

PLANNING AND COMMUNITY DEVELOPMENT
PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



AGENDA

Pender County Board of Adjustment
May 20, 2010
9:00 a.m.
Pender County Public Meeting Room
805 S. Walker Street, Burgaw, North Carolina

NOTE: Board Members are reminded to bring their Zoning Ordinances to the Meeting.

Call to Order: Chairman Erwin Kane
Prayer

Roll Call: Chairman Erwin Kane
Pender County Board of Adjustment Members:

Kane: ___ Thompson: ___ Ferrante: ___ Loughlin: ___ Pullen: ___ Luther: ___

1. **Adoption of Agenda**
2. **Approval of Minutes:** April 21, 2010
3. **Public Comment**
4. **Administrative Appeal-** (TABLED from April 21, 2010) William S. Mueller, applicant, on behalf of Olde Point Property Owners Association, Inc., owner, is appealing an administrative review and denial of the subdivision of one tract labeled "Tennis Courts Lot" depicted in Section 4-A, Olde Point, recorded in Map Book 15, Page 15. The property is zoned PD, Planned Development, and is located on the southwest corner of Olde Point Road and Olde Point Loop Road, Hampstead. The property contains 1.67 acres and is identified as PIN # 4202-27-3864-0000.
5. **Variance** – Milton and Denise Packard, applicant and owner, are requesting a 4.5' side yard setback variance from the required 20' minimum side yard setback as prescribed in the Pender County Zoning Ordinance, §8.10, Schedule of District Requirements. The property is zoned R-20C, Residential Conventional Housing District, and is located at 518 Hughes Road, Hampstead, NC. The property is ±0.46 acres and may be identified as PIN # 3282-90-4588-0000.
6. **Variance** – Abigail Lagunas, applicant and owner, is requesting a 2.7' and 8.4' side yard setback variance from the required 20' minimum side yard setback as prescribed in the Pender County Zoning Ordinance, §8.10, Schedule of District Requirements. The property is zoned R-20, Residential District, and is located at 60 Faithful Lane, Burgaw, NC. The property is ±0.89 acres and may be identified as PIN # 2279-23-4425-0000.
7. **Items for Discussion**
8. **Adjournment**

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APPLICATIONS COVER SHEET

Date Application Filed: 4/6/2010

I. REQUIRED NAMES:

Applicant <u>'OWNER'</u>	Owner <u>Milton and Denise Packard</u>
Address _____	Address <u>518 Hughes Rd</u>
_____	<u>Hampstead, NC 28443</u>
Phone _____ Fax _____	Phone <u>910-270-4824</u> Fax _____
Email _____	Email <u>mgpackard@charter.net</u>

Legal Relationship of Applicant to Property Owner: _____

Consultant Name/Company _____

Address _____

Phone _____ Fax _____

Email _____

II. AFFIDAVIT REGARDING OWNER - APPLICANT RELATIONSHIP:

I Milton and Denise Packard (owner) and Milton Packard (applicant) hereby affirm that an appropriate contractual relationship permitted by the appropriate NC State Codes exists between said Owner and Applicant. Owner and Applicant also affirm that if the owner requests that the application be terminated, staff will comply with Owner's request.

Milton Packard (Signature of Applicant) Denise Packard (Signature of Owner)

III. TYPE OF APPLICATION:
(Please check one)

Board of Adjustment:	Zoning:	Plans:
<input checked="" type="checkbox"/> Variance	<input type="checkbox"/> Text Amendment	<input type="checkbox"/> Planned Development Master Plan
<input type="checkbox"/> Appeal	<input type="checkbox"/> Map Amendment	<input type="checkbox"/> Subdivision Preliminary Plat
	<input type="checkbox"/> Home Occupation	<input type="checkbox"/> Final Plat
	<input type="checkbox"/> Special Use Permit	
	<input type="checkbox"/> Vested Rights Determination	

04/08/10 JTP 04/08/10 JTP

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FEE SCHEDULE

Board of Adjustment:	Applicable Fees:	Fee Calculation:
Variance	\$250.00	250.00
Appeal	\$250.00	
Zoning:		
Zoning Determination Letter	\$15.00	
Text Amendment	\$250.00	
Map Amendment	\$500.00 for first 5 acres; \$10/acre thereafter up to 1,000 acres; \$5/acre thereafter	
Vested Rights Determination	\$250.00	
Home Occupation	\$25.00	
Special-Use Permit	\$300.00 & \$10.00 per acre over 5 acres; max of \$5,000.00	
SUP, Part of AEC	\$300.00 & \$10.00 per acre over 5 acres	
SUP, Tower over 75 ft.	\$500.00	
SUP, Mining Borrow Pit	\$750.00 & \$10.00 per acre over 5 acres	
SUP, Mining other	\$1,000.00 plus \$5.00 per acre	
Plans:		
Planned Development Master Plan	\$500.00 plus \$10/acre for the first 100 acres; \$5/acre thereafter	
Preliminary Plat	\$500.00 & \$10/lot/residential unit for the first 100 lots/units; \$5 per lot/unit thereafter	
Final Plat	\$250.00 & \$10/lot/residential unit for the first 100 lots/units; \$5/lot/unit thereafter	
Total Fees Due:		\$250.00

Attachments Included with Application:
(Please include # of copies)

CD Plan Sets Other Documents/Reports

Method of Payment: Cash
 Credit Card, We accept VISA ___ and MasterCard ___ only.
 Check, Clk. # ()

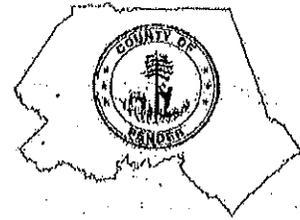
For Office Use Only:

Receipt # _____

Received By: Kyle Brewer

Date: 4/6/2010

PLANNING AND COMMUNITY DEVELOPMENT



PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING

VARIANCE APPLICATION

Date 3/26/2010 Application No. VA 10-05-19-02 Packard
 Application Fee 250⁰⁰

I. PROPERTY INFORMATION:

Record #: _____ Lot #: 194
 Parcel ID #: 3282-90-4588-0000 Zoning District: _____
 Property Location/Address: 518 Hughes RD, Hampstead, NC 28443

Describe Variance & Reason for Request:
residential addition - design of new and location of existing house forces request for setback variance of western property line.

II. A complete submission must be in the Planning and Community Development Department office 45 days prior to the scheduled Board of Adjustment public hearing date. All of the information listed below must be included for the submission to be considered complete:

- Application Fee
- A self addressed business envelope for each adjacent property owner(s) and an additional envelope for the applicant/owner and their agent
- Fifteen scaled maps, no smaller than 8 1/2" x 11" at a readable scale, clearly showing the following:
 - Property Location
 - Existing Buildings
 - Building Separation Distances
 - Acreage
 - Dimensions of Property
 - Proposed Buildings
 - Proposed Building Height* No height variance is asked for
 - Building Distances from Property Lines (front, side, rear)
 - Location of well and septic system
 - Additional Info Pertinent to the variance request (Pictures, Septic Tank Permits, etc)

*All Building Height Variance requests must supply elevation of property at curb and at an established building grade and must be provided by a Licensed Surveyor or Engineer.

The applicant/owner must submit a detailed letter describing the request and stating why the request is being made and provide other information that is pertinent to the case.

III. SIGNATURE OF OWNER & APPLICANT:

[Signature]
Applicant

[Signature]
Owner
[Signature]

Additional Information:

The Pender County Zoning Ordinance became effective on July 5, 1988 and regulated land use thereafter. The ordinance provides for a Board of Adjustment to grant variances from the strict application of the rules and regulations when hardship has been demonstrated.

The Board of Adjustment meets the third Wednesday of each month to hold hearings on request for variances and other appeals. The Board of Adjustment will advertise the hearing once in a local newspaper and will give notice to all adjacent property owners.

