



Board of Adjustment
6:30 PM **Monday, January 6, 2025**

Regular Meeting
Holly Springs Town Hall Council Chambers
128 S. Main Street, 2nd Floor

Agenda

Call to Order

Roll Call

Pledge of Allegiance

Invocation

Agenda Adjustment

Approval of Minutes

1. Minutes: October 7, 2024

Variances

2. 208 W Maple Ave.
3. 209 Turner St.

Other Business

Adjournment

In accordance with ADA regulations please contact the Town Clerk's office at least 48 hours before the meeting to request an auxiliary aid or service needed to participate in this meeting:

linda.mckinney@hollyspringsnc.us 919-557-3900



Holly Springs Board of Adjustment

Board of Adjustment Agenda Cover Sheet

Agenda Item#: 1.

Title: Minutes: October 7, 2024

Strategic Priority Area: Growth Management & Economic Vitality

Staff Resource: Nikki St. Pierre, Development Services

Action(s):

- Approve October 7, 2024 minutes.

Explanation:

Background:

Funding Source(s):

Attachment(s):

1. Oct_2024_Minutes

Town of Holly Springs
BOARD OF ADJUSTMENT MEETING MINUTES
Monday, October 7, 2024 – 6:30 p.m.

Agenda Item #1, 2, 3 & 4:

The Board of Adjustment of the Town of Holly Springs met for their regularly scheduled meeting on September 9, 2024 in the Holleman Room, 128 South Main Street. At 6:30p after determining a quorum was present, Chair Loughridge called the meeting to order.

Staff Members Present: Cheryl Caines, Senior Planner
Conor Ryan, Planner I
Jay Osborne, Assistant Town Attorney
Mackenzie Fretz, Board of Adjustment Clerk

The Board completed roll call

Members Present: Ben Copeland, Chair
Jayson Greene, Vice Chair
Kimberly Day
Yan Higgins (Alternate)

Alternate Members Present: (Non-Voting):
Herman Goldstein (Alternate)

Members Absent: Joe Cimino
David Williams
Chanel Wilkins

Agenda Item #5: Agenda Adjustment

There were no agenda adjustment.

Agenda Item #6: Minutes

a. September 9, 2024 Minutes

Motion:
Motion to approve the September 9, 2024 Minutes.

Motion by: Jayson Green

Second by: Kimberly Day

Action: The Board of Adjustment voted in favor of the Motion. (4-0)

Agenda Item #7: Variances

a. 24-VAR-01 – 141 Clapper Ln.

Chair Copeland opened the public hearing.

Planner Conor Ryan presented the staff report to the Board of Adjustment.

Variance 24-VAR-01 requested by Chantal Callow to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the rear setback from 20' to 13' for the construction of a screened-in porch for the property located at 141 Clapper Ln, further described by the Wake County PIN no. 0648511872. The variance request will be limited to the area of encroachment.

Mr. Ryan asked that the staff report be entered in to the record.

Chair Copeland called for a motion to enter in the staff report as evidence.

Motion:

Motion to enter the staff report in to record

Motion by: Ben Copeland

Second by: Jayson Greene

Action: The Board of Adjustment voted in favor of the Motion. (4-0)

The property owner Chantal Callow, approached the Board of Adjustment.

Ms. Callow presented a brief explanation and shared photos of her property with the Board.

Ms. Higgins asked for a dimensional site plan.

Mr. Ryan stated that the plan can be found within the meeting packet but was not a part of the staff report.

Chair Copeland asked the applicant when they purchased the property. Ms. Callow stated she purchased the property in September of last year.

Ms. Higgins asked the builder disclosed the setback restriction on the property. Ms. Callow stated that no she was not informed of the setback issue and her HOA was not aware of this either. Ms. Higgins then asked if there is any other good place to place the patio on the lot and if the twenty-foot setback is only for rear? Ms. Callow stated that no there is not an additional placement option on the property and yes, the twenty-foot setback is only for the rear.

Chair Copeland asked the applicant if on the side where the HVAC sits is there a side door or an additional access point? Ms. Callow stated that on that side there are no entryways just bathroom windows.

Yan Ms. Higgins asked what the minimum size and dimensions of screened in porch will be. Ms. Callow stated that the builders will build a 12x12 standard porch.

Mr. Greene asked if it was possible to make the screen porch wider on the property to avoid setbacks. Ms. Callow stated that no, there would not be enough space.

There were no additional questions for the petitioner

Chair Copeland asked staff if the UDO was different when the home was built a year ago. Staff explained that the home itself is under the current UDO and the subdivision is under the old UDO and is a development options subdivision.

Chair Copeland followed up by asking if the setbacks increase or decrease? Mr. Ryan stated that the setbacks decreased from twenty-five feet to twenty feet.

Chair Copeland confirmed with staff that the Builder went through the right process. Mr. Ryan stated that most homes within the subdivision had a pad or patio and that generally staff would not approve a porch if it did not meet setback standard.

Chair Copeland asked staff what the setback is for a concrete pad. Mr. Ryan stated that the setback for a concrete pad can go all the way up to the property line. Chair Copeland then asked if the site would have been approved showing the built in screened in porch at the time of being built. Mr. Ryan stated that the screened porch would not have been approved by staff to be built due to setback and property line on this particular site.

Chair Copeland asked who maintains the open space within the back of the property line. Mr. Ryan stated that the HOA maintains the area in question. Ms. Higgins asked if the area has plans for future building. Mr. Ryan stated not at this time according to the Honeycutt subdivision.

There were no other questions for staff.

The Board began discussing their finding of facts.

The Board of Adjustment then listed their finding of facts:

1. The application for a variance was filed by all the owners of the land affected by the Variance.
2. The property is described as follows:
 - Site Address: 141 Clapper Ln.
 - PIN: 0648511872
 - Lot Number: 47
 - Subdivision: Honeycutt Farm
 - Total Lot Size: .19 acres
 - Current Zoning District: NR-CD Neighborhood Residential – Conditional District
3. The property is improved with a detached single-family dwelling unit.
4. The zoning district requires a setback of 20 feet from the rear property line.
5. The requested variance is to reduce the required setback to 13 feet from the rear property line.
6. An Administrative Adjustment was unable to address the requested Variance.
7. There are no specific zoning conditions or conditions of approval that are part of a Special Use Permit, Planned Unit Development, or Conditional Zoning District that will be varied by this request.
8. A Plot Plan/Survey depicting the Variance has been submitted by the Applicant.
9. The Variance application and other records pertaining to the Variance request are part of the record.
10. Notice of the Quasi-Judicial Hearing has been provided as required by NCGS and the Town of Holly Springs Unified Development Ordinance.
11. Area behind the lot cannot be developed as part of the current site plan.
12. This home was built as part of a new construction process, and owner took over when construction was 30% complete, and builder determined location and size of existing concrete pad.
13. HOA maintains the green space behind the property line.
14. There is a walkway between the property and the adjacent neighbor to the South.
15. There are regular standing water features observed by the petitioner in the green space behind the lot, and the proposed porch will not obstruct the flow of the water.
16. The current construction of the home does not allow another alternative location of the porch without substantial modification to existing exits.

17. The applicant is not showing any encroachment past the existing pad towards the rear property line.
18. The HOA approved the plan with all specifications.

Chair Copeland requested a motion to accept the finding of facts and close the public hearing.

Motion:

Motion to accept the finding of facts and close the public hearing.

Motion by: Kimberly Day

Second by: Ben Copeland

Action: The Board of Adjustment voted in favor of the Motion. (4-0)

Motion:

Based upon the Board's Findings of Fact, I move to approve Variance 24-VAR-01 requested by Chantal Callow to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the rear setback from 20' to 13' for the construction of a screened-in porch for the property located at 141 Clapper Ln, further described by the Wake County PIN no. 0648511872.

Motion by: Yan Higgins

Second by: Kimberly Day

Action: The Board of Adjustment voted in favor of the Motion. (4-0)

Agenda Item #8: Other Business

There was no other business.

Agenda Item #9: Adjournment

Motion:

Motion to adjourn.

Motion by: Jayson Greene

Second by: Kimberly Day

Action: The Board of Adjustment voted in favor of the Motion. (4-0)

Time: 7:30 PM

Mackenzie Fretz

Board of Adjustment Clerk



Holly Springs Board of Adjustment

Board of Adjustment Agenda Cover Sheet

Agenda Item#: 2.

New Business

Title: 208 W Maple Ave.

Strategic Priority Area: Growth Management & Economic Vitality

Staff Resource: Brett Gosney, Development Services

Action(s):

- Conduct Quasi-Judicial Public Hearing.
- Make and Accept the Findings of Fact for consideration or and approve/deny Variance requests.

Explanation:

- The Town has received two Variance requests for the property located at 208 W Maple Ave.
 - 24-VAR-04 - Variance request from Unified Development Ordinance (UDO) Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the front setback from 20' to 5'.
 - 24-VAR-05 - Variance request from Unified Development Ordinance (UDO) Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the side setback from 10' to 5'.
- Although presented together for this single property, the Board of Adjustment will need to consider each variance request, and the facts that may support approval or denial, independently.

