Use Permit by The City of Burlington for a property located at 827 S. Graham Hopedale Rd. For members of the Board and for the applicant one thing to make sure to consider in this process today is that there are four different findings of fact that we need to address in the hearing so when we get ready to vote we will have a two phase vote on the request one would be to note the findings of fact and the second would be to grant the variance.

Zoning Administrator Mr. Joey Lea stated, the City of Burlington is applying for a Special Use Permit for a Child Day Care Center to be located at 827 S. Graham Hopedale Rd. You have a picture that shows the location of the Center in green and the outside playground area in yellow.

Mr. Eric Grant asked if the center was to be leased?

Zoning Administrator Mr. Joey Lea stated, I will let the applicant speak to that.

Assistant City Manager Ms. Rachel Kelly stated, as Mr. Lea mentioned the green area is the portion of Fairchild Community Center to be used as a daycare center, and to answer your question, the city council approved a lease for that portion of the community center with Life Span incorporated, they operate right now as a daycare center on state street in Burlington as well as several others in North Carolina. Council approved for them to operate at that facility with a one-year lease with renewals up to 5 years. North Carolina Health Services regulates full day child care programs and they will do the same for this, they will operate under a provisional permit for six months, that is how long it takes to acquire their star certification and for their contract with the city they have to operate at 4 star or above.

Vice Chair Mr. Mike Gee asked, Ms. Kelly do you believe that if we grant this there will be any material endangerment of public health or safety?

Assistant City Manager Ms. Rachel Kelly stated, no I do not.

Vice Chairman Mr. Mike Gee asked, in your opinion will the use substantially injure the value of adjoining or abutting properties or is the use of necessity?

Assistant City Manager Ms. Rachel Kelly asked, can you repeat the question?

Vice Chairman Mr. Mike Gee asked, we have to determine whether or not the proposed use, will either or, which is the way this question is presented whether it will substantially injure the value of adjoining or abutting properties or you need to determine that the use is necessary. Can you speak to this?

Assistant City Manager Ms. Rachel Kelly stated, it will absolutely not damage the property value of the surrounding properties and it is a public necessity.

Vice Chairman Mr. Mike Gee stated, I know it is a community center now. Is that property currently being used for any use similar to this?

Assistant City Manager Ms. Rachel Kelly stated, currently it is not and that is due to the covid-19 crisis, there was child care taking place, it shut down in march and then we went through a process to try to lease the facility to a child care provider.

Mr. Giles asked, who was operating the previous daycare?

Assistant City Manager Ms. Rachel Kelly explained, Burlington recreation and parks.

Vice Chairman Mr. Mike Gee stated, the last issue that needs to be address is that the use will be in harmony with the area to which it is located and inconformity with the planning of development of Burlington. Is this use going to be in harmony with the area that this use is going to be used in?

Assistant City Manager Ms. Rachel Kelly stated, yes it will.

Vice Chairman Mr. Mike Gee stated, what will the hours of operation be?

Assistant City Manager Ms. Rachel Kelly, the hours of operation will be from 6:30 am to 5:30 pm.

Vice Chairman Mr. Mike Gee asked, will the capacity for the children be determined by the state.

Assistant City Manager Ms. Rachel Kelly, the state will allow up to 29 there are two classrooms in the facility which will make the total 29.

Vice Chairman Mr. Mike Gee, are there any other questions?

Mr. Bob Lewis asked, is that just a driveway between the facility and the play area?

Assistant City Manager Ms. Rachel Kelly stated, yes.

Mr. Bob Lewis asked, so it won't be heavily travelled?

Assistant City Manager Ms. Rachel Kelly, no there is no through traffic.

DISCUSSION AND FINDINGS OF FACT

DECISION: Vice Chairman Mr. Mike Gee asked, are there any other questions? Thank you, Ms. Kelly. Is there anyone from the public that has any questions? Seeing as there is no comment from the public, we close this to discussion from the board. All four criteria have been met for a special use permit, based on the testimony we received. Is there any further discussion from the board? It is a two-part motion, first we have to discuss the findings of fact that we find, the second piece would be to move to actually granting the special use permit. I would like to make a motion to approve the special use permit in accordance with section 2.4.5. of the unified development ordinance due to the following findings of fact:

1. **The use will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved:**
the findings of fact are, testimony from the City of Burlington Assistant City Manager Rachel Kelly affirmed that the use will not endanger the health or public safety.
2. **The use meets all required conditions and specifications:**
the findings of fact are testimony from Ms. Kelly and Mr. Lea that the use meets all required conditions and specifications from the state.
3. **The use will not substantially injure the value of adjoining property or that the use is a public necessity:**
the findings of fact are testimony from Ms. Kelly that she does not believe the value of the adjoin or abutting property will be injured and this is a public necessity. The facility was operating a childcare center prior to covid and the need for childcare has not been diminished
4. **The location and character of the use if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Burlington and its environs:**
the findings of fact are, testimony from Ms. Kelly that it will be in harmony with the plan of development of Burlington

Ms. Greeson Seconded the motion to accept the findings of fact.

