



**TOWN OF MIDWAY  
BOARD OF ADJUSTMENT MINUTES  
TUESDAY, DECEMBER 12, 2023**

**MINUTES OF MIDWAY BOARD OF ADJUSTMENT MEETING HELD ON TUESDAY,  
DECEMBER 12, 2023 AT 5:00 P.M. AT MIDWAY TOWN HALL, 426 GUMTREE ROAD,  
MIDWAY, NORTH CAROLINA**

**CALL TO ORDER**

Chair Charles Waddell called the meeting to order.

**DETERMINATION OF QUORUM**

Quorum was established. Board of Adjustment members present were Chair Charles Waddell, Vice-Chair Jamie Hester, Paula Hill, James Smith, and Alternate Richard Miller. Absent: Carl Tuttle.

Town Manager Tammy Michael, Town Clerk Linda Hunt, Deputy Clerk Ree Smith and Davidson County Zoning Officers Josh Tussey and John Wheeler were present.

**ADOPT AGENDA**

On motion by Board member James Smith, seconded by Board member Paula Hill, the Board voted unanimously to adopt the agenda as presented.

**PUBLIC ADDRESS**

There were none.

**REGULAR BUSINESS**

Davidson County Zoning Officer Josh Tussey reviewed the five findings required to approve a variance request as follows:

**Findings Required:**

A variance may only be allowed by the Board of Adjustment in cases involving practical difficulties or unnecessary hardships when substantial evidence is provided in the official record that supports each of the following findings:

1. That the alleged hardships or practical difficulties are unique, and singular as regards to the property of the person requesting the variance and are not those suffered in common with other property similarly located.
2. That the alleged hardships and practical difficulties, which will result from failure to grant the variance, extend to the inability to use the land in question for any use in conformity with the provision of this Ordinance and include substantially more than mere inconvenience and in inability to attain a higher financial return.
3. That the variance, if allowed, will not substantially interfere with, or injure the rights of others whose property would be affected by allowance of the variance.
4. That the variance is in harmony with this Ordinance and serves the general intent and purpose.

5. That allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by this Ordinance and the individual hardships that will be suffered by a failure of the Board to grant variance.

**REQUEST BY FRANCISCO HERNANDEZ FOR A VARIANCE TO THE FRONT YARD SETBACK – 353 BAXTER ROAD – LIVENGOOD ESTATES.**

Davidson County Zoning Officer Mr. Tussey stated the first variance request is for Francisco Hernandez. Mr. Tussey said the property is located on the south side of Baxter Road approximately 1,380 feet west of the Livengood Drive intersection at address 353 Baxter Road. Property is further described as Midway Township, Tax Map 11A, Lots 210, 211, 212, and 213 containing, in total, 0.46 acre more or less.

Davidson County Planning Officer Josh Tussey and Francisco Hernandez were sworn in by Deputy Clerk Ree Smith.

Mr. Tussey stated the site in question is Lot 210. Mr. Tussey said he was approached by the County Inspection office and County Health Department about getting the land perked. Mr. Tussey said due to the whole back area not being suitable for septic, the only option is the front yard setback variance.

Board member James Smith asked how this would affect the setback variance if in years to come the septic system failed and if it would be a problem if Mr. Hernandez had to rebuild or repair the lines. Mr. Tussey stated Mr. Hernandez would have to work with the existing lines to fix the problem. He said Mr. Hernandez would have to figure out how to make the septic work under the Health Department regulations.

Mr. Tussey showed the Board four (4) pictures of the lay of the property. He stated the last picture illustrates how the land drops off. This is the part of the land that the Health Department deemed unsuitable. Mr. Tussey stated the hardship for the variance would be the topography of the land.

Board member James Smith asked Mr. Tussey if the Health Department deemed the tail line as feasible for the septic. Mr. Tussey answered that it does.

Mr. Tussey referenced the letter from local realtor Ty Keating which in regard to the setback request for Baxter Road, also known as lot 210. It is his professional opinion that a variance to the front yard setback from 30 feet to 21 feet will not have a detrimental effect on the neighbor's property value.

Mr. Tussey reviewed the factors relevant for the Board's consideration as follows:

1. That the alleged hardships or practical difficulties are unique, and singular as regards the property of the person requesting that variance and are not those suffered in common with other property similarly located. We need a variance to build on this lot due to septic.

Staff Comment: The lot appears unique due to the unsuitable topography in the rear and the location of the approved septic system.

On motion by Vice-Chair Jamie Hester, seconded by Board member Paula Hill, the Board voted unanimously to approve the 1<sup>st</sup> Finding of Facts.

2. That the alleged hardships and practical difficulties, which will result from failure to grant variance, extend to the ability to use the land in question for any use in conformity with provisions of this ordinance and include substantially more than mere inconvenience and inability to attain a higher financial return. The house cannot be moved back to meet the 30 feet setback.

Staff Comment: The location of the approved septic system forces the house to be located closer to the road.

On motion by Board member James Smith, seconded by Alternate Richard Miller, the Board voted unanimously to approve the 2<sup>nd</sup> Finding of Facts.

3. That the variance, if allowed, will not substantially interfere with, or injure the rights of others whose property would be affected by allowance of the variance: See attached.

Staff comment: Applicant has provided a letter from a NC-licensed real estate broker affirming maintenance of property values.

On motion by Vice-Chair Jamie Hester, seconded by Board member James Smith, the Board voted unanimously to approve the 3<sup>rd</sup> Finding of Facts.

4. That the variance is in harmony with and serves the general intent and purpose of this ordinance: This will let us build the house.

Staff comment: The Ordinance allows variances as a tool when strict application of the rules and standards create unreasonable hardships.

On motion by Board member James Smith, seconded by Board member Paula Hill, the Board voted unanimously to approve the 4<sup>th</sup> Finding of Facts.

5. That allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by this ordinance and the individual hardships that will be suffered by a failure of the Board to grant a variance. We need the variance for the house to be built in this location.

Staff comment: Without this variance, it is likely that the applicant would be unable to build a reasonable sized home on this property.

On motion by Board member Paula Hill, seconded by Board member James Smith, the Board voted unanimously to approve the 5<sup>th</sup> Finding of Facts.

#### Approval for the variance to front yard setback for Francisco Hernandez.

On motion by Vice-Chair Jamie Hester, seconded by Board member Paula Hill the Board voted to unanimously approve the variance to front yard setback for Francisco Hernandez for property located on the south side of Baxter Road approximately 1,380 feet west of the Livengood Drive intersection at the address 353 Baxter Road. (Midway Township. Tax Map 11A, Lots 210, 211, 212 and 213 containing in total 0.46 acre more or less.)