Background:

- The subject property is located on Turner St. and is within the Downtown Village District Future Land Use Character Area within the Comprehensive Plan.
- The Downtown Area Plan states, "Given its compactness and easy access to goods and services, Downtown is an ideal location to pursue higher housing densities and smaller unit sizes that are priced to meet the Town's affordable housing goals and sized to provide a greater diversity of housing type within the Holly Springs community."
- The subject property is zoned as SR Suburban Residential

Funding Source(s):

N/A

Attachment(s):

1. 208WMapleAve_StaffReport
2. 24VAR04_208WMapleAve_Application
3. 24VAR05_208WMapleAve_Application
4. 208WMaple_SitePic



Development Services

Staff Report

Request for Variance of Development Standards

**208 W Maple Ave
24-VAR-04 & 24-VAR-05**

Petitioner/Owners:

TJ Building Group, LLC
PO Box 523
Holly Springs, NC 27540



Location:

☒ Within Corporate Limits of Holly Springs ☐ Within Holly Springs ETJ ☐ Annexation Pending

Staff Contacts: Brett Gosney, Planner II

Attachments: Variance of Development Standards Petition, Variance of Development Standards Findings of Fact responses by petitioner



Parcel Information			
Owner	Parcel #	Zoning	Area
TJ Property Enterprise, LLC	0648899287	SR Suburban Residential	0.21
Total			0.21 Acres

Adjacent Property Site Data		
	Zoning	Existing Land Use
Subject Property	SR Suburban Residential	Vacant
North	SR Suburban Residential	Vacant
South	SR Suburban Residential	Vacant
East	SR Suburban Residential	Single Family Residential
West	SP-CD Special District Conditional District	Hospital

Property History

Rezoning History

Rezoning Number: 22-REZ-01 (Zoning Reassignment)
 Original Zoning: R-10
 Proposed Zoning: SR Suburban Residential
 Approved by Town Council on: March 1, 2022

Variance Request

1. **Variance 24-VAR-04 requested by TJ Building Group, LLC to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the front setback from 20' to 5' for the property located at 208 W Maple Ave, Wake County PIN 0648899287.**

UDO Requirements:

Table 2.2.1-A – Development Standards for Residential Use Districts

Minimum Front Setback for properties in the SR District – 20'

2. **Variance 24-VAR-05 requested by TJ Building Group, LLC to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the side setback from 10' to 5' for the property located at 208 W Maple Ave, Wake County PIN 0648899287.**

UDO Requirements:

Table 2.2.1-A – Development Standards for Residential Use Districts.

Minimum Side – Interior Setback for properties in the SR District – 10'

Property Owner Notification

All property owner notifications have been made in accordance with North Carolina General Statutes.

1. A notice of the public hearing was mailed to all property owners within 200 feet of the subject property.
2. A notice of public hearing sign was posted on the subject property.

Background Information

- The subject property is located on W Maple Ave and is within the Downtown Village District Future Land Use Character Area within the Comprehensive Plan.
- The Downtown Area Plan states, "Given its compactness and easy access to goods and services, Downtown is an ideal location to pursue higher housing densities and smaller unit sizes that are priced to meet the Town's affordable housing goals and sized to provide a greater diversity of housing type within the Holly Springs community."
- The subject property is zoned as SR Suburban Residential.
- The required front setback in the SR Suburban Residential Zoning District is 20' per UDO Table 2.2.1-A.
- The front lot line is defined as, "The Lot Line separating a Lot from any abutting Street".
- The front setback that the variance is requesting relief from is for the lot line facing W Maple Ave.
- The required side-interior setback in the SR Suburban Residential zoning District is 10' per UDO Table 2.2.1-A.
- The side-interior setback that the variance is requesting relief from is for the lot line adjacent to the property to the North (Wake County PIN 0648899382).

Board of Adjustment Findings

NOTE: Board of Adjustment Members should use the following area to make notes on evidence presented related to each of the required Findings as it is presented during the public hearing.

A variance may be granted by the Board if competent and substantial evidence is presented by the applicant which persuades the Board to either reach each of the following conclusions independently or be reasonably able to meet these conclusions upon implementation of conditions by the Board:

- 1) 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.**

Applicant Response:

A single family detached house is a permitted use within the current zoning (SR) for the UDO. This property is located between W Maple Ave and Wilber Rd. Wilber Road is not constructed. Also, we verified with the town engineer department that currently there is no public utility (water and sewer) available on Wilber Road. W Maple Ave is a constructed street and the town engineer verified/confirmed that there is public utility (water and sewer) available for tap in on W Maple Ave. Thus, the proposed single-family house would be facing W Maple Ave. However, the 20' front setback and 10' side setback limit the best use of the with 48' length at 208 W Maple



Ave (PIN 0648899287) located in the downtown village district. Without the variance for both the front and side, this will not allow proper use of the lot for the permitted use of a single-family house. With the variance, it would create a more suitable building area for constructing a residential single-family house.

- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.**

Applicant Response:

Designing and building a house to conform to the new UDO and still maintain good use of the lot would not be possible without the variance. After the front and side setback the remaining length would only be 18'. Our goal is to build a house that blends the style of surrounding homes in the downtown village district area. We are requesting 5' setback for both the front and side so we have at least 38-39' length for the house. (See attached site plan for the proposed single-family house).

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

Applicant Response:

The hardship did not result from any action taken by the property owner. We did not know any information about the circumstances of the requirements resulting from Wilber Road – Wilber Road is not constructed and no public utility (water & sewer) available on the Wilber Road. These conditions have already existed before we bought the land. We believe there has been no change to property since property was created many years ago. We have not made any changes to the property since we purchased it.

- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

Applicant Response:

The request is consistent with the spirit, purpose and intent of the ordinance for the Holly Springs Village District. The intent is to utilize the lot to build a single-family residential home that is attractive and consistent with other homes in the area. The Future Land Use Map shows this property as having the Character Area of Downtown Village District. Additionally, with this designation, it is subject to the small area plan of Downtown Area Plan. Thus, the higher housing density will bring residents to the area to support the downtown business, which is in line with the Town goals. Per the town's comprehensive plan – section 1: Land Use & Character Plan (pg.23-24), residential growth in the downtown area would be necessary to sustain businesses in the downtown and the intent and purpose of the comprehensive plan is supporting higher housing densities and residential growth in the downtown area. This would meet the intent and purposed of the comprehensive plan and will be a beautiful addition for the growth of the downtown village area.

In granting a variance, the Board shall have the authority to impose such conditions as deemed necessary by the Board to protect the interests of the surrounding area,



preserve the spirit and intent of the UDO, and to promote the health, safety, morals, comfort convenience and welfare of person residing or working in or adjacent to the property. Such conditions can be the following non exclusive list of examples:

- 1. Limit the variance for specific duration.*
- 2. Require the provision of additional landscaping, screening, fencing or other methods to allow the varied property to harmonize with adjacent properties.*
- 3. Require the applicant to takes steps towards the elimination or reduction of noise, light, dust, vibration or other possible nuisance problems.*
- 4. Require more stringent signage limitations than provided under the UDO.*
- 5. Limit the hours of operation of a non-residential site.*

Board of Adjustment Motion

1. Based upon the Board’s Findings of Fact, I move to approve/deny Variance 24-VAR-04 requested by TJ Building Group, LLC to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the front setback from 20’ to 5’ for the property located at 208 W Maple Ave, Wake County PIN 0648899287.

In addition, the following conditions must be satisfied (state conditions).

2. Based upon the Board’s Findings of Fact, I move to approve/deny Variance 24-VAR-05 requested by TJ Building Group, LLC to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the side setback from 10’ to 5’ for the property located at 208 W Maple Ave, Wake County PIN 0648899287.

In addition, the following conditions must be satisfied (state conditions).

Agenda Item Completeness Checklist		
	Approved for Distribution	
Staff Member	Yes	Initials
Planner		
Development Review Engineer		
Parks Planner		
Planning Manager / Division Manager / Director		



Holly Springs Board of Adjustment Findings of Fact

1. The application for a variance was filed by all the owners of the land affected by the Variance.
2. The property is described as follows:

Site Address: 208 W Maple Ave

PIN: 0648899287

Total Lot Size: .21 Acres

Current Zoning District: SR Suburban Residential
3. The property is vacant.
4. The zoning district requires a setback of 20 feet from the front property line and 10 feet from the side property line.
5. The requested variance is to reduce the required setback to 5 feet from the front property line and 5 feet from the side property line.
6. An Administrative Adjustment was unable to address the requested Variance.
7. There are no specific zoning conditions or conditions of approval that are part of a Special Use Permit, Planned Unit Development, or Conditional Zoning District that will be varied by this request.
8. A Plot Plan/Survey of depicting the Variance has been submitted by the Applicant.
9. The Variance application and other records pertaining to the Variance request are part of the record.
10. Notice of the Quasi-Judicial Hearing has been provided as required by NCGS and the Town of Holly Springs Unified Development Ordinance.
Additional Findings of the Board of Adjustment

11.

12.

13.

BOARD OF ADJUSTMENT HEARING WORKSHEET

Date of Hearing: _____ BOA Member: _____
Case Number: _____

Finding of Fact	Fact	In Petitioner's Application	From Staff Report	Testimony at Hearing	Proven by Competent & Material Evidence?
Ex.	<i>The property is located at 123 Main Street</i>	X	X	X	X
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					

VARIANCE REMINDERS

- The board can take issue with the facts that are presented by the applicant and find that the facts are NOT “competent,” “material,” or “substantial” and determine that the applicant has failed to establish a prima facie case (ie, the application fails)
 - **Material Evidence**- is recognized to mean “evidence having some logical connection with the facts of consequence or issues.”
 - **Substantial Evidence**- means such “relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”—“It must do more than create the suspicion of the existence of the fact to be established... It must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury. Substantial evidence depends on the burden of proof. In a criminal trial, the evidence has to be so substantial as to overcome “reasonable doubt.” However, in civil matters (such as variances), it only needs to overcome a “preponderance of the evidence” standard. It only has to tip the scale of justice a little bit- not all the way as in a criminal matter.
 - **Competent evidence** is evidence that the fact finder determines has a sufficient indicia of reliability (ie, not hearsay or general nonsense) but evidence that as a tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.
 - Additionally, evidence that is deemed to be not competent and which should not be considered by the Board includes lay opinion testimony of: (1) how the proposed variance would affect the value of surrounding properties; (2) that the proposed variance would pose a danger to public safety as a result of increased traffic; and (3) matters only an expert would generally be qualified to testify about. (from 160A-393(k)(3)).
- Use of Expert Testimony: An expert is generally someone smarter than the fact-finder on a given subject (typically licensed in their field). In a judicial proceeding, they are the only ones where their “opinion” is competent, material, and substantial evidence. An example would be a licensed real estate appraiser offering evidence of an opinion of an increase or decrease in property value, or a land planner stating that they are familiar with the “spirit and intent” of the UDO and in their professional opinion, the project is in keeping with the spirit and intent. Expert witness testimony may be challenged, however unless some fault is determined (like they based their opinion on bad data or hearsay), typically you need an another expert to offer an expert opinion to contradict what the first expert said. (Exception- the courts have consistently held that a property owner may give their opinion as to the value of their own property, even if they are not a licensed appraiser, however they are often trying to testify as to what the *future* value of their land would be if a project went through, and they are not likely competent to give evidence as to their properties future value.
- Board members sitting in a quasi-judicial capacity must base their decision to grant or deny a variance on objective factors, which are based upon the evidence presented, and not upon their subjective preferences or ideas.

