



PLANNING *and* INSPECTIONS

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AGENDA
ORANGE COUNTY BOARD OF ADJUSTMENT (BOA)

WHITTED BUILDING
300 WEST TRYON STREET
HILLSBOROUGH, NC 27278

Wednesday, August 13, 2025
7:00 p.m.

- 1. CALL TO ORDER**

- 2. CONSIDERATION OF ADDITIONS TO AGENDA**

- 3. APPROVAL OF MINUTES**
June 11, 2025 Meeting Minutes

- 4. PUBLIC CHARGE**

The Board of Adjustment pledges to the citizens of Orange County its respect. The Board asks its citizens to conduct themselves in a respectful, courteous manner, both with the Board and with fellow citizens. At any time should any member of the Board or any citizen fail to observe this public charge, the Chair will ask the offending person to leave the meeting until that individual regains personal control. Should decorum fail to be restored, the Chair will recess the meeting until such time that a genuine commitment to this public charge is observed. All electronic devices such as cell phones, pagers, and computers should please be turned off or set to silent/vibrate.

The Board of Adjustment is a quasi-judicial administrative body established in accordance with the provisions of local regulations and State law to perform specified functions essential to the County's planning program. Action(s) taken by the board are based solely on competent, substantial, and material evidence presented during a previously scheduled and advertised public hearing on a specific item. As detailed within Section 2.12.2 of the UDO the Board chair reserves the right to exclude evidence and testimony that is deemed: 'incompetent, irrelevant, immaterial, or unduly repetitious' and therefore fails to reasonably address the issues before the Board of Adjustment. While it should be noted there is no time limit on the presentation of evidence, the Chair asks that the presentation of evidence be consistent with established policies, rules of procedure, and acceptable levels of decorum to ensure a fair and equitable hearing for all parties.

5. POTENTIAL BOA CONFLICT OF INTEREST STATEMENT

It is the duty of every Board member to avoid both conflicts of interest and appearances of conflict. Board members having any conflicts of interest or appearances of conflict with respect to matters before the Board should identify the conflict or appearance of conflict and refrain from undue participation in the matter involved.

As a reminder, NC General Statute § 160D-109 establishes the following standard: A member of any board exercising quasi-judicial functions pursuant to this Chapter shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected person's constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.

6. CASES

A-4-25 - To review and hold a quasi-judicial hearing for a Variance request (Case Number BA25-0002).

Request has been submitted by property owners James and Tammy McHale. The applicants have applied for a Variance to allow for a 30' front building setback (a 10' reduction in the required 40') from the Eno Cemetery Road right-of-way. The 0.47-acre site is located on Orange County PIN 9857-65-5080, an unaddressed parcel off Eno Cemetery Road, Cedar Grove NC, 27231, and is located within the Cedar Grove Township of Orange County.

7. ADJOURNMENT

MINUTES
BOARD OF ADJUSTMENT
REGULAR MEETING
June 11, 2025

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MEMBERS PRESENT: Leon Meyers, Chair
Beth Bronson, Vice Chair
Jeff Scott, Member
Nathan Robinson, Member
Greg Niemiroski, Member

MEMBERS EXCUSED: Kyle Myers, Alternate

APPLICANTS: Vishwanath Patil
Vinitha Cardoza

PUBLIC: Steve Staten
Michael Hugelmeier
Laura Lloyd
Carl Lloyd
Bill Weidner
Leslie Weidner
Abhilauh Sivadas
Tamera Staten
Mark Kinsley
Bjorn Nordwalk
Ed Backmahn

STAFF PRESENT: Cy Stober, Director, Planning and Inspections
Patrick Mallett, Deputy Director, Development Services
Taylor Perschau, Manager, Current Planning and Zoning
Jack Moran, Planner I
Hathir Pfau, Permit Development Technician
James Bryan, Staff Attorney

AGENDA ITEM 1: CALL TO ORDER

Leon Meyers called the meeting to order at 7:05 PM

AGENDA ITEM 2: CONSIDERATION OF ADDITIONS TO AGENDA

Leon Meyers: Okay, folks, I'm going to go ahead and call the meeting to order. Pat, Taylor any changes to the agenda?

Patrick Mallett: No changes.

AGENDA ITEM 3: APPROVAL OF MINUTES

Leon Meyers: No changes. Then, we have minutes that need approval. Board members, any questions or corrections on the minutes? If not, a motion to approve would be in order.

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Jeff Scott: I make a motion that we approve the meetings from December 11, 2024.

Leon Meyers: Motion from Jeff. Do I hear a second?

Nathan Robinson: Second.

Leon Meyers: All right. All in favor please say aye.

MOTION was made by Jeff Scott. Seconded by Nathan Robinson.

VOTE: Unanimous. All in favor.

Leon Meyers: The December 11th meeting minutes are approved.

AGENDA ITEM 4: PUBLIC CHARGE

AGENDA ITEM 5: Potential BOA Conflict of Interest Statement

Leon Meyers: Folks if you'll bear with me, I'm going to read the public charge here. The Board of Adjustment pledges to the citizens of Orange County its respect. I'm sorry?

Audience: We can't hear you.

Leon Meyers: Can't hear me. Okay. The board asks its citizens to conduct themselves in a respectful courteous manner, both with the board and with fellow citizens. At any time should any member of the board or any citizen fail to observe the public charge, I'll ask the offending person to leave the meeting until that individual regains personal control. Should decorum failed to be restored, we'll recess the meeting until a time when a genuine commitment to this public charge can be observed. Now is a good time to turn off devices if you haven't done so already. The Board of Adjustment is a quasi-judicial administrative body established in accordance with local regulations, the UDO and state law to perform specified functions essential to the county's planning program including issuing and modifying special use permits, which is the subject of this evening's hearing. Actions taken by the board or based solely on competence, substantial, and material evidence presented during a previously scheduled and advertised public hearing on a specific item. As detailed within Section 2.12.2 of the UDO. The board reserves the right to exclude evidence and testimony that is deemed incompetent, irrelevant, immaterial, or unduly repetitious and therefore, fails to reasonably address the issues before the Board of Adjustment. While it should be noted that there's no time limit on the presentation of evidence, I will ask that the presentation of evidence be consistent with established polices and just ask if folks be as brief as possible. Regarding potential conflicts of interests, it's the duty of every board member to avoid both conflict of interest and appearances of conflicts. Board members having any conflicts of interest or appearances of conflict related to the matters before the board should identify the conflict or appearance of conflict and refrain from participation in the hearing. As a reminder, General Statute 160D109 establishes this standard. A member of any board exercising quasi-judicial functions pursuant to this chapter, shall not participate in or vote on any quasi-judicial manner, matter in a manner that would violate affected persons constitutional rights to any partial decision maker. And permissible violations or due process include but are not limited to a member having a fixed opinion prior to the hearing undisclosed ex parte communications, a close familial business or other associational relationship

1 with the affected person or a financial interest in the outcome of the matter. Are there any board
2 members who need to announce a conflict or an appearance of a conflict?

3 Beth Bronson: No.

4
5 Leon Meyers: Good. Thank you. Then, Pat, A-3-25.

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7 **AGENDA ITEM 6: CASE: A-3-25 – To review Special Use Permit Modification (Case Number SUP25-0002)**

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9 **Modification request to an approved Site Plan associated with an approved Recreational
10 Facility Special Use Permit (SUP) (Case A-4-20). Request submitted by Vishwanath A Patil
11 and Vinitha J Cardoza. The request includes proposed changes to the conditions regarding
12 seasonal play in the original SUP and a site plan revision proposing the addition of accessory
13 structures for maintenance and on-site service facilities. All other aspects of the original SUP
14 remain in place. The site is located at Orange County PIN: 9758-52-5171, along Old
15 Greensboro Road and Holly Creek Lane.**

16
17 Patrick Mallett: Before we begin, I'm bringing up a map that shows all the people that want to speak or want to be
18 considered to have a legal standing, the numbers as we previously done, the numbers correspond
19 to the names on the list. I'll leave it to your discretion, Chair, how you want to handle that.

20
21 Leon Meyers: All right.

22
23 Patrick Mallett: But we'll handle with the legal standing.

24
25 Leon Meyers: All right.

26
27 Patrick Mallett: Remember to swear in anyone that will speak and then we open the evidentiary hearing properly.

28
29 Leon Meyers: Okay. It sounds like the list; we have 11 people.

30
31 Patrick Mallett: Including two property owners. Yes.

32
33 Leon Meyers: Let's see, maybe, we have a number of people signed up to speak here, and it probably make
34 sense to handle the standing matter at the beginning so that we can swear in the appropriate
35 people.

36
37 Patrick Mallett: That's right.

38
39 Leon Meyers: For folks who haven't participated in an Orange County Board of Adjustment meeting, the board
40 accepts evidence and testimonies from parties who are standing. So, in order to speak at the
41 hearing, you will need to establish standing as a preliminary matter before the hearing begins. So,
42 I'll go ahead and call the folks who are signed up to speak, Mr. Patel and Ms. Cardoza. You folks
43 are the owners of the property and the applicant and, so you have standing by virtue of those facts.
44 So, there will be a need a need for the board to consider your standing. Then, I'm just going to go
45 ahead call all of these names to be sure we have the right folks who intend to speak. Steve, is it
46 Staten? All right. Please some forward, Mr. Staten. And what we're dealing with now is
47 establishing standing for you as a witness. So, we would need to hear, the board would need to
48 hear from you about how you believe you have standing as a participant in the hearing.

- 1 Steve Staten: Okay. Sure. Thank you. Steve Staten. I've lived on Holy Creek Lane for 5 years this coming
2 September. We're two properties away from the field. And even before I go any further, I want to
3 say this is not a personal thing. My background is engineering, 25 years in ministry and I'm a crisis
4 and conflict management specialist currently. And so, we want to, you know, I want to introduce
5 this from the standpoint that my standing but also, I think some people here want me to represent
6 some of the concerns that they, others might have that I don't necessarily have but I do have my
7 own. So, that's just, did I do that okay?
8
- 9 Leon Meyers: That's absolutely fine. And if you would for the moment just keep your comments addressed
10 directly toward how you believe, in this case it would be special damages. You would need to
11 show what competent material and substantial evidence that you would have special damages if
12 the case were approved.
13
- 14 Steve Staten: Okay. So, my understanding that when we came to our property that what was happening there
15 on the corner was going to be a friendly sports event for those connected to cricket. And this
16 seems like it evolved into something else that could definitely affect our property value. We have
17 had contact with some somebody from Coldwell, a banker, a vantage broker that estimated, you
18 know, we could have a 10 to 15 percent decrease property of our value of this, the presence of
19 being anticipated building an 1800-foot structure, a 2000-foot structure, other potential structures
20 on the property, it becomes something different than what we call saw 5 years ago. And it seems
21 like it's moving quickly. The season for playing has extended by a month. It's affected the noise
22 level for those who are much closer to the property. There are questions about the septic and
23 toilet systems that would be needed to support this expansion and the repercussions of that. We
24 don't know. This is coming so fast on us so we would need to do some investigation on the
25 implications on that. The –
26
- 27 Leon Meyers: Mr. Staten, do you believe that you have special expertise in property value or noise?
28
- 29 Steve Staten: I do not. Yes. That's why we're asking people in the real estate world. Yesterday I talked to a real
30 estate guy with a, you know, he's also an attorney, a lawyer, and he said we have a good case for
31 concern. He's going to advise me after tonight what we should do based on how things go. So,
32 we're deferring to specialist; I am not one.
33
- 34 Leon Meyers: Then unless you can demonstrate that you would have special damages if the case were
35 approved, I am afraid the board probably would not be able to approve standing for you as a
36 witness.
37
- 38 Steve Staten: So, being that this came to us so quickly without the time to prepare or to even see if there is the
39 support in our neighborhood to get attorneys and so forth, to me that seems, Mr. Myers, that, like,
40 well, you don't want to hear from us unless we've cocked our gun and we're ready for a fight, and I
41 don't want to be ready for a fight. I'm a witness from the standpoint, I live in the neighborhood, and
42 I see this expansion going on. And we could leverage specialists to say, "Hey, here is the facts
43 based on other situations, I'm following the Maple View situation kind of closely." But does our
44 voice matter as a resident seeing something that's kind of startling happening in our
45 neighborhood?
46
- 47 Leon Meyers: Your voice absolutely matters. Everybody's voice matters. In the Board of Adjustment's setting,
48 the board's policy is to hear from witnesses with standing.
49

- 1 Steve Staten: Okay. And could you specify more specifically what that means for the rest of us that are here?
2 What was standing mean again?
3
- 4 Leon Meyers: There are four ways and I'm going to ask the attorney to help me with this, but there are essentially
5 four ways for a witness to establish standing as a party to the case. One is being the applicant or
6 the owner of the property or a licensee of the property or otherwise with a legal relationship to the
7 property. Another is standing as a representative of a homeowner's association that was
8 established before the hearing and as a spokesman of association as long as that person is a party
9 with potential special damages. And, James, I'm going to ask you to fill in the other two potentials
10 for standings and help us with special damages, please.
11
- 12 James Bryan: Yeah. No, that was great, very impressed. So, the other one is the local government, so Orange
13 County, and then the last one is anybody with special damages. This comes from Chapter 160-D
14 of the North Carolina General Statutes, Section 1402 Subsection C. And special damages, of
15 course, as you all know case dependent. It could be anything from noise to fire to light to odor,
16 anything that would impact another property. Proximity can be a factor but alone is insufficient to
17 establish special damages.
18
- 19 Steve Staten: Thank you. So, on the second one, a representative of a homeowner's association. Is that what
20 you said?
21
- 22 Leon Meyers: It is an association established before the case was filed.
23
- 24 Steve Staten: Okay. So, let me ask you this, this is more of an organic place that I have fulfilled that role in our
25 neighborhood. Everybody here would agree to that. We needed to spend a good deal of money
26 on our road. We have a gravel road. I ran point for that with our neighborhood and we have like
27 14 different properties on our road, and I facilitated a lot of emails but also at least one meeting
28 with her. And in fact, the meeting went very, very well, very successful. So, do I qualify in that
29 sense?
30
- 31 Leon Meyers: It would need to be a homeowners association established before the case was filed and you
32 would need to be the designated spokesperson for that homeowner's association, and you would
33 also, I believe, need to establish special damages for yourself. Is there a homeowner's
34 association?
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- 36 Bill Weidner: It's an association but it's not an incorporated homeowner's association.
37
- 38 Steve Staten: We didn't use the language you're using but I was the guy, you know.
39
- 40 Leon Meyers: Maybe I should ask the board about Mr. Staten's standing.
41
- 42 Nathan Robinson: I'm reading, according to this it says, an incorporated and unincorporated association. So, who
43 has been cooperated to protect, is being organized to protect and foster the interest in a particular
44 neighborhood. So, it sounds like that you are not incorporated but it sounds like you existed for the
45 purpose of protecting and fostering in the interest of a particular neighborhood. And if I'm reading
46 that, am I reading it accurately?
47
- 48 James Bryan: So, you are only reading part of it. The last clause of that is that is the association was not created
49 a response to the particular development or issue that was the subject of appeal. And I think that
50 was what Leon's point was.

