



Board of Adjustment
6:30 PM **Monday, March 3, 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

Organization Meeting

1. Chairperson and Vice Chairperson

Approval of Minutes

2. January 6, 2025 Regular Meeting Minutes

Variances

3. 24-VAR-08 - 0 Norak Dr.

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.

New Business

Title: Chairperson and Vice Chairperson

Strategic Priority Area: Growth Management & Economic Vitality

Staff Resource: Cheryl Caines, Development Services

Action(s):

- Appoint Board of Adjustment Chairperson.
- Appoint Board of Adjustment Vice Chairperson.

Explanation:

- Unified Development Ordinance Section 11.3.4.D.3. Board of Adjustment requires the Board of Adjustment to elect a Chairperson and Vice Chairperson in March of every year to conduct meetings.
- The terms for both individuals shall be 1 year or until successors have been elected and installed, with eligibility for reelection.

Background:

- The current Chairperson is Ben Copeland
- The current Vice Chairperson is Vacant.

Funding Source(s):

Attachment(s):

None



Holly Springs Board of Adjustment

Board of Adjustment Agenda Cover Sheet

Agenda Item#: 2.

Title: January 6, 2025 Regular Meeting Minutes

Strategic Priority Area: Growth Management & Economic Vitality

Staff Resource: Nikki St. Pierre, Development Services

Action(s):

- Approve Minutes

Explanation:

Background:

Funding Source(s):

Attachment(s):

1. Jan_6_2025_Minutes

Town of Holly Springs
BOARD OF ADJUSTMENT MEETING MINUTES
Monday, January 6, 2025 – 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 January 6, 2025, in the Holleman Room, 128 South Main Street. At 6:32p after determining a quorum was present, Chair Loughridge called the meeting to order.

Staff Members Present: Cheryl Caines, Senior Planner
 Brett Gosney, Planner II
 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
 David Williams
 Herman Goldstein (Alternate)
 Yan Higgins (Alternate)

Alternate Members Present: (Non-Voting):

Members Absent: Joe Cimino
 Kimberly Day
 Chanel Wilkins (Alternate)

Agenda Item #5: Agenda Adjustment

There were no agenda adjustment.

Agenda Item #6: Minutes

a. October 7, 2024, Minutes

Motion:

Motion to approve the October 7, 2024, Minutes.

Motion by: Jayson Green

Second by: Yan Higgins

Action: The Board of Adjustment voted in favor of the Motion. (5-0)

Agenda Item #7: Variances

- a. 208 W Maple Ave. - 24-VAR-04
208 W Maple Ave. - 24-VAR-05

Chair Copeland opened the public hearing.

Planner Brett Gosney presented the staff report to the Board of Adjustment.

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' (24-VAR-04)
- a reduction in the side setback from 10' to 5' (24-VAR-05)

for the property located at 208 W Maple Ave, Wake County PIN 0648899287

Mr. Gosney requested that the staff report be entered into the record as evidence.

Petitioner: Tack Kim – 405 Grigsby Ave. Holly Springs NC 27540

The property owner Tack Kim of *TJ Building Group, LLC*, approached the Board of Adjustment.

Mr. Kim presented a brief presentation to the Board of the proposed single residential family home on lot 208 W Maple Avenue stating how much he loves the Town of Holly Springs and would love to help the Town achieve their future goals.

Chair Copeland requested to view supported information and documentation within the applicant's presentation.

Mr. Kim went through the illustrations within the presentation.

Mr. Kim specifically addressed to the Board that there are currently no water lines within the Wilber Road portion of the lot. W Maple does have water and sewer and is available for utility tap-in. The lot is 48 feet in width and zoned as SR and his request is to take the front 20-foot setback and reduce to 5 feet and the side 10-foot setback down to 5 feet. Mr. Kim addressed that if the proposed house faces Wilber Road, he would be responsible to construct the road as well as the water and sewer line that can become very costly and expressed this as a big reason he would like the home to face 208 W Maple. He stressed that if he placed the house according to the ordinance, it would leave only 18 feet that is buildable.

Ms. Higgins asked about ADU.

Mr. Kim stated that ADU is optional.

Chair Copeland asked about a garage. Mr. Kim stated this is a big reason for the request as they plan to build a two-car garage on the property to minimize street property to provide additional safety for the Town.

Mr. Goldstein pointed out that 18 ft. is very small.

Ms. Higgins asked Mr. Kim if he is the developer.

Mr. Kim explained that he is the contractor and property owner.

Ms. Higgins asked if we knew what the surrounding properties are and if they are all residential properties.

Mr. Kim stated that the two lots behind are vacant lots, there is a single family home adjacent to the property and that as far as he knows all surrounding are single family lots.

Ms. Higgins then follows up by asking if Mr. Kim has talked to the surrounding lots.

Mr. Kim stated that two lots were notified and attended the general inquiry meeting with town staff with the intention of possibly doing water and sewer together to serve their lots but preceding the property owner decided to not move forward and would like to leave lots as is for now.

Ms. Higgins then asks about the property east to the lot.

Mr. Kim stated that has not spoken to this property owner and the setback he is requesting would not affect that property.

Mr. Goldstein asked how wide the neighboring house is.

Mr. Kim stated that the house was built before the new ordinances were implemented and that the setback is less than what is in the ordinance now.

There were no further questions from the board at this time.