TOWN OF MIDWAY

Application to the Board of Adjustment for a Hearing

Application No.: Z-23-136

Date: 11/29/2023

Applicant(s): Francisco Hernandez

Telephone: 336-471-2462

Mailing Address: 1142 Butler St. Winston Salem, NC 27107

Property Owner: Same

Telephone: Same

Mailing Address: Same

Property Location (General Description): Property is located on the south side of Baxter Road approximately 1,380 feet west of the Livengood Drive intersection at the address 353 Baxter Road.

Township: Midway

Map No.: 11A

Block No.: ---

Lots: 210, 211, 212, 213

Type of Application:

- Appeal from an action of the Zoning Officer and/or petition for an Interpretation of the Zoning Ordinance
- Special Use, Class \_\_\_\_\_
- Variance

Legal Advertisement: Request by Francisco Hernandez for a Variance to the Front Yard Setback in a RS, Low Intensity Residential District. Property is located on the south side of Baxter Road approximately 1,380 feet west of the Livengood Drive intersection at the address 353 Baxter Road. Property is further described as Midway Township, Tax Map 11A, Lots 210, 211, 212, and 213 containing, in total, 0.46 acre more or less.

Public Hearing Date: 12/12/2023

Board's Decision: \_\_\_\_\_

Signature, Applicant(s) Francisco Hernandez  
\_\_\_\_\_  
\_\_\_\_\_

Fee Paid Receipt No.: Z-23-136

Variance Application

DAVIDSON COUNTY  
STATE OF NORTH CAROLINA  
APPLICATION FOR A VARIANCE

11/28/2023

I, Francisco Hernandez, hereby petition the Board of Adjustment for a VARIANCE from the literal provisions of the Davidson County Zoning Ordinance because, under the interpretation given to me by the Zoning Enforcement Officer, I am prohibited from using the parcel of land described in the attached form (Application for a Hearing) in a manner shown by the Plot Plan attached to that form. I request a variance from the following provisions of the ordinance (cite paragraph numbers): IV.6 Dimensional Standards for Accessory Structures and Section IV.13, Table of Dimensional Requirements

So that the above-mentioned property can be used in a manner indicated by the Plot Plan attached to the Application for a Hearing form, or if the Plot Plan does not adequately reveal the nature of the variance, as more fully described herein (if variance is requested for a limited time only, specify duration requested): Variance of 9 feet to the Front Yard Setback

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 terms of the Davidson County Zoning Ordinance. A variance may only be allowed by the Board of Adjustment in cases involving practical difficulties or unnecessary hardships when substantial evidence in the official record of the application supports all five of the Findings of Facts listed below. In the spaced provided below, indicate the facts you intend to show and the arguments that you intend to make to convince the Board that it can properly find the following five required findings of fact:

1. That the alleged hardships or practical difficulties are unique and singular as regards the property of the person requesting that variance and are not those suffered in common with other property similarly located. We need a variance to build on this lot due to septic

Staff Comment: The lot appears unique due to the unsuitable topography in the rear and the location of the approved septic system.

Variance Application

2. That the alleged hardships and practical difficulties, which will result from failure to grant the variance, extend to the inability to use the land in question for any use in conformity with the provisions of this ordinance and include substantially more than mere inconvenience and inability to attain a higher financial return. The house cannot be moved back to meet the 30 foot setback

Staff Comment: The location of the approved septic system forces the house to be located closer to the road.

3. That the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance: See Attached

Staff Comment: Applicant has provided a letter from a NC-licensed real estate broker affirming maintenance of property values.

4. That the variance is in harmony with and serves the general intent and purpose of this ordinance: This will let us build the house

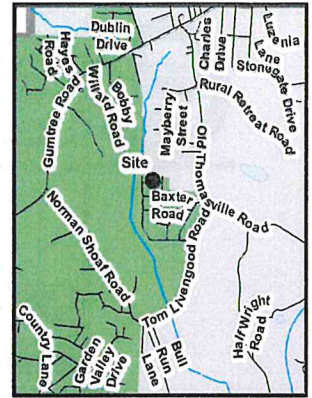
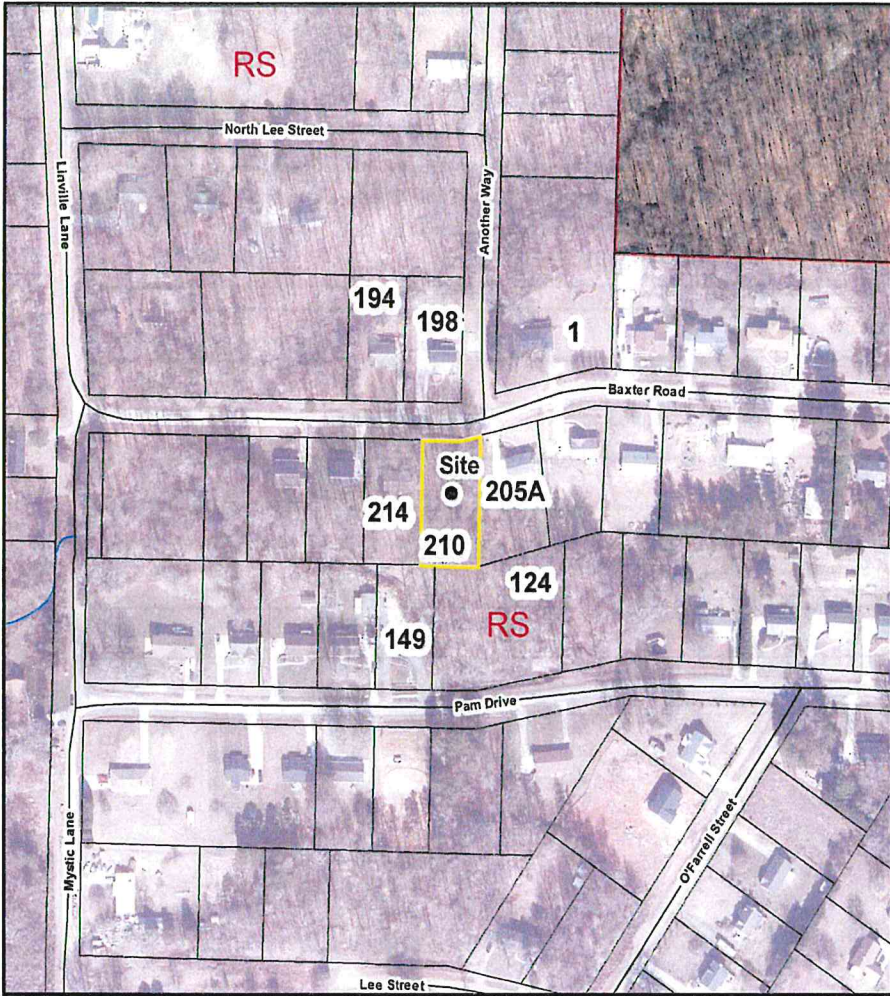
Staff Comment: The Ordinance allows variances as a tool when strict application of the rules and standards create unreasonable hardships

5. That allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by this ordinance and the individual hardships that will be suffered by a failure of the Board to grant a variance. We need the variance for the house to be built in this location

Staff Comment: Without this variance, it is likely that the applicant would be unable to build a reasonable sized home on this property.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information, and belief.