- 1
2 Steve Staten: Okay. So, then we've made it on two levels.
3
- 4 James Bryan: However, if I may speak to the court, the key part to this is they still have to, the association, one
5 member of the association must still have standing by themselves. What this section of the statute
6 is for is to get around the unauthorized practice of law. So, anybody up here that's representing
7 somebody else, has to be a licensed attorney in North Carolina. To do otherwise if the
8 unauthorized practice of law. This gets around that and allows neighbors to speak on behalf of
9 somebody else if they've got the HOA where one person has got standing. So, they'll speak for
10 multiple people on that.
11
- 12 Leon Meyers: Let me just mention, the Board of Adjustment is a bit different from other public boards, for
13 example, Board of County Commissioners or Planning Board, in that there are special set of rules
14 that makes Board of Adjustment operate in a little bit different manner. So, it is a public meeting,
15 but it is not a public forum and that's the purpose of the standing rules that we're trying to follow
16 here.
17
- 18 Steve Staten: Mr. Meyers, we definitely want to learn along the way from this whole experience and also thank
19 you, Mr. Bryan. We believe, I think I can say all of us believe that we have in fact meet the criteria.
20 We have a bank account, I'm listed on it, I'm the point person. We believe we're incorporated in
21 our own idea of what incorporation means, and we did not form to address the situation in the field.
22 We formed because of our road. And we've been running with that understanding with other things
23 in the neighborhood that are much less significant. So, when this came up it was like, sure, I got to
24 show up, I'm the guy. So, do I or do I not fulfill the role that you would be looking for?
25
- 26 Leon Meyers: The other piece of this qualification, for standing that James mentioned is that some person who is
27 a member of the homeowner's association would need to demonstrate that that person would
28 suffer special damages if the application were approved. And so, we're really kind of back to the
29 beginning here, asking you to show us competent, material, and substantial evidence that you as a
30 homeowner or another member of the homeowner's association would suffer some special
31 damage.
32
- 33 Steve Staten: Okay. So, thank you very much, Chair Meyers. So, if I'm not prepared to talk about that specific
34 piece so I want to see from our neighborhood who can come and speak maybe more
35 authoritatively. I want to ask you one last question. Do we have time after tonight to get this
36 information? Because this feels like a wave that just hit us very quickly with a sign posted on our
37 road a couple of weeks ago to get our ducks lined up. And we want to do that. We want to
38 comply; we want to play by the rules. There's no issues there, and we're not hostile. At least I can
39 speak that I'm not. I'm not angry at anybody here, but wow, is this coming fast without the ability to
40 queue up a really good fact-based argument that this could affect our property value significantly.
41 Do we have another opportunity?
42
- 43 Leon Meyers: The answer is that the board would normally make a decision on the application tonight. If you can
44 make a case, if a witness with standing can make a case that the hearing ought to be continued
45 then that's something the board might be willing to consider. Would you like to have a few minutes
46 to talk with your neighbors?
47
- 48 Tamera Staten: He's not saying compelling argument, he's saying you need a witness, an expert witness, an expert
49 in mortgage value, real estate values, and I think you need to ask for continuance.
50

- 1 Steve Staten: I feel the same way as Tamera answered.
2
- 3 Leon Meyers: I'm sorry, I didn't hear.
4
- 5 Steve Staten: She said we need time to get an expert witness to fulfill that responsibility, because without it,
6 okay, this is what it just feels like. Okay? I deal with conflict and crisis professionally, that's my
7 living. This feels like a wave just came at us without the ability to be prepared. The statement that
8 it makes as a newcomer to North Carolina is that somebody can make a move in a neighborhood
9 really, really quick, be really, really shrewd and there's nothing we can do about it if we didn't check
10 all the boxes in preparation. I mean, that's what it looks like. I'm not, this is not me, about you. I'm
11 not saying you're doing anything wrong. This is what it feels like in our neighborhood.
12
- 13 Leon Meyers: Understand. It sounds like, do you feel like you need to talk further with your neighbors in order to
14 make a decision about to move forward, Mr. Staten?
15
- 16 Steve Staten: 5 minutes? Okay. Great.
17
- 18 Leon Meyers: Certainly.
19
- 20 **BOARD OF ADJUSTMENT BREAKS FOR 5 MINUTES**
21
- 22 Leon Meyers: Folks, if you can, let's go ahead and get back to moving the hearing forward here. Mr. Staten, go
23 ahead.
24
- 25 Steve Staten: So, I have a question and then we're going to ask at least two people to step from the expertise
26 related question. So, what if the experience of a neighbor directly adjacent to the field has a
27 personal experience such as a golf ball coming from one of the two properties nearly hitting a
28 resident or their child or whatever. Can a personal experience of oh, this is not good, be counted
29 as expertise or does it have to be lawyers and real estate people and finance? What's an expert?
30
- 31 Leon Meyers: It goes back to demonstrating special damages, which is a term of art in the statute, but it has to be
32 substantiated by competent, material, and substantial evidence. So, if a neighbor saw a ball land
33 in his or her yard and consider that dangerous in some way then that's something the board would
34 hear in the process in determining standing for that witness.
35
- 36 Steve Staten: Okay. I'm not 100 percent sure how to navigate all that.
37
- 38 Leon Meyers: I understand. It's not obvious.
39
- 40 Steve Staten: I'm going to have two residents step up and introduce themselves that are in the real estate world
41 and are very competent in that space. We know that because one of them represented the
42 property owner that we just bought from. So, please hear from them. I believe they're going to
43 appeal for a continuation.
44
- 45 Leon Meyers: Okay. You state your name, please.
46
- 47 Michael Hugelmeyer: Good evening, everyone, my name is Michael Hugelmeyer. I work with Keller Williams Realty
48 in Chapel Hill. I have sold five properties on Holly Creek Lane and I'm also a resident. I am
49 requesting based on my expertise, not only in all of western Chapel Hill but also in the triangle that
50 you give us a continuation so we can formulate what it is that we can gather in order in order to

1 show sufficient evidence that this shouldn't take place.
2

3 Leon Meyers: Let me just mention what I learned from the staff, I didn't know, and it is that for a modification of a
4 special use permit, the UDO requires mailed letters to the properties within the notice area
5 between 10 and 25 days before the hearing. The notice for this hearing was mailed in that
6 window. And the difference between that and approval of a new special use permit is that a
7 neighborhood meeting is required. So, if this were a new special use permit, it did not have a
8 special use permit enforced on the same property, then there would have been a notice of
9 neighborhood meeting and a neighborhood meeting that would have occurred 45 days before
10 tonight's hearing. That's kind of the background around the timing for the notice tonight's meeting.
11 And I understand your request to continue the hearing and I'm happy to hear board members
12 opinions about that.
13

14 Nathan Robinson: I think we need to establish if he has standing before a request would be able to be received. Isn't
15 that true?
16

17 Leon Meyers: Well, that would be one of the interpretations, yeah. So, then the question, Mr. Hugelmeyer, is that
18 right?
19

20 Michael Hugelmeyer: Yes, sir.
21

22 Leon Meyers: It is how can you demonstrate that you as a property owner would suffer special damages if this
23 modification to the special use permit were approved.
24

25 Michael Hugelmeyer: So, here is my question, which really pertains more toward the statutes that you discussed, the
26 question that you just posed is a completely separate entity from my expertise, and my asking of a
27 continuation? They're apples and oranges. I can go ahead and tell you what I believe but what
28 you're looking for expertise and I need time to create that evidence with these people here. So,
29 what you're asking me, and the expertise are two different things.
30

31 Leon Meyers: What we would be looking for is competent, material, and substantial evidence that you would
32 suffer special damages in some way if the application were approved.
33

34 Michael Hugelmeyer: So, the disharmonious nature of what we have going on at the end of Holly Creek Lane
35 particularly with public bathrooms. If you're creating a situation where you're going to have permits
36 for sewage and the likes for public bathrooms, you're changing essentially the feel of what this
37 looks like. On a personal note, ever since he put the fence up, no one's been walking on our
38 private road there. I enjoy watching them. All the plantings that he's planted will cover that fence.
39 I feel like we're really in a great spot and there's been, as everyone has mentioned, there's been
40 no evidence that there was going to be any sort of change whatsoever. And even though it was
41 something we weren't crazy about; it took place, and it was going well. When you introduce
42 commercial style public bathrooms into this situation, it changes the feel of everything. That will
43 create a situation whereby we're essentially working our way towards a park, not a public park, this
44 is a private park. There's no trespassing. It does nothing for our property value. If you create a
45 park and it's public, then perhaps it would even go up, and I know that's some of what was
46 discussed previously. This is a no trespassing owners only situation if there is a public bathroom
47 on it, we're creating a park at the end of our road. And that has a significant effect on the potential
48 of what could take place.
49

50 Leon Meyers: I'm going to ask you to stay with the topic of special damages that you would suffer as a property

1 owner if the application were approved.

2
3 Michael Hugelmeyer: Financial damages. It would be financial for sure.

4
5 Michael Hugelmeyer: If you were to create public toilets at the end of block, yes, there would be, and I can show you
6 via evidence if you allow me time to do so.

7
8 Nathan Robinson: Do you have the professional capability and qualifications to be able to substantiate.

9
10 Michael Hugelmeyer: Yes.

11
12 Nathan Robinson: What is that professional qualification you have that would be able to substantiate.

13
14 Michael Hugelmeyer: I'm a broker – I'm sorry, please.

15
16 Nathan Robinson: Because a feel is different than quantifying damages. We're not allowed to receive people's
17 feelings.

18
19 Michael Hugelmeyer: Yes, sir, I understand.

20
21 Nathan Robinson: It's a quasi-judicial setting here and I understand that people don't want stuff for whatever reason,
22 but it has to be a qualified professional presentation that comes to us. Otherwise, it's just your feel.

23
24 Michael Hugelmeyer: Right. Forget about feel, I'm a broker in charge. I've been doing this a long time, 8 years. I
25 sold five to six properties on that road alone. I work all around western Chapel Hill. If you grant us
26 the continuance, I would be happy to show you the prowess of my expertise.

27
28 Beth Bronson: I think what we're asking here today is for you to substantiate that today. And so, by saying that
29 this is your profession, I completely understand where you're coming from but what evidence and
30 what kind of detail can you provide that would indicate the nature of any of the details in this
31 application having an impact on your house value. Right? So, what kind of market research or
32 what kind of work that's been done ahead of time that's in written form or evidentiary form that you
33 could present to us to say that you have standing or not? I think is what they're asking.

34
35 Michael Hugelmeyer: Yes, ma'am, I understand. And what I'm asking for is a continuation in order to provide that for
36 you so that we have a better argument.

37
38 Beth Bronson: Now, this something you guys brought to the planning department?

39
40 Michael Hugelmeyer: I'm sorry?

41
42 Beth Bronson: Is this something that you brought to the Department of Planning or to the applicant when you
43 became aware of this special use amendment?

44
45 Michael Hugelmeyer: I was aware when I saw the sign that was posted on our road just a couple weeks back. That's
46 all the information was given. We didn't receive anything mailed to us. Did anyone receive
47 anything in the mail? You did? Okay.

48
49 Leon Meyers: Sir, stay focused on the topic here, which is for the moment, Mr. Hugelmeyer, your standing. So, it
50 would be appropriate here for the board to make a decision about Mr. Hugelmeyer's standing.

- 1
2 Jeff Scott: Could I make, just ask one more question.
3
4 Leon Meyers: Please.
5
6 Jeff Scott: Between the Board and the County, when we see the letter that gets mailed to the neighbors
7 spelling out when the meeting is going to take place, there isn't any mention of establishing
8 standing in that letter. So, my question would be is that, there's mention of a meeting, it says come
9 to the meeting if you want to attend, but there is no mention of saying 2 weeks, you get 2 weeks to
10 kind of bring you back and that's what I'm concerned about like, we're not giving everybody a full
11 picture of what they can and can't do within 10 days or 25 days.
12
13 Leon Meyers: What's your thought, Pat, on that topic?
14
15 Patrick Mallett: So, in accordance with state law and our UDO, we give the proper notification requirements that
16 includes a letter. It states the date, time of the event and the general nature of the event. I have
17 met with two, three of the owners, adjacent owners that are here tonight. I did deliver a digital copy
18 and hard copy of the Statement of Standing material, went through that and explained, "This is
19 something you need to disseminate to the neighborhood." Now, whether that information got to
20 every person in this room, I don't know, but it's a bit of a slippery slope because that may or may
21 not be germane to all the people that are notified within 1,000 feet or they may not care, but point
22 taken, we're not required to do that.
23
24 Jeff Scott: Yeah, and I asked because I know we deal with this a lot, obviously.
25
26 Patrick Mallett: And to be honest, we're doing our best to formalize and codify that because of the discussions like
27 this but the bottom line is it's up to the board to establish that legal standing in accordance with
28 state law.
29
30 Michael Hugelmeyer: Ladies and gentlemen, can I just add one thing? This is, the gentlemen here just said it's within
31 1,000 feet, etc., this is a dead-end street, and it's happening at the beginning of the dead-end
32 street, so regardless of who is immediately affected, it affects everyone because everybody has to
33 drive down the road. This is a very important point. If we have the entire road here asking for a
34 continuation based on the fact, Jeff, that we were not sufficiently told, essentially, you need to have
35 all your ducks in a row in order to be here, I would hope based on what we have going on here it
36 would be appropriate to suggest at least a continuation is appropriate.
37
38 Leon Meyers: I just want to correct you by saying that Pat just testified, that the notice that the statute and the
39 UDO require did get sent in the time when the UDO and the statute were sent. Whether that's
40 good policy or not is another matter, but those are the rules that we're operating under for tonight's
41 hearing.
42
43 Michael Hugelmeyer: Based on rules that you're operating under if you see that they're good or not, maybe that
44 could have an influence as to whether there's at least a continuation for this evening.
45
46 Leon Meyers: Right.
47
48 Michael Hugelmeyer: Thank you.
49
50 Leon Meyers: The two topics here, I believe, Nathan, you were saying that Mr. Hugelmeyer's standing would be a

1 requirement before considering a continuation.
2

3 Nathan Robinson: Well, I'm looking at the doc, the short answer is yes but it's based on my understanding of the
4 statutory requirement for standing parties and new parties, they call witnesses and parties have to
5 have standing. So, if only a party who has standing can introduce documents and make a legal
6 argument and make a request, then one would have to have standing in order to have something
7 that we can react to from my understanding. Mr. Bryan, is this accurate?
8

9 Leon Meyers: If I understand you correctly, Mr. Hugelmeyer, you're really not asserting standing, you're
10 requesting that the board continue the hearing? Do I understand you correctly?
11

12 Michael Hugelmeyer: I have no problem with asserting standing in my expertise in real estate. I'm asking for a
13 continuation to allow us to get more information together.
14

15 Leon Meyers: Well, and you just heard Nathan said that your standing is a requirement in order to get to the
16 continuation.
17

18 Nathan Robinson: Is that accurate, Mr. Bryan?
19

20 Michael Hugelmeyer: So, then I'm most definitely asking for standing.
21

22 James Bryan: Yeah, only someone with standing can make requests of the board. The board; however, can
23 make motions on its own. So, for instance, parties can ask for subpoenas and the board can
24 subpoena themselves if they want.
25

26 Leon Meyers: So, is it correct to understand that the board could consider then a continuation without a witness
27 standing requesting a continuation?
28

29 James Bryan: Yes.
30

31 Nathan Robinson: We could do it unilaterally if we chose to do then?
32

33 James Bryan: Yeah.
34

35 Nathan Robinson: Okay.
36

37 James Bryan: I should warn that there is some nuanced difference because of the fair trial standards. You
38 wouldn't want to do it arbitrarily. You wouldn't want to do it capriciously for one person not against,
39 but if you would have some rational basis for it then that would be fine.
40

41 Leon Meyers: Okay. So, where we should go from here?
42

43 Beth Bronson: The rational basis to my opinion would be that the entirety of the neighborhood is feeling that they
44 are here to represent, and they have asked one gentleman to represent themselves. Official,
45 unofficial, this man has become the representative and then has asked somebody with expertise to
46 come up and speak for them. So, in the sense that it does not need to be official or that he does
47 not need to be a lawyer, that is meant to consider and for us to discuss. With that said, I think that
48 the fact that this is an expansion of an existing permit would really speak to the fact that this was
49 addressed when the original SUP was issued and discussed. You guys know how I feel about
50 standing and what it requires and what it doesn't require. Should there have been any evidence

1 that could have been brought for us today in regard to what standing there would be, then that
2 might make this discussion a lot easier, but it doesn't today.

3
4 Leon Meyers: No, it doesn't. Maybe the next step is for the board to make a decision or a standing for Mr.
5 Hugelmeyer to begin with and then we can figure out where to go from there. Could you in a very
6 short statement, Mr. Hugelmeyer, again tell us what is the competent, material, and substantial
7 evidence that you bring to establish the fact that you could suffer special damages if the
8 modification were approved.

9
10 Michael Hugelmeyer: Are you asking for that via my expertise as real estate broker or are you asking that as a
11 person who lives on the block?

12
13 Leon Meyers: I'm asking for any competent, material, and substantial evidence that you would suffer special
14 damages as a property owner if this application were approved.

15
16 Michael Hugelmeyer: Public toilets at the beginning of a dead-end road will have negative effects on the values of
17 the home.

18
19 Beth Bronson: Be prepared to be able to defend that though with evidence that would show that.

20
21 Michael Hugelmeyer: Yes, if you grant us a continuation.

22
23 Leon Meyers: You don't have that evidence tonight?

24
25 Leslie Weidner: We could not find documentation.

26
27 Leon Meyers: I'm not going talk to the witness.

28
29 Nathan Robinson: Mr. Bryan suggested that using rationale in regard to a decision is an appropriate means of doing
30 so considering the fact that we have all of the residents of Holly Creek Lane here who are opposed
31 to an expansion, not the establishment but an expansion of what we have going on at the
32 beginning of a cul-de-sac. There is plenty of evidence that we can provide if given the rationale of
33 a continuation.