The filing of an application before the Board of Adjustment does not guarantee approval. The applicant must exercise every means possible to resolve the problem prior to filing an application with the Board of Adjustment.

According to NCGS §153A-345 and Section 6.4 B of the Pender County Zoning Ordinance, the Board of Adjustment consists of five members and two alternates. For a variance to be granted a four-fifth favorable vote is required and the following conditions must be found to exist:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district.
2. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the zoning district in which the property is located.
3. A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located.
4. The requested variance will be in harmony with the purposes and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
5. The special circumstances are not the result of the actions of the applicant.
6. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

*The applicant or an agent must attend all hearings and be prepared to present facts to support their request.

PLANNING STAFF REPORT
Variance Request

SUMMARY:

Hearing Date: May 20, 2010

Applicant: Milton and Denise Packard

Property Owner: Same

Application Number: VA 10-05-20-02 Packard

Property Location and Description: The property is located at 518 Hughes Road, Hampstead, North Carolina. The property contains approximately ± 0.46 acres and is identified as PIN # 3282-90-4588-0000

Zoning District of Property: R-20C, Residential Conventional Housing District.

Variance Requested: The applicant is requesting a seven and one half (7.5') foot variance from the required twenty (20') foot side yard setback as prescribed in §8.10, Schedule of District Requirements.

BACKGROUND AND DESCRIPTION OF VARIANCE:

The applicant inquired about having an addition built on to an existing single family home approximately two months ago. Through his inquiry it was discovered that the addition would not meet the current district requirements for the R-20C zoning district as prescribed in §8.10, Schedule of District Requirements. Through analysis of the current situation, it was found that there is a non-conforming structure situation in existence being that the east property line is approximately $\pm 12'$ from the building line and that the western property line is approximately $\pm 18'$ from the building line, resulting in a 8' and 2' nonconformity respectively.

The requested variance to allow the placement of an addition would require a reduced setback along the western property boundary with the furthest most point of encroachment being approximately $\pm 8'$ and no change in setback along the eastern boundary.

It was brought to the attention of the Zoning Administrator that similar reduced setbacks had been granted within the same neighborhood for principle structures. Through investigation of prior permitting in the area, it was found that there was an incorrect Standard Operating Procedure (SOP) in effect, in which the permitting technicians were using to establish reduced setbacks for individual tracts of land recorded prior to July 5, 1988 or Map Book 24, Page 33 (See Exhibit A). This is incorrect, in that a tract of land may have reduced setbacks if it does not meet the dimensional requirements established in the zoning district in which it is located (Section 12.2.A).

DESCRIPTIONS OF EXHIBITS:

-Exhibit A: Standard Operating Procedure

The attached SOP was being used by the Permitting staff to determine appropriate setbacks. This SOP references lots established prior to the adoption of the Pender County Zoning Ordinance as being "grandfathered" and receiving a less setback than what is prescribed in the appropriate zoning district. Section 12.2.A. determines that this is appropriate in cases that the established lot does not meet the dimensional requirements set forth in the appropriate zoning district. This SOP which was being used is incorrect as it doesn't take in to affect the dimensions of a piece of property, only the date in which it was established or recorded.

-Exhibit B: Permits Issued in Direct Neighborhood

Exhibit B shows two different zoning approvals which were issued within the last five years that give ten (10') foot side yard setbacks for principle structures for properties that do meet the minimum dimensional requirements in the zoning district in which they are located in. These properties also reference the Map Book and Page number referred to in the SOP which was in affect.

ZONING ADMINSTRATOR'S CONCLUSION:

The applicant is requesting a seven and one half (7.5') foot variance from required fifteen (20) foot side yard setback in the R-20C, Residential Conventional Housing District as prescribed in the Pender County Zoning Ordinance §8.10, Schedule of District Requirements.

APPLICABLE ZONING ORDINANCE PROVISIONS:**2.79 Variance**

A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of a structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by a variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

6.4 Powers and Duties of the Board of Adjustment**B. Variances**

To authorize upon appeal in specific areas variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in undue hardship, so that the spirit of this ordinance shall be observed and substantial justice done.

A public hearing shall be heard at which the following conditions are found to exist:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district.
- (2) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the zoning district in which the property is located.
- (3) A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located.
- (4) The requested variance will be in harmony with the purposes and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
- (5) The special circumstances are not the result of the actions of the applicant.
- (6) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

In considering all proposed variances from this ordinance the Board shall, before making any finding in a specified case, first determine that the proposed variance will not constitute any change in the zone shown on the zoning map and will not impair an adequate supply of light and air to adjacent property, or materially increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, morals, and general welfare.

In granting a variance the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use, as it may deem advisable in furtherance of the purposes of this ordinance. Violation of such conditions and safeguards when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 4 of this ordinance.

8.10 Schedule of District Requirements

PERMITTED USES	R-20C
Lot Size (sq.ft. or noted) (11)	20,000
Usable Lot Area (18)	95%
Lot Size (duplex) (11)	30,000
Min. Area (rezoning)	NA
Min. Lot Width-Ft	90
Min. Chord Length at ROW line for "cul de sac's"	45
Min. Front Yd.-Ft. (10)(14)(19)	30
Min. Side Yard-Ft (5) (10)(19)	20
Min. Rear Yard-Ft (10)(19)	25
Max. Height-Ft (6)	35
Min. Req. Structure Separation (19)	30
Buffer required (see Sec 14)	Yes
Min. Parking Spaces per unit	2
Density per acre	
Lot Coverage (13)	

- (5) Section 7.8 requires minimum side yards for corner lots and applies to all lots, even prerecorded lots of record ("grandfathered lots");
7.8 Corner Lots A principal structure located on a corner lot shall be required to have the minimum front yard setback from the front property line according to the district in which it is located and a minimum side yard setback from the right-of-way as follows:
 1. Twenty (20) feet in R10, R15, R20, RA, and PD Districts. 2. Twenty-five (25) feet in B1, B2, I1, and I2 Districts. Corner lots on a street with setback requirements under Section "9.8 Building Setback Lines Along Major and Minor Thoroughfares must meet the requirements of that Section. Section 9.8 does not apply to lots recorded prior to November 17, 2003.
- (6) Note: The Board of Adjustment may grant approval of construction where heights are greater than those listed in the District Requirements in any area. See also Section 10.3.
- (10) See also set back requirements in Section 7.2B, 9.6, 9.7, 9.8, 10.2 & 14.3. Set backs must be calculated from the edge of any access easement.
- (11) See lot area calculations in Section 7.7, New Lots. Roads or access easements cannot be included in lot area.
- (13) See Definitions-Lot Coverage is defined as the area of a lot or parcel covered by impervious materials, including but not limited to, buildings, pavement, gravel areas, parking areas, roads, etc. This requirement applies to Watershed Districts Only.
- (14) See section 9.8 "Setbacks Along Major Thoroughfares" for front yard setback along major roads.
- (18) See Definition Section: Usable Lot Area is defined as the required portion of the minimum lot size that does not include hydric soils, regulated wetlands or floodway areas.
- (19) See Supplementary District Regulations Section: This Section provides for Accessory Buildings of less than 600 sq. ft. to be located in any required yard space as long as they are 10' from any property line or any other building. The "Setbacks Along Major Thoroughfares" requirement in Section 9 does not apply to any accessory structure, regardless of size.

12.2 Use of Nonconforming Lots

A. Nonconforming Single Lot of Record on July 5, 1988

A lot of record established prior to the initial effective date of this ordinance which does not conform to the minimum lot requirement of the district in which it is located may be used as a building site for a use permitted within that district provided:

- 1) The lots of record must be a minimum of 5,000 square feet with a minimum of 50 feet
- 2) Building line and side and rear setback as required in R-10 district. Front yard setbacks shall be in accordance with the zoning district or Planned Development in which the property is located. Corner lots shall comply with the side yard setbacks noted in "Section 7.8 GENERAL PROVISIONS, Corner Lots."