- Board members should not accept outside evidence (conversations outside of sworn testimony, site visits, emails, unsworn documents) and should only rely on facts offered at the hearing, under oath.
- The board may not deny a permit in their unguided discretion or because, in their view, it would adversely affect the public interest.—“The denial of the conditional use permit may not be based on conclusions which are speculative, sentimental, personal, vague or merely an excuse to prohibit the requested use.”
- The Board sitting in a quasi-judicial capacity are performing as judges and must be neutral, impartial, and base their decisions solely upon the evidence submitted.—“Neutrality and the appearance of neutrality are equally critical in maintaining the integrity of our judicial and quasi-judicial processes”
- “Speculative assertions or mere expression of opinion about the possible effects of granting a permit are insufficient to support the findings of a quasi-judicial body”
- In quasi-judicial proceedings, no board or council member should appear to be an advocate for not adopt an adversarial position to a party, bring in extraneous or incompetent evidence, or rely upon ex parte communications (out of hearing) when making their decision.

VARIANCE OF DEVELOPMENT STANDARDS APPLICATION

DPM Appendix #A.16 Supplement 20 February 2023

PETITION CONTACT INFORMATION (Attach additional sheets if needed)	
Applicant and Financially Responsible Party will need to register for an account on the Portal	
Project Applicant Check One: ☒ Owner ☐ Owner's Agent ☐ Design Professional ☐ Developer ☐ Other	
Name: Tack Kim	Company: TJ Property Enterprise LLC
Mailing Address: PO BOX 523	
City, State, Zip: Holly Springs, NC, 27540	
Telephone: 919-812-3711	E-Mail: tack@TJBuildingGroup.com
REQUIRED: Property Owner(s) if different from Applicant/Contact (Attach additional sheets if needed)	
Name:	Company:
Mailing Address:	
City, State, Zip:	
Telephone:	E-Mail:

PROJECT INFORMATION	
Project Name	Front Variance- 208 W Maple Ave
Project Number	
Project Location Use street address. If none, use closest intersection	208 W Maple Ave ☒ Within Corporate Limits ☐ Within Holly Springs ETJ ☐ Pending Annexation
Shopping Center/Lot #	Lot #10
PUD/Development	
PIN(s)	0648899287
Project Acreage	0.185
Current Zoning	SR
Sketch Plan Held:	10/02/24

VARIANCE REQUEST (please be specific)	
UDO Section No: 2.2.1	Section Title: Development Standards for Resident
Specific Vested Rights Request (Attach additional sheets if needed):	
Front Setback: Requesting a board of adjustment to reduce front setback from 20' to 5'	

VARIANCE OF DEVELOPMENT STANDARDS APPLICATION

DPM Appendix #A.16 Supplement 20 February 2023

FINDINGS OF FACT

A petition for Variance of Development Standards may only be approved upon the presentation of sufficient evidence. Please include as much detailed information or unique conditions that would enable the Board of Adjustment to make a written determination. Use additional sheets if necessary.

1) 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.

See attached

2) The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

See attached

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

See attached

4) The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

See attached

CERTIFICATE OF COMPLETION

I certify that all information presented in this petition is accurate to the best of my knowledge and belief. Further, I grant permission for members of the Town Council and Town Staff to visit the site in question for informational, advertisement, and inspection needs.

Signature of Applicant:



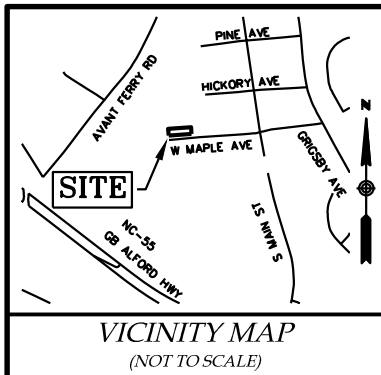
Date: 11/06/2024

Signature of Owner:

Date:

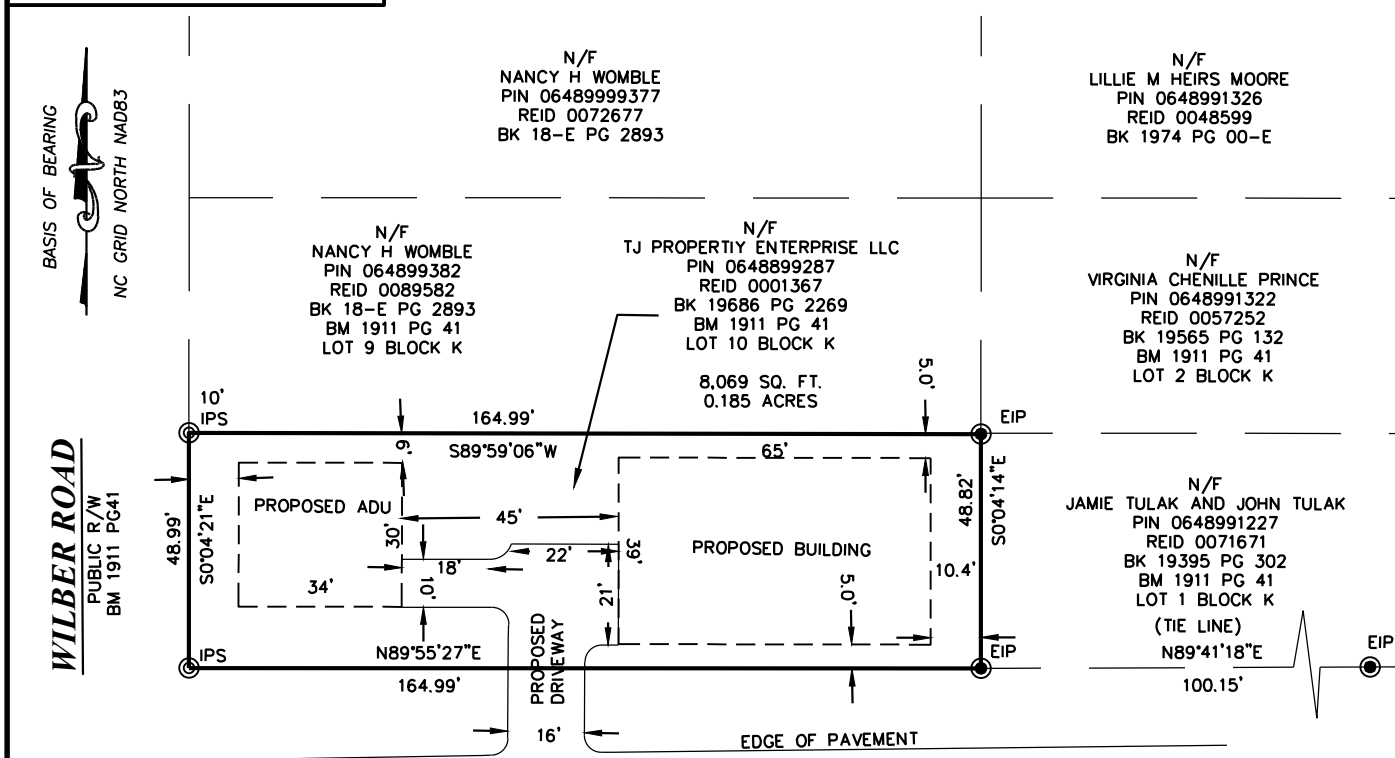
Finding of Facts- 208 W Maple Ave

1. A single family detached house is a permitted use within the current zoning (SR) for the UDO. This property is located between W Maple Ave and Wilber Road. Wilber Road is not constructed. Also, we verified with the town engineer department that currently there is no public utility (water and sewer) available on Wilber Road. W Maple Ave is a constructed street and the town engineer verified/confirmed that there is public utility (water and sewer) available for tap in on W Maple Ave. Thus, the proposed single-family house would be facing W Maple Ave. However, the 20' front setback and 10' side setback limit the best use of the lot with 48' length at 208 W Maple Ave (PIN 0648899287) located in the downtown village district. Without the variance for both the front and side, this will not allow proper use of the lot for the permitted use of a single-family house. With the variance, it would create a more suitable building area for constructing a residential single-family house.
2. Designing and building a house to conform to the new UDO and still maintain good use of the lot would not be possible without the variance. After the front and side setback the remaining length would only be 18'. Our goal is to build a house that blends the style of surrounding homes in the downtown village district area. We are requesting 5' setback for both the front and side so we have at least 38-39' length for the house. (See attached site plan for the proposed single-family house).
3. The hardship did not result from any action taken by the property owner. We did not know any information about the circumstances of the requirements resulting from Wilber Road- Wilber Road is not constructed and no public utility (water & sewer) available on the Wilber Road. These conditions have already existed before we bought the land. We believe there has been no change to property since the property was created many years ago. We have not made any changes to the property since we purchased it.
4. The request is consistent with the spirit, purpose and intent of the ordinance for the Holly Springs Village District. The intent is to utilize the lot to build a single family residential home that is attractive and consistent with other homes in the area. The Future Land Use Map shows this property as having the Character Area of Downtown Village District. Additionally, with this designation, it is subject to the small area plan of Downtown Area Plan. Thus, the higher housing density will bring residents to the area to support the downtown business, which is in line with the town goals. Per the town's comprehensive plan- section 1: Land Use & Character Plan (pg. 23-24), residential growth in the downtown area would be necessary to sustain businesses in the downtown and the intent and purpose of the comprehensive plan is supporting higher housing densities and residential growth in the downtown area. This would meet the intent and purposed of the comprehensive plan and will be a beautiful addition for the growth of the downtown village area.



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7. THE SUBJECT PARCEL IS ZONED SR, PER WAKE COUNTY GIS.



