

REQUEST FOR BOARD ACTION
HENDERSON COUNTY
Zoning Board of Adjustment

MEETING DATES: 12/17/19 TRC 12/18/19 ZBA

SUBJECT: Variance Application (V-19-04) located at 204 Beth Dr

PRESENTER: Toby Linville, Code Enforcement Director

ATTACHMENTS:

1. Staff Report
2. Photographs
3. Site Plan

SUMMARY OF REQUEST:

The applicant is requesting a variance to allow an accessory structure in the front yard. 42-37 of the Henderson County Land Development Code states:

(7) Customary Accessory Building (Including private garages, noncommercial greenhouses and workshops).

- a. Shall be permitted in *rear yards*, provided that they are located not less than five (5) feet from any property line;
- b. May be permitted in *side yards*, provided that their placement shall not exceed the minimum *side yard* setback requirement for that district or use (35');

Suggested Motion:

I move that the Technical Review Committee recommend review to the Zoning Board of Adjustment.

I move that the Board of Adjustment approve/deny variance application V-19-04 because it meets/does not meet the requirements of the Land Development Code to grant a variance.

a. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:

1. The fact that, if the *applicant* complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable *use* of, the property.
2. The hardship of which the *applicant* complains results from unique circumstances related to the *applicant's* land.
3. The hardship is not the result of the *applicant's* own action.

b. The *Variance* is in harmony with the general purpose and intent of this Chapter and will preserve its spirit.

c. The *Variance* will secure the *public safety* and welfare and will do substantial justice.

d. The *Variance* shall not be based on the existence of a *nonconforming use* of neighboring land or *structures* in the same district, or permitted *nonconforming uses* in other districts, and shall in no way constitute a reason for the requested *Variance*.

e. The *Variance* shall not allow for an increase in density for the purposes of subdividing the land that would otherwise not be permitted by the applicable zoning district or *subdivision* regulations.



Henderson County, North Carolina Code Enforcement Services

1 Committee Request

- 1.1. **Applicant:** David Norwood
- 1.2. **Request:** Front yard setback variance
- 1.3. **PIN:** 9650849849
- 1.4. **Size:** .8 acres +/-
- 1.5. **Location:** The subject area is at 204 Beth Dr
- 1.6. **Variance Requirements:**

G. Quasi-Judicial Proceeding. The concurring vote of four-fifths (4/5) of the ZBA shall be necessary to grant a *Variance*. Any approval or denial of the request must be in writing and permanently filed with the office of the ZBA and with the Administrator as public record.

(1) Standards of Review. The ZBA shall not grant a *Variance* the effect of which would be to: (1) allow the establishment of a *use* not otherwise permitted in a general *use district*, (2) extend physically a *nonconforming use* of land or (3) change the district boundaries shown on the Official Zoning Map. No *Variance* shall be granted or considered where the fact that the property could be used more profitably is the reason for the request for the *Variance*. The following written findings must be made in order for the ZBA to grant a *Variance*:

a. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:

1. The fact that, if the *applicant* complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable *use* of, the property.
2. The hardship of which the *applicant* complains results from unique circumstances related to the *applicant's* land.
3. The hardship is not the result of the *applicant's* own action.

b. The *Variance* is in harmony with the general purpose and intent of this Chapter and will preserve its spirit.

c. The *Variance* will secure the *public safety* and welfare and will do substantial justice.

d. The *Variance* shall not be based on the existence of a *nonconforming use* of neighboring land or *structures* in the same district, or permitted *nonconforming uses* in other districts, and shall in no way constitute a reason for the requested *Variance*.

e. The *Variance* shall not allow for an increase in density for the purposes of subdividing the land that would otherwise not be permitted by the applicable zoning district or *subdivision* regulations.

(2) Conditions. The ZBA may, in granting a *Variance*, prescribe: (1) additional conditions; (2) additional safeguards; (3) a time limit within which the action for which a *Variance* is sought shall be begun; (4) a time limit within which the action for a *Variance* is sought shall be completed; and (5) a time duration within which construction, operation or installation shall commence on the project for which the *Variance* was obtained.