Approved unanimously

AYES: (Grant, Greeson, Gee, Lewis, Giles)

NOES:

Vice-Chairman Mr. Mike Gee stated, I would like to make a motion to approve the Special Use Permit for The City of Burlington, to be located at 827 S. Graham Hopedale Rd., to operate a daycare center at this location due to the previously stated findings of fact. The applicant should complete that development in accordance to those plans submitted and approved by this board, subject to meeting all the requirements from the state of North Carolina to operate a daycare center and if any conditions affixed here to, or any part thereof, should be found invalid or void then this permit shall be void and of no affect.

Ms. Greeson Seconded the motion to accept the findings of fact.

Approved unanimously

AYES: (Grant, Greeson, Gee, Lewis, Giles)

NOES:

MEETING ADJOURNED

H.E. Wilson III, Chairman

Joey Lea, Secretary

BB. ZONING/SUBDIVISION VARIANCE

1. Purpose

The purpose of this section is to allow certain deviations from the dimensional standards of this Ordinance (such as height, setback, lot coverage, or similar numerical standards) when the landowner demonstrates that, due to special circumstances or conditions beyond the landowner’s control (such as topographical conditions, narrowness, shallowness, or shape of a specific parcel of land), a literal application of the standards would result in undue and unique hardship to the landowner and the deviation would not be contrary to the public interest.

2. Applicability

- a. Development that would otherwise be subject to undue and unique hardship from the applications of the standards in this Ordinance may seek relief from the standards in accordance with this section.
- b. No zoning/subdivision variance may be sought for uses not allowed in a zoning district.

3. Zoning/Subdivision Variance Procedure

The zoning/subdivision variance procedure is described in Figure 2.4.BB, Zoning/Subdivision Variance Procedure, as supplemented by the Procedures Manual.

4. Decision by BOA

- a. The concurring vote of four-fifths of the BOA shall be necessary to grant a zoning/subdivision variance.
- b. The decision shall be based on the competent, material, and subsequent evidence in the record, as supplemented by the arguments presented at the quasi-judicial hearing, and the standards in Section 2.4.BB.5, Zoning/Subdivision Variance Review Standards.
- c. The decision shall be one of the following:
 - i. Approval of the zoning/subdivision variance as proposed;
 - ii. Approval of the zoning/subdivision variance application with revisions; or
 - iii. Denial of the zoning/subdivision variance.
- d. Each decision shall be made in writing and reflect the BOA’s determination of contested facts and their application to the standards in this Ordinance.
- e. The written decision shall be signed by the Chair or other duly authorized member of the BOA.
- f. The decision of the BOA shall be effective upon the filing of the written decision by the Zoning/Subdivision Administrator.

5. Zoning/Subdivision Variance Review Standards

a. Required Findings

A zoning/subdivision variance application shall be approved provided on a finding the applicant demonstrates all of the following:

| FIGURE 2.4.BB: ZONING/SUBDIVISION VARIANCE PROCEDURE | |
|---|---|
| STEP | ACTION |
| 1 | PRE-APPLICATION CONFERENCE See <u>Section 2.3.D, Pre-Application Conference</u> |
| 2 | FILE APPLICATION Filed with Zoning/Subdivision Administrator |
| 3 | COMPLETENESS DETERMINATION See <u>Section 2.3.F.6, Completeness Determination</u> |
| 4 | STAFF REVIEW May not seek to vary allowable density or allowable use types |
| 5 | PUBLIC NOTIFICATION See <u>Section 2.3.H, Public Notification</u> |
| 6 | BOA REVIEW & DECISION Quasi-judicial public hearing - See <u>Section 2.3.I, Public Meetings and Hearings</u> - Decision in writing, signed by Chair or authorized BOA member - Decision effective upon date of filing in the office of the Planning & Community Development Department |
| 7 | NOTIFICATION OF DECISION Delivered via personal service, electronic mail, or 1 st class mail |

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

b. Additional Criteria

In addition to the making the required findings in subsection (a) above, the BOA may also consider the following additional criteria:

- i. The variance approval is the minimum necessary to make possible the reasonable use of the land, building, or structure.
- ii. None of the following may be used as the basis for approving a variance:
 - a) Hardships resulting from factors other than application of the relevant standards of this Ordinance;
 - b) The fact that land or a structure may be utilized more profitably or be more marketable with a variance; or
 - c) Financial hardship.

6. Conditions of Approval

- a. The Board of Adjustment may apply conditions of approval that are reasonably related to the variance.
- b. All conditions shall be identified in the approval, the notice of decision, and on any associated site plans or preliminary plats.

7. Effect

Approval of a zoning/subdivision variance authorizes only the particular regulatory relief approved by the BOA. It does not exempt the applicant from the responsibility to obtain all other permits or development approvals required by this Ordinance or any other applicable laws, and does not indicate that the development for which the zoning/subdivision variance is granted should receive other permits or development approvals under this Ordinance unless the relevant and applicable portions of this Ordinance are met.

8. Amendment

Amendment of a zoning/subdivision variance may only be reviewed and considered in accordance with the procedures and standards established for its original approval.