WEST MAPLE AVE

60' PUBLIC R/W
BM 1911 PG 41

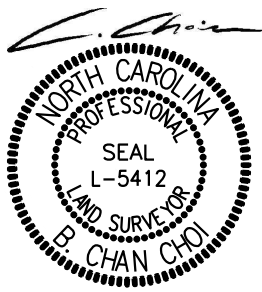
EDGE OF PAVEMENT

N/F
TJ PROPERTY ENTERPRISE, LLC
PIN 0648899196
REID 0071672
BK 19637 PG 2403
BM 1911 PG 41
LOT 17

LEGEND

Line Surveyed
Line Not Surveyed
Iron Property Corner
New Corner Set
Existing Iron Pipe
Iron Pipe Set
Deed Book
Book of Maps
Page Number

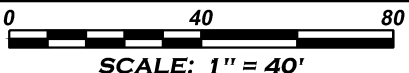
EIP
IPS
DB
BM
PG



"I, CHAN CHOI, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION."

THIS MAP HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS.

SITE PLAN



**META
GEOMATICS**

7307 Self Storage Rd Apex, NC - 27523
(919) 612 - 1187 NC FIRM # P-2567

PREPARED FOR:

TJ PROPERTY ENTERPRISE LLC
LOT 10 HOLLY HEIGHTS SUBDIVISION
0 W MAPLE AVE, HOLLY SPRINGS NC 27540

TOWNSHIP: HS

COUNTY: WAKE

DATE: 08/25/2024

SURVEY DATE: 08/15/2024

SURVEYED BY: MG

PROJ ID: C24533



VARIANCE OF DEVELOPMENT STANDARDS APPLICATION

DPM Appendix #A.16 Supplement 20 February 2023

PETITION CONTACT INFORMATION <i>(Attach additional sheets if needed)</i>	
Applicant and Financially Responsible Party will need to register for an account on the Portal	
Project Applicant Check One: ☒ Owner ☐ Owner's Agent ☐ Design Professional ☐ Developer ☐ Other	
Name: Tack Kim	Company: TJ Property Enterprise LLC
Mailing Address: PO BOX 523	
City, State, Zip: Holly Springs, NC, 27540	
Telephone: 919-812-3711	E-Mail: tack@TJBuildingGroup.com
REQUIRED: Property Owner(s) if different from Applicant/Contact <i>(Attach additional sheets if needed)</i>	
Name:	Company:
Mailing Address:	
City, State, Zip:	
Telephone:	E-Mail:

PROJECT INFORMATION	
Project Name	Side Variance- 208 W Maple Ave
Project Number	
Project Location <i>Use street address. If none, use closest intersection</i>	208 W Maple Ave ☒ Within Corporate Limits ☐ Within Holly Springs ETJ ☐ Pending Annexation
Shopping Center/Lot #	Lot #10
PUD/Development	
PIN(s)	0648899287
Project Acreage	0.185
Current Zoning	SR
Sketch Plan Held:	10/02/24

VARIANCE REQUEST (please be specific)	
UDO Section No: 2.2.1	Section Title: Development Standards for Residential
Specific Vested Rights Request <i>(Attach additional sheets if needed)</i> :	
Side Setback: Requesting a board of adjustment to reduce a side setback from 10' to 5'	

VARIANCE OF DEVELOPMENT STANDARDS APPLICATION

DPM Appendix #A.16 Supplement 20 February 2023

FINDINGS OF FACT

A petition for Variance of Development Standards may only be approved upon the presentation of sufficient evidence. Please include as much detailed information or unique conditions that would enable the Board of Adjustment to make a written determination. Use additional sheets if necessary.

1) 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.

See attached

2) The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

See attached

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

See attached

4) The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

See attached

CERTIFICATE OF COMPLETION

I certify that all information presented in this petition is accurate to the best of my knowledge and belief. Further, I grant permission for members of the Town Council and Town Staff to visit the site in question for informational, advertisement, and inspection needs.

Signature of Applicant: **Tack Kim**

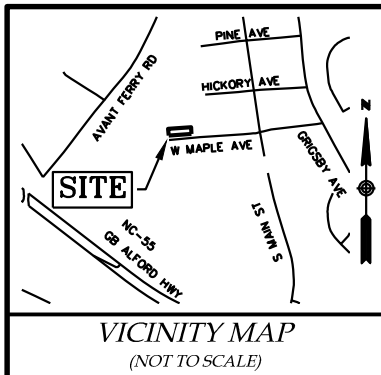
Date: 11/27/2024

Signature of Owner:

Date:

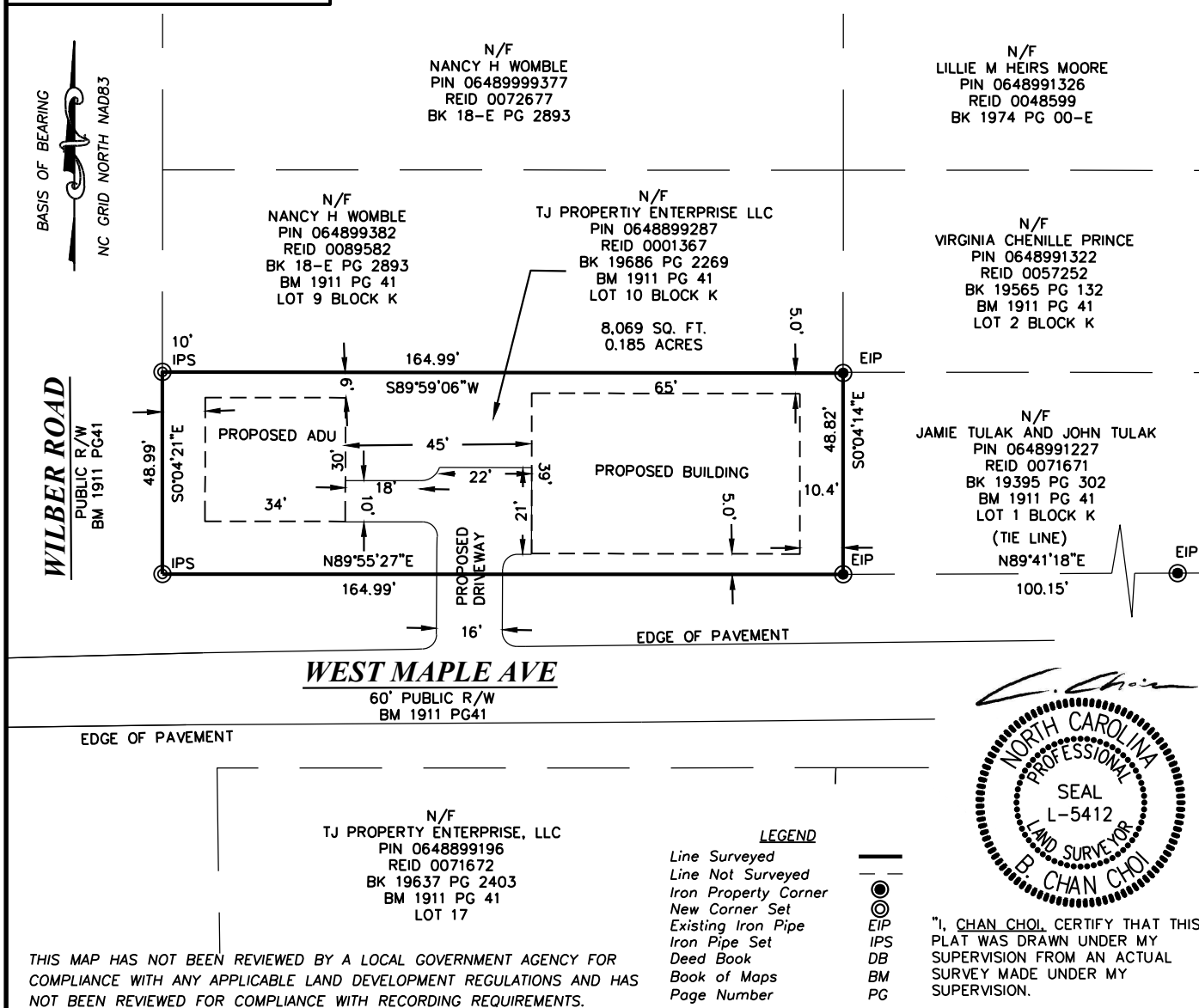
Finding of Facts- 208 W Maple Ave

1. A single family detached house is a permitted use within the current zoning (SR) for the UDO. This property is located between W Maple Ave and Wilber Road. Wilber Road is not constructed. Also, we verified with the town engineer department that currently there is no public utility (water and sewer) available on Wilber Road. W Maple Ave is a constructed street and the town engineer verified/confirmed that there is public utility (water and sewer) available for tap in on W Maple Ave. Thus, the proposed single-family house would be facing W Maple Ave. However, the 20' front setback and 10' side setback limit the best use of the lot with 48' length at 208 W Maple Ave (PIN 0648899287) located in the downtown village district. Without the variance for both the front and side, this will not allow proper use of the lot for the permitted use of a single-family house. With the variance, it would create a more suitable building area for constructing a residential single-family house.
2. Designing and building a house to conform to the new UDO and still maintain good use of the lot would not be possible without the variance. After the front and side setback the remaining length would only be 18'. Our goal is to build a house that blends the style of surrounding homes in the downtown village district area. We are requesting 5' setback for both the front and side so we have at least 38-39' length for the house. (See attached site plan for the proposed single-family house).
3. The hardship did not result from any action taken by the property owner. We did not know any information about the circumstances of the requirements resulting from Wilber Road- Wilber Road is not constructed and no public utility (water & sewer) available on the Wilber Road. These conditions have already existed before we bought the land. We believe there has been no change to property since the property was created many years ago. We have not made any changes to the property since we purchased it.
4. The request is consistent with the spirit, purpose and intent of the ordinance for the Holly Springs Village District. The intent is to utilize the lot to build a single family residential home that is attractive and consistent with other homes in the area. The Future Land Use Map shows this property as having the Character Area of Downtown Village District. Additionally, with this designation, it is subject to the small area plan of Downtown Area Plan. Thus, the higher housing density will bring residents to the area to support the downtown business, which is in line with the town goals. Per the town's comprehensive plan- section 1: Land Use & Character Plan (pg. 23-24), residential growth in the downtown area would be necessary to sustain businesses in the downtown and the intent and purpose of the comprehensive plan is supporting higher housing densities and residential growth in the downtown area. This would meet the intent and purposed of the comprehensive plan and will be a beautiful addition for the growth of the downtown village area.