34
35 Leon Meyers: All right. Well, then the motion would be in order to approve or deny standing for Hugelmeyer as a
36 party to the hearing.

37
38 Nathan Robinson: I think he comes without the evidence. I think you come without the evidence, you come without a
39 report that says this is my assessment and this is my assessment for public parking, and these are
40 the documents that show this was \$200,000.00 less or whatever. You come without that document.
41 At the same time, I hear you say that you were not aware that you needed to come with that
42 production of rationale as Beth had said earlier. I think the question here's a chicken and the egg
43 thing, it sounds as if that you have the professional competence in order to speak to it but you're
44 not presenting something to us and so we're stuck in a quandary where someone is the broker in
45 charge and they have the professional competence in order to be able to present this, yet now we
46 come with a presentation where one side is ready to present and the other side is not.

47
48 Michael Hugelmeyer: Understood. Yes, I agree with everything you just said but as Mr. Bryan said we're using
49 rationale on the board here, and when you have everyone at Holly Creek going here that should be
50 enough evidence for you to use your rationale to suggest that perhaps we need more time in order

1 to come to a sound conclusion.

2
3 Beth Bronson: Let me get back to the fact that rationally I would rather give the unofficial homeowners association
4 treasurer or president standing over one of the residents that is in support of having him come to
5 speak up. Right?

6
7 Nathan Robinson: Say that one more time. I'm sorry.

8
9 Beth Bronson: I would be more inclined to provide the original speaker standing over the current speaker standing
10 for the simple fact that he's been able to provide better evidence that he has standing in this
11 because he's representing the neighborhood.

12
13 Nathan Robinson: Yeah, I agree with what you said. But then is there evidentiary evidence that could be presented to
14 us? And the lack of that one would position without evidence still doesn't create standing from
15 what I can see.

16
17 Beth Bronson: The evidence is that the entire neighborhood is here, and they had one person come to speak and
18 represent them. That would be evidence to me that this person was here to represent the
19 neighborhood and their concerns.

20
21 Nathan Robinson: Agree. I'm agreeing with you but to me I'm speaking of not the representation but quantifiable
22 damages.

23
24 Beth Bronson: Oh, yeah. It's not necessarily about the quantifiable damages, it's just the fact that it's formal or
25 informal representative of the association like neighborhood association. That is here to speak on
26 it.

27
28 Nathan Robinson: Yeah.

29
30 Beth Bronson: So, I think we've gotten so far away from that at this point that it's, for me it's hard to get back to
31 that conversation but that would be where I stood originally.

32
33 Leon Meyers: It sounds like we're talking around the same issue. I had asked for a motion to approve or deny
34 Mr. Hugelmeyer's status as a witness with standing and I didn't hear a motion either way. Any
35 change of mind there?

36
37 Jeff Scott: I guess maybe there's not a change of mind. I guess we have a neighborhood that is trying to
38 represent themselves as a whole to speak on this project and it's not with standing. And I'm not,
39 downgrading your expertise. I guess my question would be is there somebody else within this
40 neighborhood group that might feel like they're even stronger before we vote on yours? Not to say
41 that you wouldn't be qualified. I guess we're trying to make the right decision and make sure that
42 everybody has the opportunity. And if I'm going off in the left field, somebody stop me, but just to
43 make sure that if there is somebody else that has better standing.

44
45 Steve Staten: So, I would like to ask Leslie to speak because we are a team. Mr. Hugelmeyer and all of us, we
46 are on the same page, very united but all come from different lenses and expertise. Would you be
47 able to come up?

48
49 Leslie Weidner: Yeah, we are neighbors, we are good neighbors.

50

1 Leon Meyers: Excuse me, just one minute. Pat, you had something to say.
2

3 Patrick Mallett: The applicants who have established legal standing I think, have some comments or thoughts if
4 they would like to share.
5

6 Leon Meyers: We'll get those in for sure before we make a decision. Thank you for that. Good. Your name
7 again, please?
8

9 Leslie Weidner: Yes, it's Leslie Weidner and I've lived on Holly Creek for what, almost 30 years now. I think I'm
10 the oldest person there.
11

12 Bill Weidner: I'm the oldest.
13

14 Leslie Weidner: Oh, he's the oldest. I had standing at the original SUP meeting. It's just not giving me standing
15 now.
16

17 Leon Meyers: It gives you the opportunity to establish standing at tonight's hearing. And I'll just ask you to direct
18 your comments, if you would, at this point in the hearing toward establishing standing as a party to
19 the hearing.
20

21 Leslie Weidner: Okay. Well, I'm a realtor and I've been a realtor for 27 years, and I live on Holly Creek Lane. I also
22 wonder what kind of information do you want from me?
23

24 Leon Meyers: Well, in order to demonstrate standing you would need to show that you as a property owner would
25 suffer special damages if the SUP modification were approved.
26

27 Leslie Weidner: Okay.
28

29 Leon Meyers: So, an example of that might be a comparison of property values for a property sold near a cricket
30 field and a similar property sold farther away from the cricket field.
31

32 Leslie Weidner: Okay. At the last, at the original SUP meeting it was established that the Patil folks went last, and
33 they presented you a whole bunch of information talking about public parks increasing value, and
34 that's true, they do. I mean, everybody like to have swings for their children in a public park. This
35 is not a public park. It's a private park. And I think that's so important when you look at what's
36 going on next.
37

38 Leon Meyers: Just want to, excuse me for interrupting, let's try to stay focused on establishing your qualifications
39 as a party with standing in the area.
40

41 Leslie Weidner: Okay. Well, I've been working for Coldwell Banker Advantage, as I said, for 27 years and I had a
42 statement, which I don't have with me because I didn't think I'd need it this evening, but I did have
43 it in my remarks attached to the standing form. And that is, he said that property values would be
44 affected by 10 or 15 percent. The broker and charge of Coldwell Banker Advantage. I had other
45 realtors tell me the same thing and we've lived with it the way it is now. That was in writing. I had
46 that in writing. So, I asked for a continuance also.
47

48 Leon Meyers: And you're testifying as a real estate expert?
49

50 Bill Weidner: No.

1
2 Leslie Weidner: What?
3
4 Bill Weidner: Well, she's got the evidence from her broker in charge that statement that he said it would increase
5 by this much.
6
7 Leslie Weidner: I have that statement.
8
9 Leon Meyers: Would you like to present that as evidence?
10
11 Leslie Weidner: I presented it as evidence the last time.
12
13 Bill Weidner: The board has that from last time.
14
15 Leslie Weidner: Yeah. But as I said, I tried to say something after they talked about their public park situation that
16 houses around became more valuable. I tried to say something, and they said, "No, the meeting is
17 over, you can't say anything more." That's what they told me.
18
19 Leon Meyers: I'm sorry that happened, Ms. Weidner. Do you have any other evidence that you as a property
20 owner would suffer special damages if the modification were approved?
21
22 Leslie Weidner: Well, since I'm in real estate, my main focus is certainly on value, but secondarily to that, I can
23 certainly speak to how it is not homogeneous to the area at all. All you have to do is ride down our
24 road and you would see that it has nothing to do with our road. But if it's advanced more, it's going
25 to bring more cars ever day up to, what, 40. 46 cars.
26
27 Leon Meyers: Do you have any evidence that that would be the case, Ms. Weidner?
28
29 Bill Weidner: Like, I have pictures of it. We were hoping tonight that because we only had 2 weeks notice –
30
31 Leon Meyers: Let's stay with one witness at a time if we can, please.
32
33 Leslie Weidner: I'll say it.
34
35 Leon Meyers: Right.
36
37 Leslie Weidner: Yeah, we only had 2 weeks notice. Some people were away, they didn't even hear about this.
38
39 Bill Weidner: I had pneumonia.
40
41 Leon Meyers: Right.
42
43 Leslie Weidner: He had pneumonia.
44
45 Leon Meyers: Well, do you have anything else to present, Ms. Weidner, regarding standing? Only about
46 standing at this point.
47
48 Leslie Weidner: Well, isn't standing have to do with homogeneous how it works, how it's not homogeneous to the
49 area? Isn't that something to do with standing?
50

- 1 Leon Meyers: Standing relates to special damages that you would suffer as a property owner if the modification
2 were approved.
3
- 4 Leslie Weidner: And I also have to add something about the health and wellness of the public on Holly Creek Lane.
5 I live here. I mean, with 46 cars pulling out onto Old Greensboro Highway and that many more
6 people coming 7 days a week it looks like, this modification is close to 7 days a week, that certainly
7 affects public wellness.
8
- 9 Leon Meyers: All right. Board members, a motion will be in order to approve or deny standing for Ms. Weidner.
10
- 11 Nathan Robinson: May I add, I just read the document that we have here. There's a document here and it's an
12 Orange County document that is entitled Statutory Requirement Standing for Parties. And on the
13 bottom, it's my understanding that this would be a form that one requesting standing would bring
14 with them to a hearing of this nature. And on the bottom, it says, "I own or have a legal interest in
15 the following parcels related to this special use permit application." There's a blank for name.
16 We've provided the name. There's an address, which I'm sure you could provide. There's a
17 property identification number, a PIN number, which I'm sure you could provide.
18
- 19 Leslie Weidner: I turned that in.
20
- 21 Nathan Robinson: Yes, ma'am. And there's a register of deeds book and all these things you have. The next two
22 lines are really the core of how this motion can be established. One line says, "This property will
23 suffer the following special damage." You brought up traffic, you brought up health and safety.
24 The gentleman just said things about the restrooms. This is a line I understand you would have
25 filled in and say, "This will suffer the following special damages." However, where I find us stuck is
26 the next line, which is says, "I have the following to demonstrate that special damage." I don't see
27 a traffic report that helps me. I don't see a report that comes from anyone to help me understand
28 the special damage. If the demonstration includes testimony, which requires expert opinion per
29 this code, then it will be supplied by a specific person. I don't see that documentation, or I don't
30 see the expert witness sitting there available to come. The expertise in such and such, whatever
31 the category is will be established by the following education, training, or experience. As Mr.
32 Hugelmeyer had said he has the training and experience, but what we're lacking in this case, we're
33 lacking a person with an expert opinion and we're lacking demonstration of it. And I feel like we're
34 in a place right now where we're asked to establish, to grant standing with the absence of a
35 demonstration. And so, for the purposes of this meeting, it would seem to me, and I'm speaking to
36 the board, it would seem that there's certain boxes to put things in. If there's standing, there's no
37 special damages and can be demonstrated in my opinion to establish standing right now. At the
38 same time, I do recognize that there could be the potential to do that if it was presented at a
39 different time, if there was continuation or whatever, so I recognize that. But for the sake of our
40 meeting now, I don't see standing for those who have presented. And so, for that reason I make a
41 motion to deny standing for Mrs. Hugelmeyer and Mr. Hugelmeyer.
42
- 43 Leslie Weidner: Weidner.
44
- 45 Nathan Robinson: Weidner, I'm sorry. I apologize.
46
- 47 Leslie Weidner: It's all right. How on Earth we'll put this together in 10 days.
48
- 49 Leon Meyers: Give me just a minute. That's a motion. Do I hear a second? This is a motion to deny standing for
50 Ms. Weidner.

1
2 Greg Niemiroski: Second.
3
4 Leon Meyers: Any discussion, board members? Ms. Weidner, do you have anything to add before we vote on
5 the motion?
6
7 Leslie Weidner: I'd like to hand my statement in to you. I wrote in the back on this form. There's so little room to do
8 anything. I couldn't attach anything.
9
10 Beth Bronson: And so, if this had been received prior –
11
12 Leslie Weidner: Pardon me?
13
14 Beth Bronson: Did you submit this?
15
16 Bill Weidenr: You told me to bring that tonight.
17
18 Leslie Weidner: Yeah.
19
20 Beth Bronson: We told you to bring it tonight.
21
22 Nathan Robinson: Did you bring it then?
23
24 Leslie Weidner: Yeah, we brought it.
25
26 Nathan Robinson: Okay.
27
28 Patrick Mallett: Please give them the copy.
29
30 Leon Meyers: You want this? This one, right?
31
32 Patrick Mallett: Yes.
33
34 Leon Meyers: What we're looking for here is evidence to establish standing for Ms. Weidner as a party to the
35 hearing.
36
37 Patrick Mallett: So, when we met last week, I met with these two property owners and I explained the statement of
38 standing, legal burden proof. Here are the forms. What you really need to do disseminate it out to
39 the group that you know of. They're getting notices, the folks within 1,000 feet. There are
40 resources online about quasi-judicial proceedings and so at the end of the day you need to bring
41 that material establishes your legal standing and any evidence that you have. So, what you got
42 handed out is their form.
43
44 Leon Meyers: Okay.
45
46 Beth Bronson: But this is not that form.
47
48 Leslie Weidner: This is not really 1,000 feet. This is like a cul-de-sac, this subdivision.
49
50 Beth Bronson: Well, the length of Holly Creek is not short.

1
2 Leslie Weidner: Pardon me?
3
4 Beth Bronson: The length of Holly Creek is not short.
5
6 Leslie Weidner: It's 9/10 of a mile.
7
8 Beth Bronson: It's almost a mile.
9
10 Leslie Weidner: But every person has 5 to 10 acres on Holly Creek. So, we're a very close neighborhood. And it's
11 impossible to get together this kind of evidence that you want in 10 days. You know, I want to say
12 one thing, I notice that Mr. Patil put in his application on, I think it was March 18th of this year, so
13 they had plenty of time to have an attorney work for them.
14
15 Beth Bronson: Because again, he is the applicant. I understand where you're coming from but the fact that he is
16 the applicant who is applying for this special use permit, he would be very aware of the timing of
17 when he had to make that application for it to be presented to the Board of Adjustment for a special
18 use permit.
19
20 Leslie Weidner: So, Mr. Patil is more important than all these people?
21
22 Beth Bronson: No, Mr. Patil is the applicant. He has done what is necessary. Again, I'm absolutely not showing
23 preference over one party or the other.
24
25 Leslie Weidner: Understand.
26
27 Beth Bronson: I'm simply pointing out that when an applicant files for, a special use permit, they have to do so
28 well before the date of its actually being presented so that anybody within 500 to 1,000 feet can be
29 mailed notice or that can be provided. Now, that is part of the development ordinance, that timing.
30 I may not agree with it either, but the timing is what it is and it's what's written down.
31
32 Leslie Weidner: Yeah.
33
34 Beth Bronson: And so, the fact that, there is no representation by the neighborhood except for in the instance of
35 the original speaker. I couldn't move forward with standing.
36
37 Leon Meyers: Okay. Everybody had a chance to look at the statement from Weidner.
38
39 Jeff Scott: Does Patrick, I guess he was saying that the applicant needs to speak before we make the motion,
40 is that right, or did I miss something?
41
42 Leon Meyers: Well, the current motion is regarding standing for Ms. Weidner. I believe what Pat said was a
43 suggestion that if we were going to make a decision about the hearing.
44
45 Jeff Scott: Okay.
46
47 Patrick Mallett: Balancing out the discussion time and the facts on just this front part, the establishment of legal
48 standing. The applicant is established, and they've expressed the desire to have some comment
49 about some of the statements of standing.
50

1 Leon Meyers: I understand.
2
3 Patrick Mallett: That would be perhaps germane for your consideration. That's up to you to decide.
4
5 Leon Meyers: Okay. Got it.
6
7 Patrick Mallett: So it's up to you.
8
9 Leon Meyers: Thank you. There's a motion on the floor to deny Ms. Weidner's request for standing as a party to
10 the hearing. Any discussion on that motion? All in favor please say aye.
11
12 **MOTION** was made by Nathan Robinson. Seconded by Greg Niemiroski.
13
14 **VOTE:** 4-1. Jeff Scott opposed.
15
16 Leon Meyers: That is 4 to 1. Thank you for being here, Ms. Weidner.
17
18 Leslie Weidner: I have one more thing to say.
19
20 Leon Meyers: Thank you for being here, Ms. Weidner, we're 1 hour into the hearing. We need to move forward.
21
22 Leslie Weidner: I wonder about the people who just moved here who had nothing to say about this.
23
24 Leon Meyers: I understand. Thank you.
25
26 Leon Meyers: At this point I'm going to ask the applicant to make whatever comments they would like to make
27 and then we'll come back and figure out where to go from there. Mr. Patil, do you care to speak?
28
29 Vishwanath Patil: Thank you so much, gentlemen. Just to give us, give you a brief background. I'm an electrical
30 engineer as well, working for semi-conductor industry for the last 25 years. Plus, I'm a broker in
31 charge for a real estate firm. I hold the valid license for the North Carolina state, but I don't want to
32 go there today about the property valuation or anything like that. But one quick comment I would
33 like to make.
34
35 Leslie Weidner: Can't hear.
36
37 Bill Weidner: We can't hear.
38
39 Vishwanath Patil: All right. So, can I have legal standing to present that?
40
41 Leon Meyers: You have standing Mr. Patil. As the applicant and the property owner, yes, you do.
42
43 Vishwanath Patil: Okay.
44
45 Vinitha Cardoza: Good evening. My name is Vinitha Patil and I'm the spouse of Mr. Patil and co-property owner and
46 I'm a scientist by profession. I have a PhD degree. I just wanted first, I think, as Pat said here,
47 here right now, just to make some comments about the standing but everybody was asking before
48 you could make a decision. But we just want to let you know that this is not the whole of Holly
49 Creek, this is just a part of Holly Creek. There are many other people who are not against this, so
50 that is what I just wanted to let you all know before you make a decision about standing.