9. Expiration

A zoning/subdivision variance shall not expire.

10. Appeal

- a. Any decision by the BOA shall be subject to review by the Superior Court of the county where located by proceedings in the nature of certiorari and in accordance with Section 160A-393 of the North Carolina General Statutes.
- b. Petitions for review must be filed with the Clerk of Court within 30 days of the date the decision is filed in the office of the appropriate review authority and delivered by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective.

9.3. NONCONFORMING STRUCTURES**A. APPLICABILITY**

Nonconforming principal and accessory structures shall be subject to the standards in this section.

B. CONTINUATION AND REPLACEMENT**1. Continuation**

A nonconforming structure may be continued in accordance with Section 9.1.C, Continuation, Minor Repairs, and Maintenance Allowed.

2. Replacement

- a.** Nonconforming manufactured or mobile homes may be replaced in accordance with the standards in Section 9.2.C.2, Manufactured or Mobile Homes.
- b.** Nothing shall limit activities that increase habitable space of a nonconforming residential structure to a height above the regulatory flood elevation.

3. Relocation

A nonconforming structure shall not be moved, in whole or in part, to another location on the parcel of land on which it is located, unless the relocation removes the nonconformity.

C. ALTERATION AND EXPANSION

No nonconforming structure may be altered in any way which increases the nonconformity; however, any nonconforming structure or portion thereof may be altered to decrease the degree of nonconformity. Nothing shall limit the elevation of a residential structure as necessary to ensure habitable floor area is outside the regulatory flood elevation.

D. CESSATION

(AMENDED 12.3.19 UDOTA-01-20)

If a nonconforming structure is damaged or destroyed by any means to an extent of 51 percent or more of its replacement cost or size, it may only be reconstructed in accordance with the requirements of this Ordinance.

ZONING/SUBDIVISION VARIANCE APPLICATION FORM

APPLICATION PAGE 1 OF 4

APPLICATION LAST UPDATED: 11.01.2019

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1. THINGS TO KNOW ABOUT THE ZONING/SUBDIVISION VARIANCE PROCEDURE

1. The zoning/subdivision variance review procedure is described in Section 2.4 of the Burlington Unified Development Ordinance.
2. A zoning/subdivision variance application may be filed to request relief from dimensional requirements or development standards in the UDO.
3. A variance may not be used to alter the allowable uses in a zoning district or deviations in applicable conditions of approval.
4. A zoning/subdivision variance application may not be filed with an application for a planned development conditional rezoning.
5. A water-related variance application is used for variance requests from the flood hazard protection, stream/riparian buffer standards, and the watersupply watershed requirements in the UDO.
6. A pre-application conference is mandatory prior to submission of an application for a zoning/subdivision variance.
7. Applicants are required to demonstrate a hardship (that is not self-imposed) for approval of a zoning/subdivision variance. Financial hardship is not a valid criteria for the approval of a zoning/subdivision variance.

2. GENERAL APPLICANT INFORMATION

A. Parcel Information

1. Parcel Address: **590 PARKVIEW DRIVE, BURLINGTON NC 27215**
2. Parcel Identification Number: **90-387-3**
3. Lot Area/Acreage: **3/ .275**
4. Base Zoning District: **R-9/ MDE**
5. Overlay Zoning District (if applicable):

B. Primary Point of Contact Information

1. Primary Point of Contact Name: **DEAN JONES**
2. Mailing Address: **590 PARKVIEW DRIVE BURLINGTON NC 27215**
3. Phone: **336-264-2302**
4. Email: **JONESMOVIE@AOL.COM**

3. DESCRIPTION OF REQUEST

(Please complete the following)

1. Is this application associated with another application? Yes No
If yes, what kind of application?
2. Is this site subject to any approved administrative adjustments? Yes No
If yes, what is the case number (please list all):

ZONING/SUBDIVISION VARIANCE APPLICATION FORM

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3. Please select the type of standards being varied (check all that apply):

- | | |
|--|--|
| <input type="checkbox"/> Lot coverage | <input type="checkbox"/> Off-street parking/loading/circulation standard |
| <input type="checkbox"/> Lot area | <input type="checkbox"/> Landscaping standard |
| <input type="checkbox"/> Lot width | <input type="checkbox"/> Fence/wall standard |
| <input checked="" type="checkbox"/> Minimum yard/setback | <input type="checkbox"/> Exterior lighting standard |
| <input type="checkbox"/> height | <input type="checkbox"/> Signage |
| <input type="checkbox"/> Other (please specify below): | <input type="checkbox"/> Design standard |

4. Please list the section(s) of the UDO from which the variance is being requested (please list all that apply):

SECTION 3.10 10' MIN RES. SETBACK

5. Please explain, in detail, the variance you are requesting and why it is needed. Please limit this discussion to facts and the hardships that would be created by strict adherence to the UDO:

SEE ATTACHMENT

Attach additional sheets if necessary.

6. Please identify the zoning district designation and existing use of land for all adjacent properties, including those across the street:

R-9 MDR

Attach additional sheets if necessary.