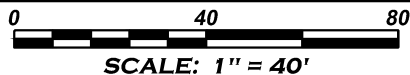


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SITE PLAN



**META
GEOMATICS**

7307 Self Storage Rd Apex, NC - 27523
(919) 612 - 1187 NC FIRM # P-2567

PREPARED FOR:

**TJ PROPERTY ENTERPRISE LLC
LOT 10 HOLLY HEIGHTS SUBDIVISION
0 W MAPLE AVE, HOLLY SPRINGS NC 27540**

TOWNSHIP: HS

COUNTY: WAKE

DATE: 08/25/2024

SURVEY DATE: 08/15/2024

SURVEYED BY: MG

PROJ ID: C24533





Holly Springs Board of Adjustment

Board of Adjustment Agenda Cover Sheet

Agenda Item#: 3.

New Business

Title: 209 Turner St.

Strategic Priority Area: Growth Management & Economic Vitality

Staff Resource: Brett Gosney, Development Services

Action(s):

- Conduct Quasi-Judicial Public Hearing.
- Make and Accept the Findings of Fact for consideration or and approve/deny Variance requests.

Explanation:

- The Town has received three Variance requests for the property located at 209 Turner St.
 - 24-VAR-03 - Variance request from Unified Development Ordinance (UDO) Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the rear setback from 25' to 5'.
 - 24-VAR-06 - Variance request from Unified Development Ordinance (UDO) Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the front setback from 20' to 1'.
 - 24-VAR-07 - Variance request from Unified Development Ordinance (UDO) Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the side setback from 10' to 5'.
- Although presented together for this single property, the Board of Adjustment will need to consider each variance request, and the facts that may support approval or denial, independently.

Background:

- The subject property is located on Turner St. and is within the Downtown Village District Future Land Use Character Area within the Comprehensive Plan.
- The Downtown Area Plan states, "Given its compactness and easy access to goods and services, Downtown is an ideal location to pursue higher housing densities and smaller unit sizes that are priced to meet the Town's affordable housing goals and sized to provide a greater diversity of housing type within the Holly Springs community."
- The subject property is zoned as SR Suburban Residential.
- The required front setback in the SR Suburban Residential Zoning District is 20' per UDO Table 2.2.1-A.
- The required side-interior setback in the SR Suburban Residential zoning District is 10' per UDO Table 2.2.1-A.
- The required rear setback in the SR Suburban Residential Zoning District is 25' per UDO

Board of Adjustment Meeting
January 6, 2025

Table 2.2.1-A.

Funding Source(s):

N/A

Attachment(s):

1. 209TurnerSt_StaffReport
2. 24VAR03_Application
3. 24VAR06_Application
4. 24VAR07_Application
5. 209TurnerSt_SitePics



Development Services

Staff Report

Request for Variance of Development Standards

209 Turner St.

24-VAR-03, 24-VAR-06, & 24-VAR-07

Petitioner/Owners:

TJ Property Enterprise, LLC
PO Box 523
Holly Springs, NC 27540



Location:

☒ Within Corporate Limits of Holly Springs ☐ Within Holly Springs ETJ ☐ Annexation Pending

Staff Contacts: Brett Gosney, Planner II

Attachments: Variance of Development Standards Petition, Variance of Development Standards Findings of Fact responses by petitioner



Parcel Information			
Owner	Parcel #	Zoning	Area
TJ Property Enterprise, LLC	0659000355	SR Suburban Residential	0.10
Total			0.10 Acres

Adjacent Property Site Data		
	Zoning	Existing Land Use
Subject Property	SR Suburban Residential	Vacant
North	SR Suburban Residential	Vacant
South	SR Suburban Residential	Single Family Residential
East	SR Suburban Residential	Single Family Residential
West	SR Suburban Residential	Single Family Residential

Property History

Rezoning History

Rezoning Number: 22-REZ-01 (Zoning Reassignment)
 Original Zoning: R-10
 Proposed Zoning: SR Suburban Residential
 Approved by Town Council on: March 1, 2022

Variance Request

1. **Variance 24-VAR-03 requested by TJ Property Enterprises, LLC to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the Rear setback from 25' to 5' for the property located at 209 Turner St., Wake County PIN 0659000355.**

UDO Requirements:

Table 2.2.1-A – Development Standards for Residential Use Districts

Minimum Rear Setbacks for properties in the SR District – 25'

2. **Variance 24-VAR-06 requested by TJ Property Enterprises, LLC to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the Front setback from 20' to 1' for the property located at 209 Turner St., Wake County PIN 0659000355.**

UDO Requirements:

Table 2.2.1-A – Development Standards for Residential Use Districts

Minimum Front Setback for properties in the SR District – 20'



3. **Variance 24-VAR-07 requested by TJ Property Enterprises, LLC to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the side setback from 10' to 5' for the property located at 209 Turner St., Wake County PIN 0659000355.**

UDO Requirements:

Table 2.2.1-A – Development Standards for Residential Use Districts.

Minimum Side - Interior Setback for properties in the SR District – 10'

Property Owner Notification

All property owner notifications have been made in accordance with North Carolina General Statutes.

1. A notice of the public hearing was mailed to all property owners within 200 feet of the subject property.
2. A notice of public hearing sign was posted on the subject property.

Background Information

- The subject property is located on Turner St. and is within the Downtown Village District Future Land Use Character Area within the Comprehensive Plan.
- The Downtown Area Plan states, "Given its compactness and easy access to goods and services, Downtown is an ideal location to pursue higher housing densities and smaller unit sizes that are priced to meet the Town's affordable housing goals and sized to provide a greater diversity of housing type within the Holly Springs community."
- The subject property is zoned as SR Suburban Residential.
- The required front setback in the SR Suburban Residential Zoning District is 20' per UDO Table 2.2.1-A.
- The required side-interior setback in the SR Suburban Residential zoning District is 10' per UDO Table 2.2.1-A.
- The required rear setback in the SR Suburban Residential Zoning District is 25' per UDO Table 2.2.1-A.

Board of Adjustment Findings

NOTE: Board of Adjustment Members should use the following area to make notes on evidence presented related to each of the required Findings as it is presented during the public hearing.

A variance may be granted by the Board if competent and substantial evidence is presented by the applicant which persuades the Board to either reach each of the following conclusions independently or be reasonably able to meet these conclusions upon implementation of conditions by the Board:

- 1) **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.**

Applicant Response:



A single family detached house is a permitted use within the current zoning (SR) for the UDO. The property is uniquely shaped in triangle with front width of 164', rear width of 170' and one side length of 49'. The 20' front setback, 25' rear setback, and 10' side setback limit the best use of the lot with 48' length/depth at 209 Turner Street located in the downtown village district. In addition to the property's unique shape, the town is requiring 13.5' ROW along Turner Street's property frontage per Town standard. Therefore, without the variance for front, back and one side, this will not allow proper use of the lot for the building. However, with the variance, it will create a more suitable building area for constructing a residential house. Please note that on this street, there are only 8 existing properties/parcels including our property (209 Turner St). There is an existing house structure on each of the other 8 properties and all 7 properties are on non-conforming lots and do not meet the current setbacks and Right of Way requirements per the UDO.

- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.**

Applicant Response:

Designing and building a house to conform to the new UDO with strict setback and ROW requirements and still maintaining good use of the lot would not be possible without the variances. After applying 13.5' of ROW along the property frontage, we are requesting 1' setback for front and 5' setback for rear and one side. After applying 13.5' of ROW requirement to this unique triangle/irregular shaped property, this lot would not be buildable without the variances. With the variances, we would be able to build a small house and support the town's goal in the Comprehensive Plan, which is higher housing densities, and residential growth in the downtown area. We would be able to build a small house on the wider side of the triangle/irregular shaped lot. Our goal is to build a house that blends the style of surrounding homes in the area.

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

Applicant Response:

The hardship did not result from any action taken by the property owner. We did not know any information about the circumstances of the requirements resulting from the property shaped in unique triangle/irregular shape and the town's typical minimum requirement of ROW dedication. The property has always been in a unique triangle shape and the conditions have already existed before we bought the land. We believe there has been no change to the property since it was originally created many years/decades ago. We have not made any change to the property since we purchased it.

- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

Applicant Response:

The request is consistent with the spirit, purpose, and intent of the ordinance for the Holly Springs Village District. The intent is to utilize the lot to build a single-family residential home that is attractive and consistent with other homes in the area. The Future Land Use Map shows this property as having the Character Area of Downtown Village District. Additionally, with this designation, it is subject to the small area plan of Downtown Area Plan. Thus, the higher housing density will bring residents to the area to support the downtown business, which is in line with the town goals. Per town's comprehensive plan – section 1: Land Use & Character Plan (pg. 23-24), residential growth in the downtown area would be necessary to sustain businesses in the downtown and the intent and purpose of the comprehensive plan is supporting higher housing densities and residential growth in the downtown area. This would meet the intent and purposed of the comprehensive plan and will be a beautiful addition for the growth of the downtown village area.

In granting a variance, the Board shall have the authority to impose such conditions as deemed necessary by the Board to protect the interests of the surrounding area, preserve the spirit and intent of the UDO, and to promote the health, safety, morals, comfort convenience and welfare of person residing or working in or adjacent to the property. Such conditions can be the following non-exclusive list of examples:

- 1. Limit the variance for specific duration.***
- 2. Require the provision of additional landscaping, screening, fencing or other methods to allow the varied property to harmonize with adjacent properties.***
- 3. Require the applicant to takes steps towards the elimination or reduction of noise, light, dust, vibration or other possible nuisance problems.***
- 4. Require more stringent signage limitations than provided under the UDO.***
- 5. Limit the hours of operation of a non-residential site.***

Board of Adjustment Motion

1. Based upon the Board's Findings of Fact, I move to approve/deny Variance 24-VAR-03 requested by TJ Property Enterprises, LLC to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the Rear setback from 25' to 5' for the property located at 209 Turner St., Wake County PIN 0659000355.

In addition, the following conditions must be satisfied (state conditions).

2. Based upon the Board's Findings of Fact, I move to approve/deny Variance 24-VAR-06 requested by TJ Property Enterprises, LLC to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to allow for a reduction in the Front setback from 20' to 1' for the property located at 209 Turner St., Wake County PIN 0659000355.

In addition, the following conditions must be satisfied (state conditions).