1
2 Leon Meyers: Could you repeat? I'm sorry, I'm not sure I understood.
3
4 Vinitha Cardoza: Yeah. If people are representing Holly Creek here the HOA what they call it, so this not the whole,
5 they're not representing the whole HOA, they are just a part. They are just a part and they are in
6 favor. I mean, and we don't have any evidence right now, but this is just a comment that I wanted
7 to make that this is not full HOA here and they're not representing the whole HOA.
8
9 Leon Meyers: Thank you.
10
11 Vinitha Cardoza: But it's just for standing purposes.
12
13 Leon Meyers: Thank you. Anything else?
14
15 Vishwanath Patil: I think she said everything.
16
17 Leon Meyers: Okay. Good.
18
19 Vinitha Cardoza: We have our case presentation, but I think that would be later, right?
20
21 Beth Bronson: Correct.
22
23 Leon Meyers: Right. It will be. Right. Mr. Staten, do you feel like there is another person in your group who
24 would be successful at asserting standing as a party to the hearing?
25
26 Carl Lloyd: My name is Carl Lloyd, I own Holly Creek Lane, I own the property adjoining the cricket facility, part
27 of it. My main problem with the application is continuing cricket games more than weekends.
28
29 Leon Meyers: Sir, forgive me, I'm going to ask you please to direct your comments at establishing standing as a
30 party to the hearing.
31
32 Carl Lloyd: I'm 80 years old. I've lived on that property 80 years. I sold it to Mr. Patil on the intention that it
33 would be a group of friends playing cricket. He was forced to do some things that I supported so
34 that he continues to play cricket on the weekends. This has gone on for what, 11, 12 years, I'm not
35 sure. I have allowed him to run utilities across Holly Creek without a problem to irrigate his fields.
36 He put up a fence without my approval and most of the people on Holly Creek's approval, which he
37 said he didn't need county approval for a fence around 8 acres of property, 6-foot-high chain link
38 with locked gates to keep people off his property. A lot of money is being spent on that property
39 that I feel violates the intent of the first approval of the SUP. That's supposed to be cricket games
40 for he and his friends on the weekends. We've put up with the noise of the hollering and
41 screaming. That's fine, we accepted that. We knew it was coming. Memorial Day weekend, he
42 had four youth teams out there playing from Friday to Monday screaming their lungs out. I'm
43 outside having to listen to this crap. My wife was getting upset.
44
45 Leon Meyers: Excuse me for interrupting. Do you have any evidence that you would suffer special damages as a
46 property owner if this modification were approved?
47
48 Carl Lloyd: I've got land, if they came out on a weekend with these screaming teenagers who are out there
49 playing for 3 or 4 days, there's no way in hell they would buy it. I don't mind having the weekend
50 cricket games. It's been going on for 12, 14 years, that's fine. I have accommodated Mr. Patil only

1 way I knew how. But structures keep getting moved in without y'all's approval. Now, he's
2 proposing a 3800 square foot impervious surface addition to the property. Another neighbor next
3 to me says there's an 8 foot gully washing off his property.
4

5 Leon Meyers: I'm going to have to ask you to direct your content, your comments at establishing standing. This
6 is not for testimony on the modification.
7

8 Carl Lloyd: My property is, having water run off through the middle of it, off of his increased, this is not what
9 the intent was for the original SUP. And if this gets approved and playing cricket more than 3, 4, 5
10 days a week, anybody that lives within a few hundred yards, which I do, has to deal with all this
11 noise.
12

13 Leon Meyers: Thank you, Lloyd.
14

15 Carl Lloyd: It's terrible.
16

17 Leon Meyers: Thank you.
18

19 Steve Staten: Mr. Meyers, I just, something he had said related to standing that he has.
20

21 Leon Meyers: We're going to, Mr. Lloyd, if I understand correctly, has asserted standing as a party to the hearing,
22 and I'm going to ask for a motion from the board to approve or deny standing for Mr. Lloyd.
23

24 Steve Staten: Mr. Meyers, he owns Holly Creek Lane. Can that be entered into the conversation.
25

26 Beth Bronson: He's already stated that.
27

28 Steve Staten: Okay.
29

30 Leon Meyers: Yep. He did say that.
31

32 Nathan Robinson: What does that mean, you own the lane?
33

34 Carl Lloyd: I own Holly Creek Lane. Is that hard to understand? Orange County has a lot of trouble
35 understanding that. I get a bill –
36

37 Nathan Robinson: Excuse me, excuse, excuse me –
38

39 Carl Lloyd: I get a bill, tax bill for –
40

41 Nathan Robinson: Excuse me, excuse me, excuse me –
42

43 Carl Lloyd: Holly Creek Lane with my name on it.
44

45 Nathan Robinson: Excuse me. I want to be respectful to you and I expect you to treat me the same.
46

47 Carl Lloyd: I'm not being disrespectful.
48

49 Nathan Robinson: I just asked, the question is I don't understand, do you own the land?
50

- 1 Carl Lloyd: I own the road.
2
- 3 Nathan Robinson: You own the road.
4
- 5 Carl Lloyd: It runs from about 1/4 of a mile by Mr. Patil's property on both sides.
6
- 7 Nathan Robinson: And so, then people who use your road have a right easement? Is that how it works?
8
- 9 Carl Lloyd: Everybody on the road has an easement on my road.
10
- 11 Nathan Robinson: That make sense. Okay. I just want, I wanted to clarify how that worked.
12
- 13 Carl Lloyd: To get to the highway.
14
- 15 Nathan Robinson: Right.
16
- 17 Carl Lloyd: That would not be approved today, but when we did the subdivision 35 years ago it was approved.
18
- 19 Nathan Robinson: Okay. So, he owns the road and then there's an easement to get to the cricket fields on Holly
20 Creek Lane. Is that accurate?
21
- 22 Carl Lloyd: I assumed the attorneys drew it up when they bought the property. I don't know.
23
- 24 Nathan Robinson: Okay.
25
- 26 Carl Lloyd: Everybody that's ever bought a lot on Holly Creek Lane has to have an easement to get to Old
27 Greensboro.
28
- 29 Leon Meyers: Right. So, I'll ask again, Mr. Lloyd has asserted standing as a party to the hearing, do I hear a
30 motion to approve or deny standing for Mr. Lloyd?
31
- 32 Beth Bronson: Can you explain a little bit more about what you were talking about the washout?
33
- 34 Carl Lloyd: I have a neighbor that says that the increased runoff from the paved parking lot has caused along
35 with some questionable grading when the cricket fields were built. There's a lot of water runs off
36 into a stream to the back of the property, but he says there's a gully back there that Orange County
37 would not be happy with that's being affected by this runoff. And the two buildings you're talking
38 about approving would drastically increases runoff.
39
- 40 Beth Bronson: I think the question I had was, you said that there was runoff on your property, but I'm
41 understanding that by nature of you owning Holly Creek, you are aware of a runoff that is occurring
42 already.
43
- 44 Carl Lloyd: My main contention with it, I'm having to listen to this noise of the cricket games. I accept it. But I
45 don't want it going on 7 days a week. I live there 7 days a week. Mr. Patil does not live there 1
46 day a week. He's out there working on his fields. That's fine.
47
- 48 Leon Meyers: Yeah, I understand. Well, do I hear a motion to approve or deny standing for Mr. Lloyd?
49
- 50 Leon Meyers: I do not hear a motion. I'm going to rule that for lack of a motion –

1
2 Beth Bronson: I mean the fact that he owns the road is something up for discussion.
3
4 Leon Meyers: I believe what James told us earlier is that ownership of an adjacent property is an element of
5 special damages but is –
6
7 Beth Bronson: There's no entrance on Holly Creek into the parking lot?
8
9 Leon Meyers: That's right.
10
11 Beth Bronson: Okay.
12
13 Leon Meyers: So, I'll ask once again is there a moment to approve or deny standing for Mr. Lloyd? I'm going to
14 rule for the lack of motion, the board denied standing for you, Mr. Lloyd. Thank you for being here.
15
16 Carl Lloyd: Then nobody will qualify for anything. This is ridiculous. If that's the case, move all of us.
17
18 Leon Meyers: So, I would ask that everybody we had statement about civility and not being disruptive. Please
19 don't start.
20
21 Carl Lloyd: And the last comment is not true about the parking lot.
22
23 Leon Meyers: I understand.
24
25 Carl Lloyd: I mean Holly Creek; he's got a gate in his fence that runs into his parking lot –
26
27 Leon Meyers: Thank you, Mr. Lloyd.
28
29 Carl Lloyd: From my road.
30
31 Leon Meyers: Thank you, Mr. Lloyd. Board members, we have not established standing for any other witnesses.
32 The choices would be to hear the case at this point or to consider a continuance, which I believe
33 James has told us would be something that the board could consider without a request for Lloyd,
34 this withstanding.
35
36 Beth Bronson: I think we're very much well within our right to discuss having a continuance, but to be very clear in
37 why we're continuing and what it is that we would need to move forward.
38
39 Jeff Scott: I guess to your point, Beth, it's like if we do the continuance, parties over here said that they want
40 to establish standing, so they want more time. But then if we continue it, is that fair to the
41 applicant.
42
43 Leon Meyers: Very good question.
44
45 Nathan Robinson: I think typically would say no continuance because people have their time, and the rules were
46 followed. The exception though is that there's been two real estate brokers who otherwise, if they
47 were to have come prepared, they would've been able to establish it, from my perspective.
48 Typically, I would say no because we followed the rules. I've gone through it. The notifications
49 were sent out. In often like situations, we have these conversations, people just speak not in my
50 backyard statements without standing, without any kind of qualification, without any backup,

1 without any demonstration, without any evidentiary material that has any level of professional
2 support. In this case, given that two people from the association have demonstrated that they
3 actually have the professional background and would be able to present, my tilt is to allow the
4 continuance with the expectation, like you said, that that documentation would be able to be
5 provided when we reconvene.
6

7 Leon Meyers: But we would have no control over that, of course, but except to say that it would be the board's
8 expectation?
9

10 Nathan Robinson: Well, if they didn't come with it because they didn't feel like spending the money, then that's life
11 and then we carry on.
12

13 Beth Bronson: So, because we've already rules on their standing to provide a continuance?
14

15 Leon Meyers: We ruled on Mr. Weidner's standing that that's the one—
16

17 Beth Bronson: Mrs. Weidner, Miss Weidner.
18

19 Leon Meyers: Sorry, Ms. Weidner's standing. We just ruled against.
20

21 Beth Bronson: Against, okay.
22

23 Leon Meyers: Board members, it's 8:30. We should hear the case or if we're going to consider a continuance,
24 now would be the time.
25

26 Nathan Robinson: The balance is, is it fair to Mr. Patil to have prepared this stuff and have followed the rules. Is it fair
27 to him?
28

29 Jeff Scott: I think that's, yeah, to Nathan's point —
30

31 Leon Meyers: Folks, if you're going to talk out, I'm going to ask somebody to help you out of the room.
32

33 Jeff Scott: All right, we've talked about this standing issue before and I look at this letter and I say, you know, I
34 wish there was more information saying that like, okay, here's some of the guidelines that you
35 need to establish, so you can't come back into these meetings and say you didn't know. I wish
36 there was more of that, but we're not commissioners. Like we're not qualified to make that. That's
37 a whole other thing. Like we're just here to make decisions based on the rules that we follow. So,
38 I mean in that case like I'm unfortunately not for a continuance if we're just following the laws or the
39 guidelines that we have to follow.
40

41 Beth Bronson: I would have to agree with you.
42

43 Jeff Scott: Even if I disagree.
44

45 Beth Bronson: Yeah.
46

47 Leon Meyers: Mr. Patil, do you care to speak to the notion of continuing the hearing in order to give your
48 neighbors a chance to put together their case?
49

50 Vinitha Cardoza: Meeting for continuance because most of the accusations that got done are not true. I would like

1 you to hear our case before even deciding if you want to give them any continuance. Because he's
2 also a realtor, so he can also talk to what they have spoken about.

3
4 Leon Meyers: I'm not sure I understood you. You do not object to the notion of a continuance.

5
6 Vinitha Cardoza: We object.

7
8 Leon Meyers: You do object?

9
10 Vinitha Cardoza: Yeah, we do.

11
12 Leon Meyers: Okay.

13
14 Vinitha Cardoza: Because we want to present our case today and we would be grateful if you can make a decision
15 about continuing both because we have already gone to a lot of pain to get this SUP. This is just
16 where we present the case for changes we're doing, and it is not a permit as people are talking.
17 So, if you could hear us and then say okay, what we are presenting is valid or invalid, we'll let you
18 decide, but we really object to this continuance, and we would like to get a decision and end the
19 case today.

20
21 Leon Meyers: Thank you.

22
23 Vinitha Cardoza: Thank you very much.

24
25 Leon Meyers: Can I ask the staff to talk to us about the notion of a continuance before the board moves forward
26 here?

27
28 Patrick Mallett: All I can really say is that we have had continuances in the past. In fact, this particular or the
29 original special use permit was held over three meetings, some of which went well beyond
30 midnight. The chair can remember.

31
32 Jeff Scott: And just refresh me in my memory because I was asking Leon earlier. I believe we reviewed the
33 original SUP. Was that 2020? Was the definition of standing different then. Correct?

34
35 Patrick Mallett: Those statutes and the 160-D requirements have tightened it up in accordance with state law, yes,
36 that is true.

37
38 Jeff Scott: Okay.

39
40 Patrick Mallett: So, you had and will have material at that initial approved Special Use Permit that you took in to
41 consideration. The board at that time took into consideration. This has a many numbers of things
42 that they're seeking to modify with regard to the site plan and the conditions. At the end of the day,
43 none of the discussion would nullify the current special use permit. I think that's obvious, but it's
44 worth stating just so everybody understands that.

45
46 Leon Meyers: Okay.

47
48 Patrick Mallett: I would like to sort of walk you through what got us to this point, if I might. I think it might be worth
49 your consideration very quickly. So, last Fall two of the property owners pointed out to me, like
50 hey, we've got this credit field. It's been operating, but we have some objections to certain things,

1 and they articulated several items of concern. Concerns over the native species for the shrubs, the
 2 existence of this new fence, the proximity of the play fields, the removal of the current porta potties
 3 and the structures. All right, and we issued a notice of violation to the property owners, stating
 4 there appear to be some issues that may or may not cause you to be in conflict with your special
 5 use permit. Here's your notice of violation. Conducted an investigation. The shrubs were in
 6 compliance. The fence is permissible, and they obtained a zoning compliance permit above and
 7 beyond the special-use permit to allow for that fence. The proximity from the fields to the road is,
 8 in fact, it has been ascertained 50 feet. But the site plan did not note these accessory structures
 9 that are obviously there today and have been there for some period of time. And, so, the
 10 applicants, it's part of my job, is to map them out towards a path towards compliance and that path
 11 included you can submit for a major modification to allow for these structures, state your case to
 12 the board. Procedure is for the board to consider that site plan modification and any modifications
 13 to the conditions. So, there's a very narrow lane that the board would ultimately consider for the
 14 case, whether it's tonight or another night is not mine to say.

15
 16 Leon Meyers: Okay. Thank you. Any questions for Pat? No? Okay. Then I want to be sure that the direction of
 17 the board, if I'm hearing correctly, is to go ahead and hear the case tonight. Is that right?

18
 19 Beth Bronson: I'm going to have to ask for like 7 minutes, 5 minutes for a break.

20
 21 Leon Meyers: A break, yeah, I think that's reasonable. Before we do that let's, if we could please, if there's going
 22 to be a motion for a continuance, I'd like to handle that now and, if not, then we can prepare to go
 23 ahead and hear the hearing. And no motion. Let's take a break until 8:40.