The Chair asked if there are any supporters that would like to speak.

There were none.

They Chair asked if there are any opposing who would like to speak.

There were none.

Chair Copeland asked Mr. Gosney for clarification on Wilber Road and states that his understanding is that the builder comes in to the property and if utilities are not there, it is the responsibility of the builder to assist the Town with constructing. Would this property and the requested road be constructable or not constructable to pull utilities?

Mr. Gosney states that whether it is or it is not constructable and the requirements with that is not his expertise. The UDO would require to construct that street across their property or to demonstrate that it is not constructable as well as extend utilities there across their frontage.

Chair Copeland then states that his understanding is that the request is to not have the expense of pulling utilities from the road to the not constructed road and to pull them from the side street that the lot is clearly not designed for. Is the Town able to speak to that or is the Board to assume that because the road is a right of way for all purposes the road is constructable.

Mr. Osborne states that is not the issue but understands why the question is important. The road being not constructable is a statement that was made. I would advise that evidence would be needed to support constructable verses non-constructable.

Chair Copeland states he has heard the statement that the road is not constructable but has not seen any evidence to support this statement from the applicant.

Ms. Higgins asks if there will be any impact to any street parking.

Mr. Gosney clarified as far as on street parking the roadway would not have room and this would not be an issue.

Ms. Higgins then asks to clarify that the hospital does not use the street.

Mr. Gosney states that is correct they do not use the street they have not stubbed to either street.

Ms. Higgins then asks if current residence adjacent or nearby that would be impacted by the street setback.

Mr. Gosney replies that all surrounding neighbors have received notice of hearing tonight.

Mr. Greene stated that eventually all these properties will be single family homes and that with the requested setback the area would be very tight.

Mr. Osborne then advised the Board that we are looking for evidence to support the relevance to the proposition for when the Board determines.

The Board discusses amongst themselves while viewing the survey provided.

The petitioner requests to approached the Board. Chair Copeland allows the petitioner to proceed.

Mr. Kim clarifies that the W Maple Ave sidewalk is a 60-foot public right of way and has missed the engineering standard and that there is no requirement to build a sidewalk on this street and there are currently no plans for one and to avoid any street parking issues, we plan to add the garage. Wilber Rd is a right of way and I do not know the width of that right of way. This variance request does not affect the adjacent property for the extension of the utility line because right now it is not constructed.

Mr. Goldstein states that it appears that the edge of pavement to building would be about 20 feet.

The Board continues to discuss the location of dwelling on the property and the hardship without creating future hardships to neighboring lots amongst themselves.

Chair Copeland states that he has not heard any testimony that this lot would be a hardship as opposed to just normal construction pulling utilities and constructing the street. If the road was constructed and utilities were pulled the setbacks would no longer be an issue, you would have a normal lot.

Mr. Kim states that it would be his responsibility to construct road and bring in utilities to property and this would be costly.

The Board began discussing their finding of facts.

The following facts apply to both 24-VAR04 & 24-VAR-05:

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 currently 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 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. Wilbur Rd. is designated on the most recent surveys and the planning maps as a Right of Way.
12. The Board did not receive competent evidence stating Wilbur Rd. is not constructible in any way. The petitioner requested to approach the Board.
13. This is one of three properties that are vacant along the Wilbur Rd. Right of Way.
14. Staff attested that as a part of normal infrastructure improvements, builders of the lots would be responsible for construction of the road and extension of the utilities.
15. The board did not receive competent evidence showing that there was any relevant peculiar hardship to this property.
16. The board did not receive competent evidence that the home is not able to be constructed with its front entrance/drive fronting Wilbur Rd.

Mr. Kim was invited back up by the Board for one last statement. Mr. Kim clarified to the Board that there is no way to get into property from Wilber Road as the road is not constructed at this time. He stated that he requested an administrative adjustment for the property to face Wilber Road and was not successful with the Town.

Mr. Copeland states that it is not a street yet but can be constructed. As far as infrastructure that is a right of way and could be built and has not received evidence that attest that it is not a right of way or not constructable.

Mr. Greene addresses Mr. Kim and said that you could technically tap in through W Maple but the requested variance is a very large variance.

The Board began deliberating amongst themselves.

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: David Williams

Second by: Ben Copeland

Action: The Board of Adjustment voted in favor of the Motion. (5-0)

Action Vote:

Based upon the Board's Findings of Fact, the Board of Adjustment voted 5-0 to deny Variance 24-VAR-05, a request to allow a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to reduce the side setback from 10' to 5' for the property located at 208 W Maple Ave, Wake County PIN 0648899287.

Action: The Board of Adjustment voted in favor of the Motion. (5-0)

Action Vote:

Based upon the Board's Findings of Fact the Board of Adjustment voted 5-0 to deny Variance 24-VAR-05, a request to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to reduce the front setback from 20' to 5' for the property located at 208 W Maple Ave, Wake County PIN 0648899287.

Action: The Board of Adjustment voted in favor of the Motion. (5-0)

- b. 209 Turner St. - 24-VAR-03
- 209 Turner St. - 24-VAR-06
- 209 Turner St. - 24-VAR-07

Chair Copeland opened the public hearing.

Motion:

Motion to open the public hearing

Motion by: David Williams

Second by: Jayson Greene

Action: The Board of Adjustment voted in favor of the Motion. (5-0)

Planner Brett Gosney presented the staff report to the Board of Adjustment.