Signature of Applicant Juanisio Hernandez



**Legend**

- Secondary Road
- Interstate
- NC Hwy
- US Hwy
- Zoning Boundaries
- Property Lines
- City Zoning

Applicant:	
Francisco Hernandez	
Property Owner:	
Francisco Hernandez	
Scale 1 inch = 200 feet	Drawn By: JDT
Date: 11/28/2023	REVISED:
<b>Variance</b>	
9' to Front Yard Setback	
Midway Township, Tax Map 11A, Lots 210, 211, 212, and 213 Containing 0.46± Acres	
2022 Aerial Photography	



**Davidson County Planning Department**

913 Greensboro Street  
Post Office Box 1067  
Lexington, North Carolina 27293-1067

C. Scott Leonard  
Planning Director

Lexington: 338-242-2220

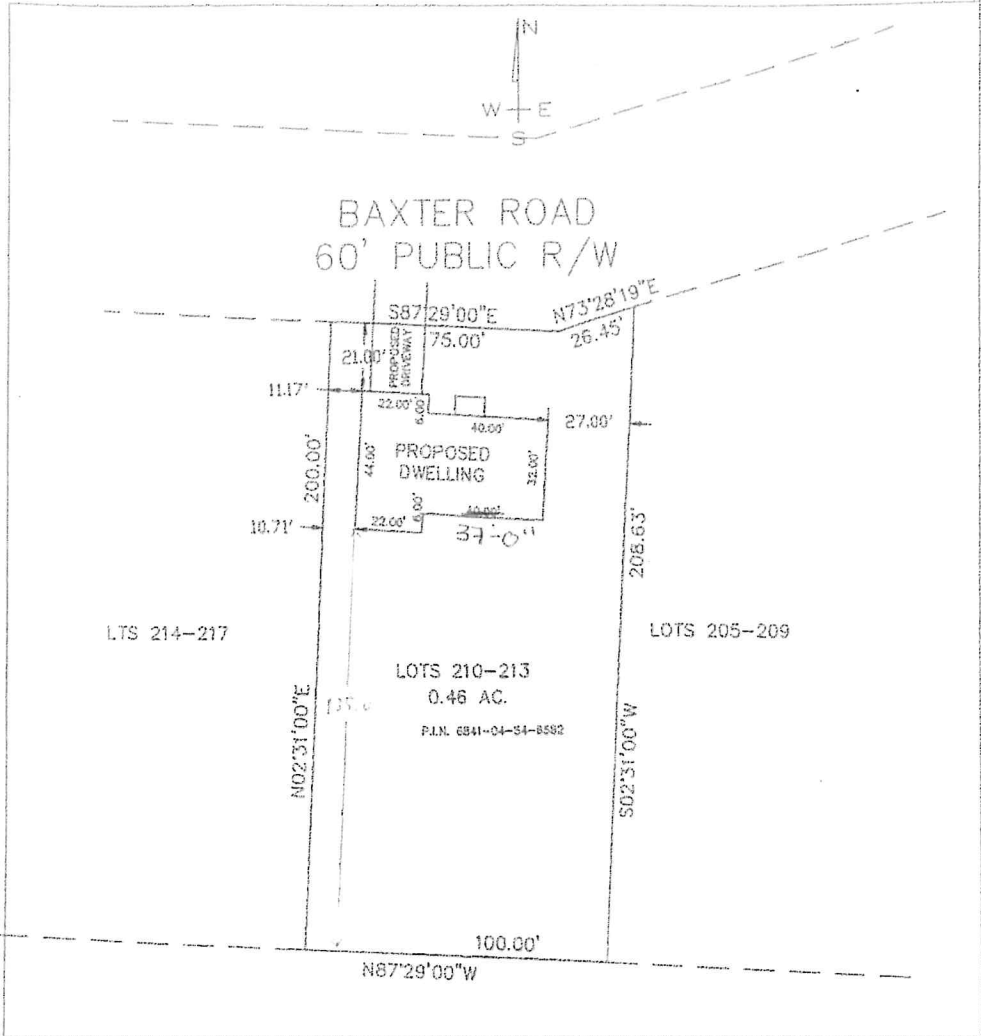
**Adjoining Property Owners**

From the Tax Administrators Office as of:  
11/28/2023

Parcel ID	Owner Name	Mailing Address
13011B0000124	SHUMAKER TONY RAY	PO BOX 361 LEXINGTON NC 27293
13011A0000214	GOODEN RUSSELL	377 BAXTER RD WINSTON SALEM NC 27107
13011A0000210	HERNANDEZ FRANCISCO	1142 BUTLER ST WINSTON SALEM NC 27107
13011A0000205A	WALL MELISSA	339 BAXTER ROAD WINSTON SALEM NC 27107
13011A0000198	LEEMAN KATHRYN	360 BAXTER ROAD WINSTON SALEM NC 27107
13011A0000194	BURCHAM DALLAS GRAY	378 BAXTER RD WINSTON SALEM NC 27107
13011A0000149	HOWARD GARLAND E	344 PAM DRIVE WINSTON-SALEM NC 27107-
13011A0000001	RAGAN HOPE T	326 BAXTER RD WINSTON SALEM NC 27107

*"Planning for a Better Tomorrow"*





<p>PRELIMINARY PLAT FOR PERMITTING ONLY</p>	<p>PROPOSED SITE PLAN OF LOTS 210-213, LIVENGOOD ESTATES MIDWAY TOWNSHIP, DAVIDSON COUNTY, NORTH CAROLINA</p> <p>PLAT OF SURVEY FOR FC HOMES BAXTER ROAD WINSTON-SALEM, NC</p>			
<p><i>Whitt Land Surveying</i> 838 WATSON AVENUE WINSTON-SALEM, NC 27103 (336) 722-1444</p>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%;">DATE: 09/07/22</td> <td style="width: 33%;">SCALE: 1" = 40'</td> <td style="width: 33%;">MAP RECORDED IN BOOK 13 PAGE 70</td> </tr> </table>	DATE: 09/07/22	SCALE: 1" = 40'	MAP RECORDED IN BOOK 13 PAGE 70
DATE: 09/07/22	SCALE: 1" = 40'	MAP RECORDED IN BOOK 13 PAGE 70		