24
 25 **The Board adjourned for a break from 8:34 PM to 8:40 PM**

26
 27 Leon Meyers: All right. Folks let's come to order. I'm going to remind everyone who's in the room about the
 28 public charge at the beginning. The expectation is that everyone who's here will be respectful and
 29 that story will run the rest of the hearing for sure. All right. The next step is going to be to swear
 30 the witnesses. Could the witnesses please come forward. Mr. Staten, do you have something to
 31 say?

32
 33 Steve Staten: The first thing is a question. I heard something about 45 days to have a meeting with some people
 34 in our neighborhood.

35
 36 Leon Meyers: Mr. Staten, it doesn't pertain to a modification of a special-use permit.

37
 38 Steve Staten: Okay. Yeah, so, we're appealing with the pleas for ask of a continuation. We had no idea that
 39 what was expected of us in a short period of time. This is so new for most of us, if not all of us,
 40 that we would be in this situation. There are even things that we have not been able to address
 41 that are in our notes that seem like how did this happen. Why is this happening? Here's a concern
 42 we have. And it's just moving so, so quickly. So, my appeal is that you give us time, ample time to
 43 get our ducks lined up, get advisors, talk to specialists, get the evidence that you need, that you
 44 feel you need that we will be damaged by a property with 30 hundred square feet of additional two
 45 structures. Cause we believe we wouldn't even need evidence to say that somebody pulling into
 46 our roads, seeing this big development that would be significant to us because we live there.

47
 48 Leon Meyers: It's not a time for you to testify and I believe the board did hear your concerns and made a
 49 decision.

1 Steve Staten: Okay. Yes, sir, you've made a decision or are you going to communicate that now?
2

3 Leon Meyers: The board has decided by lack of a motion for a continuance to hear the application. Yes, sir. All
4 right. Witnesses come forward please.
5

6 Steve Staten: If we can't talk, we just leave now? Is that it?
7

8 Leon Meyers: No, no, this is a public meeting. You're welcome to be here.
9

10 Beth Bronson: A public hearing is still open.
11

12 Leon Meyers: I think you understand the rules. It's a public meeting. You're welcome to sit in the public meeting.
13 You may not disrupt the public meeting. Is that clear?
14

15 Steve Staten: I understand that.
16

17 Leon Meyers: Good. Thank you.
18

19 Hathir Pfau: Do you swear or affirm that the testimony you're about to give is the truth, the whole truth and
20 nothing but the truth to the best of your knowledge?
21

22 Staff: I do.
23

24 Applicants: I do.
25

26 Leon Meyers: All right. Next would be the staff presentation, I believe.
27

28 Jack Moran: Good evening, board. Can you hear me all right?
29

30 Beth Bronson: Yes.
31

32 Jack Moran: So, you're probably familiar with it by this point, but I'll go over the case any way. The major
33 modification for the special-use permit that's before you tonight.
34

35 Leslie Weidner: I can't hear you.
36

37 Jack Moran: First for the Board of Adjustment, the major modification process begins with the planning staff
38 receiving the application, determining its completeness, and then moving it through our
39 development advisory committee which is the internal review between the Orange County
40 departments. That brings us to tonight's evidentiary hearing. Eventually, you'll make a
41 determination on the findings of fact and then a determination of approval. Here are the state laws
42 that we've talked about. You can go past these through the standing. And here's kind of an
43 overview of how the board operation will work. We are towards the staff presentation now. After
44 which I'll hand it over to the applicant for their presentation and then hear from anyone who has a
45 standing as determined by you all. So, an overview of the proposed modification, there is a
46 revised site plan and also some changes to the conditions. Before you there are some hard
47 copies. There were additions to the site plan and the conditions that were submitted to us after the
48 distribution of the packet, so those are the most recent versions of the materials that you'll want to
49 refer to. We also have them, and I can pull them up to look at the site plan and the conditions. All
50 other elements of the SUP remain in effect. So, as Pat mentioned, this will not revoke the special

1 use permit or affect the original special-use permit. What you're hearing tonight is just
2 modification. So, this is a vicinity map of where the site is. You can see it's in Southwestern
3 Orange County in the Bingham Township, identified by the red star there on the map. It's also in
4 the University Lake Protected Watershed. Here is an aerial photograph of the site. This aerial
5 photograph is from 2021 when the original SUP was approved. So, it doesn't show all of the
6 improvements to the site, but just to give you an ideal of the character and the surrounding land.
7 The existing zoning for the site is Rural Buffer. Everything surrounding the site is Rural Buffer
8 except for the one parcel that you can see in red is EC5. And then same thing for the future land
9 use. The future land use classification for all of the surrounding parcels is Rural Buffer as far as
10 the eye can see. Here is the approved site plan from the original Special Use Permit in 2021.
11 What brings us here tonight is the additional structures and some revisions to the conditions. If
12 you can read it on the hard copies that you have, or I can pull it up. It's the addition of the storage
13 sheds, the moving of the porta potties, the potential proposed toilets, the larger equipment storage,
14 and then also the open-area batting cages. There's also a condition on the site plan for the
15 maintenance and installation of plantings that may be required as they come back to revise the
16 permit. So, the conditions also go over what you have in front of you. I can pull them up to look at
17 them, but it's the nature of play and the timing of play, so changing the hours and days and
18 months, as well as the provision for the bathrooms and that, the applicant will receive all necessary
19 zoning compliance permits from the county. The staff analysis. We received it and we determined
20 it was complete through the required UDO Sections 2.4, 2.5, 2.7, and 5.7.2. So, I can pull up site
21 plan for you guys if you have any questions, or I can go ahead and hand it over to Mr. Patil for the
22 applicant presentation.
23

24 Leon Meyers: Board members, any questions of Jack or other staff members?

25
26 Beth Bronson: Can you clarify how long this has been nonconforming to the special-use permit?

27
28 Jack Moran: I can double check with Pat, but the NOV was entered last year, I believe in October.

29
30 Beth Bronson: October of 2024?

31
32 Jack Moran: That is when it was entered in our system.

33
34 Beth Bronson: October?

35
36 Patrick Mallett: So, as I said, there were some concerns that were addressed and brought to, to my attention last
37 fall, and the immediately addressed them. I had no knowledge of any sheds that were or were not
38 in conformance with the special-use permit. We don't, unfortunately, have the manpower or the
39 resources to recheck, on a constant basis, maintenance of all the applicable conditions. So, as
40 soon as that was brought to my attention, we started moving through the process that let us to
41 here.
42

43 Beth Bronson: Yes. The original application states certain things.

44
45 Patrick Mallett: I would venture to guess that the property owner and applicant could give some statement about
46 when those structures were installed.

47
48 Beth Bronson: But you're aware this was in October 2024. That's fine.

49
50 Patrick Mallett: Right.

1
2 Beth Bronson: Thank you.
3
4 Taylor Perschau: Actually, just to add on that thought a reminder to the board that this is similar to the way
5 that we processed the Capkov special use permit. When we noted noncompliance, we
6 accepted the modification application as a path forward for compliance.
7
8 Leslie Weidner: I'm sorry, we can't hear you.
9
10 Beth Bronson: Absolutely.
11
12 Taylor Perschau: Yes. We spoke about this one with Ms. Weidner. I was just acknowledging the question about
13 processing the notice of violation, and I was reminding the board that this time last year, they
14 received a similar request that started with a notice of violation, and that planning staff, and
15 then the board, reviewed the application as a path towards compliance.
16
17 Beth Bronson: Quite standard. Thank you.
18
19 Leon Meyers: All right. Anything else for Jack or staff? All right, Mr. Patil?
20
21 Vinitha Cardoza: Honorable Board Members, thank you very much for giving of this opportunity to present our case.
22 I think I don't need to talk too much because Pat already mentioned about how we're trying to get
23 the noncompliance into compliance. So, we are, I'm sorry that we were not compliant. A couple of
24 things, I think we had a small shed, and we had dug out area where children sit, the players sit
25 because of sunshade, so we had those and even not sure that any of it was compliant or not but
26 since Pat notified us, we are in agreement, and we have started the procedure to being compliant,
27 which we really want to be. So, we've been having this ground from 2021, and we have followed
28 all the guidelines, and we've maintained the field as per the SUP regulations. So, what we are
29 asking for now, you want to start?
30
31 Vishwanath Patil: Yeah. So, if you would permit us, actually we could, we would like to show the pictures of the
32 actual structures which are on the property right now.
33
34 Leon Meyers: Please.
35
36 Vishwanath Patil: Sorry. Let me see if I can make it full screen. This is the fencing and the vegetation around the
37 fence along the Holly Creek Lane. Before that, we'd like to show you, these are the structures
38 actually. I was under impression that 10 by 10 is allowable and we put this one, but this is, 10 by
39 12-ish, so the moment Pat brought it to our attention, we acted upon putting this under modification
40 to the SUP and then make it compliant. The middle shed is the small storage for the cricket
41 equipment, and the larger shed, which we moved after, is for all of this equipment, such as lawn
42 and garden equipment. I have bigger mowers, which are right now sitting outside, so just to keep
43 them in safe location, we are asking for the newer shed, but these are the non-compliant sheds
44 here, which we are adding to the plan. This is how they used to sit it on the boundary line.
45 Basically, people were questioning about the 50-foot buffer, but everything is played in the center,
46 actually. This is the 22 yards pitching area, and the playing surface, playing area is within 30
47 yards, but kids do get around the boundary edges. Sometimes parents give them water, things like
48 that for hydration, all that, so they'll be standing there, actually, in that 50-foot buffer area, although
49 they're not playing there, so some of the things which we wanted to bring to your attention that it's
50 not that no one is going to be there. There will be parents or somebody passing a water bottle,

1 things like that, so we don't want anyone to complain again, say hey, we found, we saw someone
2 there in that 50-foot buffer area, so it's pretty usual situation, I think. You want to continue, yeah?

3
4 Vinitha Cardoza: Yeah. I would like to make a case about the timing. We've asked for extended games and
5 practice times, so, as you all know, North Carolina has a lot of rain. We get rain all the time, and
6 when we have games planned during the weekend, many a times games are canceled, so, for
7 example, last month, we're able to play only two times. Out of the four weekends, we just played
8 two weekends, so this is to compensate for rain games, so we would like to ask for extended 1 or 2
9 days, and this is not going to be all the time because they're all children who are in school who are
10 playing. They cannot come every day and play, so maybe on a long weekend, it might happen
11 couple of times a year, extended games, and this is mainly to compensate for rain days. That is
12 one thing we are asking. We have asked for a little bit of extra time for practices. We have
13 weekday practices, which actually, we have not used in the past few years, but we want to have
14 little bit of extension time because again, kids are not getting enough time to play because of rain
15 and when the weather is nice in the daylight, they could play for a little longer hours.

16
17 Vishwanath Patil: So, practice hours are definitely not all day. They'll be 4 hours during the daytime. Usually it's in
18 the evenings, but again, as my wife mentioned, it never happened so far, but as we are asking for
19 the modification, we're just putting that request in for now. Any questions so far?

20
21 Leon Meyers: Questions for Ms. Patil?

22
23 Vishwanath Patil: As for the condition modifications. Any questions on that?

24
25 Beth Bronson: Yeah, for the condition modification of conducting extended hours, do you have a time? I mean,
26 obviously, there is no lighting, but do you have a cutoff time of 8:00, 8:30, 7:45?

27
28 Vishwanath Patil: Game time or practice?

29
30 Beth Bronson: Practice.

31
32 Vishwanath Patil: So, practice is, when it gets summertime, 7 p.m. probably. Wintertime, we cannot even go beyond
33 5:30.

34
35 Beth Bronson: Wintertime, yes.

36
37 Vishwanath Patil: Yes.

38
39 Beth Bronson: Of course.

40
41 Vishwanath Patil: Right, so even if you started 4:00, we never started before 4:00. Kids come back from school, and
42 then we have a couple of hours here and there, but if we could get extra days, then we can instead
43 of just Thursdays and Fridays if we get 2 extra days, then they can practice 2 hours extra.

44
45 Beth Bronson: So, you're saying that currently, the SUP is for 2 days?

46
47 Vishwanath Patil: Two days, yeah.

48
49 Beth Bronson: And you're asking for 4 days a week?

- 1 Vishwanath Patil: Four days, yes.
2
- 3 Beth Bronson: And no more than 4 hours?
4
- 5 Vishwanath Patil: Correct.
6
- 7 Beth Bronson: Okay, and do you have any kind of limit on how many make-up games there would be in a
8 season?
9
- 10 Vishwanath Patil: On an average, what we have seen, 40 percent of the games get washed out, so the way we
11 conduct Mondays and Fridays most of the times, that would happen probably once in 2 months, I
12 would say, and on weekends. Because even if we offer some days, sometimes they have teachers'
13 workday, things like that, right, so we try to accommodate those games during those days, but
14 most of the times, it is definitely not going to be 7 days a week. Nobody has so much time, neither
15 I, because we are all professionals. This is definitely, for me, I've played cricket from university
16 back home, and this is my passion. By profession, I'm an engineer. Yes, I'm a real estate broker,
17 but this is the third passion I have. That's the whole purpose. We bought this piece of land, and
18 we have our second home there, which we are, all throughout the summer, I'm there 4 days a
19 week at least. I have my office there. I work from there. Weekends, I'm fully there. I've stayed
20 there overnights. My house is never fully rented out. I have sublets just because I don't want to
21 keep my house vacant. That's a personal thing as well.
22
- 23 Beth Bronson: Okay, so you're asking for the 2 days and the 4 days a week and the idea that you could make up
24 games that were rained out up to 40 percent?
25
- 26 Vishwanath Patil: Well, never, 40 percent games get washed out, but we cannot play that much.
27
- 28 Beth Bronson: Can't reschedule that much is what you're saying?
29
- 30 Vishwanath Patil: Yes, exactly. Realistically, as I said, once in 2 months.
31
- 32 Beth Bronson: Couple times a season is what you're saying?
33
- 34 Beth Bronson: Okay, all the questions I have at the moment.
35
- 36 Vishwanath Patil: Thank you.
37
- 38 Leon Meyers: Anybody else have any questions?
39
- 40 Nathan Robinson: You're requesting two buildings as well? Can you tell me about the two buildings you're
41 requesting?
42
- 43 Vishwanath Patil: We're going to talk about that. We're commenting on that one next.
44
- 45 Nathan Robinson: Okay.
46
- 47 Vinitha Cardoza: Okay. The next thing, I think the biggest thing was the toilet facilities. So far, we've been having
48 porta-potties, and we've been pretty compliant with that. Our neighbors have asked us to move it,
49 so initially, we had it in one position, and we have shown the modified toilet position now, and it
50 was just to make our neighbors happy. We moved it behind, and then we also covered it because

1 they want it to be covered, so the one thing we have realized, or because we started in '21, but
 2 playing over the period of time, we realized that it's not very hygienic for kids to just use porta-
 3 potties, although it's been cleaned every time it's been used, and especially now, we have little
 4 girls coming and playing, like teenage girls, players playing, and they are not very comfortable
 5 using the porta-potties. That's the main reason we are going for a toilet and resting facilities. What
 6 we are proposing is to have toilets so that kids can have hygienic use of toilets, and then we want
 7 a resting facility because we've noticed that suddenly, there is some adverse weather,
 8 thunderstorms, and the kids have nowhere to go, so we want a place for safety for these children.
 9 Players will be able to go sit somewhere and eat, and also, they'll be eating lunch, sitting on the
 10 ground anywhere. So that's the main reason why we are proposing this toilet and resting facility,
 11 and it's not going to be huge, like 4,000 or 5,000 feet. It's probably going to be approximately
 12 1,500 to maybe 2,000 square feet, and this is, again, depending on if we get EHS approval. Okay,
 13 and the next one is the multipurpose storage shed, and as my husband just pointed out, we have
 14 mowers, huge mowers. We have rollers. They're always outside, so we want to have something
 15 where we can put this huge equipment, which are very expensive, so it's mostly for safety and to
 16 make it also like an access control and also, to make sure that they don't get spoiled because of
 17 weather conditions.

18
 19 Vishwanath Patil: I will talk about the cricketing part here. Batting practice cages, just like the baseball, right? When
 20 we do practices, often we are short of players. Usually you need at least 11 each team, but
 21 practices, they show up, like, less than ten people, ten kids, so in order to save their balls going
 22 across the wooded area, things like that, it's pretty much enclosed area, which has meshed fence,
 23 but underneath is literally grass surface. There is no concrete, nothing underneath, just like the
 24 batting cage, that you see. I can just show you the picture of a batting cage. It's going to be
 25 exactly like this. This is one lane, I would call it, so like that. They'll be in this 80 by 100 feet long.
 26 You can fit in probably three or four for them, but just like the grass surface, and the structure is
 27 exactly same as this so that if batter is hitting, the ball is not going to go all around the park. It'll
 28 just stay within the park, basically the fenced, protected area, I would say. The purpose of this
 29 one, all you can have is two players, and they can then still enjoy the practices. That's it.