7. Is the property exceptionally narrow, shallow or does it have an exceptional size or shape that existed prior to the effective date of this zoning ordinance? Yes No

If yes, please describe below:

SEE ATTACHMENT

Attach additional sheets if necessary.

8. Does the property have exceptional topographic conditions or some other extraordinary situation or condition that makes it unlike other properties in the immediate vicinity? Yes No

If yes, please describe below:

SEE ATTACHMENT

Attach additional sheets if necessary.

9. Is there some particular condition, situation, or development on the property immediately adjacent to the subject property that affects the subject property's ability to comply with the regulations you are seeking a variance from? Yes No

If yes, please describe below:

SEE ATTACHMENT

Attach additional sheets if necessary.

ZONING/SUBDIVISION VARIANCE APPLICATION FORM

APPLICATION PAGE 3 OF 4

APPLICATION LAST UPDATED: 11.01.2019

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10. Please provide a written description of any hardship(s) and how such hardship(s) is not self-imposed:

Attach additional sheets if necessary.

SEE ATTACHMENT

11. Please describe how the development subject to the requested variance will be in harmony with the general purpose and intent (see Chapter 1) of the UDO:

Attach additional sheets if necessary.

SEE ATTACHMENT

12. Explain any potential negative external impacts that may result from the proposed variance, and how they will be mitigated:

Attach additional sheets if necessary.

SEE ATTACHMENT

13. For sign variances, explain how this variance does not confer any special privilege that is denied to similar lands:

Attach additional sheets if necessary.

14. For sign variances, explain how the variance amount requested is the absolute minimum that will allow reasonable use of the land:

Attach additional sheets if necessary.

4. SUBMITTAL CHECKLIST

(Please ensure your application includes 3 paper copies and 1 digital (pdf) copy of all of the following)

| | |
|---|-------------------------------------|
| 1. Pre-application conference completed | <input type="checkbox"/> |
| 2. Zoning/subdivision variance application form | <input checked="" type="checkbox"/> |
| 3. Application fee | <input checked="" type="checkbox"/> |
| 4. Copy of an approved certificate of appropriateness (COA) if located within LHO district | <input type="checkbox"/> |
| 5. Copy of the deed for subject property(ies) | <input type="checkbox"/> |
| 6. Locations, square footages, and dimensions of all existing and proposed structures | <input checked="" type="checkbox"/> |
| 7. All minimum and maximum setbacks, including build-to lines | <input checked="" type="checkbox"/> |
| 8. Easement types, locations, and dimensions | <input checked="" type="checkbox"/> |
| 9. Locations and sizes of driveways, parking areas | <input checked="" type="checkbox"/> |
| 10. An elevation drawing showing proposal building facades when variances to design standards are requested | <input type="checkbox"/> |
| 11. Any additional information determined to be necessary by the City | <input type="checkbox"/> |

ZONING/SUBDIVISION VARIANCE APPLICATION FORM

APPLICATION PAGE 4 OF 4

APPLICATION LAST UPDATED: 11.01.2019

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5. APPLICANT SIGNATURE

I certify that the information provided on this application form and in the associated site plan is complete and accurate to the best of my knowledge. I hereby authorize City officials to enter the subject property for the purposes of determining compliance.

If there are multiple land owners or applicants, a signature is required for each.

Land Owner or Authorized Signature:

[Handwritten Signature]

Date:

7-22-20

Land Owner or Authorized Signature: _____

Date: _____

Land Owner or Authorized Signature: _____

Date: _____

OFFICE USE ONLY

Project #: *03-20*

Associated Project #: _____

Received By:

[Handwritten Signature]

Filing Date:

7-22-20

Accepted as Complete By:

[Handwritten Signature]

Complete Date: _____

Decision: _____

Decision By: _____

Decision Date: _____

Pre-application Conference Date (if conducted):

7-21-20

Notes/Comments:

Zoning/Subdivision Variance application form attachments

Attachment for Section #5

Variance request:

In order to construct a first-floor master bedroom we are requesting a variance of (9ft) behind the property line of 590 Parkview Drive, Burlington, N.C.

The house was built in 1937. Set back ordinances did not exist at that time. We were also not aware of setback variances and ordinances when we purchased the house. We began the construction for the master bathroom with the thought of using the pre-existing patio and patio wall built which lies approximately one foot from the property line. We were not aware until after well into construction had begun on the bathroom of set back ordinances. The plan was to build the master bedroom at a later time when we could afford to do so.

We made the offer and purchased the house in January 2018 we realized that the bathrooms were very small with no downstairs bedroom. Our eventual intent was to build a "Master Bathroom and "Bedroom" on the first-floor level for the below reasons:

- 1.) Our Parkview Drive residence was going to be our "forever home" and as we grew older having a downstairs bed and bath would be crucial with age and not having to go up and down stairs.
- 2.) We both have aging parents; one is relegated to a walker, so this makes our residence manageable for them as a guest bath and bedroom.
- 3.) We wanted a handicapped accessible first floor bedroom and bathroom for our aging parents.