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:

- o a reduction in the Rear setback from 25' to 5' (24-VAR-03)
- o a reduction in the Front setback from 20' to 1' (24-VAR-06)
- o a reduction in the side setback from 10' to 5' (24-VAR-07)

for the property located at 209 Turner St., Wake County PIN 0659000355.

Mr. Gosney requested that the staff report be entered into the record as evidence.

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

The property owner Tack Kim of TJ Building Group, LLC, approached the Board of Adjustment.

Petitioner: Tack Kim – 405 Grigsby Ave. Holly Springs NC 27540

Mr. Kim presented a brief presentation to the Board.

Ms. Higgins asked about the parking on Turner Street.

Mr. Gosney states there is currently no parking and no plans for parking along Turner Street.

Ms. Higgins asks if the surrounding neighbors and owners were alerted of the requests regarding setback changes.

Mr. Kim states he has not spoken to the property owners.

Mr. Gosney addressed the Board stating that notification was sent out to let surrounding properties of tonight's meeting.

Mr. Goldstein asks about the right of way purpose.

Mr. Gosney said that currently Turner Street does not meet the requirements of the comprehensive transportation plan and to get it up to standards it would need to be a dedicated right of way.

There were no additional questions for the petitioner

Supporters: None

Opposing:

Ananth Tatineni – 425 Grigsby Ave. – Owner/Neighbor

Mr. Tatineni addresses the Board and says he has no issue of the petitioner building whatever he wants according to the Towns standards but that the problem is that they are cutting down the rear setback from 25 to 5 and would have a huge impact on the property next to it. Mr. Tatineni does not see hardship within this request and would ask that the Town look into all aspects and follow strict guidelines.

Mr. Williams asks if there is a specific impact relating to the rear setback.

Mr. Tatineni states there is a reason why the regulations on setbacks have been made and plans to build a single-family house. This request would limit options of future building on his property.

Chair Copeland asks is there a specific impact on privacy to the future building on his lot.

Mr. Tatineni stated he is still considering where to build on his lot but plans to follow the guidelines of the Town but that the requested setback would limit his options within his lot and affect the privacy.

Petitioner Response:

Mr. Kim states he wants to follow up and clarify that every property has setback requirements; assuming they are the same zoning of a 10-foot setback. He can do something to adjust for additional privacy and that the hardship of his property is that it is an irregular shaped and right of way sidewalk dedication.

Mr. Goldstein addressed Mr. Kim asking if he plans to build a one-story or two-story single-family home and if there are any concrete plans for this home.

Mr. Kim replied that he is undecided at this time and he does not currently have concrete plans for the home on this lot.

Ms. Higgins followed up by asking Mr. Kim if he is open to the option of building a privacy fence around his lot.

Mr. Kim states that yes, he would comply by building a privacy fence along the back and side for the neighbor's privacy.

Ms. Higgins raised the question of what is within the front of the property toward Turner St. within the 13.5 foot right of way.

Mr. Gosney states that there is just grass in that area and it is not a Town right of way.

Chair Copeland then asks if within the right of way and the 13.5 feet could the edge of road or sidewalk be within 1 foot of the house.

Ms. Caines answered that there is no current plan from town to construct a sidewalk but theoretically there could be as little as 1.5 feet to 1 foot from the house.

Chair Copeland followed up and asks if the roads are widened would sidewalk be constructed.

Ms. Caines states I would not see why we would not want sidewalk construction should the road be widened.

Mr. Gosney states that the front setback is a 20 foot requirement for suburban residential.

Chair Copeland addressed the room stating it is not possible to achieve 20 feet on property and asked where the 13.5 feet comes from.

Mr. Gosney states 13.5 feet comes from the comprehensive transportation plan for how wide the road is required to be; for this lot it would be 50 to 51 feet to get the ultimate right of way by taking half from one side to half of the other side of the road. They would be required from center line of that road to property and half of that cross section is and that is why it is 13.5 feet.

Mr. Goldstein asked if on this street are their other vacant lots or are there some developed.

Mr. Gosney answers that the adjacent properties are developed.

Chair Copeland offers Mr. Kim and additional opportunity to address the Board.

Mr. Kim approaches the Board and states his engineering team did review the plans and that is where the 13.5 feet came from and that sidewalk is typically 8 to 9 feet and that this went through an engineering review and most likely sidewalk is to be installed.

Chair Copeland asks for clarification that If you build the house on this lot, the town will require you build sidewalk.

Mr. Kim states yes, I will be required to build a sidewalk by the Town.

Ms. Higgins asks if the sidewalk will be built along Turner Stret.

Mr. Kim answers yes within this right of way but the right of way is 13.5 giving only 4 feet.

Chair asks staff if someone at the Town stated that a sidewalk would be required.

Ms. Caines answers that the engineering division reviewed this lot and does not know if they ever made a clear determination as there are a lot of determining factors and is unsure of if a sidewalk was ever discussed.

There were no other questions from the Board.

The Board began discussing their finding of facts.

Finding of Facts 24-VAR-03:

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:
3. The property is vacant.

Site Address: 209 Turner St.