H. Variance Validity. Upon issuance of a *Variance*, the *applicant* shall have 12 months within which (unless otherwise specified by the ZBA) to commence construction, operation or installation. If construction, operation or installation is commenced within the specified time period the *Variance* shall continue in force as long as the *structure*, operations or installation remains.

(1) Variance Revocation. If construction or operation is not commenced within 12 months (or other specified time period), the *Variance* shall no longer be valid.

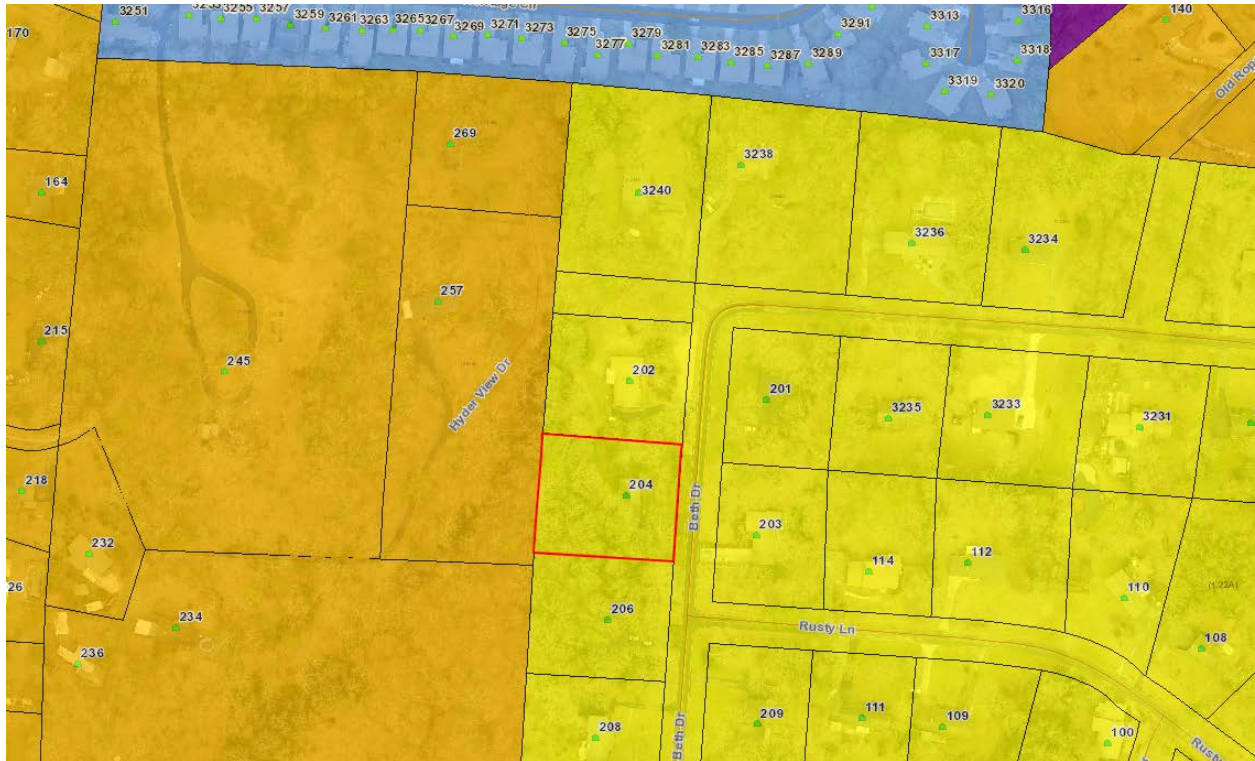
Map A: Aerial Photo/ Pictometry



2. Current Conditions

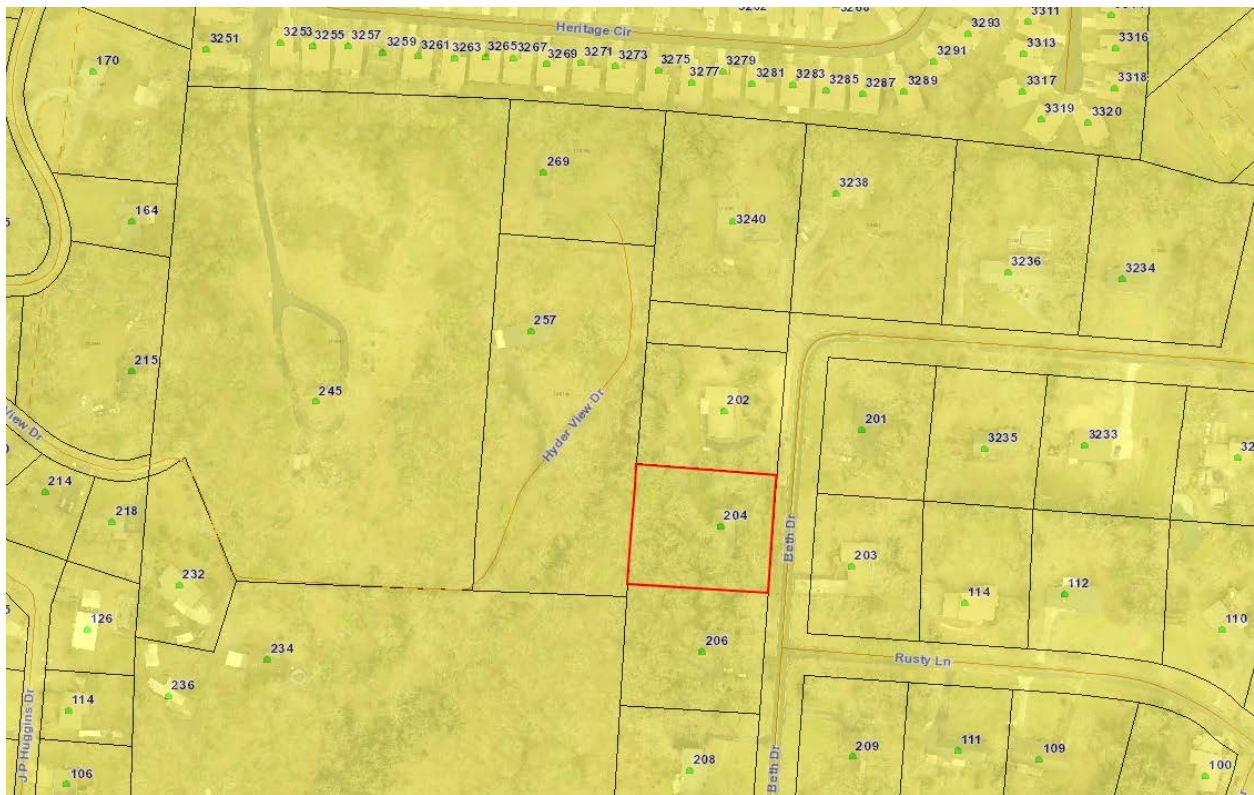
- 2.1 Current Use: The parcel is residential
- 2.2 Adjacent Area Uses: The surrounding properties are residential.
- 2.3 Zoning: The subject property and surrounding properties are R-40.

Map B: Current Zoning



- 3. **Floodplain /Watershed Protection:** The property is not located in a Special Flood Hazard Area. The property is not located in a Water Supply Watershed district.
- 4. **Water and Sewer:** This property is served by public water and septic system.
Public Water: City of Hendersonville
Public Sewer: N/A

Map C: CCP Future Land Use Map



5. Staff Comments

The 2020 CCP: The CCP Future Land Use Map places the Subject Area in the Urban Services Area” classification. The text and map of the 2020 CCP suggest that the Subject Area would be more suitable for the following:

1. The Urban Services Area is that area within which most urban services and urban- scale development is currently concentrated, and within which such development should generally be concentrated through the year 2020.
2. Growth and development will be proactively managed through extensive planning. Much of the USA falls within municipal planning jurisdictions and will be managed by those jurisdictions. Land use planning for areas falling within the County’s jurisdiction should be comparable and compatible in its approach and intensity with planning conducted within the various municipal jurisdictions.

6. Staff Recommendations

TRC recommends forwarding the site plan and application to the Zoning Board of Adjustment for review.