Decision for choosing garage and patio location for the remodel:

We discovered that our garage had accessible water and sewer lines which made it an ideal location for a master bathroom. The Master Bathroom is now nearing completion and is approximately 300+ square feet. The bathroom was also designed with both bath and shower to the far side of the room which faces the street. We built a small bay window to replace the garage door. (see photos) The entry way from the bathroom to the bedroom was designed on the opposite side adjacent to the existing patio.

Our patio is lies directly against the master bathroom. It's an ideal extension for a connecting master bathroom. There is an existing exterior brick wall which is

connected to the corner of the house and would be the logical choice as a "master bathroom" connecting both master bath and master bedroom. We would utilize the existing windows as potential doorways without interfering with the support structure of the house. (see photos)

The addition of a bedroom would not encroach nor be a hinderance to the neighbors existing property, but would indeed add value to our own including the neighbors.

Attachment #7:

We then contracted "Carolina Cornerstone" survey company to provide a professional survey plat. After reviewing the plat, we saw that our property line "exceptionally" narrowed as the line progressed towards the back of our house. It lies approximately (1.44) foot away from the edge of our house and eventually lies approximately less that 9 inches from our patio wall.

The surveyor also made a peculiar discovery. Their survey also revealed (2) property lines stakes which are listed on the survey attachment. (see image)

Attachment #8

From our observation we are the "only house" in our neighborhood that maintains such a close (1.44) foot distance from a property line. There is also old massive tree covered in Ivy that splits the property line which now currently effects our yard and our property.

Attachment #9:

There is no condition, situation that would interfere or affect any neighboring properties with a new variance. A new structure built onto the pre- existing patio wall and patio deck would not interfere with the adjacent to the property line.

We feel that the property line stake may possible be "inaccurate" as there is a second property line stake approximately 5 feet away from the first. The alignment of the property line lying 1.44 from does seem appropriate or logical. (see Carolina Cornerstone Plat)

The neighbor has now built a 10-foot fence adjacent to the line which lies approximately 1.44 feet from our house. (see photos)

Attachment # 10

In early 2020 we secured a "permit" we began work on the master bathroom. Halfway through the construction we discovered the reality of what a "setback" condition meant. Much to our dismay we discovered that the bedroom which as engineered and designed to be adjacent to the bathroom would be offset by at least 9 feet which make the bedroom disproportionate and not allow for the bedroom to be lie next to the bathroom. Relative to placing the bedroom in a different location is difficult because of the 25ft setback from the backyard. Our HVAC system and meter are also placed in a position not conducive to building a bed room further out. A great deal of time, effort and expense that went into the master bathroom. The expense being approximately \$34,000 +.

Shortly thereafter the discovery I had a requested a meeting and discussion with our neighboring landowner as to our setback issue and to discuss potential options.

It was suggested by the neighbor that we purchase of a section of their land which would allow us to meet the variance. I also pointed out that there were two (2) property line stakes along the fence line, which now makes the evaluation of the true locations for the property line questionable. and that we should investigate this further, however in the end, the neighbor would not cooperate and presented us with a negativity and disdain. The neighbor soon placed a letter in my mailbox stating that they were going to build a separation/spite fence.

I requested that she provide me with a survey, she stated that she had a survey done and would forward in an email. She then requested I provide our survey, for which we promptly did so in an email. A few weeks later the neighbor finally emailed us a copy of a survey which turned out to be a copy of our very own Carolina Cornerstone survey. I then pulled a permit to build a fence but decided not to move forward with construction and let the neighbor move forward with hers.

The neighbor has since built a 10-foot fence approximately (1.2") from the outside of our existing patio wall which extends approximately now (15 feet) well in front of the neighbor's house.

Attachment #11

A deviation from an ordinance setback if given, would not interfere or be contrary to the public interest and would add exceptional and increased value to the property and its surrounding properties.

Attachment #12

I do not foresee any potential, external or negative or future impacts from our proposed variance for the property line. Having built an additional master bathroom connecting to an additional 280 square master bedroom would add to the property value of our home, and as well to surrounding homes and properties.

THIS PROPERTY IS IS NOT
 IN A SPECIAL FLOOD HAZARD AREA
 AS DETERMINED BY THE DEPARTMENT
 OF HOUSING AND URBAN DEVELOPMENT.

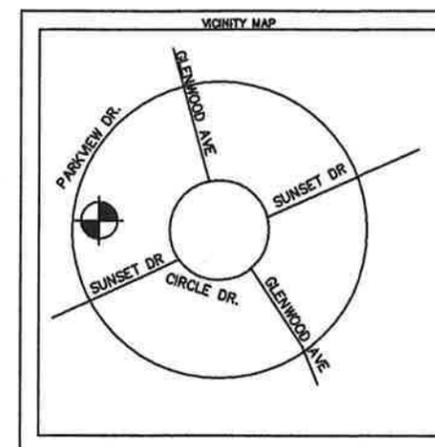
NOTES:

- A) NO TITLE SEARCH WAS PERFORMED BY THIS FIRM DURING THE COURSE OF THIS SURVEY
- B) THE PROPERTY SHOWN HEREON IS SUBJECT TO ALL EASEMENTS OF RECORD ATTESTING SAME.
- C) THIS FIRM MAKES NO GUARANTEE AS TO THE EXISTENCE OR LOCATION OF ANY UNDERGROUND UTILITIES OR IMPROVEMENTS ON OR ACROSS THIS PROPERTY. ANY UNDERGROUND UTILITIES OR IMPROVEMENTS SHOWN HEREON HAVE BEEN LOCATED FROM VISIBLE EVIDENCE AND AVAILABLE INFORMATION.