PIN: 0659000355

Total Lot Size: .10 Acres

Current Zoning District: SR Suburban Residential

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 foot 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.
11. Without a Variance, a single family home would not be able to be feasibly built.
12. The size and the shape of the property is peculiar and not common to the neighborhood.
13. The hardship is not a result of any action taken by the applicant.
14. The owner of the adjacent property, plan north, attested to their potential hardship concerns, should a variance be granted.
15. The extent of the setback reduction would negatively impact the intent of the UDO with regards to buffer and privacy of the adjacent property.

Finding of Facts 24-VAR-06:

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:
3. The property is vacant.

Site Address: 209 Turner St.

PIN: 0659000355

Total Lot Size: .10 Acres

Current Zoning District: SR Suburban Residential

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 foot 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.
11. Without a Variance, a single family home would not be able to be feasibly built.
12. The size and the shape of the property is peculiar and not common to the neighborhood.
13. The hardship is not a result of any action taken by the applicant.
14. Based on testimony from staff, there is potential for the edge of the sidewalk to be within 2' of the house, presenting potential safety concerns.

15. The extent of the setback reduction would negatively impact the intent of the UDO with regards to safety and potential right of way uses.
16. The Right of Way would need to be preserved for future development.

Finding of Facts 24-VAR-07:

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:
3. The property is vacant.

Site Address: 209 Turner St.
PIN: 0659000355
Total Lot Size: .10 Acres
Current Zoning District: SR Suburban Residential
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 foot 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.
11. Without a Variance, a single family home would not be able to be feasibly built.
12. The size and the shape of the property is peculiar and not common to the neighborhood.
13. The hardship is not a result of any action taken by the applicant.
14. The extent of the setback reduction would negatively impact the intent of the UDO with regards to buffer and privacy of the adjacent property.

Mr. Kim reapproached the Board – property included in the future use of the Town’s downtown district supporting the UDO to bring in more residential properties (8:37)

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: Jayson Greene

Second by: Yan Higgins

Action: The Board of Adjustment voted in favor of the Motion. (5-0)

Action Vote:

Based upon the Board’s Findings of Fact the Board of Adjustment voted 5-0 to deny Variance 24-VAR-03, a request to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to reduce the rear setback from 25’ to 5’ for the property located at 209 Turner St., Wake County PIN 0659000355.

Having not obtained a required 4/5 vote in favor of approving the requested Variance, Variance 24-VAR-07 is denied.

Action: The Board of Adjustment voted in favor of the Motion. (5-0)

Action Vote:

Based upon the Board's Findings of Fact, the Board of Adjustment voted 5-0 to deny Variance 24-VAR-06, a request to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to reduce the front setback from 20' to 1' for the property located at 209 Turner St., Wake County PIN 0659000355.

Having not obtained a required 4/5 vote in favor of approving the requested Variance, Variance 24-VAR-06 is denied.

Action: The Board of Adjustment voted in favor of the Motion. (5-0)

Action Vote:

Based upon the Board's Findings of Fact, the Board of Adjustment voted 3-2 to deny Variance 24-VAR-07, a request to allow for a Variance from the Unified Development Ordinance Table 2.2.1-A Development Standards for Residential Use Districts to reduce the side setback from 10' to 5' for the property located at 209 Turner St., Wake County PIN 0659000355.

Having not obtained a required 4/5 vote in favor of approving the requested Variance, Variance 24-VAR-07 is denied.

Action: The Board of Adjustment voted in favor of the Motion. (3-2)

Agenda Item #8: Other Business

Board of Adjustment farewell to Board members:

- Jayson Greene
- Joe Cimino
- Chanel Wilkins

Agenda Item #9: Adjournment

Motion:

Motion to adjourn.

Motion by: Jayson Greene

Second by: Ben Copeland

Action: The Board of Adjustment voted in favor of the Motion. (5-0)

Time: 8:44 PM

Mackenzie Fretz
Board of Adjustment Clerk



Holly Springs Board of Adjustment

Board of Adjustment Agenda Cover Sheet

Agenda Item#: 3.

New Business

Title: 24-VAR-08 - 0 Norak Dr.

Strategic Priority Area: Growth Management & Economic Vitality

Staff Resource: Conor Ryan, Development Services

Action(s):

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

Explanation:

- The Town has received a request for a variance of UDO Section 3.4.2.B.3 for the property located at 0 Norak Dr. which does not allow accessory structures to be located in front yards.
- The variance would allow for a detached accessory structure to be located in the front yard and closer to Sunset Lake Rd. than the primary structure, a single-family home.

Background:

- The subject property is located along Sunset Lake Rd and is zoned RR - Rural Residential.
- UDO Section 3.4.2.B.3 states "Detached Accessory Buildings shall not be located in the Front Yard."