3. Based upon the Board's Findings of Fact, I move to approve/deny Variance 24-VAR-07 requested by TJ Property Enterprises, LLC to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts



to allow for a reduction in the side setback from 10' to 5' for the property located at 209 Turner St., Wake County PIN 0659000355.

In addition, the following conditions must be satisfied (state conditions).

Agenda Item Completeness Checklist		
Staff Member	Approved for Distribution	
	Yes	Initials
Planner		
Development Review Engineer		
Parks Planner		
Planning Manager / Division Manager / Director		





Holly Springs Board of Adjustment Findings of Fact

1. The application for a variance was filed by all the owners of the land affected by the Variance.
2. The property is described as follows:

Site Address: 209 Turner St.

PIN: 0659000355

Total Lot Size: .10 Acres

Current Zoning District: SR Suburban Residential
3. The property is vacant.
4. The zoning district requires a setback of 20 feet from the front property line, 10 feet from the side property line, and 25 feet from the rear property line.
5. The requested variance is to reduce the required setback to 1 feet from the front property line, 5 feet from the side property line, and 5 feet from the rear property line.
6. An Administrative Adjustment was unable to address the requested Variance.
7. There are no specific zoning conditions or conditions of approval that are part of a Special Use Permit, Planned Unit Development, or Conditional Zoning District that will be varied by this request.
8. A Plot Plan/Survey of depicting the Variance has been submitted by the Applicant.
9. The Variance application and other records pertaining to the Variance request are part of the record.
10. Notice of the Quasi-Judicial Hearing has been provided as required by NCGS and the Town of Holly Springs Unified Development Ordinance.
Additional Findings of the Board of Adjustment

11.



12.

13.

BOARD OF ADJUSTMENT HEARING WORKSHEET

Date of Hearing: _____ BOA Member: _____
Case Number: _____

Finding of Fact	Fact	In Petitioner's Application	From Staff Report	Testimony at Hearing	Proven by Competent & Material Evidence?
Ex.	<i>The property is located at 123 Main Street</i>	X	X	X	X
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					

VARIANCE REMINDERS

- The board can take issue with the facts that are presented by the applicant and find that the facts are NOT “competent,” “material,” or “substantial” and determine that the applicant has failed to establish a prima facie case (ie, the application fails)
 - **Material Evidence**- is recognized to mean “evidence having some logical connection with the facts of consequence or issues.”
 - **Substantial Evidence**- means such “relevant evidence as a reasonable mind might accept as adequate to support a conclusion.”—“It must do more than create the suspicion of the existence of the fact to be established... It must be enough to justify, if the trial were to a jury, a refusal to direct a verdict when the conclusion sought to be drawn from it is one of fact for the jury. Substantial evidence depends on the burden of proof. In a criminal trial, the evidence has to be so substantial as to overcome “reasonable doubt.” However, in civil matters (such as variances), it only needs to overcome a “preponderance of the evidence” standard. It only has to tip the scale of justice a little bit- not all the way as in a criminal matter.
 - **Competent evidence** is evidence that the fact finder determines has a sufficient indicia of reliability (ie, not hearsay or general nonsense) but evidence that as a tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.
 - Additionally, evidence that is deemed to be not competent and which should not be considered by the Board includes lay opinion testimony of: (1) how the proposed variance would affect the value of surrounding properties; (2) that the proposed variance would pose a danger to public safety as a result of increased traffic; and (3) matters only an expert would generally be qualified to testify about. (from 160A-393(k)(3)).
- Use of Expert Testimony: An expert is generally someone smarter than the fact-finder on a given subject (typically licensed in their field). In a judicial proceeding, they are the only ones where their “opinion” is competent, material, and substantial evidence. An example would be a licensed real estate appraiser offering evidence of an opinion of an increase or decrease in property value, or a land planner stating that they are familiar with the “spirit and intent” of the UDO and in their professional opinion, the project is in keeping with the spirit and intent. Expert witness testimony may be challenged, however unless some fault is determined (like they based their opinion on bad data or hearsay), typically you need an another expert to offer an expert opinion to contradict what the first expert said. (Exception- the courts have consistently held that a property owner may give their opinion as to the value of their own property, even if they are not a licensed appraiser, however they are often trying to testify as to what the *future* value of their land would be if a project went through, and they are not likely competent to give evidence as to their properties future value.
- Board members sitting in a quasi-judicial capacity must base their decision to grant or deny a variance on objective factors, which are based upon the evidence presented, and not upon their subjective preferences or ideas.

- Board members should not accept outside evidence (conversations outside of sworn testimony, site visits, emails, unsworn documents) and should only rely on facts offered at the hearing, under oath.
- The board may not deny a permit in their unguided discretion or because, in their view, it would adversely affect the public interest.—“The denial of the conditional use permit may not be based on conclusions which are speculative, sentimental, personal, vague or merely an excuse to prohibit the requested use.”
- The Board sitting in a quasi-judicial capacity are performing as judges and must be neutral, impartial, and base their decisions solely upon the evidence submitted.—“Neutrality and the appearance of neutrality are equally critical in maintaining the integrity of our judicial and quasi-judicial processes”
- “Speculative assertions or mere expression of opinion about the possible effects of granting a permit are insufficient to support the findings of a quasi-judicial body”
- In quasi-judicial proceedings, no board or council member should appear to be an advocate for not adopt an adversarial position to a party, bring in extraneous or incompetent evidence, or rely upon ex parte communications (out of hearing) when making their decision.

VARIANCE OF DEVELOPMENT STANDARDS APPLICATION

DPM Appendix #A.16 Supplement 20 February 2023

PETITION CONTACT INFORMATION (Attach additional sheets if needed)	
Applicant and Financially Responsible Party will need to register for an account on the Portal	
Project Applicant Check One: ☒ Owner ☐ Owner's Agent ☐ Design Professional ☐ Developer ☐ Other	
Name: Tack Kim	Company: TJ Property Enterprise LLC
Mailing Address: PO BOX 523	
City, State, Zip: Holly Springs, NC, 27540	
Telephone: 919-812-3711	E-Mail: tack@TJBuildingGroup.com
REQUIRED: Property Owner(s) if different from Applicant/Contact (Attach additional sheets if needed)	
Name:	Company:
Mailing Address:	
City, State, Zip:	
Telephone:	E-Mail:

PROJECT INFORMATION	
Project Name	Rear Variance- 209 Turner Street
Project Number	
Project Location Use street address. If none, use closest intersection	209 Turner Street ☒ Within Corporate Limits ☐ Within Holly Springs ETJ ☐ Pending Annexation
Shopping Center/Lot #	Lot #1
PUD/Development	
PIN(s)	0659000355
Project Acreage	0.1
Current Zoning	SR
Sketch Plan Held:	10/02/24

VARIANCE REQUEST (please be specific)	
UDO Section No: 2.2.1	Section Title: Development Standards for Resident
Specific Vested Rights Request (Attach additional sheets if needed):	
Rear Setback: Requesting a board of adjustment to reduce the rear setback from 25' to 5'	
Please see attached for a proposed single-family home with the requested setback	

VARIANCE OF DEVELOPMENT STANDARDS APPLICATION

DPM Appendix #A.16 Supplement 20 February 2023

FINDINGS OF FACT

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1) 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.

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4) The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

See attached

CERTIFICATE OF COMPLETION

I certify that all information presented in this petition is accurate to the best of my knowledge and belief. Further, I grant permission for members of the Town Council and Town Staff to visit the site in question for informational, advertisement, and inspection needs.

Signature of Applicant:



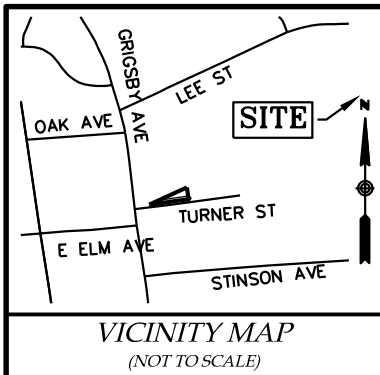
Date: 11/06/2024

Signature of Owner:

Date:

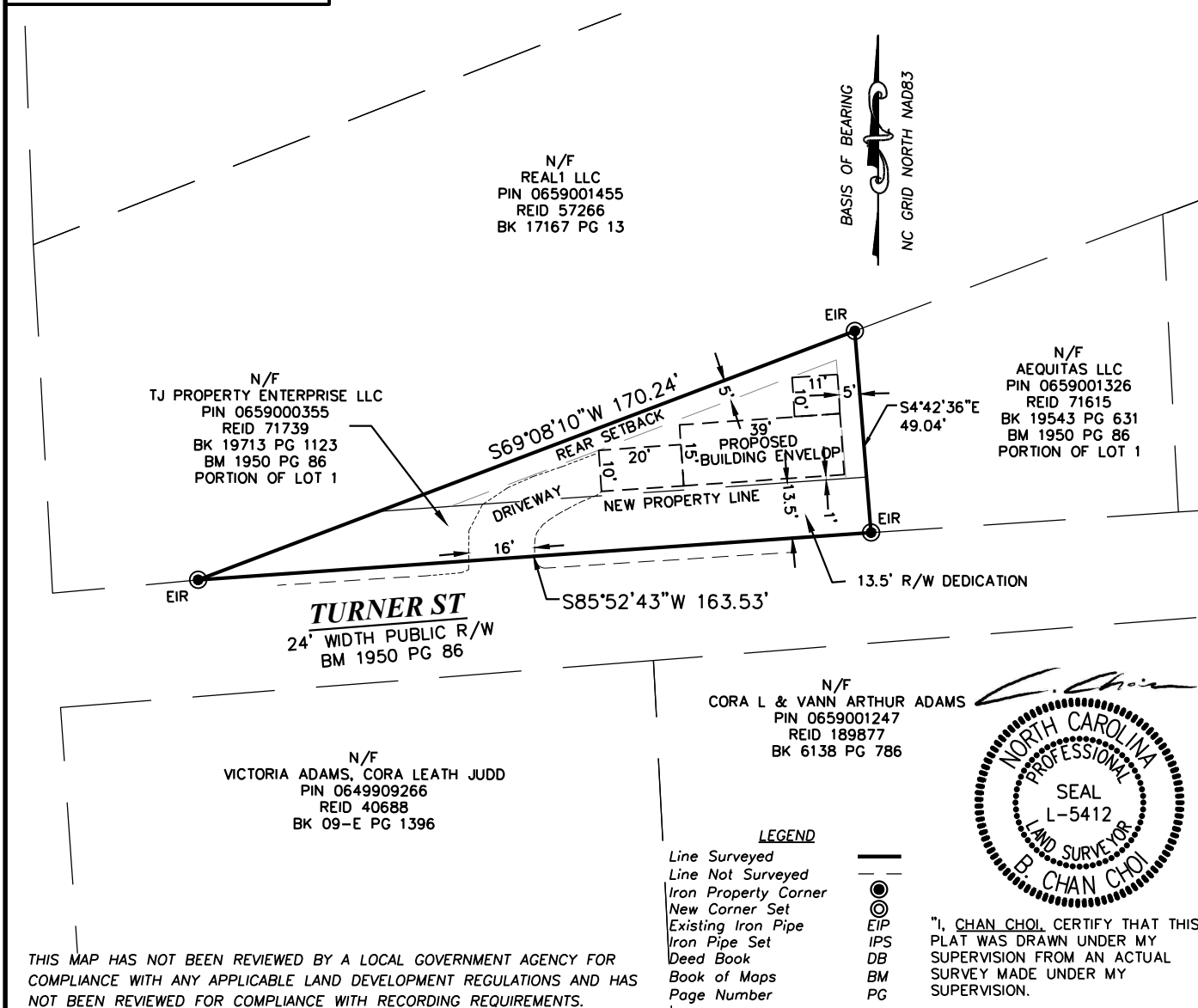
Finding of Facts- 209 Turner St

1. A single family detached house is a permitted use within the current zoning (SR) for the UDO. The property is uniquely shaped in triangle with front width of 164', rear width of 170' and one side length of 49'. The 20' front setback, 25' rear setback and 10' side setback limit the best use of the lot with 48' length/depth at 209 Turner Street located in the downtown village district. In addition to the property's unique shape, the town is requiring 13.5' of ROW along Turner Street's property frontage per the Town standard. Therefore, without the variance for front, back and one side, this will not allow proper use of the lot for the building. However, with the variance, it will create a more suitable building area for constructing a residential house. Please note that on this street, there are only 8 existing properties/parcels including our property (209 Turner St). There is an existing house structure on each of the other 8 properties and all 7 properties are on nonconforming lot and do not meet the current setbacks and Right of Way requirements per the UDO.
2. Designing and building a house to conform to the new UDO with strict setback and ROW requirements and still maintaining good use of the lot would not be possible without the variances. After applying 13.5' of ROW along the property frontage, we are requesting 1' setback for front and 5' setback for rear and one side. After applying 13.5' of ROW requirement to this unique triangle/irregular shaped property, this lot would not be buildable without the variances. With the variances, we would be able to build a small house and support the town's goal in the Comprehensive Plan, which is higher housing densities, and residential growth in the downtown area. We would be able to build a small house on the wider side of the triangle/irregular shaped lot. Our goal is to build a house that blends the style of surrounding homes in the area.
3. The hardship did not result from any action taken by the property owner. We did not know any information about the circumstances of the requirements resulting from the property shaped in unique triangle/irregular shape and the town's typical minimum requirement of ROW dedication. The property has always been in a unique triangle shape and the conditions have already existed before we bought the land before we bought the land. We believe there has been no change to the property since it was originally created many years/decades ago. We have not made any change to the property since we purchased it.
4. The request is consistent with the spirit, purpose and intent of the ordinance for the Holly Springs Village District. The intent is to utilize the lot to build a single family residential home that is attractive and consistent with other homes in the area. The Future Land Use Map shows this property as having the Character Area of Downtown Village District. Additionally, with this designation, it is subject to the small area plan of Downtown Area Plan. Thus, the higher housing density will bring residents to the area to support the downtown business, which is in line with the town goals. Per the town's comprehensive plan- section 1: Land Use & Character Plan (pg. 23-24), residential growth in the downtown area would be necessary to sustain businesses in the downtown and the intent and purpose of the comprehensive plan is supporting higher housing densities and residential growth in the downtown area. This would meet the intent and purposed of the comprehensive plan and will be a beautiful addition for the growth of the downtown village area.

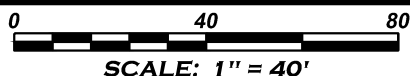


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3. REFERENCES ON THE FACE OF THE MAP WERE ACQUIRED FROM THE WAKE COUNTY REGISTER OF DEEDS.
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7. WETLANDS WERE NEITHER INVESTIGATED NOR DETERMINED AS PART OF THIS SURVEY.



SITE PLAN



**META
GEOMATICS**

7307 Self Storage Rd Apex, NC - 27523
(919) 612 - 1187 NC FIRM # P-2567

PREPARED FOR:

**TJ PROPERTY ENTERPRISE LLC
0 TURNER ST
HOLLY SPRINGS, NC 27540**

REV: 11/06/2024

TOWNSHIP: HOLLY SPRNG	COUNTY: WAKE	DATE: 09/18/2024
SURVEY DATE: 09/10/2024	SURVEYED BY: MG	PROJ ID: C24629

VARIANCE OF DEVELOPMENT STANDARDS APPLICATION

DPM Appendix #A.16 Supplement 20 February 2023

PETITION CONTACT INFORMATION (Attach additional sheets if needed)	
Applicant and Financially Responsible Party will need to register for an account on the <u>Portal</u>	
Project Applicant Check One: ☒ Owner ☐ Owner's Agent ☐ Design Professional ☐ Developer ☐ Other	
Name: Tack Kim	Company: TJ Property Enterprise LLC
Mailing Address: PO BOX 523	
City, State, Zip: Holly Springs, NC, 27540	
Telephone: 919-812-3711	E-Mail: tack@TJBuildingGroup.com
REQUIRED: Property Owner(s) if different from Applicant/Contact (Attach additional sheets if needed)	
Name:	Company:
Mailing Address:	
City, State, Zip:	
Telephone:	E-Mail:

PROJECT INFORMATION	
Project Name	Front Variance- 209 Turner Street
Project Number	
Project Location Use street address. If none, use closest intersection	209 Turner Street ☒ Within Corporate Limits ☐ Within Holly Springs ETJ ☐ Pending Annexation
Shopping Center/Lot #	Lot #1
PUD/Development	
PIN(s)	0659000355
Project Acreage	0.1
Current Zoning	SR
Sketch Plan Held:	10/02/24

VARIANCE REQUEST (please be specific)	
UDO Section No: 2.2.1	Section Title: Development Standards for Residential
Specific Vested Rights Request (Attach additional sheets if needed):	
Front Setback: Requesting a board of adjustment to reduce the front setback from 20' to 1'	
Please see attached for a proposed single-family home with the requested setback	

VARIANCE OF DEVELOPMENT STANDARDS APPLICATION

DPM Appendix #A.16 Supplement 20 February 2023

FINDINGS OF FACT

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CERTIFICATE OF COMPLETION

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Signature of Applicant:



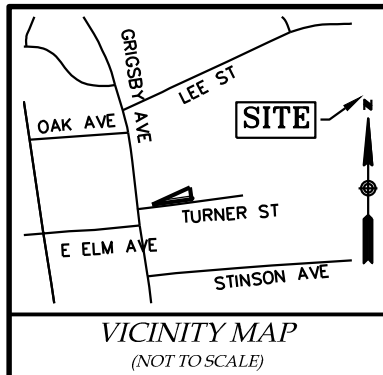
Date: 11/08/2024

Signature of Owner:

Date:

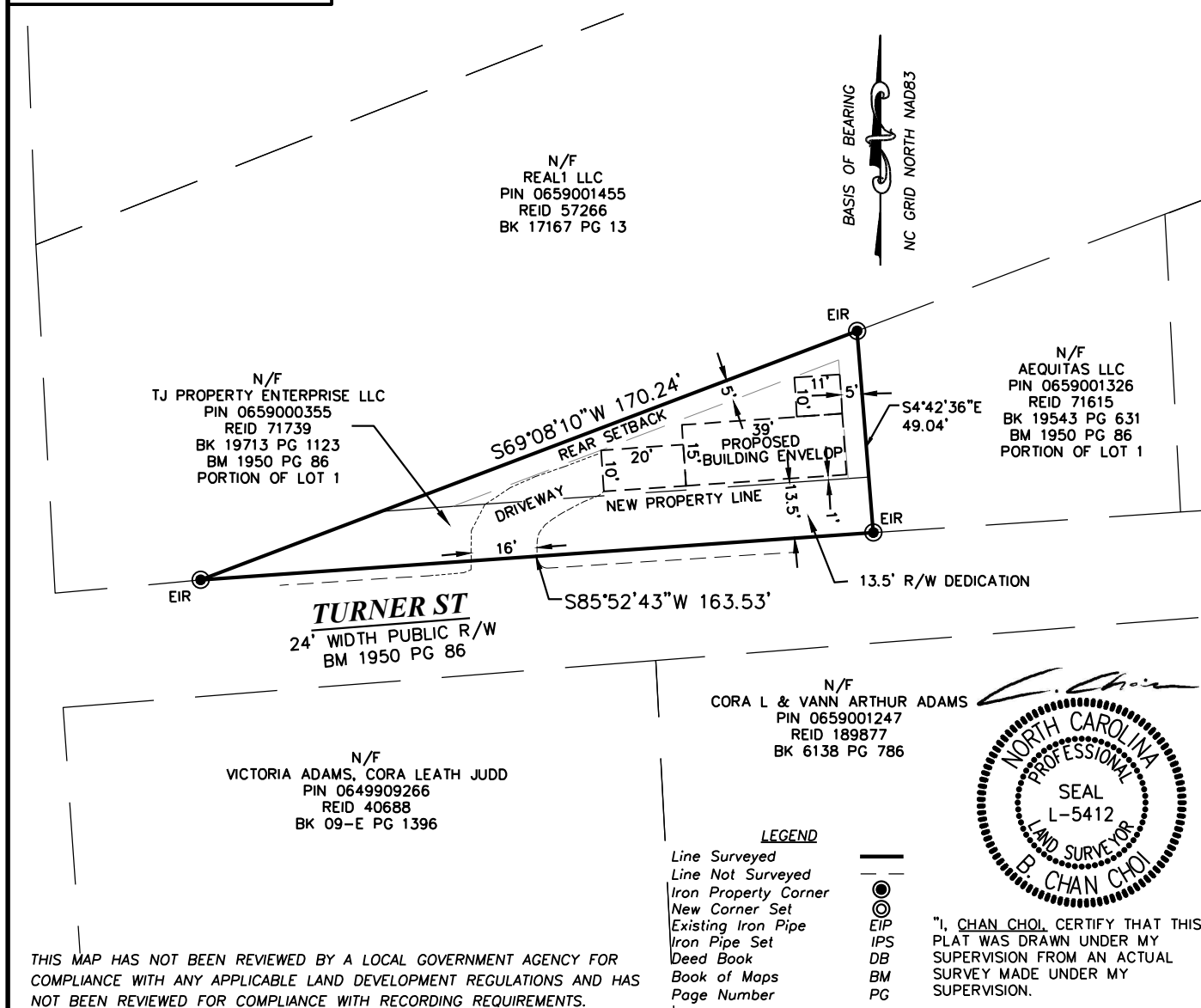
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1. A single family detached house is a permitted use within the current zoning (SR) for the UDO. The property is uniquely shaped in triangle with front width of 164', rear width of 170' and one side length of 49'. The 20' front setback, 25' rear setback and 10' side setback limit the best use of the lot with 48' length/depth at 209 Turner Street located in the downtown village district. In addition to the property's unique shape, the town is requiring 13.5' of ROW along Turner Street's property frontage per the Town standard. Therefore, without the variance for front, back and one side, this will not allow proper use of the lot for the building. However, with the variance, it will create a more suitable building area for constructing a residential house. Please note that on this street, there are only 8 existing properties/parcels including our property (209 Turner St). There is an existing house structure on each of the other 8 properties and all 7 properties are on nonconforming lot and do not meet the current setbacks and Right of Way requirements per the UDO.
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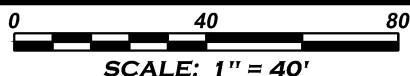