**Duval County Health Department**

**Improvement Permit**

If the information on the Improvement Permit is falsified, changed, or the site is altered, then the Improvement Permit shall become invalid

Permit is Valid for Five Years

No Expiration Date

Date Rec: 22 Jan 2019      Map Code:      File No: 2000002039A

Applicant: SHAW, BRET S & DEBORAH K  
*Francisco Hernandez*

Address: 807 SANDPIPER LN  
PONTE VEDRA BEACH FL 32082

Daytime Phone: 3367058719  
*704-*

Owner/Legal Representative: SHAW, BRET S & DEBORAH K  
*Francisco Hernandez*

Address: 807 SANDPIPER LN  
PONTE VEDRA BEACH FL 32082

Daytime Phone: 3367058719  
*704-*

Subdivision: LIVENGOOD ESTATES      Map: 11A      Lot: 210      Section:      Township: 13

Road Name: BAXTER ROAD      Directions to Property: (LOTS 210-213) OLD THOMASVILLE RD FL LIVEN

Facility Type: H      New: X      Repair:      Expansion:      Water Supply: Municipal-Existing

No. of Bedrooms: 3      No. of Occupants:      Basement:      Basement Fixtures:

No. of Employees:      Other:      Projected Daily Flow: 360 gal

Pump: Yes  No       Proposed Wastewater System Type: Tile 50% Reduction (Sideways Panels)  
*(Horizontal Panels)*

Permit Conditions: See site plan. No grading in Septic area. Keep Septic lines five feet from property lines. System laid out on contours.

Permit Granted:       Permit Denied:      Authorized State Agent: Jana M. K... 2019      Date: 02-11-19

Owner/Legal Representative's Signature: [Signature]      Date: \_\_\_\_\_

**Authorization to Construct Wastewater System**

The Authorization for Wastewater System Construction is subject to revocation if the site plan or plat changes, the intended use of the property changes, or if the site is altered or is misrepresented in any way.

Type of Wastewater System: SBIE HPPBPS      Projected Daily Flow: 360

**Wastewater System Requirements**

Tank Size: 1000      Pump Tank Size: —      Square Footage: 2025 ft<sup>2</sup>

Trench Length: 268      Max. Trench Depth: 15"      Trench Width: 3 ft

No. of Trenches: 4      Aggregate Depth: Install 8" ~~panels~~ panels

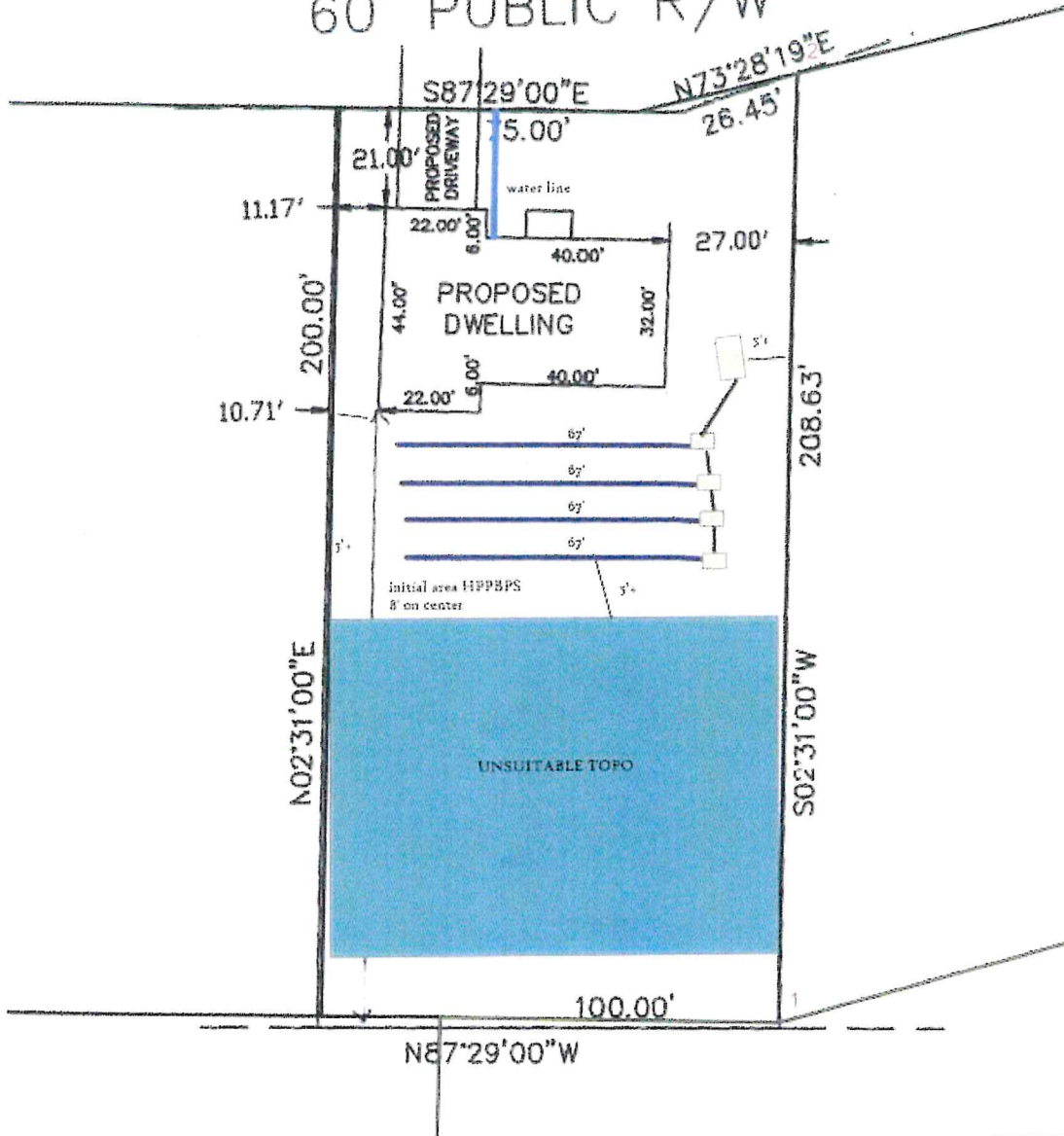
Permit Conditions: Plumb Rear Right Side. Gravity Feed To D-Box  
INSTALL 4 LINES OF 6.7' MAX LENGTH, 8" IN CENTER LOT  
IS REPAIR EXEMPT. (EACH LINE TO CONSIST OF 13 PANELS) ((60 TOTAL))