Board of Adjustment

Board Action for _____, 2010

Motion: _____ Seconded: _____

Approved: _____ Denied: _____ Unanimous: _____

Kane _____ Thompson _____ Loughlin _____ Luther _____ Pullen _____ Ferrante _____

Exhibit A

EXHIBIT A

ZONING ORDINANCE
BEFORE JULY 5, 1988

GRANDFATHERED LOTS
BEFORE DEED BOOK---714---PAGE 94 OR
BEFORE MAP BOOK 24 PAGE 33

SETBACK REQUIREMENTS

ZONED R.A.

GRANDFATHERED	SIDES	REAR	FRONT
	10	20	40
NON-GRANDFATHER-	20	30	40

PLANNED DEVELOPMENT
SIDES---10 REAR---15---FRONT---25

B-2 COMMERCIAL
GRANDFATHERED
SIDES---10-----20-----65
NON-GRANDFATHERED
SIDES---25-----25-----100

ACCESSORY STRUCTURES
LESS THAN 600 SQ. FT. CAN GO AS CLOSE AS
10 FT. TO SIDE OR REAR OF PROPERTY LINE
AND 10 FT. FROM HOUSE.

MORE THAN 600 SQ. FT. HAVE TO USE REQUIRED
SETBACKS AND 20 FT. BETWEEN STRUCTURES

if grandfathered
40 if not grandfathered

Exhibit B

Zoning

Pender County Planning Department
805 S. WALKER ST.
Burgaw, North Carolina 28425

Type of Permit PIN User ID: Permit#

A PLAN OR PLAT DRAWN TO SCALE MUST BE ATTACHED BEFORE THE APPLICATION CAN BE REVIEWED

Purpose of Permit:

Applicant Name

Physical Address Phone

City State Zip

Owner Name

Address Phone

City State Zip

Occupant Name

Direction to Property

Deed/Map# Record# Zoning District:
Lot Area Township:

Is the Lot, as shown on the attached plot plan, recorded in the Pender County Registry?

Subdivision Section Lot# Plat Boo Page

Setback: Front: Rear: Left: Right:

Parking Buffer

Type of Construction

Dimensions Height Type of Proposed:

Dimensions Type of Existing:

Proposed Use of Structure:

Special Conditions:

Foundation Survey Required Date Received

Zoning

Pender County Planning Department

805 S. WALKER ST.

Burgaw, North Carolina 28425

Type of Permit PIN User ID: Permit#

A PLAN OR PLAT DRAWN TO SCALE MUST BE ATTACHED BEFORE THE APPLICATION CAN BE REVIEWED

Purpose of Permit:

Applicant Name

Physical Address Phone

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Address Phone

City State Zip

Occupant Name

Direction to Property

Deed/Map# Record# Zoning District:
Lot Area Township:

Is the Lot, as shown on the attached plot plan, recorded in the Pender County Registry?

Subdivision Section Lot# Plat Boo Page

Setback Front: Rear: Left: Right:

Parking Buffer

Type of Construction

Dimensions Height Type of Proposed:

Dimensions Type of Existing:

Proposed Use of Structure:

Special Conditions:

Foundation Survey Required Date Received

Zoning

Pender County Planning Department

805 S. WALKER ST.

Burgaw, North Carolina 28425

Type of Permit PIN User ID: Permit#

A PLAN OR PLAT DRAWN TO SCALE MUST BE ATTACHED BEFORE THE APPLICATION CAN BE REVIEWED

Purpose of Permit:

Applicant Name

Physical Address Phone

City State Zip

Owner Name

Address Phone

City State Zip

Occupant Name

Direction to Property

Deed/Map# Record# Zoning District:
Lot Area Township:

Is the Lot, as shown on the attached plot plan, recorded in the Pender County Registry?

Subdivision Section Lot# Plat Boo Page

Setback Front: Rear: Left: Right:

Parking Buffer

Type of Construction

Dimensions Height Type of Proposed:

Dimensions Type of Existing:

Proposed Use of Structure:

Special Conditions:

Foundation Survey Required Date Received

I understand that upon signing this form that I am verifying that all the information shown on this application, attached zoning, and all other information pertaining to this property is true and I shall complete the development according to this plat. Zoning Permits shall be void 1 year for the date of issuance. Any changes to this application or plat shall require additional zoning approval.

Applicant/Owner Signature

Zoning Action: S.O. RH - APP/sg Date: 11/29/2004

Revision Date:

Zoning Fee Paid 15.00 - 33

Receipt#: 49459 - 053612

Date: 11/29/04 - 7/7/05

A.U.P. Fee Paid

Receipt#:

Date:

Flood Requirements

If Flood Area Panel# Zone C BFE

Is it partially located in SFHA, but development is not? (Yes/No) Comments

Elevation Certificate required? (Yes/No)

Flood Zone

Flood Area Cannot be Determined by Staff

Elevation Certificate Required

No Rise Certification Required

Electrical Above Base Flood Elevation

Mechanical Above Base Flood Elevation

Everything 2 feet Above Highest Adjacent Grade

Bench Mark Required

Vents (Hydrostatic Openings)

Mortared Piers Blocks (Mobile Homes)

Other Development Activities

Clearing: Fill: Mining: Drilling: Grading:

Excavation (describe):

Watercourse Alteration:

Drainage Improvements (including culvert work)

Distance From Water: Water Type:

Buffer Requirement

All applications must meet all Local, State, and Federal requirements if applicabl