7. Photographs





Application No. _____

**HENDERSON COUNTY
VARIANCE APPLICATION FORM**

GENERAL INFORMATION

Date of Application: 11/11/19
Previously Submitted (Circle One): Yes No
Date of Pre-Application Conference: _____
Site Plan Attached (Circle One): Yes No

PARCEL INFORMATION

Property Address 204 Beth Dr. Hendersonville N.C. 28791
PIN: 9650849849 Deed Book/Page: 3341/448 Acreage: 0.8
Zoning District: Mtn. Home Fire District: Mtn. Home Watershed: _____ Floodplain: N/A
Driving Directions: 25 N → (D) Baystone Dr → (B) Rusty Ln. → (A) Beth Dr.
House on Left 204 Beth Dr.

REASON FOR VARIANCE Garage and laundry room addition
FRONT SETBACK (feet/foot) 78 ft
SIDE SETBACK (feet/foot) 18 ft
REAR SETBACK (feet/foot) 112 ft

PROPERTY OWNER CONTACT INFORMATION:

Name: David Norwood Phone: 423-309-6531
Address: 3226 Debbie Dr. City, State, and Zip: Hendersonville NC 28791

Applicant:

Name: David Norwood Phone: 423-309-6531
Address: 3226 Debbie Dr. City, State, and Zip: Hendersonville NC 28791

Agent:

Name: _____ Phone: _____
Address: _____ City, State, and Zip: _____

Agent Form (Circle One): Yes No

Plan Preparer:

Name: _____ Phone: _____
Address: _____ City, State, and Zip: _____

SITE PLAN REQUIREMENTS

Site plan of property showing existing structures, natural features (i.e. streams, ponds, etc.) proposed building or addition and indicating distance from such to the edge of right-of-way (centerline for variance request in the R-40, WR, or SW districts) and to the side and rear lot lines, as applicable. **It is required that the site be staked or flagged. The Zoning Administrator will take photos of the site and the staked or flagged area. Show placement of well & septic system and drain field if applicable and distances from structures.**

NOTE: Site plan not to exceed 11 X 17 size. Anything submitted larger than 11 X 17, the applicant must provide 12 copies with the application form.

STANDARDS FOR REVIEW

The Zoning 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 the following conclusions as a prerequisite to the issuance of a variance. State facts and argument in support of each of the following:

SECTIONS A & D MUST BE ANSWERED BY APPLICANT OR AGENT

A. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:

1. The fact that, if the applicant complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable use of, the property. (It is not sufficient that failure to grant the variance simply make the property less valuable.)

- There is no laundry room in the house. The only laundry hook-ups are downstairs in the unfinished basement and is not heated. This would allow laundry room to be on main level. It is dangerous to carry laundry up and down stairs and impossible for some elderly.
- Would give us a space for storage and allow us to park vehicles inside helping to maintain value.

2. The hardship of which the applicant complains results from unique circumstances related to the applicant's land. (Note: Hardships suffered by the applicant common with his neighbors do not justify a variance. Unique personal or family hardships are irrelevant since a variance, if granted, runs with the land.)

- The lot is zoned R-40 which has a minimum Lot Area of 40,000 sq. ft. Our lot is only .8 Acre or 34,550 sq. ft. With R-40 setbacks and all ready undersized lot makes it very hard for addition without Variance.
- Cannot place garage behind the house and have it attached without taking down trees, building retaining wall and moving electrical supply line coming into home

3. The hardship is not the result of the applicants own action.

- N/A

B. The variance is in harmony with the general purpose and intent of the Land Development Code and will preserve its spirit. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

- it will enhance character and value of our own property, in turn adding value to neighbor hood and surrounding properties.
- have a signed statement from neighbors saying they have seen elevation drawings of attached garage/laundry room and feel like it will enhance character of home and neighborhood. (See attached sheets)

C. The variance will secure the public safety and welfare and will do substantial justice. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

- it will allow us to park vehicles inside so they do not sit out in front driveway and will allow us to have storage space so things are not left out cluttering neighborhood.

SECTIONS A & D MUST BE ANSWERED BY APPLICANT OR AGENT

D. The variance shall not be based on the existence of a nonconforming use of neighboring land or structures in the same district, or permitted nonconforming uses in other districts, and shall in no way constitute a reason for the requested variance.

- we are not requesting variance from above stated reasons.
We are requesting variance based off of reasons stated in Section A, #1, 2
of this application.

I certify that the information shown above is true and accurate and is in conformance with the Land Development regulations of Henderson County.