**See Site Plan / Plat On Attached Sheet**

Permit Granted:       Permit Denied:       Authorized State Agent: Jana M. K... 2019      Date: 9-1-19

Owner/Legal Representative's Signature: \_\_\_\_\_      Date: \_\_\_\_\_

# BAXTER ROAD 60' PUBLIC R/W

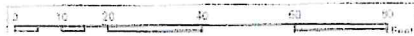


2000-2039a

1 in = 30 ft



DAVIDSON COUNTY  
HEALTH DEPARTMENT  
Protecting. Caring. Serving Our County



by: JSB

Attachment 1

**Joshua D. Tussey**

---

**From:** Ty Keating <ty@theginthegroup.com>  
**Sent:** Tuesday, November 28, 2023 10:13 PM  
**To:** Joshua D. Tussey  
**Subject:** Baxter Rd Setback Variance

**CAUTION External email. Do not click links or open attachments unless verified.**

To whom it may concern,

I am writing as a local Realtor with regard to a setback request for 0 Baxter Rd also known as lot 210. It is my professional opinion that a variance to the front setback from 30 feet to 21 feet will not have a detrimental effect on the neighbors property values.

The lot is located in an established neighborhood with mature trees and a rolling topography. Due to the nature of the land and the turns in the road, there are examples of homes being positioned at varying setbacks from the road.

One example is 315 Baxter road which effectively sits some 15 feet nearer the road than the neighboring property located at 295 Baxter Rd.

Please feel free to contact me if you have any further questions.

Warm Regards,

Ty Keating







**REQUEST BY JAMES SINK, JR. (OWNED BY SINK PROPERTIES, LLC) FOR A VARIANCE TO THE FRONT YARD SETBACK – 11304 OLD US HIGHWAY 52 – LOCATED IN CCOD.**

Davidson County Zoning Officer Mr. Josh Tussey stated the second variance request is for Mr. James Sink, Jr. for a front Yard Setback variance in a HC, Highway Commercial District. Property is located on the east side of Old Hwy 52 approximately 1,500 feet north of Hickory Tree Road intersection at the address 11304 Old US Hwy 52. Property is further described as Midway Township, Tax Map 12, Lots 67 and 104 containing, in total, 1.15 acres more or less. Said property is located in the CCOD district (known as Core Commercial Overlay District).

Davidson County Planning Officer Josh Tussey and James Sink, Jr. were sworn in by Deputy Clerk Ree Smith.

Mr. Tussey explained that due to the property being in the Core Commercial Overlay District (CCOD), it will involve a two to three step process. The first step is to address the issue of the front yard setback. Mr. Sink will be coming before the Board in the near future for CCOD approval for the building permit.

Mr. Tussey said the existing building and the addition are both 18 feet from property line. He explained the County Inspection Office issued a permit for the upfit of the existing building; however, it appears there was some misunderstanding about the permit issued and Mr. Sink began construction of the addition. Mr. Tussey further explained that the Inspection Department has inspected and approved the footers and walls that had been constructed to this point.

Mr. Tussey stated he does not know what was going on with the building permit, but the County never approved the addition to the existing structure. Mr. Tussey said Mr. Sink agreed to stop all work once he was made aware that there were no permits for the addition.

Board member James Smith asked if there have been any inspection on the new construction of the building. Mr. Tussey stated there has been one or two inspections of the new construction. Mr. James Smith asked Mr. Sink if there are future plans to build on the property where he added fill dirt. Mr. Sink responded he did not know but it is possible.

Mr. Tussey reviewed the factors relevant for the Board's consideration as follows:

1. That the alleged hardships or practical difficulties are unique, and singular as regards the property of the person requesting that variance and are not those suffered in common with other property similarly located. I feel that this is unique and singular due to the fact of the placement of the building and road access configuration.

Staff Comment: This lot appears unique due to the existing, non-conforming structure on site. The structure was built in the 1950s according to Davidson County tax records. At the time, the structure likely sat further off of Old US Hwy 52 than in currently does with the expanded NCDOT right-of-way. The expansion of the ROW has created this hardship that exist today.

On motion by Alternate Richard Miller, seconded by Board member James Smith, the Board voted unanimously to approve the 1<sup>st</sup> Finding of Facts.

2. That the alleged hardships and practical difficulties, which will result from failure to grant variance, extend to the ability to use the land in question for any use in conformity with provisions of this ordinance and include substantially more than mere inconvenience and inability to attain a higher financial return. This site and road access is useful for the common commercial property.

Staff Comment: The topography of the land has required the applicant to fill in a portion of the property and construct a retaining wall. It is unlikely the applicant would be able to build on some of this land due to the nature of the fill dirt.



On motion by Board member James Smith, seconded by Alternate Richard Miller, the Board approved the 2<sup>nd</sup> Finding of Facts by a 3-1 split vote. Voting in favor were Board members James Smith, Alternate Richard Miller, and Paula Hill. Voting against was Vice Chair Jamie Hester.

3. That the variance, if allowed, will not substantially interfere with, or injure the rights of others whose property would be affected by allowance of the variance: See attached.

Staff comment: Applicant has submitted a letter from a real estate broker affirming maintenance of property values.

On motion by Vice-Chair Jamie Hester, seconded by Board member James Smith, the Board voted unanimously to approve the 3<sup>rd</sup> Finding of Facts.

4. That the variance is in harmony with and serves the general intent and purpose of this ordinance: Ordinance will be met by allowing the existence of commercial building due to location and not negatively impacting adjacent properties.

Staff comment: The Ordinance recognizes that a variance is proper when conditions exist that create undue hardships on the property.

On motion by Board member James Smith, seconded by Alternate Richard Miller, the Board voted unanimously to approve the 4<sup>th</sup> Finding of Facts.

5. That allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by this ordinance and the individual hardships that will be suffered by a failure of the Board to grant a variance. Agreement of justice being done by granting the variance, Location of property will not injure adjoining properties.

Staff comment: It is likely that the applicant would be unable to build an addition of this size to this building if variance is not granted.

On motion by Vice-Chair Jamie Hester, seconded by Board member James Smith, the Board voted unanimously to approve the 5<sup>th</sup> Finding of Facts.

Approval for the variance to front yard setback for James Sink, Jr. (owned by Sink Properties, LLC)

On motion by Board member James Smith, seconded by Alternate Richard Miller, the Board voted unanimously to approve the front yard setback variance request for James Sink, Jr. for property located on the east side of Old US Hwy 52, approximately 1,500 feet north of Hickory Tree Road intersection, at the address of 113604 Old US Hwy 52 in the HC, Highway Commercial District. (Midway Township, Tax Map 12, Lots 67 and 104 containing 1.15 acres more or less.)