NOTES:

ADDRESS: 590 PARKVIEW DR.
 BURLINGTON, NC 27215
 ZONED: R-9
 SETBACKS: FRONT: 30'
 SIDES: 10'
 REAR: 25'

LEGEND
 Existing Iron Pipe 



FLAT NORTH PB 2 PG 47



Certificate of Accuracy

I hereby certify that under my direction and supervision this plat, shown and described hereon, was drawn from the actual survey, deed reference in Book 3735, Page 879; that the error of closure as calculated by latitude and departures is 1:10,000; that the boundaries not surveyed are shown as broken lines; that the property this survey represents is within the regulation jurisdiction of the County of Alamance, and is an existing tract; and that this plat is prepared in accordance with G.S. 47-30 as amended.

Furthermore, I hereby certify that the property lines and the location of all structures are accurately shown hereon: that no structure located on this property encroaches on any adjacent property or street, and that no structure on the adjacent property encroaches on the premises surveyed, except as shown hereon.

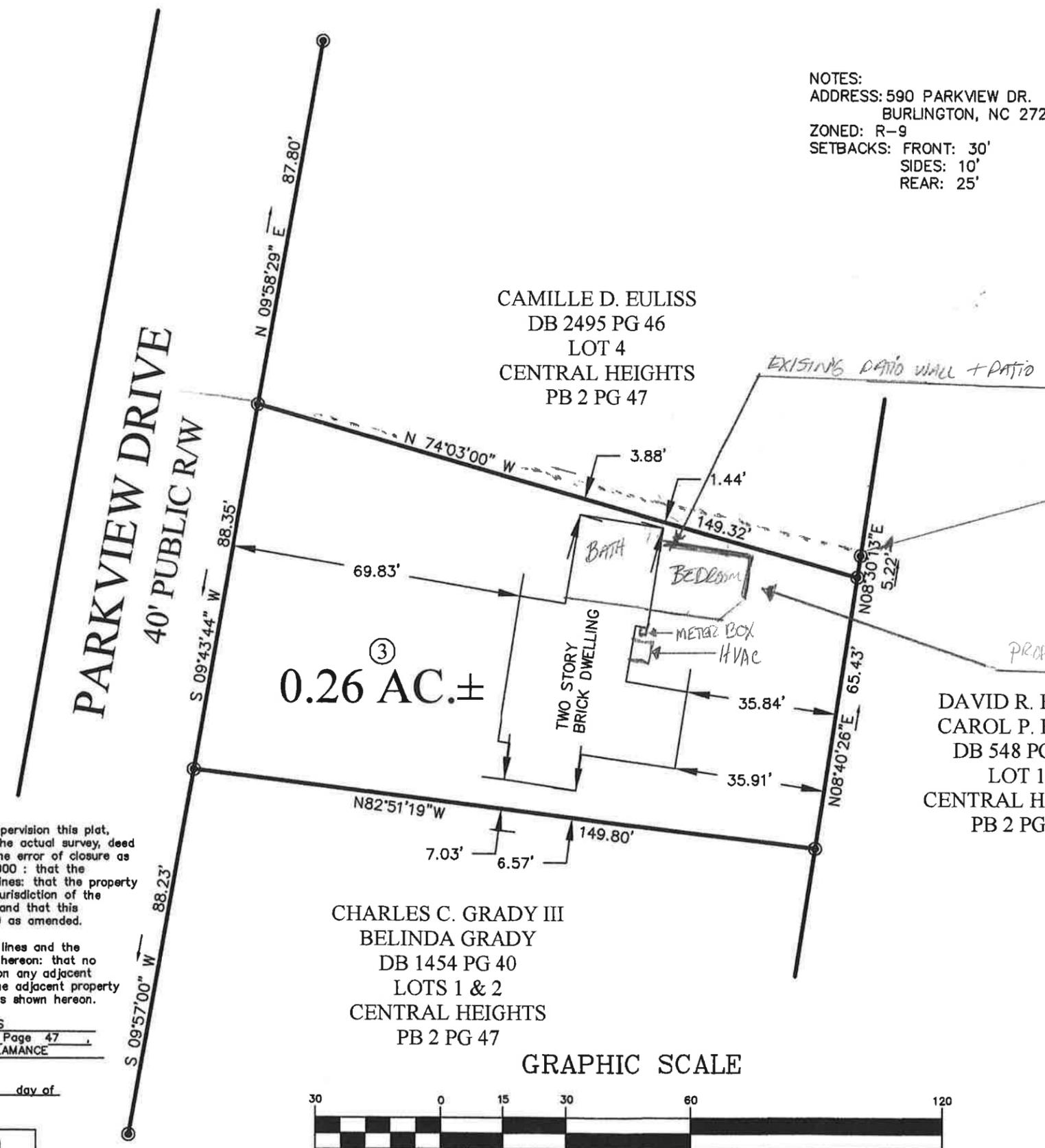
This is all of Lot No. 3, CENTRAL HEIGHTS, plat of which is recorded in Plat Book 2, Page 47, in the Office of the Register of Deeds for ALAMANCE County, North Carolina.