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SITE PLAN



**META
GEOMATICS**

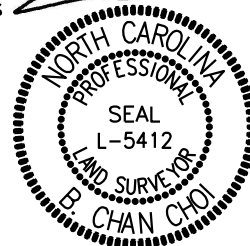
7307 Self Storage Rd Apex, NC - 27523
(919) 612 - 1187 NC FIRM # P-2567

PREPARED FOR:

**TJ PROPERTY ENTERPRISE LLC
0 TURNER ST
HOLLY SPRINGS, NC 27540**

REV: 11/06/2024

TOWNSHIP: HOLLY SPRNG	COUNTY: WAKE	DATE: 09/18/2024
SURVEY DATE: 09/10/2024	SURVEYED BY: MG	PROJ ID: C24629



"I, CHAN CHOI, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION."



VARIANCE OF DEVELOPMENT STANDARDS APPLICATION

DPM Appendix #A.16 Supplement 20 February 2023

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Applicant and Financially Responsible Party will need to register for an account on the <u>Portal</u>	
Project Applicant Check One: ☒ Owner ☐ Owner's Agent ☐ Design Professional ☐ Developer ☐ Other	
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City, State, Zip: Holly Springs, NC, 27540	
Telephone: 919-812-3711	E-Mail: tack@TJBuildingGroup.com
REQUIRED: Property Owner(s) if different from Applicant/Contact (Attach additional sheets if needed)	
Name:	Company:
Mailing Address:	
City, State, Zip:	
Telephone:	E-Mail:

PROJECT INFORMATION	
Project Name	Side Variance- 209 Turner Street
Project Number	
Project Location	209 Turner Street
Use street address. If none, use closest intersection	☒ Within Corporate Limits ☐ Within Holly Springs ETJ ☐ Pending Annexation
Shopping Center/Lot #	Lot #1
PUD/Development	
PIN(s)	0659000355
Project Acreage	0.1
Current Zoning	SR
Sketch Plan Held:	10/02/24

VARIANCE REQUEST (please be specific)	
UDO Section No: 2.2.1	Section Title: Development Standards for Resident
Specific Vested Rights Request (Attach additional sheets if needed):	
Side Setback: Requesting a board of adjustment to reduce the side setback from 10' to 5'	
Please see attached for a proposed single-family home with the requested setback	

VARIANCE OF DEVELOPMENT STANDARDS APPLICATION

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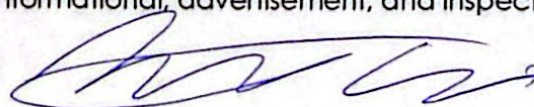
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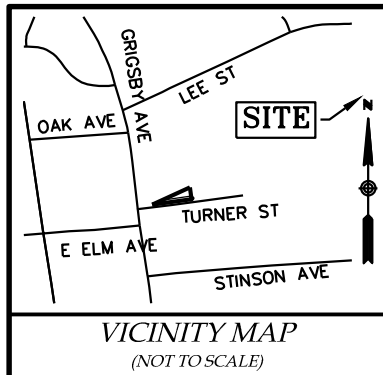
Date: 11/06/2024

Signature of Owner:

Date:

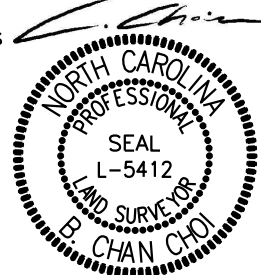
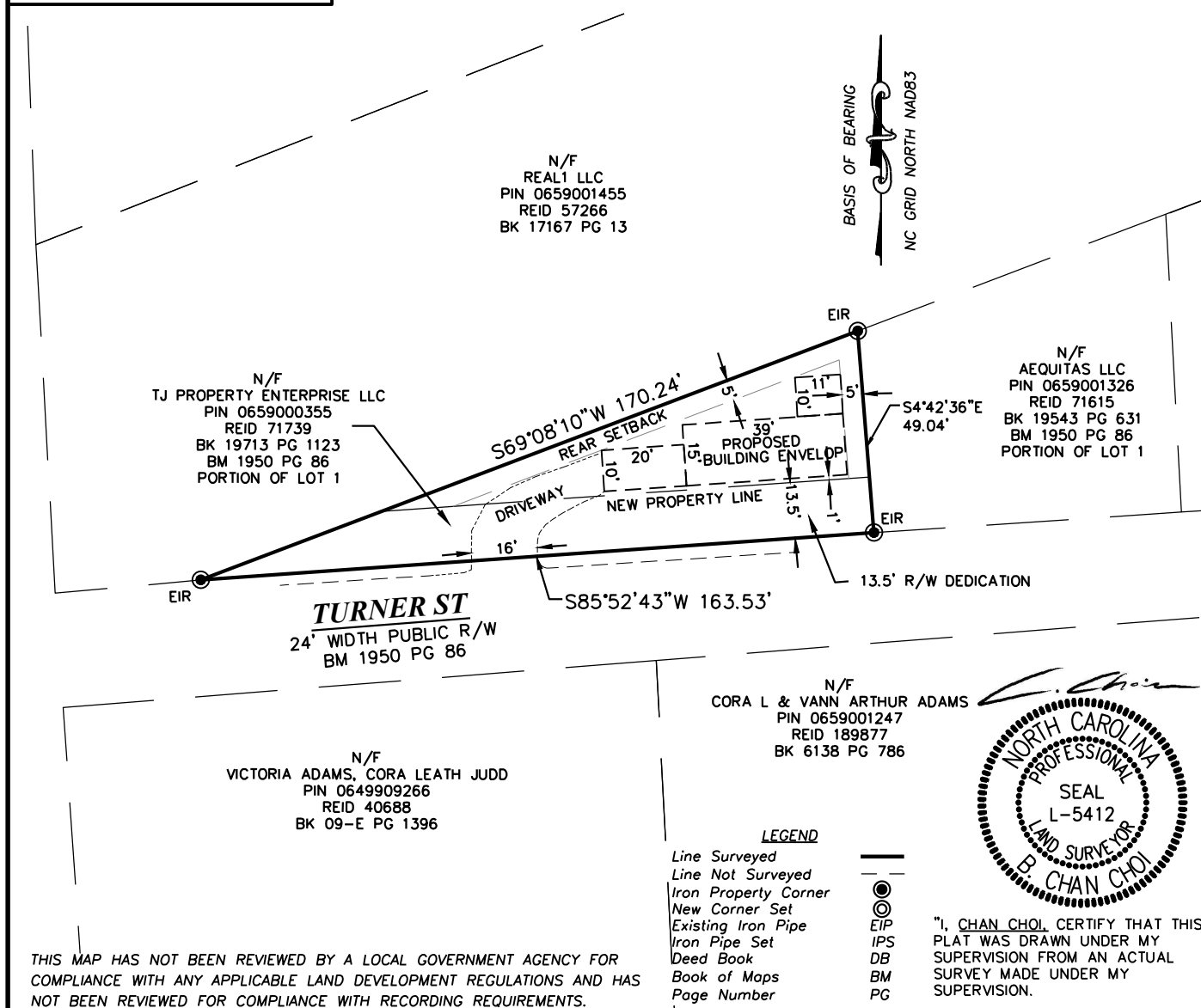
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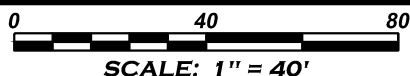
LEGEND

Line Surveyed
Line Not Surveyed
Iron Property Corner
New Corner Set
Existing Iron Pipe
Iron Pipe Set
Deed Book
Book of Maps
Page Number

EIP
IPS
DB
BM
PG

THIS MAP HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS AND HAS NOT BEEN REVIEWED FOR COMPLIANCE WITH RECORDING REQUIREMENTS.

SITE PLAN



**META
GEOMATICS**

7307 Self Storage Rd Apex, NC - 27523
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PREPARED FOR:

TJ PROPERTY ENTERPRISE LLC
0 TURNER ST
HOLLY SPRINGS, NC 27540

REV: 11/06/2024

TOWNSHIP: HOLLY SPRNG	COUNTY: WAKE	DATE: 09/18/2024
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