30
 31 Beth Bronson: So how many teams are practicing at once?

32
 33 Vishwanath Patil: Not even teams. Probably take one cage, two people, three people.

34
 35 Beth Bronson: Oh, not necessarily just in the batting cage, in the entire season.

36
 37 Vishwanath Patil: At practices? One team.

38
 39 Beth Bronson: One team.

40
 41 Vishwanath Patil: One team or two, so probably at the most, you would have 15 players. If we use practices on the
 42 actual ground, usually practices we do it on the side of the field because maintaining the pitching
 43 area is heck of work. I myself manage everything, actually, rolling the pitching areas, curation, and
 44 everything. It takes me 4 days for one game, the one weekend game, so I put in, apart from my
 45 work, I put in at least 40 hours every week, and you can imagine if game washes out, all in vain.
 46 Many times, it happens, Saturday, Sundays are rainy, and then you get one good Monday after
 47 that immediately. Then we can at least use that work and play on next day, so that way, it can
 48 save the amount of work.

49
 50 Leon Meyers: Other questions, board members? I want to clarify the buildings. It looks like there are five

1 buildings now; is that right? Five outbuildings on the property now? Do I understand correctly?
2

3 Vishwanath Patil: Not buildings, open sheds.
4

5 Leon Meyers: Okay.
6

7 Vishwanath Patil: Yeah, so four of them are open shed, 10 by 12. One is enclosed, 10 by 16.
8

9 Leon Meyers: Okay.
10

11 Vishwanath Patil: And then the one which we are asking, it is approximately 30 by 60 or 50, whatever we could fit in.
12 Again, it's all approximation.
13

14 Leon Meyers: There are no dimensions on the site plan on the proposed toilet and team resting facility. And I
15 don't see anything in the conditions.
16

17 Vishwanath Patil: There is it's on the bottom.
18

19 Leon Meyers: I see it now. Thank you.
20

21 Vishwanath Patil: As we mentioned, the toilet facility is completely TBD based on percs. If we don't get perc, it's not
22 going to happen.
23

24 Leon Meyers: Right.
25

26 Vishwanath Patil: Simple.
27

28 Jeff Scott: I had a question. It might be for the applicant. It might also be for the county as well, and I think
29 that this was part of the original SUP and this was about use of the recreation facility will not be
30 part of a professional league associated with earning prize money or other for monetary gain, I
31 understand that. I guess maybe that's a question for the county, too, is complying with those, the
32 applicant has to adhere to these based on the SUP. How do you enforce that? Is that something
33 that, I don't know, is it just go with your word?
34

35 Patrick Mallett: I mean, we would have to have compelling evidence to prove otherwise. We know of websites, and
36 they have league play and we have to assume that it's youth play, and there's no for-profit
37 endeavor at hand.
38

39 Vinitha Cardoza: Well, I can say that there is no prize money. And this is not a league game. These are just children
40 playing for different academies. They just want to play. They don't have a place to play. They just
41 want to come and play. Can we come and play, they ask us, and we just let them play.
42

43 Jeff Scott: Thank you.
44

45 Leon Meyers: There's a note on the site plan that says porta-potties moved here. I assume that means that
46 would be the new location for the porta-potties if you're not able to build the toilet facility; is that
47 right?
48

49 Vishwanath Patil: No, so that's the first thing my wife mentioned, so original SUP had porta-potties on that location.
50 We had it there, but some of our fellow neighbors did not like that location.

1
2 Leon Meyers: I remember you said.
3
4 Vishwanath Patil: Yes, so as a courtesy, we moved that with our own expenses. After having that, they said we don't
5 want to see it here, so we honored that.
6
7 Leon Meyers: So that's the current location?
8
9 Vishwanath Patil: That's the current location, yes.
10
11 Leon Meyers: Gotcha. No new fencing proposed, right?
12
13 Vishwanath Patil: No, no.
14
15 Leon Meyers: What this modification would do would be to approve the fencing that's already installed?
16
17 Vishwanath Patil: We already have a separate fencing permit.
18
19 Leon Meyers: Right. Any other questions, board members? Let's give it a couple minutes here.
20
21 Patrick Mallett: If you don't mind, I'd like to point out one little nuance. What you see are all of the changes that are
22 proposed. My initial discussions last fall with the Patil's, I said here's the list of things. This is
23 allowable, permissible. This, and the fence. Anybody can put up a fence. We have a zoning
24 compliance permit for things that are not structures. They did that and obtained that. With these
25 other things, I said, to be honest with you, the layperson may not know or understand this, but this
26 site plan and the conditions are quite literal, and now is your opportunity to capture any other
27 things that you've done that are out of sync or need to be accounted for to account for your long-
28 term vision, so it's at that point that they decided well, okay, the batting cage, we would like to
29 consider that. We would like to consider the toilet accommodations in the event that we could get
30 the proper permitting for those. So that was not part of the original thought process, but they're
31 trying to think long-term to not have to come back to the board repeatedly.
32
33 Leon Meyers: Understand.
34
35 Jeff Scott: Question about the toilets. Assuming this is an enclosed structure, probably not conditioned, no
36 HVAC, anything like that, but you'd have lighting, right, or is it a slab on grade with walls and a roof
37 and all that kind of thing? It's not really proper. This is just a layout, obviously. I guess maybe my
38 more specific question is whatever the kind of quantity of fixtures, I'm assuming that there's no
39 sewer there, so you're going to have to do some kind of septic field.
40
41 Vishwanath Patil: Exactly.
42
43 Jeff Scott: Is there room for a septic field? And I'm not the expert.
44
45 Vishwanath Patil: That's a good question actually. Yes. Everything will depend on the septic approval for sure. And if
46 and where we get approval, it will be for sure a good-looking facility. It's not going to be shabby,
47 just putting something together. As I said, real estate is my second hobby, so I've constructed
48 enough homes, sold enough, so we have certain plans in mind. Obviously, we'll work with the
49 planning department and Orange County. We have full trust in Orange County and with their
50 consensus we'll move forward.

- 1
2 Jeff Scott: So, I guess, maybe that's a question for you, and then also the county is that this is still somewhat
3 conceptual plan. I mean things could move around. If, for example, like the sheds or the batting
4 cages those are much more movable type thing.
5
- 6 Vishwanath Patil: Yeah. The only site plan is the batting cage. Everything else is conceptual. As Pat mentioned we
7 were putting in this non-compliance as compliance items in the SUP. Might as well propose what
8 we have in future in plan. Right?
9
- 10 Jeff Scott: I guess my question probably specific on the toilets is that based on the size you don't necessarily
11 know what the fixture count is and what not as septic fields can be pretty large, and I guess the
12 question is although this is conceptual, if it was to move to the south for example or something like
13 that, what is the threshold for saying this needs to be re-approved or what does that look like I
14 guess?
15
- 16 Patrick Mallett: Yeah, there's a margin there. We have, per our UDO, we have minor modifications to a site plan
17 and major modifications. If you remember the Camp Chestnut Ridge case, they had a very small
18 change to the plan, but even that calls to major modification to the site plan, because you're talking
19 about structures. I think it would be important if you want to give some sort of definition to where
20 that's acceptable on the site plan or not, probably want to make that part of your approval
21
- 22 Jeff Scott: Well, and that's the one part where I'm kind of trying to figure to out procedurally, because I'm just
23 looking at it and I'm seeing the easement, and I'm seeing the fields, and I'm seeing the other
24 property, and I'm like, okay, I'm not the designer of this project, but septic fields and/or repair field
25 takes up a lot of space and if it was to come back and say it's not going to fit there, we need to
26 move it X distance, does that trigger administratively something else where they either have to
27 come back?
28
- 29 Patrick Mallett: You guys probable got some thoughts on that, but we only have to go with what we have in hand.
30
- 31 Jeff Scott: Sure. I understand.
32
- 33 Patrick Mallett: And in some cases you deliberate and decide on a box, or the parameters where it can't get any
34 closer to X number of feet from the right of way, or the property line, or whatever.
35
- 36 Cy Stober: For the record, Cy Stober, planning director for the county. Section 2.7.14 allows for minor
37 modifications of an approved special use permit site plan, and that is a change of no more than
38 5 percent in the total area of a structural footprint and no more than 5 percent of a relocation into a
39 regulated area. So, that would be an established buffer, a regulated flood plain of course, or a
40 regulated area of use, in this case recreation fields or the parking area. There are also some
41 stipulations regarding parking in that that are minor modifications. Anything else is a major
42 modification of a site plan, and as Pat pointed out, Camp Chestnut Ridge is a case study in just
43 how hands on we are about reviewing those. So, what we've done both with special use permits
44 and conditional zoning cases in the last year or so is have conditions that allow for another location
45 provided they don't create a conflict with other uses or create some sort of visible presence to the
46 public that didn't create externality, as we say in planning. There's no new presence, lighting, odor,
47 exhaust, etc., but there's flexibility with that condition that could allow for modification on the exact
48 location of a structure. That is not currently a condition of approval.
49
- 50 Greg Niemiroski: I have a staff question. The septic fields themselves are not part of the location. That's a health

1 department regulation. Right?

2
3 Cy Stober: Correct. And no structure can be placed upon the septic field, so if the drain field and the repair
4 area were determined by the Department of Health, under the State Health Codes, to conflict with
5 a structural location, and they would need to adjust their location in a way that would create a
6 major modification, we'd be back in a hearing, just like we are tonight for a single structure possibly
7 in that event. So far the Environmental Health Department has not provided us with clarity on
8 where the drain field and repair area would be. They're awaiting a permit in order to make that
9 determination.

10
11 Leon Meyers: Just to be sure I understand what you've said here. There is a location shown for the toilets that is
12 not dimensioned on the plan, but it establishes a general location for the toilet building.

13
14 Cy Stober: Correct.

15
16 Leon Meyers: I believe I heard you say that if the proposed location for the building were to move more than 5
17 feet toward a regulated area.

18
19 Cy Stober: No, 5 percent.

20
21 Leon Meyers: 5 percent.

22
23 Cy Stober: Yes.

24
25 Leon Meyers: So, if the distance from the toilet to the regulated area were 100 feet, if it were to move more than
26 5 feet, it would be a major modification?

27
28 Cy Stober: Let me get the exact language,

29
30 Leon Meyers: All right. I'm really following up on Jeff's original question to see how much flexibility there were be
31 about the location of the building without a modification.

32
33 Cy Stober: Let's just identify them, enter them into the record. Minor modifications are as follows. This is
34 again, Section 2.7.14. A change, increase or decrease, of no more than 5 percent in the amount of
35 open space recreation facilities or landscape screening. The recreation facility's of an off-the-cuff,
36 review in my opinion would be the fields themselves, not the associated accessory structures. A
37 change of 100 feet or less in the location of open space recreation facilities or landscape
38 screening. So, if at a relocation of a structure would require giving up an area that's been
39 dedicated for buffering or landscaping, if it would be a change of 100 feet or less, it's a minor
40 modification, or 101 feet or more, or 100.1 feet or more would require a major modification. A
41 change, increase or decrease, of no more than 5 percent in the number of parking spaces
42 approved, a change in pedestrian and/or vehicular access or circulation that moves such facilities
43 less than 25 feet. Again, if it's less than 25 feet, it's a minor modification, more it is a major. Then
44 there's some further minor modifications that are specific to telecommunication facilities, but that's
45 the exhaustive list. Everything else is a major modification by my interpretation.

46
47 Leon Meyers: Thank you.

48
49 Patrick Mallett: The minor modifications and that distinction about what you can change and what you can't, has
50 very limited flexibility. It also assumes that it was contemplated with the original site plan, so you're

1 taking something and moving it. In this case, that's a little bit of a one off. We had porta-potties
 2 that were moved, and then they asked for this additional allowance that is not defined, and I looked
 3 to the Patil's to verify this, but their thought was – because I asked these questions about the
 4 septic system and everything, and their response was we'd rather come and ask and see if that's
 5 possible, and then spend the money to go through the building permits and the septic permits and
 6 so on and so forth. Again, it's up to the board to decide is there discretion in can that box move or
 7 not, or that's up to you.

8
 9 Greg Niemiroski: Question for the applicant: from your testimony, if the health department does not approve, you still
 10 would like to build the structure but for the other uses, if it's not approved as a septic? So, is this
 11 Building A intended to be built whether there's restrooms or not?

12
 13 Vishwanath Patil: Yeah. So, and the idea is to have a toilet and a back room just mainly for the ladies players. They
 14 don't have any changing room there, and they can't use the porta-potty for changing rooms. So, I
 15 don't how could they get the permit to have a structure without the toilets. It'll be good to have. It
 16 would be good to have a back-room kind of facility but not so huge obviously. They're they can at
 17 least change. But again, it's totally depending on the problem.

18
 19 Leon Meyers: Other questions board movers?

20
 21 Beth Bronson: I mean, as far as thinking about what that means just because you have not done a perc test. You
 22 were unaware of what a septic or a repair field may look like, –

23
 24 Vishwanath Patil: We have applied for the permit, yeah. A perc test.

25
 26 Beth Bronson: For the perc test? Yes.

27
 28 Vishwanath Patil: Yeah, perc test.

29
 30 Beth Bronson: Absolutely. But in the idea that I think, to your point of where could, where could Building A go that
 31 would be allowable under this? If this was to be approved, what would be the limits with which,
 32 given the existing buffers, which, because it's all residential, there aren't any, how close could it get
 33 to the road? How close could it get to adjacent property? And I think that if we were to think about
 34 this, it would need to have that clarification. Because 2000 square feet is a 100 by 20.

35
 36 Vishwanath Patil: It doesn't have to be 2000 square feet. It could be literally less than 1,000 square feet. It could be
 37 just 100 square feet, right? As long as we have a facility there.

38
 39 Beth Bronson: I have to consider what the limits could be, right? Right, and to that point, it's very understandable
 40 that if you've been having these games, and you have cultivated this community of playing cricket
 41 and having teams that the natural progression of the growth does make sense, and so an
 42 amendment to the existing SUP is understandable, and what you are asking for versus what is
 43 already existing, that is, I think, what we're discussing here today. Again, the idea that you still
 44 have to go through the process of permitting, I just want to make sure that you don't have to come
 45 back here in 2 months or that we're not allowing too much leeway for that development, right?

46
 47 Vishwanath Patil: Absolutely yes. Very valid point.