Witness my hand and seal this 05 day of

APRIL, 2018

James H. Lowe

Professional Land Surveyor L-4217



CAMILLE D. EULISS
 DB 2495 PG 46
 LOT 4
 CENTRAL HEIGHTS
 PB 2 PG 47

DAVID R. HOXIE
 CAROL P. HOXIE
 DB 548 PG 814
 LOT 16
 CENTRAL HEIGHTS
 PB 2 PG 47

CHARLES C. GRADY III
 BELINDA GRADY
 DB 1454 PG 40
 LOTS 1 & 2
 CENTRAL HEIGHTS
 PB 2 PG 47

PROPERTY OF
DEAN C. JONES
 AND
MELISSA D. DAVIS
 BURLINGTON TOWNSHIP
 ALAMANCE COUNTY, NORTH CAROLINA

CAROLINA CORNERSTONE
 SURVEYING & LAND DESIGN
 3028-D ROCK HILL ROAD
 BURLINGTON, NORTH CAROLINA
 (336) 222-1856 (336) 215-2539
 BUSINESS LIC: F-0975 WWW.CAROLINACORNERSTONE.COM

SCALE: 1" = 30' DATE: 04/05/18

SURVEY BY: JHL DWG BY: JHL APP'D BY: JHL

TAX LOT: 90-387-3 FILE: 180309

GRAPHIC SCALE



(IN FEET)
 1 inch = 30 ft.