Compliance Action

See Building Inspections for Final Certificate of Compliance

Certificate of Compliance by Local Flood Administrat



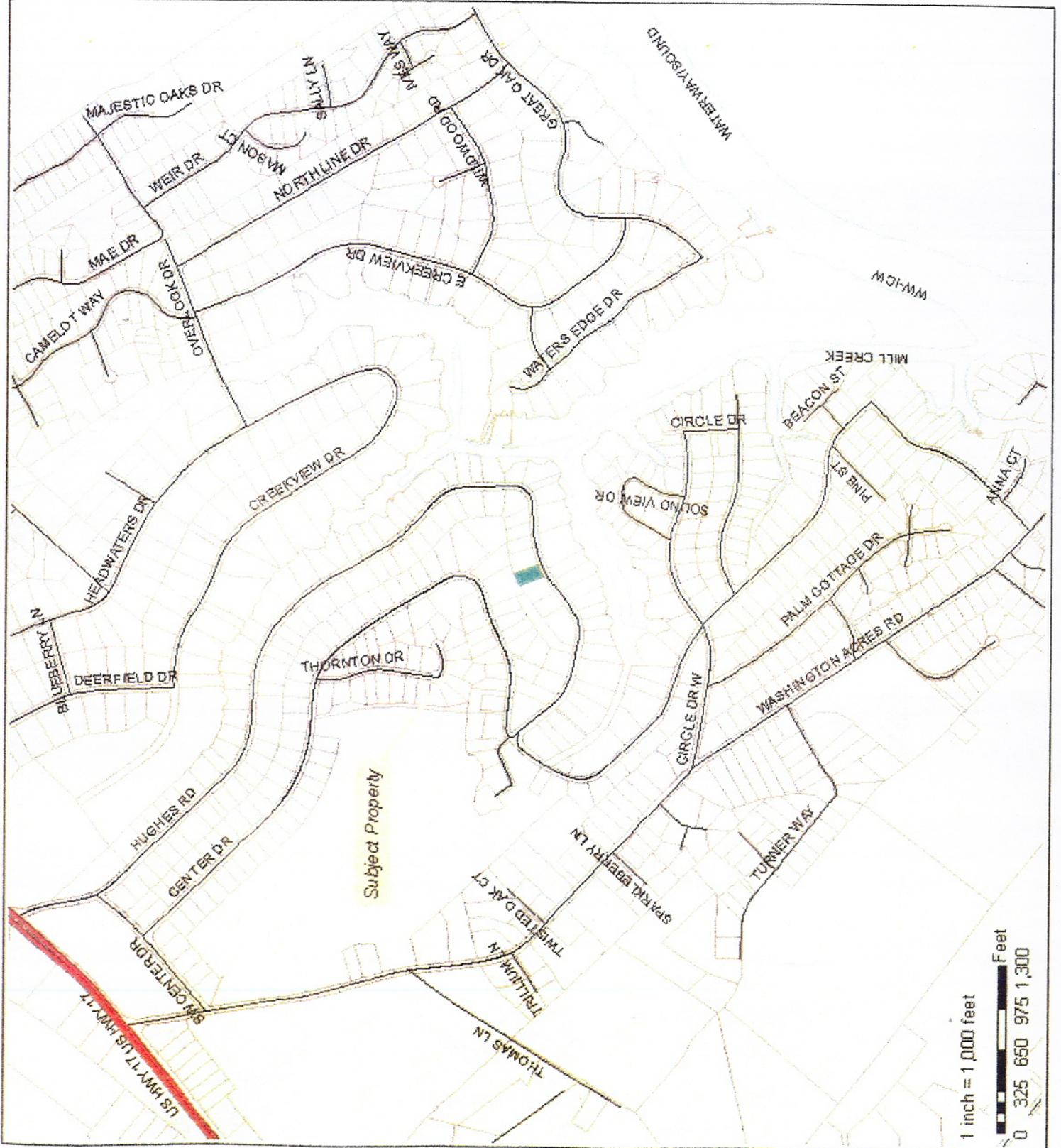
Applicant
Milton Packard

Variance
VA 10-05-20-02 Packard

5B



Vicinity Map





Applicant
Milton Packard

Variance
VA 10-05-20-02 Packard



Aerial Map



1 inch = 50 feet

Variance Description for 518 Hughes Rd, Hampstead, NC 28443

A setback variance for side property border to be less than 15' is requested so that the interior design of a proposed 800 square foot residential addition will have synergy with the interior of the existing house. The 20' x 40' addition has been designed to extend 4' past the existing house structure towards the western property line. ***One corner on outside wall of proposed structure will be 12'5" from property border. (see survey map)***

Per the guidelines on the variance application the following details are answers to some of the six numbered guideline conditions:

Condition #1 "Exceptional Conditions" and #5 "Special Circumstances"- Exceptional Conditions and Special Circumstances are that:

Our house was not situated on the property in accordance to **current** setback rules; but did meet rules in effect in 1996 when it was built. We are the third owners of the property. The house does not meet current setback code, the south-east corner is only 12'2" from the property line and the north-west corner is only 18'6" from the property line. Survey was completed in March 2010 to confirm exact location of current structure and property lines.

The variance asked for would be for the first setback on the corner of the addition to be 4'6" past the south-west corner on current structure, making this setback 14' 2" and the furthest corner of the addition from the road to be 12'5" from the property line. This is no closer to property line than south-east corner of the house is currently. (see survey for detail)

Condition #2; "Special Privileges" Setback conditions that are asked for variance exist in our neighborhood.

There are several other properties in the immediate neighborhood that do not meet the current residential property setback. Properties at 506 Hughes Rd/lot 44, 537 Hughes Rd/lot 94, 541d Hughes Rd/lot 95, 603 Hughes Rd/lot 179a, 607 Hughes Rd/lot 177, 609 Hughes Rd/lot 176, 611 Hughes Rd/lot 175 do not have a 25' or even a 15' setback to side property borders.

Condition #4 "Harmony with purpose and intent of ordinance, not injurious to neighborhood or general welfare" The addition will match the current design and have matching exterior finish to match the existing structure, it will not detract from the value of neighboring properties.

Details for 518 Hughes Road Proposed addition: Forward -The property has a 7' tall wood privacy fence that is set inside the property line.

The proposed addition will have a roof line of 26' height, which is equal to and no higher than the current house structure. All outside walls of the proposed addition will be brick-veneer, extending to the roof peak and eaves. The brick color and type will be matched as close as possible to the existing structure. The bathroom/closet wall will be facing the property line; this will have a minimum number of windows.

The design of the addition has an opening to the gathering room that will be on the west wall of the current kitchen. The other rooms in the addition are a master bedroom, master bathroom and walk-in closet. Existing structure has a window on the north side that is 36' from the corner of the house that is 18'6" from the property line. This forces the addition design to extend 4' closer to line to have a 40' wall in place.

MAGNETIC NORTH
MAP BOOK 22 PAGE 16

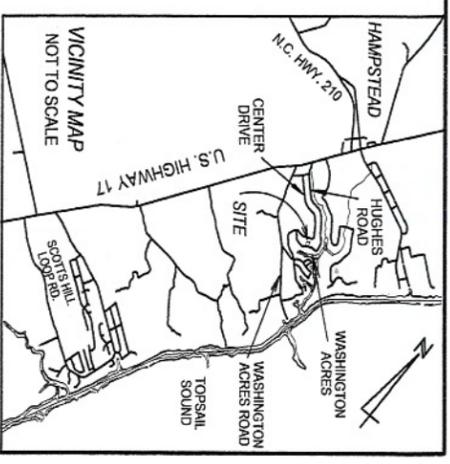
TAX PARCEL
3282-90-4588-0000

ZONING R-20C

MINIMUM BUILDING
SETBACK LINES
BY ZONING:
FRONT - 30'
SIDE - 20'
REAR - 25'
STRUCTURE
SEPARATION - 30'

NOTE:
ACCORDING TO FEMA FLOOD INSURANCE RATE MAP
3720328200 - J, EFFECTIVE DATE 2-16-2007,
THE SUBJECT PROPERTY IS NOT LOCATED
IN A SPECIAL FLOOD HAZARD AREA:
ZONE X, NO BASE FLOOD ELEVATION.
DATUM: N.A.V.D. 1988.

LOT 160, SECTION 9
WASHINGTON ACRES
MAP BOOK 22 PAGE 16



LOT 194, SECTION 9
WASHINGTON ACRES
MAP BOOK 22 PAGE 16
PENDER COUNTY
REGISTRY
0.46 ACRES

- LEGEND
- IRON PIPE SET
 - CONCRETE MONUMENT
 - ⊙ IRON PIPE FOUND
 - PROPERTY LINE
 - - - RIGHT OF WAY LINE
 - - - ADJOINING PROPERTY LINE

LOT 193, SECTION 9
WASHINGTON ACRES
MAP BOOK 22 PAGE 16

RW CURVE
TOTAL
CH=468.78'
S 75°34'45" W
L=33°30'30"
R=813.10'
T=244.78'
L=475.53'

CURVE 7
CH=451.48'
S 75°34'45" W
L=33°30'30"
R=783.10'
T=235.75'
L=457.98'

CH=115.28'
S 62°53'01" W
R=813.10'

HUGHES ROAD
S.R. # 1618
60' PUBLIC RIGHT OF WAY
PAVED STREET

SURVEY OF PROPERTY
AND PROPOSED PLOT PLAN
FOR

MILTON G. PACKARD
DENISE R. PACKARD

LOT 194, SECTION 9, WASHINGTON ACRES
MAP BOOK 22 PAGE 16

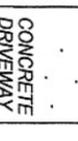
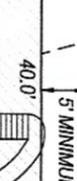
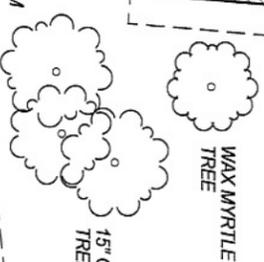
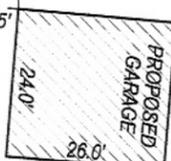
TOPSAIL TOWNSHIP
NORTH CAROLINA
SCALE: 1" = 30'
PENDER COUNTY
FEBRUARY 24, 2010

JOHN A. BENSON JR.
PROFESSIONAL LAND SURVEYOR
15696 U.S. HIGHWAY 17
HAMPSTEAD, NORTH CAROLINA
28443
910 270 0840



IRON ROD FOUND
N 70°18'26" E 102.33'