David Norwood
Print Applicant (Owner or Agent)

[Signature]
Signature Applicant (Owner or Agent)

11/11/19
Date

Fee: \$ _____ Paid: _____ Method: _____ Received by: _____ Permit#: _____

**HENDERSON COUNTY
CODE ENFORCEMENT SERVICES APPOINTMENT OF AGENT FORM (OPTIONAL)**

I _____ owner of property located on _____,
(Name) (Street Address)
recorded in _____ and having a parcel identification number of _____,
(Deed Book/Page) (PIN)
located in Henderson County, North Carolina, do hereby appoint _____,
(Agent's Name)
_____, to represent me in an **application to the Code Enforcement Services**
(Agent's phone number)
Department and authorize him/her to act as my agent **in all matters**, formal and informal except as stated
herein, and authorize him/her to receive all official correspondence.

I however understand that as the listed property owner, I must sign all affidavits and statements required by
any applicable ordinance.

(Property Owner)

(Date)



NORTH ARROW BASED ON
PLAT C, PAGE 155-A
HENDERSON COUNTY REGISTRY.

NOTES:
THIS PARCEL IS SUBJECT TO ALL EASEMENTS
AND RESTRICTIONS OF RECORD.

NO TITLE SEARCH PERFORMED BY BUTLER ASSOCIATES.
THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD
HAZARD AS DETERMINED BY THE FEDERAL INSURANCE RATE
MAP OF NORTH CAROLINA.

CURRENT OWNER:
DAVID WESLEY NORWOOD & BETHANY SUMMER NORWOOD
204 BETH DR. HENDERSONVILLE, NC 28791

CURRENT ZONING: R-40
9650968110
ROWNYE & ROBIN L.
CARL
DB: 1497 F.C. 687

LEGEND:
- NEW IRON ROD
- EXISTING IRON ROD
- EXISTING IRON PIPE
- EXISTING IRON ROD
- MAG NAIL

- ELECTRICAL
- FIRE HYDRANT
- AREA LIGHT
- WELL/WATER METER

DRIVE/ROAD
ADJOINING BOUNDARY LINE
R/W
OVERHEAD UTILITIES
BOUNDARY LINE

NOTE:
THIS SURVEY REPRESENTS AN EXISTING 54,107 SQ. FT. PARCEL AND
DOES NOT CREATE A NEW STREET OR CHANGE ANY EXISTING
STREET (S.S. 47.80 (17.10%))

STATE OF NORTH CAROLINA, HENDERSON COUNTY, JOSEPH W. LINDSEY,
CLERK, CERTIFY THAT THIS MAP WAS PREPARED UNDER MY SUPERVISION
AND THAT THE SURVEY WAS MADE UNDER MY SUPERVISION AND
RECORDATION RECORDED IN BOOK 541 PAGE 448 BOOK _____
PAGE _____, THAT THE BOUNDS OF PRECISION AND CALCULATED
BY LATITUDE AND LONGITUDE IS 25.0000. THAT THE BOUNDS
NOT SHOWN ARE SHOWN AS BOUND LINES NOTED FROM
PREVIOUS RECORDS IN BOOK 541 PAGE 448 THAT THE SURVEY
WAS MADE BY ME OR UNDER MY SUPERVISION. WITNESSED
MY HAND AND SEAL THIS 22ND DAY OF SEPTEMBER 2019.