48
 49 Leon Meyers: If you look at the proposed location, there is a setback from the road that would limit the potential
 50 position of the building. There is a side yard setback off the, is that the west property line, and

1 there's a buffer on the south that, so that really describes three sides of the potential location for
2 the building. So, Beth, if you have a concern about where else the building could go, then a
3 condition on that remaining open side would be something to do.
4

5 Jeff Scott: Well, based on what we've heard from county staff, and everything is that there are procedures in
6 place to say that if this structure gets moved significantly to another location, then the applicant
7 knows that they're kind of taking on the burden of they may have to reapply, or they may have to
8 go through more processes. To a certain degree maybe it's not our place to review, but it is also, to
9 a certain degree it is on the applicant knowing that the county had a plan in place to deal with
10 these issues. That's my thinking.
11

12 Leon Meyers: Okay.

13
14 Beth Bronson: The Waste Management component in the application, it says to refer to the original SUP, but the
15 original SUP says that there will be no facilities.
16

17 Beth Bronson: So that's what's hard for me to understand, I guess.
18

19 Leon Meyers: All right, board members, any questions, discussion? Then the matter is before the board.
20 Procedurally, James, can you help me here. A first motion would be to approve or deny the
21 standards considered. Is that right?
22

23 James Bryan: So normally we do the facts first.
24

25 Leon Meyers: Findings first. Okay.
26

27 James Bryan: And I think that's Attachment 5, Pages 62 to 65, but the record will be clear. It's the application
28 that's been submitted and the testimony heard today.
29

30 Leon Meyers: The findings you said on Page 65.
31

32 James Bryan: 62 to 65, I think.
33

34 Leon Meyers: 62 to 65? Okay.
35

36 Patrick Mallett: Sort of pivoting to it if you so choose, we can go through our staff evidence to the findings to
37 support your findings of fact, and then we pivot to Attachment 5 in the agenda packet.
38

39 Leon Meyers: Okay.
40

41 Patrick Mallett: And I don't necessarily need to review Attachment 4. You can see it in front of you. We don't
42 register good, bad, or indifferent or give a recommendation. All we do is we go down the list and
43 cite out all of the particular general and specific findings and then the performance standards and
44 the completeness and the notifications that all of those items were met, check, check, check, in our
45 staff's opinion. It's not an indication of good or bad, it's just a finding of fact. It's just a reference.
46

47 Leon Meyers: All right. Any other discussion, board members? A first motion would be to approve.
48

49 Jeff Scott: Do we have to close the public hearing, or, no?
50

1 Leon Meyers: Well, I have done that in the past and regretted it.
2
3 Jeff Scott: Okay.
4
5 Leon Meyers: I didn't this time. There might be questions during those motions.
6
7 Jeff Scott: Okay. I was just curious.
8
9 Leon Meyers: Thank you for reminding me though. A motion would be to approve or deny the findings of fact
10 listed in the agenda package, Pages 62 through 65.
11
12 Beth Bronson: I would make a motion to the findings of fact, support the special use permit major modification
13
14 Leon Meyers: Adopt the findings of fact? All right.
15
16 Beth Bronson: Adopt the finding of facts.
17
18 Leon Meyers: Do I hear a second to that motion?
19
20 Jeff Scott: Second.
21
22 Leon Meyers: Any discussion on the approval of the findings of fact? All in favor, please say aye. Aye.
23
24 **MOTION** made by Beth Bronson. Seconded by Jeff Scott.
25
26 **VOTE:** Unanimous. All in Favor.
27
28 Leon Meyers: None opposed. And then, James, help me here. A second motion would be the standards. Is that
29 right?
30
31 James Bryan: Conclusions to the standards.
32
33 Leon Meyers: All right.
34
35 James Bryan: It's the same pages, but now whether those facts support those particular standards. You could do
36 them individually if you want, or you could do it all in one fell swoop.
37
38 Leon Meyers: So, a next motion, board members, would be to adopt the findings of the general and special-use
39 standards in that same page range and the agenda.
40
41 Jeff Scott: I make a motion to approve the special-use general standards findings. Did I capture everything
42 there?
43
44 Leon Meyers: I think so.
45
46 Jeff Scott: Okay.
47
48 Leon Meyers: This is adopting the standards. Do I hear a second to the motion to approve the general standards
49 being on Page 65?
50

- 1 Beth Bronson: Yes. I will second the motion
2
- 3 Leon Meyers: All right. Any discussion on that motion?
4
- 5 Beth Bronson: The only discussion we would need to have is if there's any adjustment to the conditions, anybody
6 would like to discuss, anybody has a concern about, regarding the changes of the season of the
7 facilities.
8
- 9 Greg Niemiroski: I was reading the previous-approved and comparing it. I was trying to double check that so taking
10 a minute.
11
- 12 Beth Bronson: Absolutely. Yeah, please do. I think that we should.
13
- 14 Leon Meyers: Yeah. Tell me when you're ready.
15
- 16 Patrick Mallett: If you could specifically reference the revised changes or any modifications you make to that site
17 plan and that condition set.
18
- 19 Leon Meyers: As a part of this motion or a part of the ultimately approval.
20
- 21 Patrick Mallett: The ultimate approval.
22
- 23 Beth Bronson: Yeah. A suggestion would be to limit that to, like the applicant indicated, weekday practices would
24 not go past 7 p.m. Is that something that we want to put in it as a condition that would allow us to
25 acknowledge that this is still a residential area asking for an extension on their use permit? I
26 guess, because my only concern is that the permissions for increasing the practice and having a
27 longer season is that that will then allow it to go longer into the days or to have more games in,
28 and, again, without thinking about the actual use, I just want to make sure that we're respecting the
29 character of the neighborhood which is, for the most part, not commercial. We're not recreational.
30
- 31 Leon Meyers: So what we have right now is a motion on the floor to approve the findings related to the special-
32 use general standards. And I think if we are going to consider changes to the conditions that were
33 submitted with the application, we could do that in the adoption of the approval.
34
- 35 James Bryan: I would recommend doing the conditions prior to the standards.
36
- 37 Leon Meyers: Prior to the standards?
38
- 39 James Bryan: Yeah. Because the conditions can only be imposed on an SUP if they are necessary to meet
40 those standards. Not to go beyond those standards.
41
- 42 Leon Meyers: Okay. And we have a motion on the floor, Jeff. Will you withdraw that motion so we can handle
43 that.
44
- 45 Jeff Scott: Sure. Okay. I withdraw my motion to approve the special-use general standards.
46
- 47 Leon Meyers: All right. Then let's deal with the site plan first. Any changes to the site plan as it was modified? I
48 don't hear any changes. I assume we don't need a specific motion to approve what was submitted
49 with the package. Let's go now to the conditions, and this is the modified conditions that we
50 received after the initial agenda with 19 items. Beth, you wanted to propose a change to the

1 conditions?

2
3 Beth Bronson: I wanted to propose a clarification to the conditions. What we're calling daylight hours should not
4 go past something like 8 p.m. I mean, I understand, I don't really want to put any kind of condition
5 on it because I'm not familiar with what's being done there.

6
7 Leon Meyers: Okay.

8
9 Vinitha Cardoza: May we please?

10
11 Beth Bronson: Absolutely. Please.

12
13 Vinitha Cardoza: For summertime, because it's so hot, children don't even come to practice until 4:30, 5, maybe 5.

14
15 Beth Bronson: Yeah.

16
17 Vinitha Cardoza: So, if you say about 4 hours, so that would be almost until dusk, like 8. I mean, we're not going to
18 go, like, 9, 10. We don't know for sure. But I think something like dusk because they're going to
19 stop. They can practice the 4 hours, for practices on weekdays. I think if we can just say dusk
20 because we are not going to go all night.

21
22 Leon Meyers: What if the change said sunset, which I think is maybe a little easier to track with what is published
23 for weather.

24
25 Beth Bronson: Yeah, I think sunset works.

26
27 Vinitha Cardoza: Yeah. Thank you.

28
29 Beth Bronson: Thank you for clarifying.

30
31 Leon Meyers: So that would be, Beth, a change to 3B saying there would be no practice activities after sunset?
32 Is that right?

33
34 Beth Bronson: Correct.

35
36 Leon Meyers: Okay. Any other changes to the conditions? Then a motion would be appropriate to adopt. Let me
37 ask if other board members are okay with that change before we go there.

38
39 Jeff Scott: Yeah. That makes sense.

40
41 Leon Meyers: Good. Then a motion would be an order to adopt the conditions as amended and then amended
42 again this evening.

43
44 Beth Bronson: I make a motion to adopt the conditions and support the findings of fact for the Holly Creek Lane
45 Cricket Facility with the condition that practices and play go no further than sunset.

46
47 Leon Meyers: Okay. Is there a second to that motion?

48
49 Jeff Scott: Second.

50

1 Leon Meyers: Any discussion on the adoption of the conditions? All in favor, please say aye.
2

3 **MOTION** was made by Beth Bronson. Seconded by Jeff Scott.
4

5 **VOTE:** Unanimous. All in favor.
6

7 Leon Meyers: None opposed, conditions are adopted. Then back to the special-use general standards adoption.
8 You want to renew your motion here?
9

10 Jeff Scott: Sure.
11

12 Leon Meyers: Jeff?
13

14 Jeff Scott: I make a motion to approve the special-use general standards on Page 65.
15

16 Leon Meyers: A second to that motion?
17

18 Greg Niemiroski: Second.
19

20 Leon Meyers: All right. Any discussion on adoption of the special-use general standards? All in favor of adopting
21 the special-use general standards, please say aye.
22

23 **MOTION** made by Jeff Scott. Seconded by Greg Niemiroski.
24

25 **VOTE:** Unanimous. All in favor.
26

27 Leon Meyers: None opposed?
28

29 Beth Bronson: None opposed.
30

31 Leon Meyers: And the final board action, James, help me here, would be to issue the permit as on the conditions
32 that we justified?
33

34 James Bryan: Yes.
35

36 Leon Meyers: All right. Do I hear a motion to that effect?
37

38 Beth Bronson: I would make a motion to approve the conditions, the finding of fact, allow the special-use permit
39 with the conditions.
40

41 Leon Meyers: Issuing a special-use permit.
42

43 Beth Bronson: Issuing the special-use permit based on the SUP conditions as amended.
44

45 Leon Meyers: Okay. And a second to that motion?
46

47 Jeff Scott: Second.
48

49 Leon Meyers: Any discussion? All in favor, please say aye.
50

1 **MOTION** was made by Beth Bronson. Seconded by Jeff Scott.
2

3 **VOTE:** Unanimous. All in favor.
4

5 Leon Meyers: None opposed? The special-use permit is approved. Thanks to everyone for being here. Pat or
6 staff, anything else the board needs to consider this evening?
7

8 Patrick Mallett: Just an adjournment.
9

10 Leon Meyers: Good.
11

12 Beth Bronson: I'm going to go ahead and take this moment to make a motion to the board to maybe ask staff to
13 schedule an administrative meeting where we can review neighborhood information notices to the
14 effect of providing clarity in what it means to be notified of a public hearing at a board of
15 adjustment.
16

17 Nathan Robinson: Do, do we have the authority to make the decision?
18

19 Beth Bronson: I'm making a motion to ask the staff.
20

21 Nathan Robinson: To find out what – I guess I'm wondering–
22

23 Beth Bronson: Propose an amended notice.
24

25 Nathan Robinson: And then that would go to whoever gives us the approval to make that change?
26

27 Beth Bronson: It goes to the Board of Commissioners ultimately. But we have rights to request. Is that correct?
28

29 Leon Meyers: I said, I thought this came up earlier, and I think what we're talking about that is what specifically
30 goes out for the notice. Is that right?
31

32 Beth Bronson: Sure. Procedures.
33

34 Leon Meyers: I think. Yeah.
35

36 Cy Stober: Sure. If it's administrative, which the language in the notices is, then that was a conversation at an
37 administrative meeting, as Ms. Bronson indicated, between the staff and the board. If it's a change
38 to the ordinance, that would be a recommendation that this board could petition the commissioners
39 for a consideration if there's a change to the ordinance. So happy to have that conversation as an
40 administrative matter.
41

42 Leon Meyers: Good. What does the July meeting date look like? Does it look like the board is going to convene
43 for a hearing on that date?
44

45 Cy Stober: No. But because of that, we had a conflict on July 2nd for the planning board, and so we have
46 scheduled the planning board for July 9th. We could still have a July meeting later in the month
47 or on another date, but we took your date.
48

49 Leon Meyers: It sounds like what we need to do is discuss this before another notice goes out maybe.
50

- 1 Cy Stober: Yeah.
2
- 3 Leon Meyers: What is the timing for that? Where I'm going with this is how quickly do we need to meet?
4
- 5 Cy Stober: We're anticipating notices being distributed for an August hearing possibly, but that would possibly
6 be for an appeal that we already sent notices for, and so it would be a bit different. But, again, the
7 messaging on standing I think is relevant for an appeal and worth a conversation. We could also,
8 as an administrative matter, we could provide a template or an example and get feedback from you
9 individually, just not as a group.
10
- 11 James Bryan: Yeah. Sorry to interject, but I would highly recommend that this be individually to staff. And if you
12 want to meet in groups of two with the staff, that would be fine, just not as a group. But it's really
13 not in the board's purview to make those recommendations to the Board of County
14 Commissioners. Individually, you can go to the planning board. Individually, you can go to the
15 commissioners. But you can think of it sort of like you guys as a whole are a judge, and a judge
16 wouldn't go on behalf of all judges to the legislature and say, "Change the law."
17
- 18 Beth Bronson: No, but they periodically look at the procedures together and make updates.
19
- 20 James Bryan: Yeah. So not the Unified Development Ordinance.
21
- 22 Beth Bronson: No, no, no. Not the development ordinance. I think just the language within how we communicate
23 to the public.
24
- 25 James Bryan: That's, again, there's different silos type of thing. The commissioners wouldn't go. Cy works for the
26 county manager. So, you can go to the county manager and say, "This is what I personally want,"
27 but the quasi-judicial boards are just to hold hearings for the rules that are given to them. We've
28 got the Board of Equalization and Review going through now. They're very popular now. They
29 wouldn't give recommendations to the Board of Commissioners about tax rates or anything like
30 that. They just hold their hearings. But if, as individuals, you want to talk to Cy.
31
- 32 Beth Bronson: Your recommendation is that I just recommend that we all review what the public is receiving and
33 provide individual feedback?
34
- 35 James Bryan: Yeah.
36
- 37 Patrick Mallett: Making sure the policies match procedure. I've always said this: There's always room for
38 refinement. But honestly, we're never going to solve the problem without them understanding
39 what legal standing is. I did my part well in advance of this meeting and with the crowd that came
40 to you tonight, it didn't work.
41
- 42 Beth Bronson: I mean, yeah, and I don't think that it has anything to do with this particular crowd. I think it's
43 something that's absolutely been building for the last 4 years since these new standing
44 requirements.
45
- 46 Patrick Mallett: They were given hard copies, and they were informed to distribute to the rest of the group.
47
- 48 Beth Bronson: Standing documentation?
49
- 50 Cy Stober: And an explanation of what that is and what it means and the homework that comes with it.

1
2 Beth Bronson: Well, the homework is provided. Okay.

3
4 Jeff Scott: You said it before too. It was like, there was a certain line where they really don't know what
5 standing is. You know? And then there's the other one where it's like, well, you can't kind of hold
6 their hand, so to speak. It's like you can still go out and help determine this yourselves, and I don't
7 want to speak to you, but that sounds like a little bit of –

8
9 Cy Stober: So, what I'll do is we have variances where you have to have standing as well to comment or offer
10 testimony in special-use cases, and we have a couple of different ways. We've tried to get at that.
11 I think everyone's correct that we've been moderately successful at times. Usually, the simpler the
12 case, the less contentious the standing discussion is, but not always. People want the right to be
13 able to speak and misunderstanding the offering testimony as a right to speak.

14
15 Leon Meyers: We have somebody testify tonight that he didn't understand that standing was a part of the
16 discussion.

17
18 Cy Stober: Yes.

19
20 Leon Meyers: And that's something that we can fix, assuming that people will read notices.

21
22 Cy Stober: Yeah.

23
24 Beth Bronson: It wasn't his testimony because he wasn't sworn in because he didn't have standing.

25
26 Cy Stober: This is also a conversation I'm happy to have offline or one on one about. How major modifications
27 differ from SUPs, and I spoke about that with Leon briefly. But I'm happy to, what I will do is
28 individually email you all that. Taylor and Pat will be copied on those emails, and if you want to talk
29 to me, we can, as James said, talk in twos or talk individually, I'm happy to, on Teams, in the office,
30 whatever. Please just be in touch.

31
32 Beth Bronson: I appreciate it.

33
34 **AGENDA ITEM 6: ADJOURNMENT**

35
36 Leon Meyers: Good. Anything else, board members? Motion to adjourn?

37
38 Greg Niemiroski: So, moved.

39
40 Leon Meyers: We are adjourned.

41
42 Beth Bronson: Second. Thank you, guys.

43
44 **MOTION** was made by Greg Niemiroski. Seconded by Beth Bronson.

45
46 **VOTE:** Unanimous. All in favor.

47
48 The meeting was adjourned at 9:36 p.m.

**ORANGE COUNTY
BOARD OF ADJUSTMENT
PUBLIC HEARING
AGENDA ITEM ABSTRACT CASE BA25-0002
Meeting Date: August 13, 2025**

**Agenda
Item No.** BA25-0002

SUBJECT: BA25-0002 (McHale Variance)

DEPARTMENT: Planning and Inspections

PUBLIC HEARING:

Yes

ATTACHMENTS:

1. Variance Application Materials
2. Zoning Report
3. Review Agencies Comments
4. Public Notification Materials
5. Findings of Fact

INFORMATION CONTACT:

Jack Moran, Planner I (919) 245-2571
Patrick Mallett, Deputy Director,
Development Services (919) 245-2577

PURPOSE: To hold an evidentiary hearing, receive testimony and evidence, and take action on a **VARIANCE** application from the provisions of Section 3.3 *Residential Districts* of the Unified Development Ordinance (hereafter 'UDO'). Specifically, the applicant is requesting relief from the 40-foot front building setback from Eno Cemetery Road to construct a residential structure on a currently undeveloped parcel.