7' WOOD PRIVACY FENCE



CH=100.12'
S 70°29'29" W

CURVE 7-A

UTILITY POLE
CONCRETE MONUMENT FOUND
RW LINE
POWER LINES
CENTERLINE

LOT 46, SECTION 8
WASHINGTON ACRES
MAP BOOK 12 PAGE 1

CURVE 7-A
CH=100.12'
S 70°29'29" W
L=07°03'35"
R=813.11'
T=50.16'
L=100.19'

I CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (DEED DESCRIPTION RECORDED IN DEED BOOK 1737, PAGE 178 AND OTHER REFERENCE SOURCE: MAP BOOK 22 PAGE 16, THAT THE BOUNDARIES NOT SURVEYED ARE INDICATED AS DRAWN FROM INFORMATION FOUND IN MAP BOOK 22, PAGE 16, OR OTHER REFERENCE SOURCES, AS SHOWN; THAT THE RATIO OF POSITIONAL ACCURACY IS 1:15,000 +; AND THAT THIS MAP MEETS THE REQUIREMENTS OF THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA (21 NCAC 56.1600). THIS 26TH DAY OF FEBRUARY, 2010.

JOHN A. BENSON, JR.
N.C. REGISTRATION # L-12117

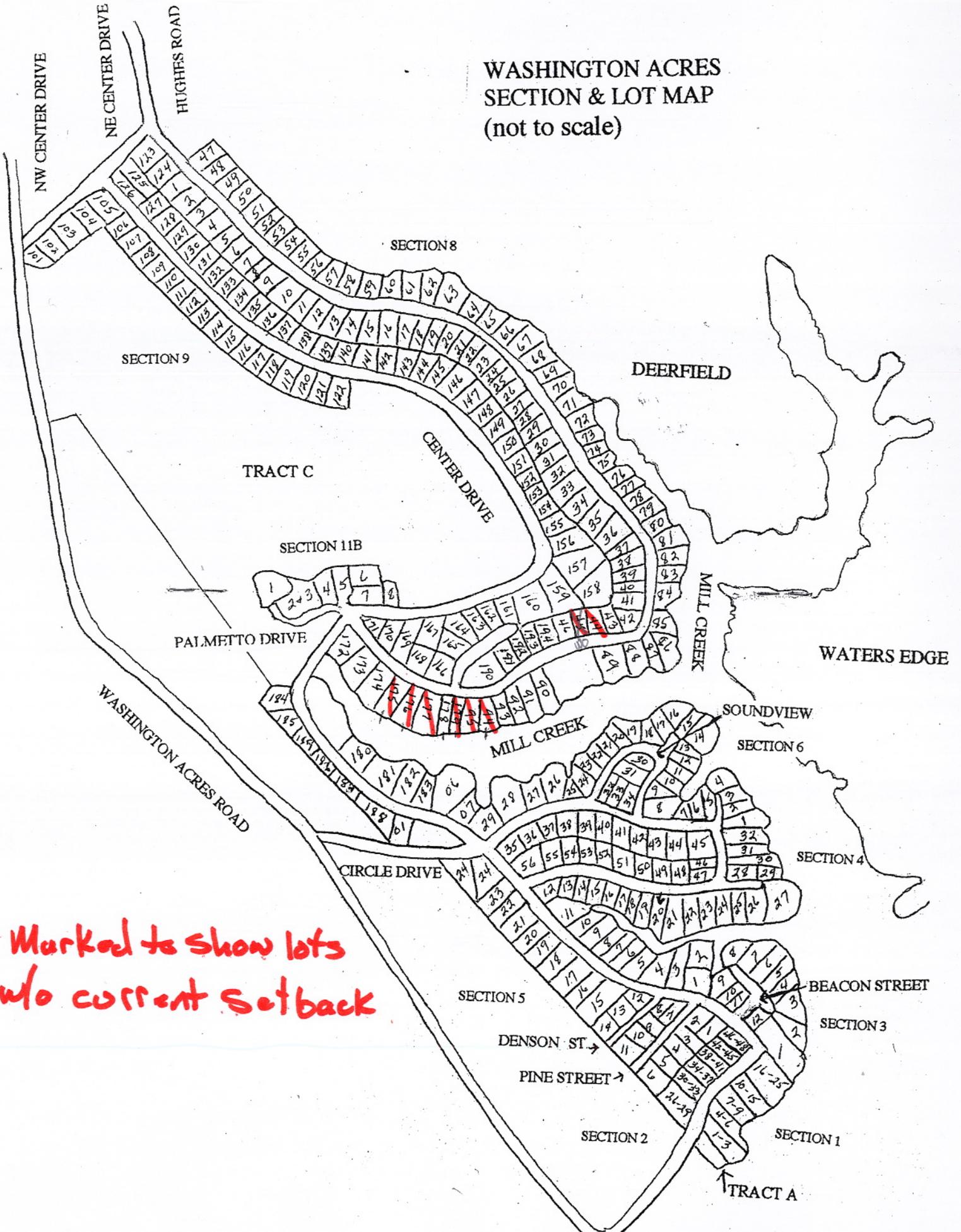
SURVEYED FEBRUARY 24, 2010
PLOT PLAN DRAWN APRIL 1, 2010





40'

WASHINGTON ACRES
SECTION & LOT MAP
(not to scale)



Marked to show lots
w/o current setback

6

PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



APPLICATIONS COVER SHEET

Date Application Filed: 4/22/10

I. REQUIRED NAMES:

Applicant <u>Aligail Lagunas</u>	Owner <u>Same</u>
Address <u>60 Faithful Lane</u>	Address <u>Same</u>
<u>Burgaw, NC 28425</u>	
Phone <u>231-1255</u> Fax _____	Phone _____ Fax _____
Email _____	Email _____
Legal Relationship of Applicant to Property Owner: <u>Self</u>	
Consultant Name/Company <u>N/A</u>	
Address _____	
Phone _____	Fax _____
Email _____	

II. AFFIDAVIT REGARDING OWNER - APPLICANT RELATIONSHIP:

I _____ (owner) and _____ (applicant) hereby affirm that an appropriate contractual relationship permitted by the appropriate NC State Codes exists between said Owner and Applicant. Owner and Applicant also affirm that if the owner requests that the application be terminated, staff will comply with Owner's request.

Aligail Lagunas
(Signature of Applicant)

(Signature of Owner)

III. TYPE OF APPLICATION:

(Please check one)

Board of Adjustment:

- Variance
- Appeal

Zoning:

- Text Amendment
- Map Amendment
- Home Occupation
- Special Use Permit
- Vested Rights Determination

Plans:

- Planned Development Master Plan
- Subdivision Preliminary Plat
- Final Plat

PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



FEE SCHEDULE

Board of Adjustment:	Applicable Fees:	Fee Calculation:
Variance	\$250.00	\$ 250.00
Appeal	\$250.00	
Zoning:		
Zoning Determination Letter	\$15.00	
Text Amendment	\$250.00	
Map Amendment	\$500.00 for first 5 acres; \$10/acre thereafter up to 1,000 acres; \$5/acre thereafter	
Vested Rights Determination	\$250.00	
Home Occupation	\$25.00	
Special Use Permit	\$300.00 & \$10.00 per acre over 5 acres; max of \$5,000.00	
SUP, Part of AEC	\$300.00 & \$10.00 per acre over 5 acres	
SUP, Tower over 75 ft.	\$500.00	
SUP, Mining Borrow Pit	\$750.00 & \$10.00 per acre over 5 acres	
SUP, Mining other	\$1,000.00 plus \$5.00 per acre	
Plans:		
Planned Development Master Plan	\$500.00 plus \$10/acre for the first 100 acres; \$5/acre thereafter	
Preliminary Plat	\$500.00 & \$10/lot/residential unit for the first 100 lots/units; \$5 per lot/unit thereafter	
Final Plat	\$250.00 & \$10/lot/residential unit for the first 100 lots/units; \$5/lot/unit thereafter	
Total Fees Due:		