J. W. LINDSEY
CLERK

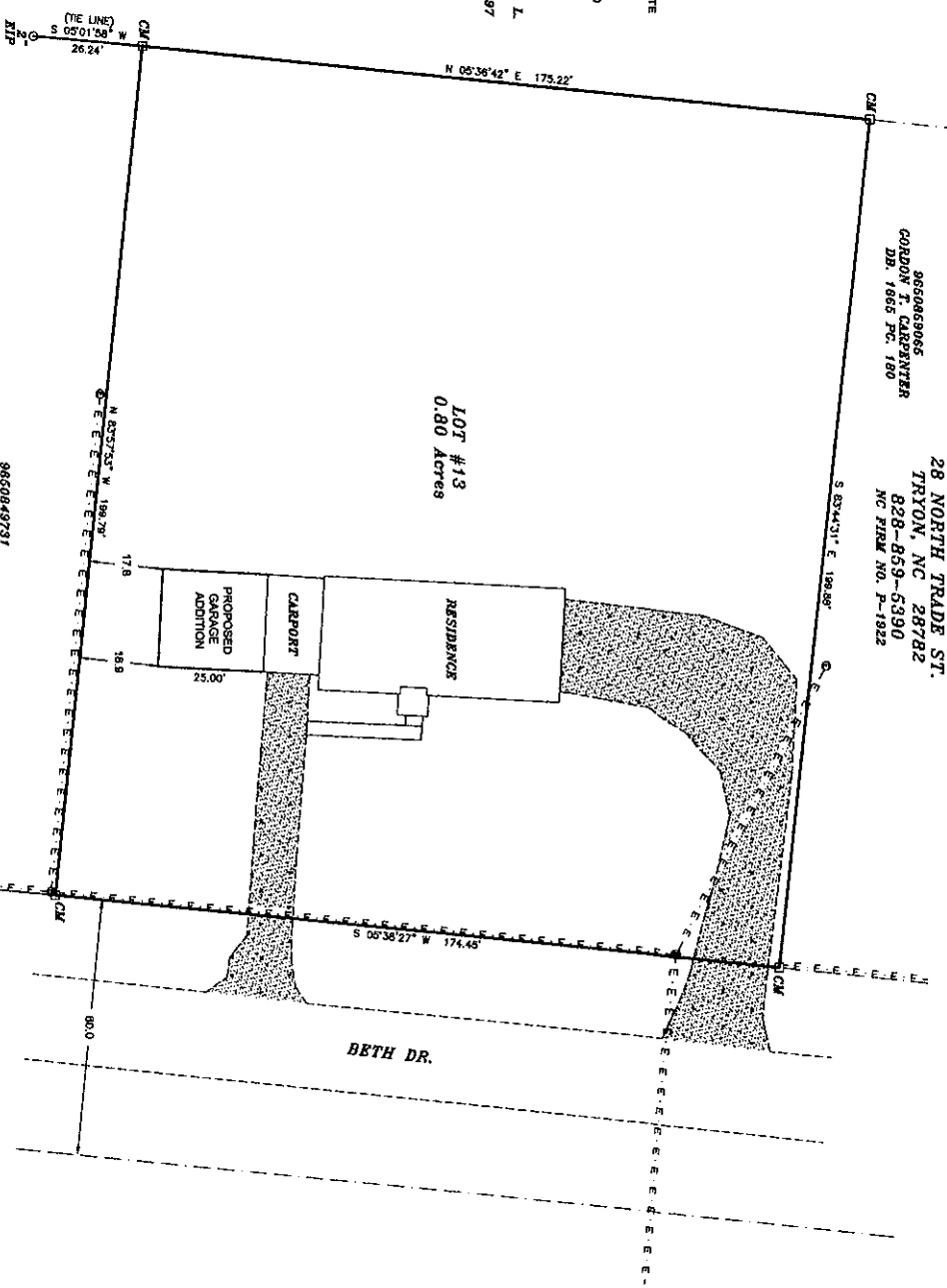


NO. 15138
D-1518-78
RATIO OF PRECISION: 1:10,000

SURVEY FOR
DAVID WESLEY & BETHANY SUMMER NORWOOD
HENDERSONVILLE TWP., HENDERSON CO., NO. CAR.
LEGAL REFERENCE: DB. 3341-448
OCTOBER 22, 2019
BUTLER ASSOCIATES
LAND SURVEYING, PLLC.
28 NORTH TRADE ST.
TRION, NC 28782
828-559-5390
NC FIRM NO. P-1922

9650963086
GORDON J. CARPENTER
DB: 1668 F.C. 180

LOT #13
0.80 Acres



REVIEW OFFICER CERTIFICATION
STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

REVIEW OFFICER OF
HENDERSON COUNTY CERTIFY THAT THE MAP OR PLAT
TO WHICH THIS CERTIFICATION IS APPLIED MEETS ALL
STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER _____ DATE _____



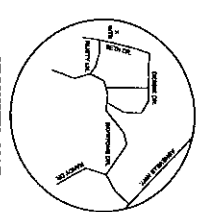
GRAPHIC SCALE 1" = 20'