TOWN OF MIDWAY

Application to the Board of Adjustment for a Hearing

Application No.: Z-23-137 Date: 11/28/2023  
Applicant(s): James Sink, Jr. Telephone: 336-816-8897  
Mailing Address: 5065 Ridge Rd, Lexington, NC 27295  
Property Owner: Sink Properties LLC Telephone: Same  
Mailing Address: Same

Property Location (General Description): Property is located on the east side of Old US Hwy 52 approximately 1,500 feet north of the Hickory Tree Road intersection.


Township: Midway Map No.: 12 Block No.: --- Lots: 67 & 104

Type of Application:

- Appeal from an action of the Zoning Officer and/or petition for an interpretation of the Zoning Ordinance
- Special Use, Class \_\_\_\_\_
- Variance

Legal Advertisement: Request by James Sink, Jr. for a Variance to the Front Yard Setback in a HC, Highway Commercial District. Property is located on the east side of Old US Hwy 52 approximately 1,500 feet north of the Hickory Tree Road intersection at the address 11304 Old US Hwy 52. Property is further described as Midway Township, Tax Map 12, Lots 67 and 104 containing, in total, 1.15 acres more or less.

Public Hearing Date: 12/12/2023 Board's Decision: \_\_\_\_\_

Signature, Applicant(s)   
\_\_\_\_\_  
\_\_\_\_\_

Fee Paid Receipt No.: Z-23-137

Variance Application

DAVIDSON COUNTY  
STATE OF NORTH CAROLINA

APPLICATION FOR A VARIANCE

11/28/2023

I, James Sink, Jr., hereby petition the Board of Adjustment for a VARIANCE from the literal provisions of the Davidson County Zoning Ordinance because, under the interpretation given to me by the Zoning Enforcement Officer, I am prohibited from using the parcel of land described in the attached form (Application for a Hearing) in a manner shown by the Plot Plan attached to that form. I request a variance from the following provisions of the ordinance (cite paragraph numbers): IV.13 Table of Dimensional Requirements

So that the above-mentioned property can be used in a manner indicated by the Plot Plan attached to the Application for a Hearing form, or if the Plot Plan does not adequately reveal the nature of the variance, as more fully described herein (if variance is requested for a limited time only, specify duration requested): Variance of 32 feet to the Front Yard Setback

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 terms of the Davidson County Zoning Ordinance. A variance may only be allowed by the Board of Adjustment in cases involving practical difficulties or unnecessary hardships when substantial evidence in the official record of the application supports all five of the Findings of Facts listed below. In the spaced provided below, indicate the facts you intend to show and the arguments that you intend to make to convince the Board that it can properly find the following five required findings of fact:

1. That the alleged hardships or practical difficulties are unique and singular as regards the property of the person requesting that variance and are not those suffered in common with other property similarly located. I feel that this is unique and singular due to the fact of the placement of the building and road access configuration.

Staff Comment: This lot appears unique due to the existing, non-conforming structure on site. The structure was built in the 1950s according to Davidson County tax records. At the time, the structure likely sat further off of Old US Hwy 52 than it currently does

Variance Application

with the expanded NCDOT right-of-way. The expansion of the ROW has created this hardship that exists today.

2. That the alleged hardships and practical difficulties, which will result from failure to grant the variance, extend to the inability to use the land in question for any use in conformity with the provisions of this ordinance and include substantially more than mere inconvenience and inability to attain a higher financial return. This site and road access is useful for the common commercial property.

Staff Comment: The topography of the land has required the applicant to fill in a portion of the property and construct a retaining wall. It is unlikely the applicant would be able to build on some of this land due to the nature of the fill dirt.

3. That the variance, if allowed, will not substantially interfere with or injure the rights of others whose property would be affected by allowance of the variance: See Attached

Staff Comment: Applicant has submitted a letter from a real estate broker affirming maintenance of property values.


4. That the variance is in harmony with and serves the general intent and purpose if this ordinance: Ordinance will be met by allowing the existence of commercial building due to location and not negatively impacting adjacent properties.

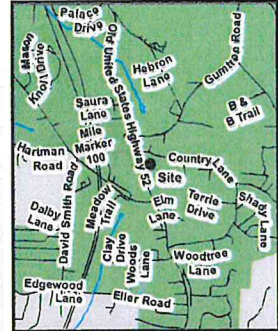
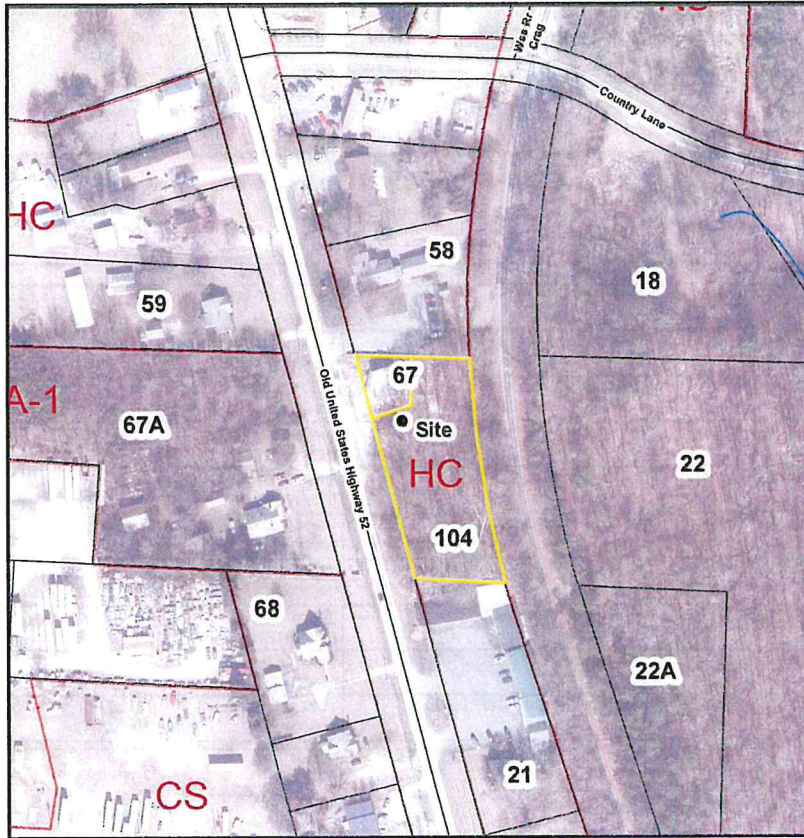
Staff Comment: The ordinance recognizes that a variance is proper when conditions exist that create undue hardships on the property.