Funding Source(s):

N/A

Attachment(s):

1. 24VAR08_0NorakDr_StaffReport
2. 24VAR08_0NorakDr_Application
3. 24VAR08_0NorakDr_SitePlan
4. 24VAR08_0NorakDr_Exhibits



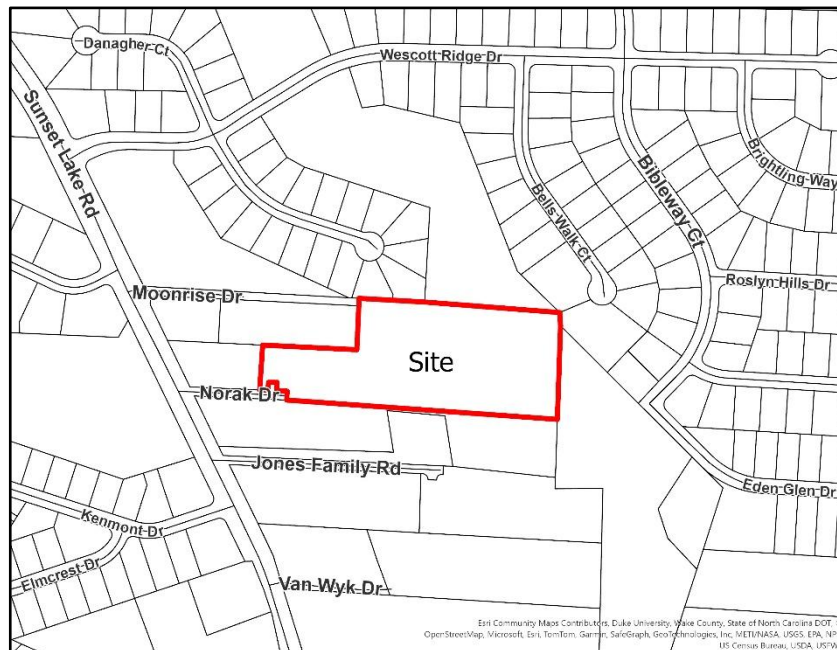
Development Services
Staff Report

Request for Variance of Development Standards
0 Norak Dr.
24-VAR-08

Petitioner/Owners:

Petitioner:
Rami Hafsa
877 E Gannon Ave, Ste 101
Zebulon, NC 27597

Owner:
Mohamed Alzuraiki
3828 Colinwood Ln
Raleigh, NC 27606



Location:

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

Staff Contacts: Conor Ryan, Planner I

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



Parcel Information			
Owner	Parcel #	Zoning	Area
Mohamed Alzuraiki	0669341239	RR – Rural Residential	7.42
Total			7.42 Acres

Adjacent Property Site Data		
	Zoning	Existing Land Use
Subject Property	RR – Rural Residential	Vacant
North	RR – Rural Residential SR – Suburban Residential	Single-Family Residential
South	RR – Rural Residential	Single-Family Residential
East	RR – Rural Residential SR – Suburban Residential	Vacant Single-Family Residential
West	PUD – Planned Unit Development RR – Rural Residential	Single-Family Residential

Property History

Rezoning History

Rezoning Number: 22-REZ-01 (Zoning Reassignment)
 Original Zoning: R-30 Residential
 Current Zoning: RR – Rural Residential
 Approved by Town Council on: 3/1/22

Variance Request

Variance 24-VAR-08 requested by Rami Hafsa to allow for a Variance from the Unified Development Ordinance Section 3.4.2.B.3 Accessory Building Limitations - Locations to allow for the placement of an Accessory Structure in the Front Yard for the property located at 0 Norak Dr, Wake County PIN 0669341239.

UDO Requirements:

3.4.2.B - Accessory Building Limitations.

3. Location. Detached Accessory Buildings shall not be located in the Front Yard.

Definition:

Yard, Front. An Open Space, unobstructed to the sky, extending fully across the Lot while situated between the Front Lot Line and the established Front Building Line.

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 500 feet of the subject property.
- 2) A notice of public hearing sign was posted on the subject property.

Background Information

Existing Conditions

- The subject property is currently vacant.
- The subject lot is nonconforming to UDO standards due to a lack of lot width at the setback line along Sunset Lake Rd (100' required, 35' existing).
- The image below depicts the subject property (outlined in blue) as of February 4th, 2025. The areas outlined in red represent the proposed locations of the primary and accessory structures.



Points of Consideration:

- The subject property is located at 0 Norak Dr and has the Residential Neighborhood Future Land Use designation per the Town's Comprehensive Plan.
- The Residential Neighborhood designation specifies that "Residential building types are limited to single family detached residential, including accessory dwelling units, in a variety of sizes."
- The subject property is zoned RR – Rural Residential.
- The UDO stipulates "Detached Accessory Buildings shall not be located in the front yard."
- The Front Yard is defined as "An Open Space, unobstructed to the sky, extending fully across the Lot while situated between the Front Lot Line and the established Front Building Line."
- The Front Lot Line is defined as "The Lot Line separating a Lot from any abutting Street."
- The Front Building Line is defined as "A line parallel to any Front Lot Line which passes through the nearest point of any Building or Structure and terminates at the point of contact with any Side Lot Line."
- The Variance request would allow for the construction of a 4,000 sq. ft. detached accessory structure to be placed closer to Sunset Lake Rd than the primary building.

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:

We are requesting approval to place an accessory building in the front yard of our 7.42-acre property, due to unique topographical challenges and a 180-foot easement that restricts feasible building locations. The front yard location is better suited for this structure as it allows us to use the rear, which is the most level area, for our family home and provides a safe, usable yard. The accessory building would be positioned approximately 450 feet away from Sunset Lake Road, with minimal tree clearing for the driveway to maintain privacy and integrity. We believe this placement respects the town's ordinances and integrity.

- 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:

Topographical Constraints: The only Semi-level area suitable for the primary residence is in the rear corner of the lot, making it the safest and most feasible location for family use.

Easement Impact: A substantial 180-foot easement severely limits building placement options, restricting the better half of the elevations to the rear of the property.