NEIGHBORS PLACE / IN PROGRESS - POLYETHYLENE SHEETS - REMOVAL 4/20

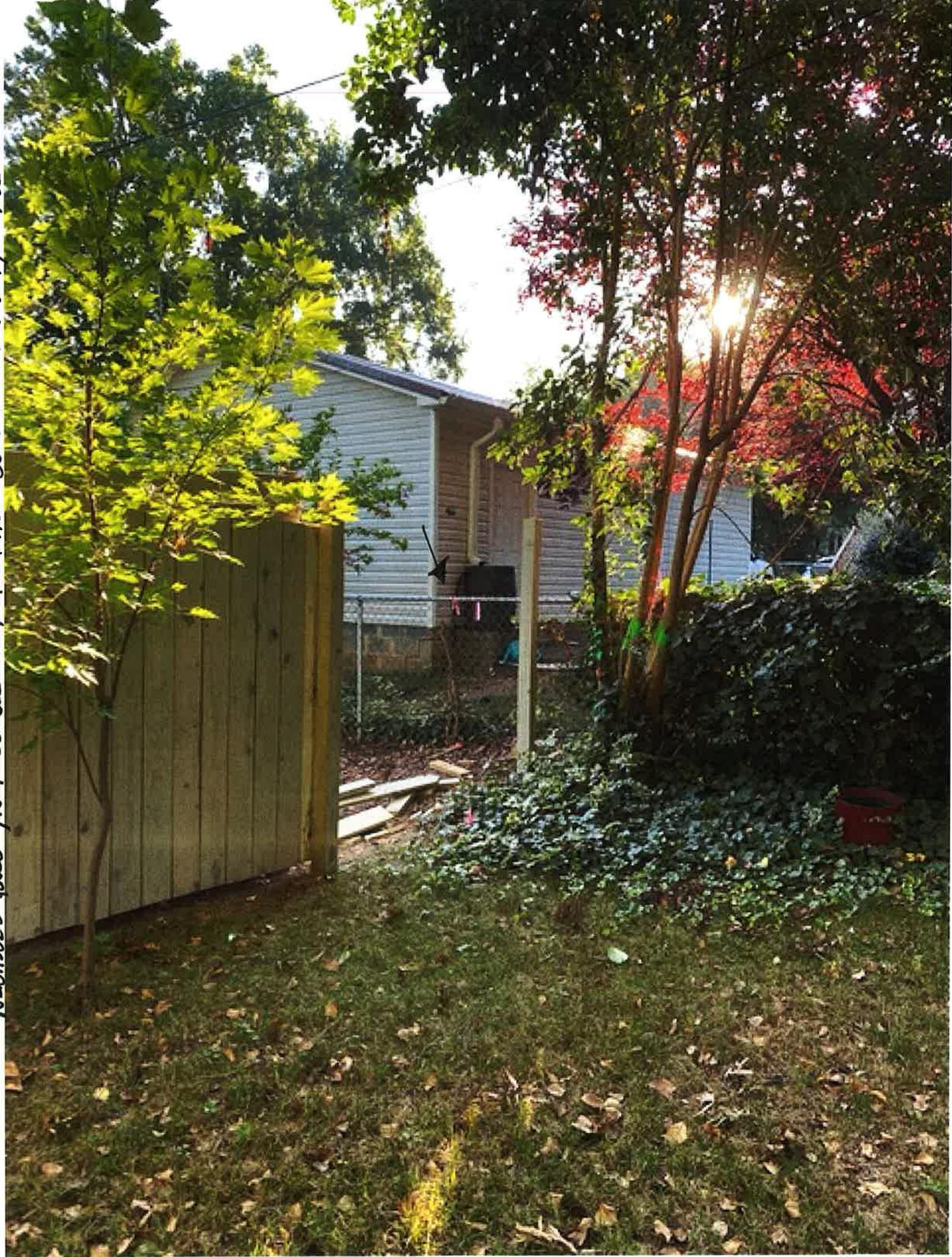


PHOTO 0303
BEDROOM LOCATION ON EXISTING PATIO

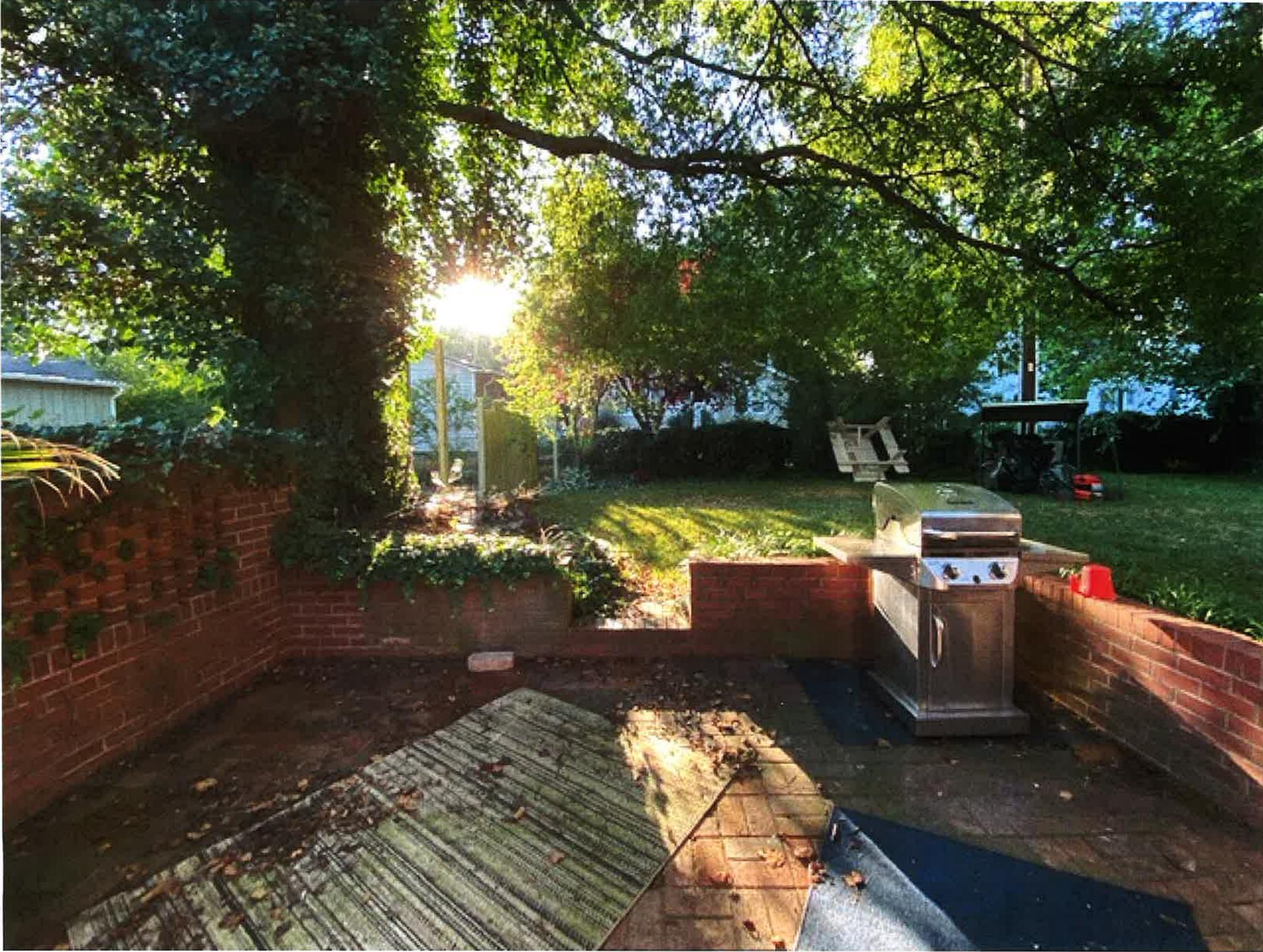


VIDEO FOOD

POST/COM

FACING

BACK/4/11/12





EXISTING
DITCH ROOM WITH
ADJACENT
TO POTENTIAL DITCH ROOM



W3 + SNOWBL MOUNT TO SIDE FACING STREET