5. That allowing the variance will result in substantial justice being done, considering both the public benefits intended to be secured by this ordinance and the individual hardships that will be suffered by a failure of the Board to grant a variance. Agreement of justice being done by granting the variance. Location of property will not injure adjoining properties.

Staff Comment: It is likely that the applicant would be unable to build an addition of this size to this building if a variance is not granted.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information, and belief.

Signature of Applicant  \_\_\_\_\_



**Legend**

- Secondary Road
- Interstate
- NC Hwy
- US Hwy
- ▭ Zoning Boundaries
- ▭ Property Lines
- ▭ City Zoning



Applicant:	
James Sink, Jr.	
Property Owner:	
Sink Properties LLC	
Scale 1 inch = 150 feet	Drawn By: JDT
Date: 11/30/2023	REVISED:
<b>Variance</b>	
32' to Front Yard Setback	
Midway Township, Tax Map 12, Lots 67 & 104 Containing 1.15± Acres	
2022 Aerial Photography	



**Davidson County Planning Department**

913 Greensboro Street  
Post Office Box 1037  
Lexington, North Carolina 27293-1037

C. Scott Leonard  
Planning Director

Lexington: 338-242-2220

**Adjoining Property Owners**

From the Tax Administrators Office as of  
11/29/2023

Parcel ID	Owner Name	Mailing Address
13014A0000018	SINK DANNYK JR	217 CIRCLE DRIVE LEXINGTON NC 27295-
130140000022A	SINK DANNYKAYE SR	1623 COUNTRY LANE WINSTON-SALEM NC 27107-
130140000022	STEWART DOUGLAS W	145 ELM LANE WINSTON SALEM NC 27107
130140000021	MICKO COMPANY INC ET ALS	1045 DEER CREEK LANE KING NC 27021
1301200000104	SINK PROPERTIES LLC	5065 RIDGE RD LEXINGTON NC 27295-
1301200000068	HENRY SHANNON M	11 241 OLD US HIGHWAY 52 WINSTON SALEM NC 27107
1301200000067A	HEDRICK BYRON N TRUSTEE	243 FIELDSTONE DR WINSTON SALEM NC 27127
1301200000067	SINK PROPERTIES LLC	5065 RIDGE RD LEXINGTON NC 27295-
1301200000059	MORRELL BRETT PAGE	11 335 OLD US HWY 52 WINSTON SALEM NC 27107
1301200000058	GRAYSON PROPERTIES LLC	179 TAYLOR RD ADVANCE NC 27006-

*"Planning for a Better Tomorrow"*



I certify that this map was drawn under my supervision from an actual survey made under my supervision (description recorded in DB 2245 PG 2112 or other reference source) or that the boundaries not surveyed are indicated as drawn from information in DB \_\_\_\_\_ PG \_\_\_\_\_ or other reference source. \_\_\_\_\_ that the ratio of precision or positional accuracy is 1:10,000+ and that this map meets the requirements of The Standards of Practice for Land Surveying in North Carolina (2) NCAC 56.1600). This \_\_\_\_\_ day of \_\_\_\_\_ 2021.

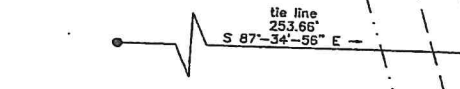
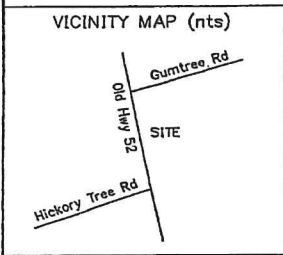
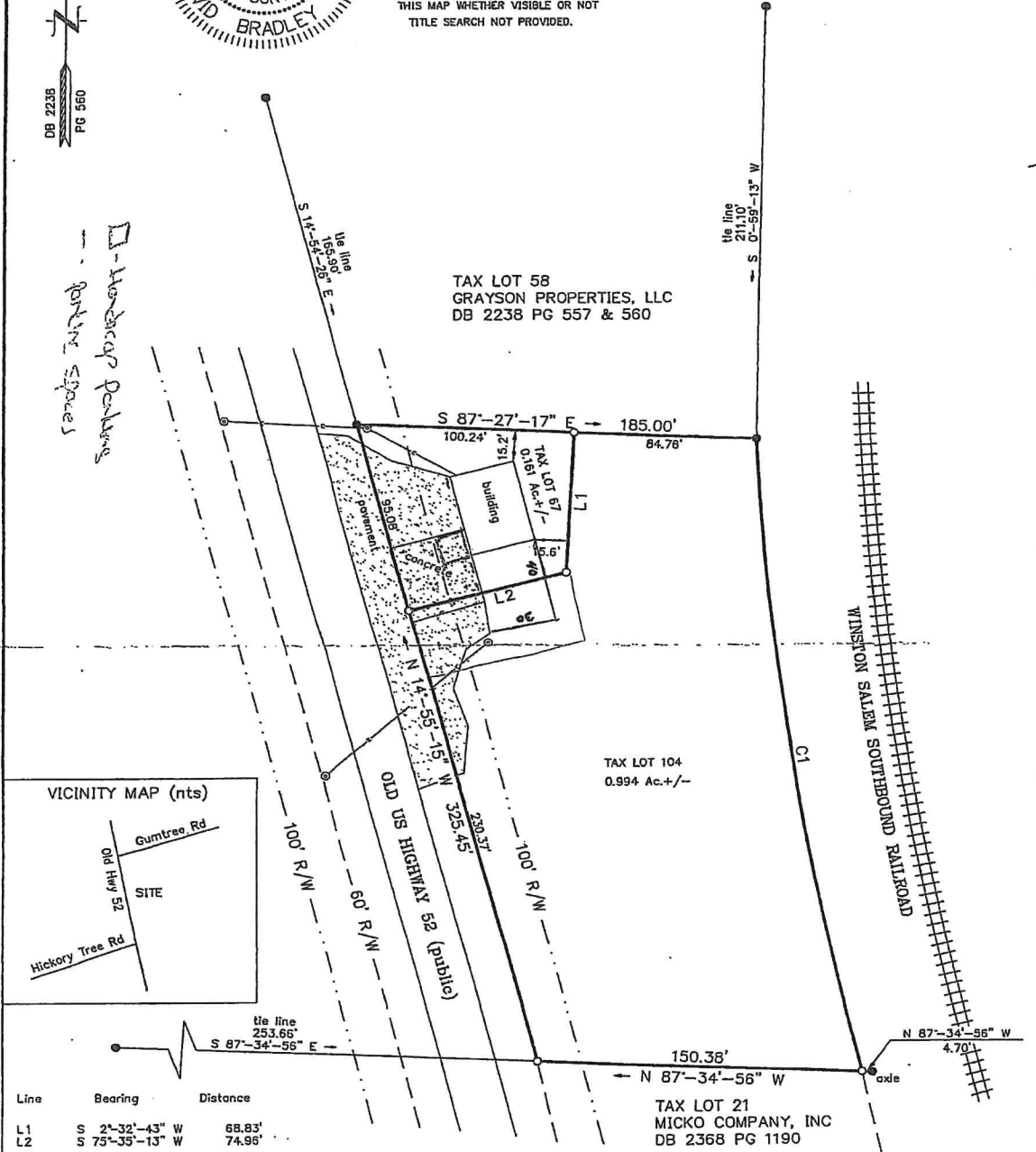
Professional Land Surveyor