Attachments Included with Application:
(Please include # of copies)

___ CD ___ Plan Sets ___ Other Documents/Reports

Method of Payment: Cash \$150.00 on 4/22/10
 Credit Card, We accept VISA ___ and MasterCard ___ only.
 Check, Ck. # ()

For Office Use Only:

Receipt # 1001dole

Received By: Jaki Pace

Date: 4/22/10

PLANNING AND COMMUNITY DEVELOPMENT

PLANNING • CODE ENFORCEMENT • BUILDING INSPECTIONS • CENTRAL PERMITTING



VARIANCE APPLICATION

Date April 22, 10 Application No. VA 10-05-20-02
 Application Fee \$ 250.00 Receipt No. _____

I. PROPERTY INFORMATION:
 Record #: _____ Lot #: _____
 Tax Map #: 2279-23-4425-0000 Zoning District: R20
 Property Location: 60 Faithful Lane
 Describe Variance & Reason for Request:

II. REQUIRED NAMES:
 Applicant Abigail Logunas Owner Same as Applicant
 Address 60 Faithful Lane Address _____
Burgaw, NC 28425
 Phone 231-1255 Fax _____ Phone _____ Fax _____
 Email _____ Email _____
 Legal Relationship of Applicant to Property Owner: Self Person Authorized to Act for Applicant:

III. SIGNATURE OF OWNER & APPLICANT:
Abigail Logunas
 (If owner is different from applicant, both signatures are required)

The information below must be received a minimum of thirty (30) days prior to the scheduled Board of Adjustment meeting date in which you wish your case to be presented.

Application Fee

A self addressed business envelope for each adjacent property owner and an additional envelope for each owner and agent.

_____ Fifteen scaled maps, no smaller than 8 ½" x 11" at a readable scale, clearly showing the following:

- Property Location
- Existing Buildings
- Building Separation Distances
- Acreage
- Dimensions of Property
- Proposed Buildings
- Proposed Building Height*
- Building Distances from Property Lines (front, side, rear)
- Location of well and septic system
- Additional Info Pertinent to the variance request (Pictures, Septic Tank Permits, etc)

April 22, 2010

Pender Planning & Comm. Development
805 S. Walker Street
Burgaw, NC 28425

To Whom It May Concern:

In September 2009, my home at 60 Faithful Lane was destroyed by fire. Since that time, my family and I have been living with my sister until the insurance company settled my claim. I began the process to replace my home January 2010. Once I received a building permit, construction started on the replacement home immediately. When the building inspector went to verify my setbacks, the inspector was unable to verify the setbacks (too close to property lines). I am requesting permission to place the structure on the lot as located on the property; the home is larger than what I expected and does not meet the proper distances from both sideyard setbacks.

Any assistance you can help me with will be greatly appreciated. I am thankful that I had my sister to live with, but I am ready to move my family and I back to our home.

Sincerely,

A handwritten signature in cursive script that reads "Abigail Lagunas".

Abigail Lagunas

PLANNING STAFF REPORT
Variance Request

SUMMARY:

Hearing Date: May 20, 2010

Applicant: Abigail Lagunas

Property Owner: Same

Application Number: VA 10-05-20-03 Lagunas

Property Location and Description: The property is located at 60 Faithful Lane Burgaw, North Carolina. The property contains approximately .896 acres and is identified as PIN # 2279-23-4425-0000.

Zoning District of Property: The property is zoned R-20, Residential District.

Variance Requested: The applicant is requesting an 8'.4" and a 2'.7" side line setback variance from required twenty (20) foot side line setback as prescribed in the Pender County Zoning Ordinance, §8.10, Schedule of District Requirements.

BACKGROUND AND DESCRIPTION OF VARIANCE:

The applicant is requesting an 8'.4" and a 2'.7" side line setback variance from required twenty (20) foot side line setback as prescribed in the Pender County Zoning Ordinance, §8.10, Schedule of District Requirements.

The applicant's home was destroyed by fire in September 2009 (see applicant's letter). On January 19, 2010, a Zoning Determination was issued for double wide manufactured replacement home to be located in the footprint of the previously structure. On April 20, 2010 a General Construction Permit was issued and the initial zoning permit was amended to state the new structure would be a relocated conventional dwelling. Upon inspection April 21, 2010 the house was found to be encroaching on both the side yard. A survey provided by the applicant confirmed the house is located at 11'.6" and 17'.3" feet, and does not meet the required 20 foot sideline setbacks.

Inspections and Permitting

Ms. Lagunas' zoning determination was issued based on the replacement of a single family dwelling that was destroyed by fire; the replacement home was to be a 50 x 60 double wide manufactured home. The notes in her permit indicated that several corrections were made because of misinterpretation of the type of structure as well as size in which Ms. Lagunas was being permitted. Once the proper notes were corrected, the outcome was the placement of a relocated house in the footprint of a double wide manufactured home that was destroyed by fire. Scott Henry, Pender County Building Inspector, was scheduled a setback verification inspection for the home located at 60 Faithful Lane. Mr. Henry could not pass the verification of setbacks as the structure was encroaching on the minimum yard requirements. Ralph Kays (Pender County Code Enforcement Officer) and Jaki Pace (Senior Permit Technician) visited the property to determine if setbacks could be verified. Upon arrival to Ms. Lagunas property it was discovered that the relocated house was actually larger than what was permitted.

ZONING ADMINSTRATOR'S CONCLUSION:

The applicant is requesting a 8'.4" foot and a 2'.7" foot side line setback variance from required twenty (20) foot side line setback as prescribed in the Pender County Zoning Ordinance §8.10 Schedule of District Requirements.

APPLICABLE ZONING ORDINANCE PROVISIONS:**2.79 Variance**

A variance is a relaxation of the terms of the Zoning Ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of a structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by a variance, nor shall a variance be granted because of the presence of non-conformities in the zoning district or uses in an adjoining zoning district.

12.4 Extension or Enlargement of Nonconforming Situations

H. A structure that is nonconforming in any respect or a structure that is used in a nonconforming manner may be reconstructed or replaced if partially or totally destroyed, by accident or other act beyond the control of the owner subject to the following restrictions:

- 1) A letter of intent is received by the Building Inspector within one (1) year from the time of such destruction.
- 2) A building permit is obtained from the Building Inspector within one (1) year from the time the damage or destruction took place.
- 3) The total amount of space devoted to a nonconforming use may not be increased, except that a larger, single family residential structure may be constructed in place of a smaller one and a larger mobile home intended for residential use may replace a smaller one.
- 4) The reconstructed building may not be more nonconforming with respect to dimensional restrictions such as yard requirements, height limitations or density requirements, and such dimensional nonconformities must be eliminated if that can reasonably be accomplished without unduly burdening the reconstruction process or limiting the right to continue the nonconforming use of such building.

6.4 Powers and Duties of the Board of Adjustment**B. Variances**

To authorize upon appeal in specific areas variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in undue hardship, so that the spirit of this ordinance shall be observed and substantial justice done.

A public hearing shall be heard at which the following conditions are found to exist:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district.
- (2) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the zoning district in which the property is located.
- (3) A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the zoning district in which the property is located.
- (4) The requested variance will be in harmony with the purposes and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
- (5) The special circumstances are not the result of the actions of the applicant.
- (6) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

In considering all proposed variances from this ordinance the Board shall, before making any finding in a specified case, first determine that the proposed variance will not constitute any change in the zone shown on the zoning map and will not impair an adequate supply of light and air to adjacent property, or materially increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, morals, and general welfare.

In granting a variance the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use, as it may deem advisable in furtherance of the purposes of this ordinance. Violation of such conditions and safeguards when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Section 4 of this ordinance.