REGISTER OF DEEDS

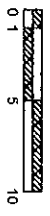
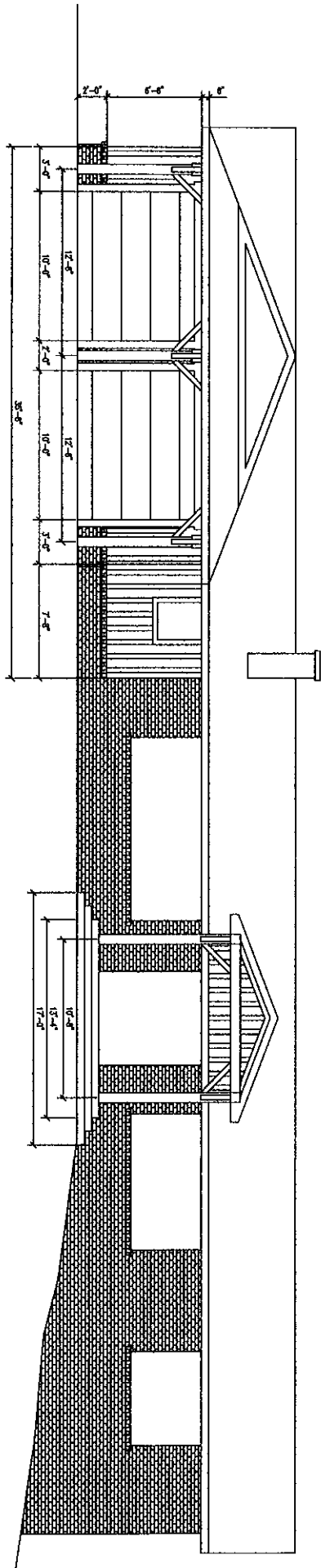
STATE OF NORTH CAROLINA
HENDERSON COUNTY
OFFICE OF REGISTER OF DEEDS
FILED FOR RECORD THIS _____ DAY
OF _____ 20____ AT _____ M
AND FULLY REGISTERED IN SAID OFFICE
CARD FILE _____ PAGE _____

TAX PIN:
9650949849

13578B



VICINITY MAP
(NOT TO SCALE)



The Norwoods have shown me the elevation plans for their finished home and property at 204 Beth Drive, including garage/laundry room addition. I have seen a physical layout of where the proposed garage/laundry room addition would be and I understand the addition is closer to the property line than the current R40 zoning allows.

The additions shown to me, the residence owner, via elevations and site survey, will not alter the essential character of the neighborhood. This aforementioned property if renovated to the drawings submitted will only offer value to our respective properties both in esthetics as well as increased financial comparables.

Phillip Flor
Printed Name
203 Beth Drive, Hendersonville, NC 28791
Address
Phillip Flor 11-6-19
Signature Date

Justine Fairclough
Printed Name
201 Beth Drive, HVL, 28791
Address
Justine Fairclough 11-6-19
Signature Date

GORDON CARPENTER
Printed Name
202 BETH DR - HVILLE NC 28791
Address
Gordon Carpenter 11/9/2019
Signature Date

BENJAMIN E JULIAN
Printed Name
210 BETH DRIVE
Address
Benjamin Julian Nov 8th 2019
Signature Date

We, Jared and Rebecca Berger:

- Have seen the survey for 204 Beth Drive and where our property, 206 Beth Drive, adjoins.
- Have seen the physical markers from the surveyors of the adjoining property line.
- Understand that the current R40 zoning side yard setback is 35 feet.
- Understand that the front of the proposed addition would be 19 feet from adjoining property line and the back of the proposed addition would be 17.7 feet from adjoining property line.
- Have seen a physical layout for proposed garage/laundry room addition and how close it would be to the adjoining property line.
- Have seen elevation drawing for finished home, including garage/laundry room addition.

We would approve of a granted variance to allow the addition at 204 Beth Drive and do not feel this addition would encroach on our property. By granting the variance for the addition at 204 Beth Drive we feel it will increase the value and esthetics of the property and keep congruent the character of the neighborhood, in turn adding value to our home and property.

Jared Berger

Printed Name

Rebecca Berger

Printed Name

206 Beth Dr Hendersonville NC 28791

Address

Signature

Date

Signature

Date

11/6/2019

11/6/2019