THIS MAP IS SUBJECT TO ANY EASEMENTS OR RIGHTS-OF-WAY OF RECORD PRIOR TO THE DATE OF THIS MAP WHETHER VISIBLE OR NOT. TITLE SEARCH NOT PROVIDED.



Handicap Parking  
parking spaces

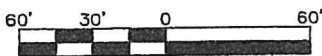
TAX LOT 58  
GRAYSON PROPERTIES, LLC  
DB 2238 PG 557 & 560



Line	Bearing	Distance
L1	S 2°-32'-43" W	68.83'
L2	S 75°-35'-13" W	74.96'

Curve	Radius	Chord Bearing and Distance	Arc Length
C1	1539.08'	S 8°-56'-57" E 316.45'	317.01'



- ☐ WATER METER
- ⊙ SEWER MANHOLE
- ⊙ POWER POLE
- ⊙ IRON FOUND
- ⊙ IRON SET
- ⊙ MONUMENT
- PROPERTY LINE (surveyed)
- - - PROPERTY LINE (not surveyed)
- ⊙ POINT NOT MONUMENTED
- R/W RIGHT-OF-WAY
- STREAM
- OVERHEAD POWER LINE
- ⊙ WELL

MAP FOR Kathy Sink				
SCALE	COUNTY	TOWNSHIP	DATE	PREC. RATIO
1" = 60'	DAVIDSON	MIDWAY	03 DEC 2021	1 : 10,000 ±
TAX MAP 12 TAX LOT 104 & 67				
REF: DB 2245 PG 2112				
AREA BY COORDINATES	CDE FORESTRY & SURVEYING F-0141 P.O. BOX 36 WALLBURG, N.C. 27373	JOB # 21263		
DRAFTED BY: CLJ	PHONE/FAX (336) 769-4673 EMAIL: coeefor@gmail.com	SURVEYED BY DL/TG		

Sink Properties LLC - 11304 Old US Hwy 52 - Side Plat

**RE/MAX Preferred  
Properties**

314 N Cherry St  
Kernersville, NC 27284  
336-407-8504

Rupart Sink

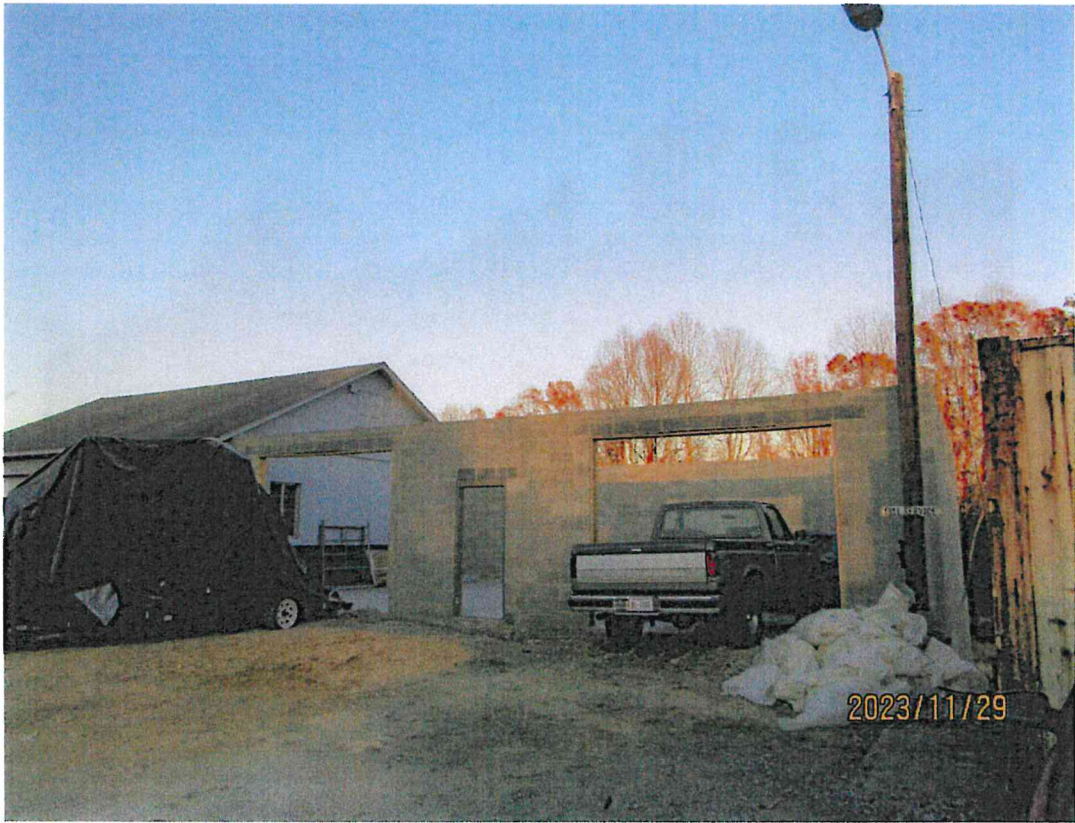
To Whom it may concern,

After reviewing the property located at 11304 Old Hwy 52, Winston Salem it is in my professional opinion that the work proposed by the owner will not hurt the surrounding property value. In fact in my opinion it will increase the value of the surrounding properties.

Warm Regards,

Chris Idol  
Broker









**OTHER BUSINESS**

There were none.

**ADJOURNMENT**

On motion by Vice-Chair Jamie Hester, seconded by Board member Paula Hill, the Board voted unanimously to adjourn the meeting at 6:15 p.m.

*Ree Smith*  
Ree Smith, Deputy Clerk

*Charles Waddell*  
Charles Waddell, Chair