Board of Adjustment

Board Action for _____, 2010

Minutes:

Motion: _____ **Seconded:** _____

Approved: _____ **Denied:** _____ **Unanimous:** _____

Kane ___ **Thompson** ___ **Loughlin** ___ **Luther** ___ **Pullen** ___ **Ferrante** ___



Owner & Applicant
Abigail Lagunas

VA 10-05-20-03
Lagunas

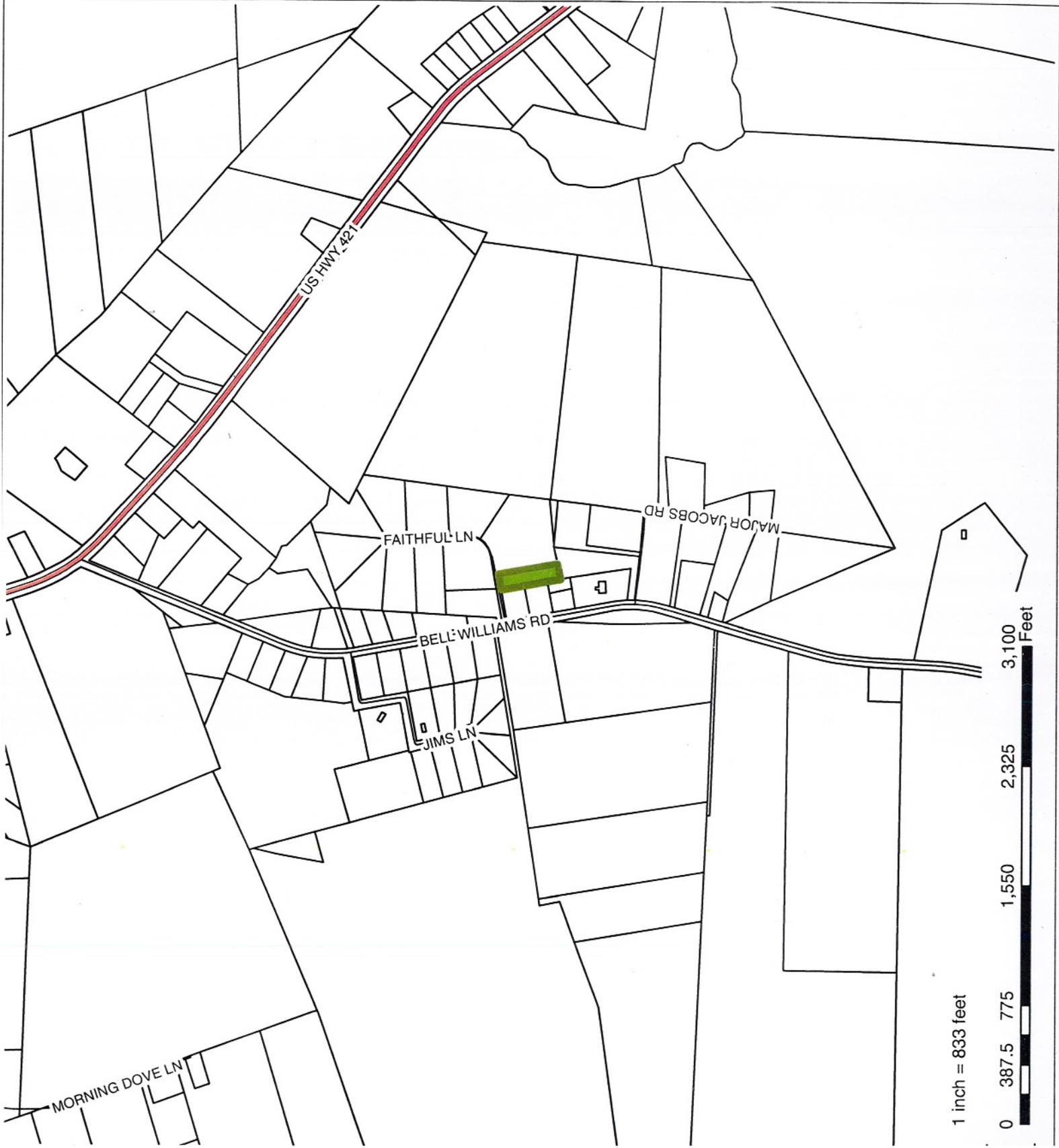
Side Yard Setback

Legend

 Subject Property



VICINITY MAP

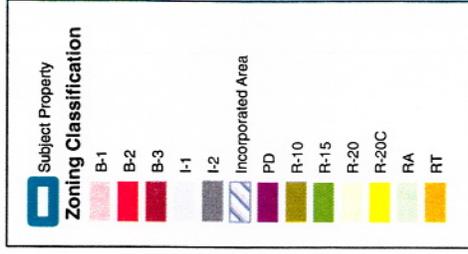




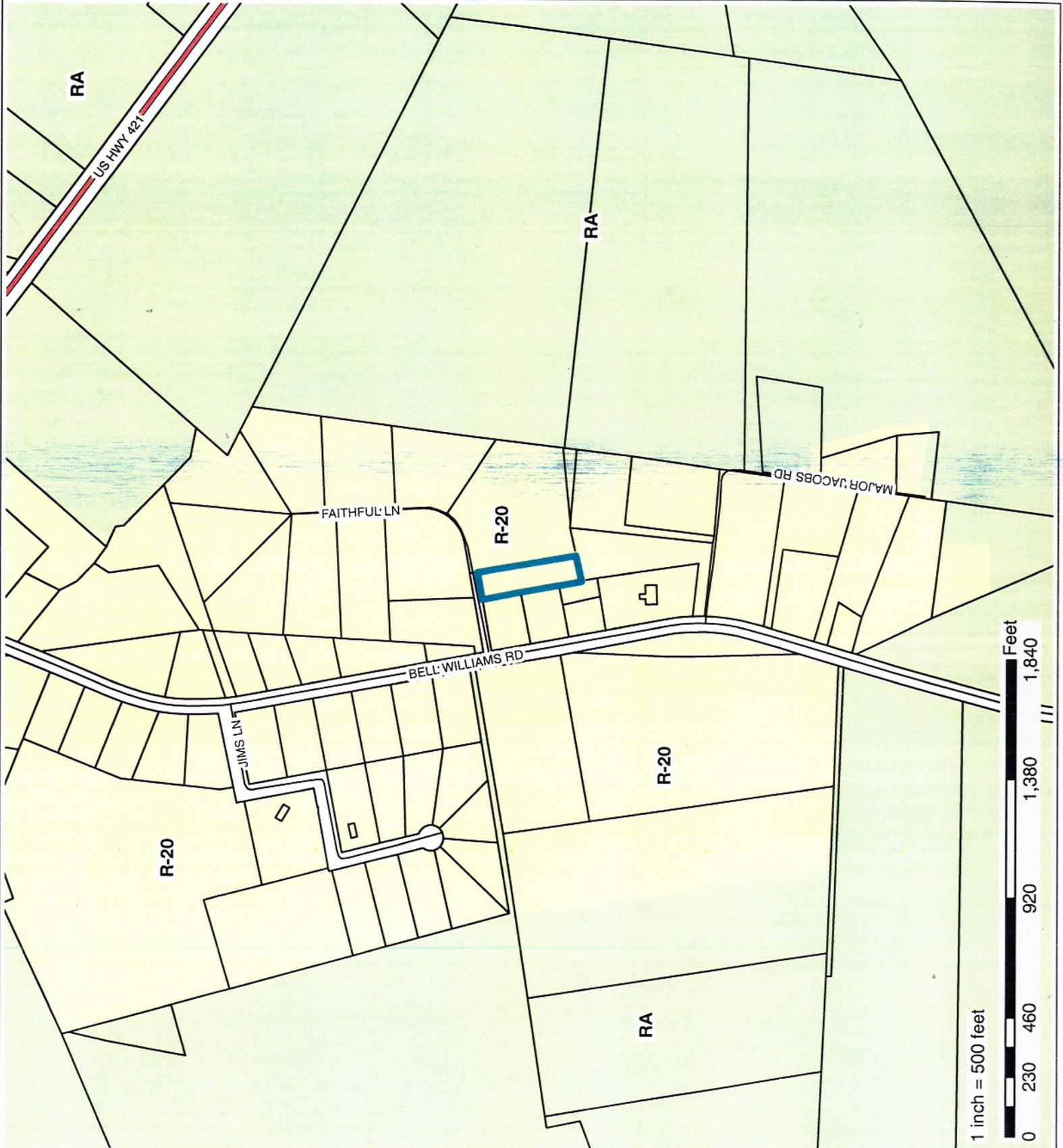
Owner & Applicant
Abigail Lagunas

VA 10-05-20-03
Lagunas

Side Yard Setback



ZONING MAP





Owner & Applicant
Abigail Lagunas

VA 10-05-20-03
Lagunas

Side Yard Setback

Legend

 Subject Property

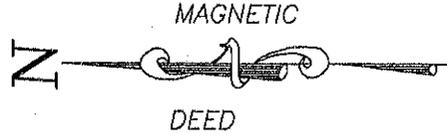
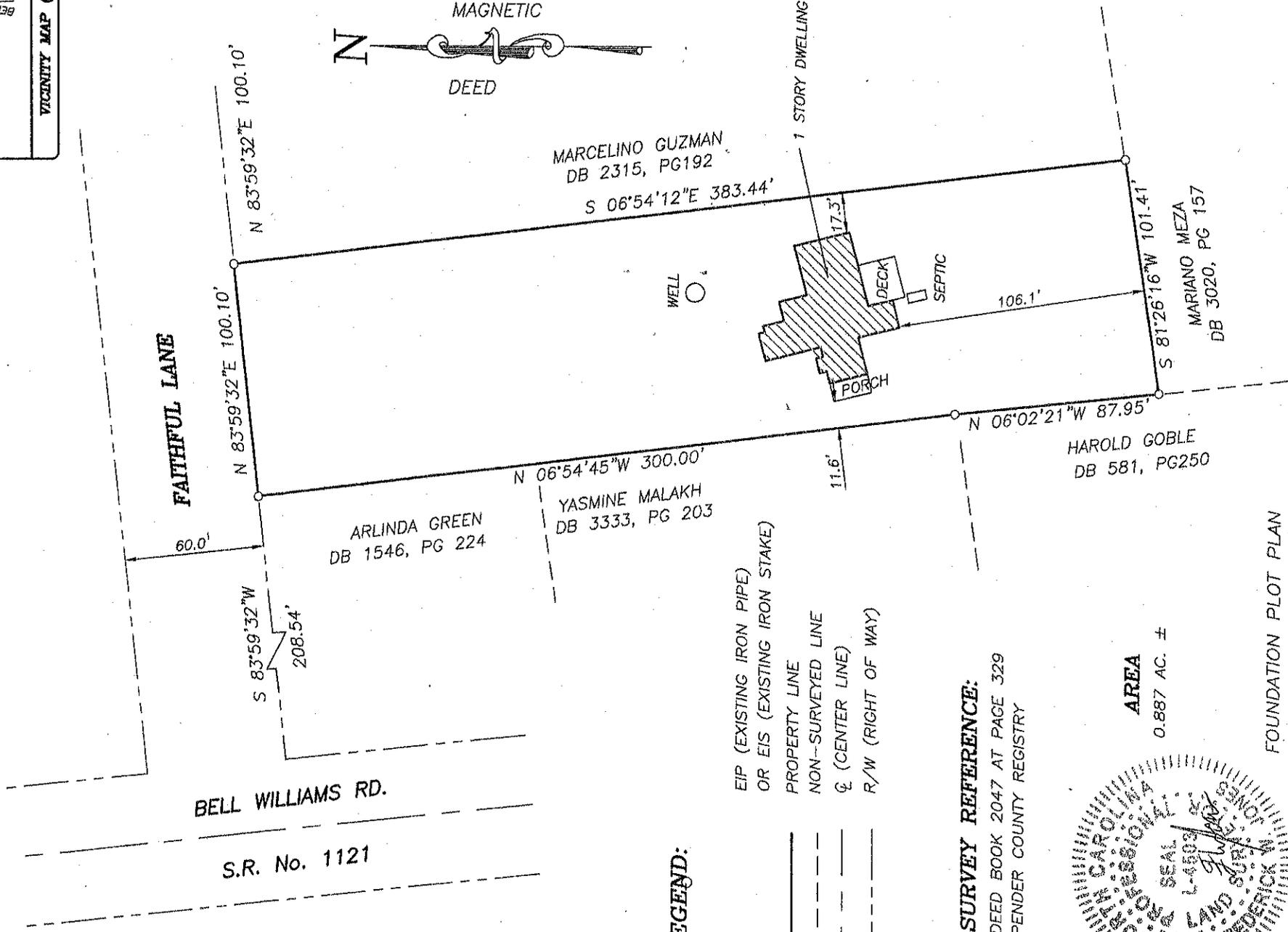
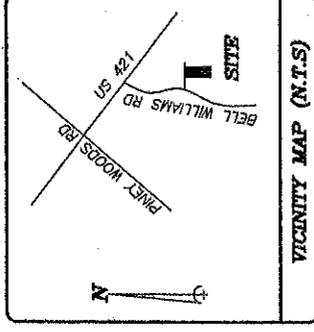


Aerial Map



NOTES:

1. CORNERS ARE MARKED AS NOTED ON MAP
2. ALL DISTANCES ARE HORIZONTAL FIELD MEASUREMENTS.