Safety and Usability: Positioning the building in the designated rear area would compromise the property's safety and usability for family activities. (Placing accessory building in rear yard would mean placing primary structure at front portion of lot where terrain is very rigid resulting in unsafe family area) Attachment will show Terrain elevations at both building sites.

- 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 property was purchased years ago as an investment. Since then, circumstances have changed, leading to a decision to build a family home on the site that emphasizes privacy. This change in use was not anticipated at the time of purchase.

- 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 proposed location for the accessory building in the front yard, 450 feet from Sunset Lake Road, aligns with community aesthetic standards by remaining largely hidden from view. In support of this, we reference the future land use Comprehensive Plan, which emphasizes that "Development should be sensitive to existing natural resources including large tree stands and drainage-ways. Mass grading and tree clearing should be avoided whenever possible." This approach ensures that our project adheres to these guidelines, minimizing environmental impact while complying with the UDO.

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

Based upon the Board's Findings of Fact, I move to approve/deny Variance 24-VAR-08 requested by Rami Hafsa to allow for a Variance from the Unified Development Ordinance Section 3.4.2.B.3 Accessory Building Limitations - Locations to allow for the placement of an Accessory Structure in the Front Yard for the property located at 0 Norak Dr, Wake County PIN 0669341239.

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

Agenda Item Completeness Checklist		
Staff Member	Approved for Distribution	
	Yes	Initials
Conor Ryan	X	CR
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: 0 Norak Dr

PIN: 0669341239

Total Lot Size: 7.42 ac.

Current Zoning District: RR – Rural Residential
3. The property is vacant.
4. A Plot Plan/Survey depicting the Variance has been submitted by the Applicant.
5. The Front Yard is defined by the Unified Development Ordinance as “An Open Space, unobstructed to the sky, extending fully across the Lot while situated between the Front Lot Line and the established Front Building Line.”
6. The Front Lot Line is defined by the Unified Development Ordinance as “as the Lot Line separating a Lot from any abutting Street.”
7. The Front Building Line is defined by the Unified Development Ordinance as “as A line parallel to any Front Lot Line which passes through the nearest point of any Building or Structure and terminates at the point of contact with any Side Lot Line.”
8. The Front Lot Line of 0 Norak Dr. is located at the line adjoining the parcel to Sunset Lake Rd.
9. The proposed location of the accessory structure per the plot plan is located in the area defined by the UDO as the Front Yard.
10. The UDO does not allow Accessory Structures to be placed in Front Yards in Residential Use Districts.

11. An Administrative Adjustment was unable to address the requested Variance, as Administrative Adjustments cannot be used to modify the placement of a structure, only its setbacks.
12. 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.
13. The Variance application and other records pertaining to the Variance request are part of the record.
14. 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

15.

16.

17.

BOARD OF ADJUSTMENT HEARING WORKSHEET

Date of
Hearing: _____
Case Number: _____

BOA Member: _____

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					

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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.

General Information

The full review procedures for a Variance of Development Standards can be found in the Town of Holly Springs [Unified Development Ordinance \(UDO\)](#), section 11.13.

The Variance of Development Standards will follow the Board of Adjustment review schedule. Submittal does not guarantee placement on a particular meeting agenda.

During a quasi-judicial hearing, the Board of Adjustment must hold an evidentiary hearing and make its decision based on the written and oral evidence presented. A quasi-judicial decision must be made on facts and evidence cannot be based on opinions or hearsay. Anyone who speaks during the public hearing must be sworn in under oath. Anything presented to the Board of Adjustment will be collected by the Clerk for permanent records. Please be advised that petitions are not acceptable evidence and cannot be considered.

Visit <https://www.hollyspringsnc.us/335/Forms-Review-Schedules-Fee-Sheet> for a current fee schedule and review calendars.

Submittal Requirements

All items listed are required for a complete submittal. Incomplete submittals will be rejected and delay the process.

Submit the following items via the [Portal](#) . All applications submitted by NOON on Friday will be routed the following week for review:

- Application
- Detailed Findings of Fact for Variance of Development Standards, consistent with the UDO
- Site plan, photos, studies, appraisals, property surveys or other documentation to provide evidence regarding the justification for the Variance request in PDF format.

Once your submittal is deemed complete and accepted, staff will send you a confirmation and advise that submittal fees (if applicable) are available for payment in the [Portal](#).

For questions about your submittal, please reach out to dsintake@hollyspringsnc.gov



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:	Company:
Mailing Address:	
City, State, Zip:	
Telephone:	E-Mail:
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	
Project Number	
Project Location <i>Use street address. If none, use closest intersection</i>	☐ Within Corporate Limits ☐ Within Holly Springs ETJ ☐ Pending Annexation
Shopping Center/Lot #	
PUD/Development	
PIN(s)	
Project Acreage	
Current Zoning	
Sketch Plan Held:	

VARIANCE REQUEST (please be specific)	
UDO Section No:	Section Title:
Specific Vested Rights Request <i>(Attach additional sheets if needed)</i> :	

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.

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.

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.

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.