3. AREA COMPUTED BY THE COORDINATE METHOD.
4. THIS PROPERTY IS ZONED R20.
5. THIS PROPERTY DOES NOT LIE WITHIN A FLOOD HAZARDOUS AREA.
6. NO KNOWN HORIZONTAL CONTROL WITHIN 2,000'.
7. BUILDING SETBACKS REQUIRED TO BE IN ACCORD WITH THE PENDER COUNTY ZONING ORDINANCE. (FRONT 35' // REAR 25' // SIDE 20')

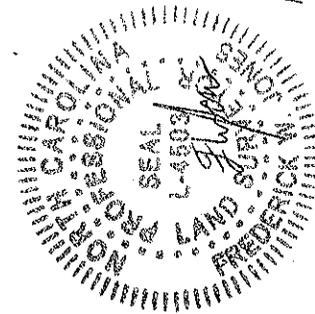


LEGEND:

- EIP (EXISTING IRON PIPE)
OR EIS (EXISTING IRON STAKE)
- PROPERTY LINE
- NON-SURVEYED LINE
- ⊕ (CENTER LINE)
- - - R/W (RIGHT OF WAY)

SURVEY REFERENCE:

DEED BOOK 2047 AT PAGE 329
PENDER COUNTY REGISTRY



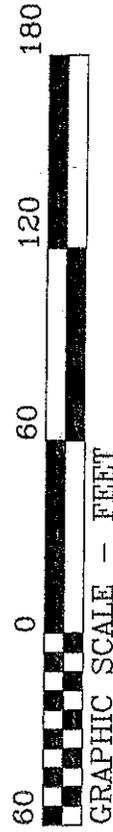
AREA
0.887 AC. ±

FOUNDATION PLOT PLAN
FOR

ABIGAIL LAGUNAS

60 FAITHFUL LANE
BURGAW NC 28425

COLUMBIA TOWNSHIP — PENDER COUNTY — NORTH CAROLINA
SCALE: 1" = 60' APRIL 2010



F.W. JONES
Surveying Company
P.O. Box 1471
111 East Fremont Street
Burgaw, NC 28425
Ph: (910) 259-2954
Fx: (910) 259-9040
Em: jonesurveying@bellsouth.net
File:
Dwg. No.: PG 6 ABIGAIL LAGUNAS