CERTIFICATE OF COMPLETION

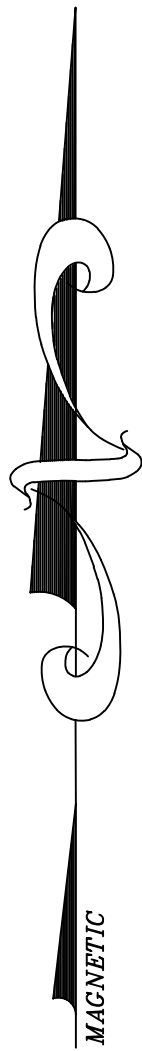
I certify that all information presented in this petition is accurate to the best of my knowledge and belief. Further, I grant permission for members of the Town Council and Town Staff to visit the site in question for informational, advertisement, and inspection needs.

Signature of Applicant:

Date:

Signature of Owner:

Date:

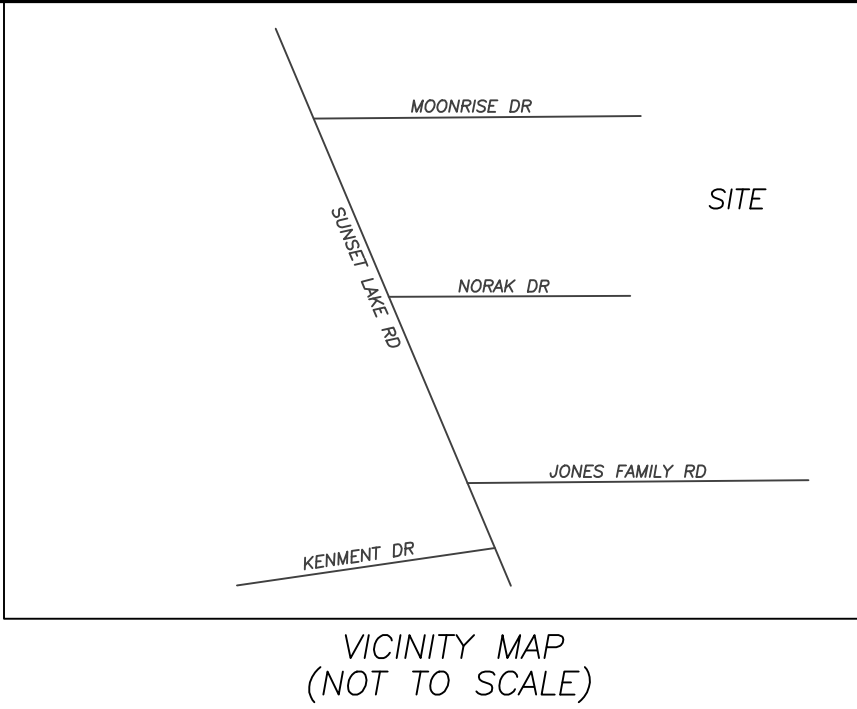


GENERAL SITE NOTES

1. EXISTING SITE SURVEY INFORMATION WAS PROVIDED BY JACK R. THOMASON, PLS AND TOPOGRAPHIC INFORMATION WAS TAKEN FROM WAKE COUNTY IMAPS. WETLANDS AND RIPARIAN BUFFER LOCATIONS TAKEN FROM MAP PREPARED BY GALLOWAY GEOSPATIAL, PLLC. THESE PLANS DO NOT ASSUME ANY LIABILITY FOR ANY EXISTING INFORMATION, SHOWN OR NOT SHOWN, ON THE SURVEY AND ANY CHANGES TO THE EXISTING CONDITIONS THAT MAY HAVE OCCURRED AFTER THE SURVEY WAS ISSUED. CONTRACTOR SHALL VERIFY ALL EXISTING SITE CONDITIONS PRIOR TO CONSTRUCTION.
2. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY THE TYPE, SIZE, DEPTH, MATERIAL, AND LOCATION OF ALL EXISTING UTILITIES PRIOR TO CONSTRUCTION. NOTIFY THE OWNER IMMEDIATELY IF UNKNOWN ELEMENTS ARE DISCOVERED THAT WOULD NECESSITATE MODIFICATION TO DESIGN.
3. ALL WASTE MATERIAL GENERATED FROM DEMOLITION ACTIVITIES SHALL BE DISPOSED OF IN ACCORDANCE WITH ALL APPLICABLE RULES.
4. THE CONTRACTOR SHALL PROTECT THE FACILITIES OF ALL ADJACENT PROPERTIES, THE GENERAL PUBLIC, AND THE OWNER. THE CONTRACTOR SHALL IMMEDIATELY REPAIR ANY DAMAGES AS DIRECTED.
5. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH APPLICABLE LOCAL, STATE, AND FEDERAL REGULATIONS.

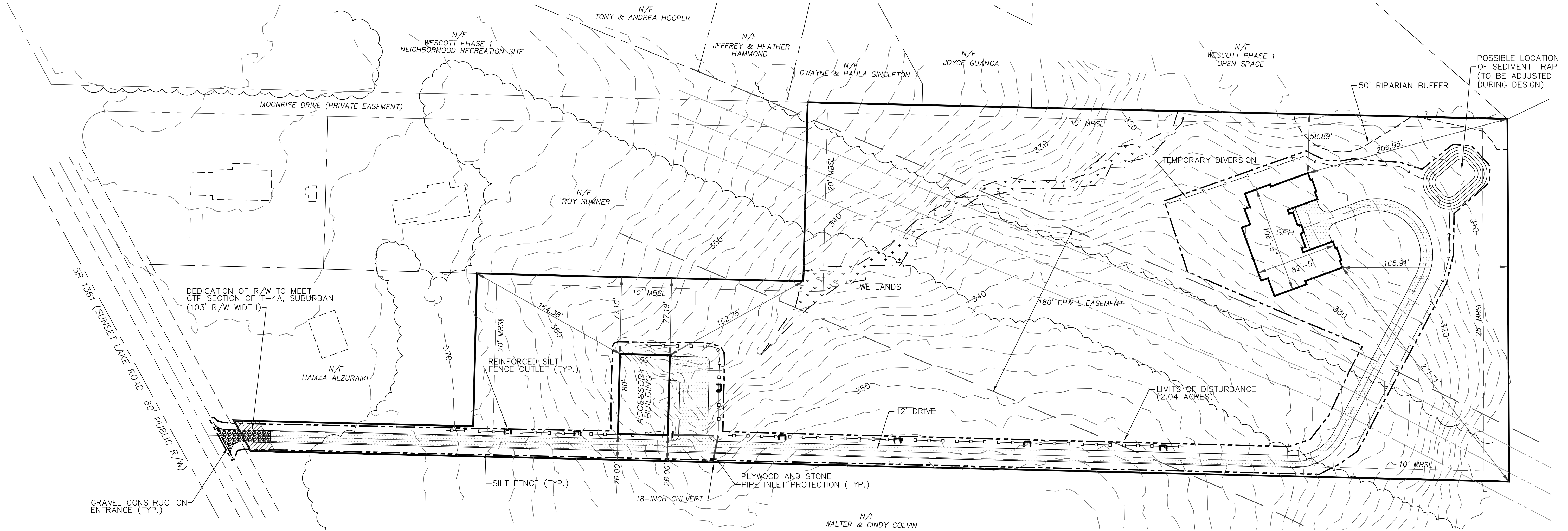
SITE DATA

TRACT PIN: 0669341239 & 0669340499
SITE AREA: 7.42 ACRES
SITE ZONING: RR (RURAL RESIDENTIAL)
PRIMARY BLDG SETBACKS: FRONT 20', REAR 25', SIDE 10'
ACCESSORY BLDG SETBACKS: 10'

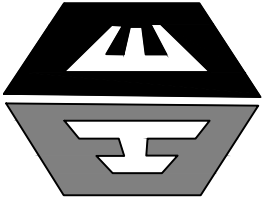


SCALE: 1" = 50'

NOTE: EROSION MEASURES ARE PRELIMINARY AND ARE SHOWN FOR REFERENCE. TYPE AND LOCATION ARE SUBJECT TO CHANGE DURING ACTUAL DESIGN.



LEE R. HINES, JR., PE
630 AVENUE PARWAY
FLUJAY-VARINA, NC 27526
PHONE (919) 422-8011
rich@hines1956@gmail.com



SEALS

PRELIMINARY
FOR REVIEW ONLY

REVISIONS

DATE	COMMENTS
01-09-25	REVISED PER TOWN OF HOLLY SPRINGS REVIEW #1
01-22-25	REVISED PER TOWN OF HOLLY SPRINGS REVIEW #2

0 NORAK DRIVE
CONCEPTUAL LAYOUT AND
PRELIMINARY EROSION CONTROL PLAN
TOWN OF HOLLY SPRINGS, WAKE COUNTY, NC

REVIEWED BY:	LRH
DESIGNED BY:	LRH
DRAWN BY:	LRH
DATE:	DEC 2024
PROJECT NUMBER:	24 07

CONCEPTUAL LAYOUT
PLAN

O - 1

DEC 2024



LEE R. HINES, JR., PE

Civil Engineering
Land Planning & Development
Project Management

630 Aiken Parkway
Fuquay-Varina, NC 27526

Phone 919-422 8011
Email richiehines1998@gmail.com

January 9, 2025

Town of Holly Springs
Development Services Department
Post Office Box 8
Town of Holly Springs, NC 27540

Subject: **O Norak Drive**
PLVAR202400250/24VAR08

This is a letter of opinion in support of the variance request by the Applicant, Mr. Rami Hafsa for the subject development, particularly as it relates to building placement.

Generally, the property has moderate slopes of ten to twelve percent (10 - 12%) that will present grading challenges during construction. There is an existing drainage feature with wetlands that runs from southwest to northeast across the site. In addition to the drainage feature, there is also a 180-foot wide power line easement that renders a large swath of the site unsuitable for a building.

The accessory building is proposed on the west of the site, approximately 450 feet east of Sunset Lake Road. It would be placed near the head of the drainage feature at the convergence of what appears to be two draws. Though this is not an ideal building site, the accessory building would require less area to be cleared and graded than the proposed home. A smaller building footprint would preserve more of the natural area of the property. If the home were built in this area instead, there would be more disturbance and more difficulty in providing a safe, level outdoor living space for the family to enjoy because of the grading that would have to occur to do so. The area where the house is proposed is not without drawbacks, but it does appear to be flatter and is located in an area that will allow a larger building and more outdoor living area.

I trust that you find this satisfactory, but please do not hesitate to contact me at (919) 422-8011 or at richiehines1998@gmail.com if you have any questions or need additional information. Thank you for your consideration.



Sincerely,

DocuSigned by:

Lee R Hines Jr.

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Lee R. Hines, Jr., PE