BACKGROUND: The basic facts concerning the current application are as follows:

Owner: James McHale and Tammy McHale
4310 Eno Cemetery Road
Cedar Grove, NC 27231

Applicant: David Cates, PE
210 S. Wake Street
Hillsborough, NC 27278

Parcel Information:

(See Attachment 2)

- a. **PIN:** 9857-65-5080
- b. **Address:** Unaddressed parcel off Eno Cemetery Road
- c. **Size of parcel:** +/- 0.47 acres
- d. **Zoning of parcel:** Agricultural Residential (AR); with Upper Eno Critical Watershed Overlay District
- e. **Township:** Cedar Grove

- f. **Future Land Use Map Designation:** Agricultural Residential (AR)
- g. **Growth Management System Designation:** Rural
- h. **Roads:** Frontage along Eno Cemetery Road (Private right-of-way)
- i. **Water and Sewer Service:** The property is not located within a primary utility service area meaning water and sewer service is provided by an individual well and septic system.

Surrounding Land Uses:

- a. **NORTH:** Single-Family Dwelling, zoned AR;
- b. **SOUTH:** Single-Family Dwelling, zoned AR;
- c. **EAST:** Single-Family Dwelling, zoned AR;
- d. **WEST:** Lake Orange.

Proposal: As detailed within Attachment 1, the applicant has applied for a **VARIANCE** from the required 40-foot front building setback applied to the Eno Cemetery Road right-of-way to allow for the construction of a new residential structure. The applicant is also seeking an administrative reduction in the 150-foot reservoir setback to 75 feet under section 4.2.2.(1)(2), which allows for “Existing Lots” to encroach upon established “stream buffers” and “setbacks for septic systems” if meeting the necessary criteria. This variance will provide relief from the standard 40-foot front setback for new structures located in the AR zoning district.

Should a Variance be granted, all construction activity would be required to obtain proper permitting through Orange County.

ORDINANCE REQUIREMENTS:

Per Section 3.3 *Residential Districts* development project(s) within the AR Zoning District are required to adhere to the following setback requirement(s):

- a. 40-foot minimum front setback from ROW;
- b. 40-foot minimum corner side setback;
- c. 20-foot minimum side setback;
- d. 20-foot minimum rear setback.

STAFF COMMENT(S):

1. The application has been deemed complete.
2. As required under Section 2.12.6 of the UDO, staff notified all property owners within 1,000 feet of the subject property of the variance request. This notice also informed parties of the date, time, and location of the public hearing where the request will be reviewed. Copies of the letter, as well as our certification of mailing, are contained in Attachment 4.

3. As of August 7, 2025, staff has not received any complaints/concerns resulting from property owners notified of the request. The application materials were sent to the State Clearinghouse for review and no comments have been received to date. Additionally, the application was reviewed at the August 7, 2025 Development Advisory Committee meeting. Review comments are available in [Attachment 3](#).
4. As detailed within Section 2.10 *Variances* of the UDO, the Board is authorized to modify or vary regulations when strict compliance with the regulation or standard would result in unnecessary hardships upon the subject property.
5. In accordance with the provisions of Section 2.10.4 of the UDO, the Board may approve a variance in cases where unnecessary hardships would result from carrying out the strict letter of the UDO, when substantial evidence in the official record of the application supports all the following findings:
 - a. 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.
 - b. 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 general public, may not be the basis for granting a variance.
 - c. 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.
 - d. 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.
6. Per Section 2.10.10 of the UDO, the Board is not empowered to grant a variance without an affirmative finding of fact supported by substantial evidence in the record of the proceedings before the Board.
Further, the Board may impose appropriate conditions provided same are reasonable related to the variance request.
7. Per Section 2.12.4 of the UDO the affirmative vote of four of the members of the Board is necessary to effect any variation of the Ordinance.



Orange County Planning & Inspections Department

131 W. Margaret Lane, Suite 200, Hillsborough, NC 27278

919-245-2575 or planningapps@orangecountync.gov

Appeal of Interpretation and Variance Application

Please check all applicable boxes and complete the required documentation. Additional information and submittal requirements are contained in Sections 2.10 and 2.11 of the Unified Development Ordinance (UDO).

If completing by hand, please use black or blue ink.

* Please fill out all required fields

Date: _____

Request: Appeal of Interpretation Variance

Contact Information*

Property Owner(s): _____

Mailing Address: _____

Phone: _____ Email: _____

Applicant (if different than property owner): _____

Mailing Address: _____

Phone: _____ Email: _____

Agent: _____

Mailing Address: _____

Phone: _____ Email: _____

Law Firm Name: _____ Bar Number: _____

Note: Only attorneys are recommended to serve as agents during quasi-judicial hearings such as this request.

Property Information*

Parcel ID Number (PIN): _____

Address: _____

Appeal of Interpretation*

Matter Being Appealed (please select one)

Notice of Violation Final and Binding Determination Boundary Interpretation

Zoning Compliance Permit Other Permit: _____

Variance*

Specific Unified Development Ordinance (UDO) Section(s) Requiring Variance:

Certification and Signatures*

Appeal of Interpretation Request

I, _____, have standing as described in Exhibit A and hereby appeal to the Board of Adjustment from an adverse decision of an Administrative Official of the Planning and Development Department of the County of Orange, North Carolina made on the _____ day of _____, 20____ and attached as Exhibit B. I request an outcome as described in Exhibit C.1 and for the reasons stated in Exhibit C.2. If I intend to present any evidence, that evidence is listed in Exhibit D.

Variance Request

I, James McHale, have standing as described in Exhibit A and hereby request a variance from the UDO be granted by the Board of Adjustment from the UDO Sections listed above. I request a variance as described and for the reasons stated in Exhibit B. If I intend to present any evidence, that evidence is listed in Exhibit D.

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

Owner Signature(s)

Applicant Signature (if different from owner)

Date

Date

Exhibit A – Statement of Standing*

I am the sole owner of the property subject to this application.

I have attached notarized letters authorizing this submittal from all entities or individuals with ownership rights to the property.

I would suffer special damages distinct from the rest of the community as follows:

[Empty box for special damages]

Appeal of Interpretation*

Exhibit B – Copy of Action Being Appealed

Please attach and label as "Exhibit B" the official document which you are appealing. The Board of Adjustments **DOES NOT** have jurisdiction over advisory opinions of Orange County Staff. Only a binding determination may be appealed. Such documents generally have the following words in all capital and in bold: **NOTICE OF VIOLATION, FINAL AND BINDING DETERMINATION, BOUNDARY INTERPRETATION, or ZONING COMPLIANCE PERMIT**. If you are unsure if a staff member's email or letter has binding force, please consider asking for clarification through a standalone document with one of those terms in bold before seeking an appeal.

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.

(attach additional sheets as necessary)

Exhibit D – Intended Evidence*

- I intend to make only arguments and no further evidence is expected to be necessary.
- I intend to offer the following evidence:

I intend to introduce the following document and have attached it follows:

Exhibit #1 entitled: _____

This is relevant to standards from Unified Development Ordinance (UDO) Sections: _____

It demonstrates that: _____

Intend to call the following as a lay witness:

Lay Witness #1 (name): _____

Their intended testimony has been included in an affidavit attached as Exhibit: _____

This witness has personal knowledge of and will testify about: _____

This testimony is relevant to standards from UDO Sections: _____

The testimony will demonstrate that: _____

Intend to call the following as an expert witness:

Expert Witness #1 (name): _____

Is being offered as an expert in: _____

They possess specialized knowledge in this field through the following training and/or experience: _____

They reviewed or examined the following data: _____

They used the following method of analysis when reviewing that data: _____

This expert opinion is relevant the standard at UDO Section: _____

It demonstrates that: _____

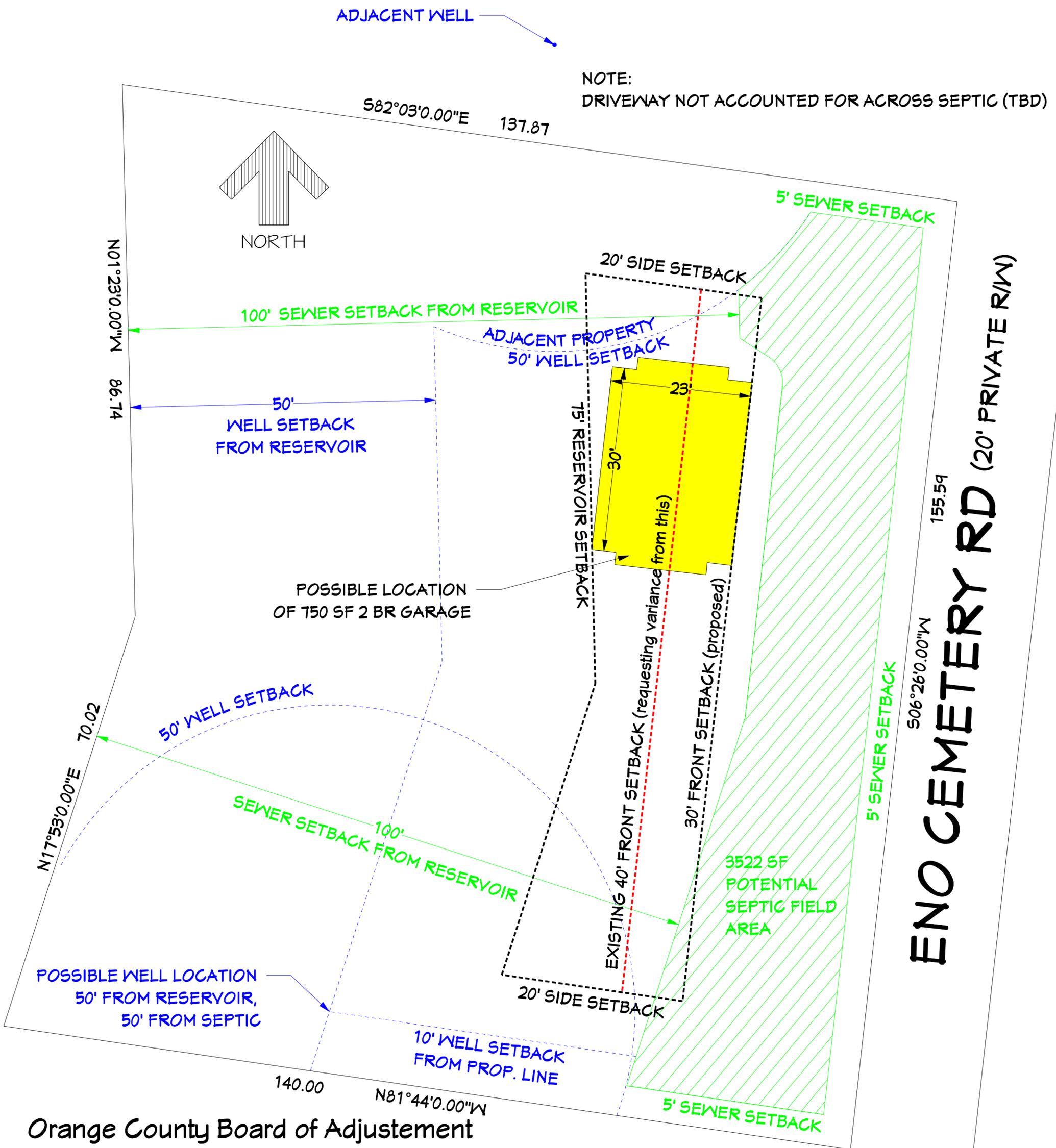
Their intended testimony has been included in an affidavit attached as Exhibit: _____

(attach additional sheets as necessary)

Section Completed by Staff

Zoning: _____ **Watershed:** _____

Other overlay districts impacting property: _____



Orange County Board of Adjustment
Variance-EXHIBIT D

7/10/2025

SCALE: 1"=10'

PREPARED BY: DAVID GATES, PE

Parcel Data
 Parcel Identification Number (PIN): 9857655080
 Size: 0.47 acres

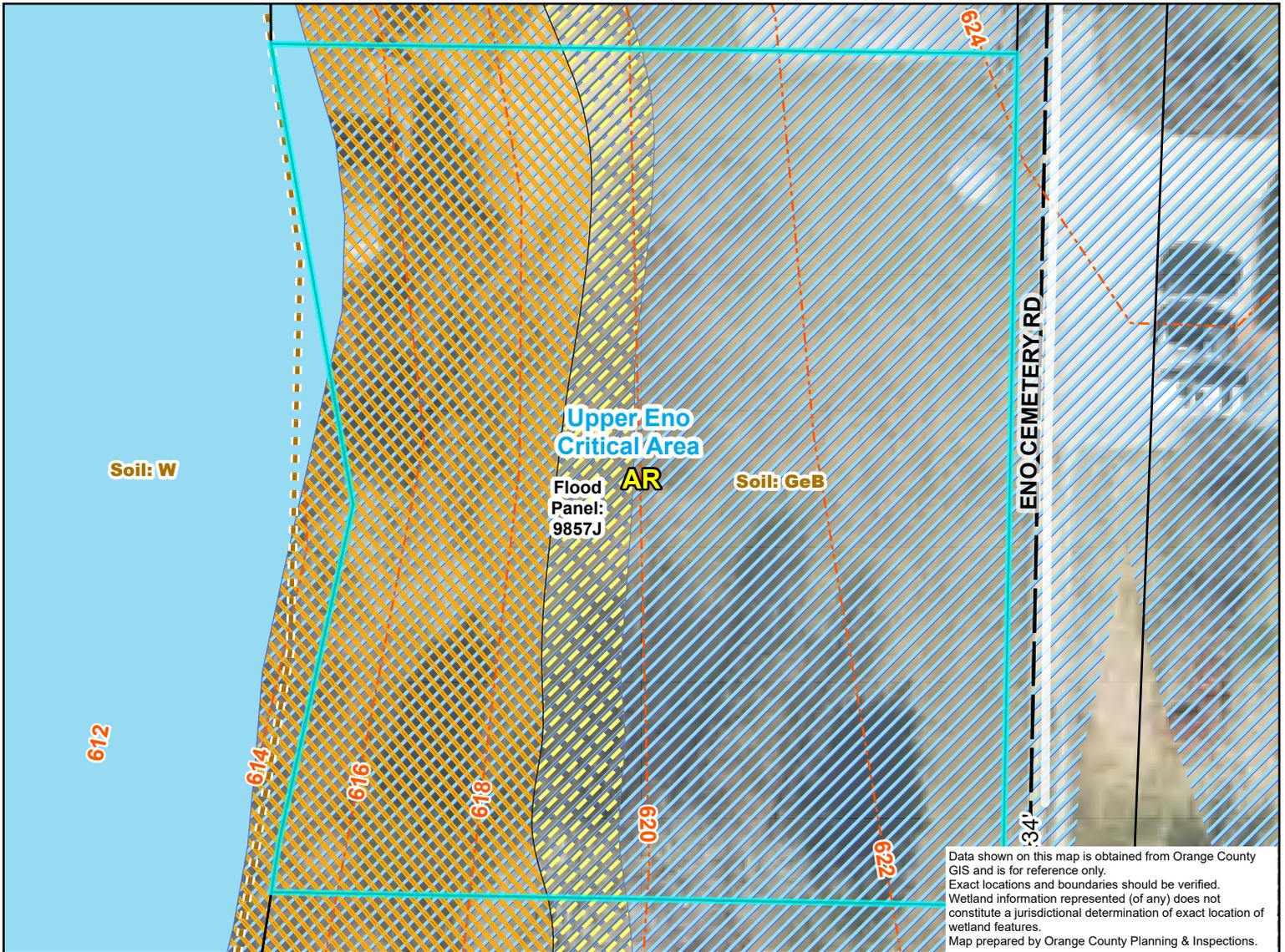
Relevant Documents for Register of Deeds
 Plat Book/Page: #25 HAROLD E WALKER P26/85
 Other Relevant Documents:

Zoning Information
 Base Zoning District: Agricultural Residential (AR)
 Min Lot Size: 40,000 sq. ft.
 Min Lot Width: 150 ft.
 Max Density: 1 dwelling per 2 acres
 Overlay Zoning District(s): Upper Eno Critical Watershed
 Max Impervious Surface: 2,648 based on sliding scale UDO Tables 4.2.5.2 and 4.2.5.3
 Max Building Height: 25'
 Building Setbacks: Front 40', Side 20', Rear 20'

Streams, Water Body, Floodplain Buffers
 Stream/Water Bodies: 150 ft. reservoir setback
 Floodplain: 100 year floodplain mapped on property, however reservoir is dam-controlled with 620' contour marking the regulated high water mark for the reservoir

Land Disturbance Thresholds
 Erosion Control: 10,000 sq. ft.
 Stormwater Management: 21,780 sq. ft. for residential uses; 12,000 sq. ft. for non-residential uses
 High Quality Water Zone (Y/N): Yes

Disclaimer
 This report contains documents prepared for the inventory of real property within Orange County, and is compiled from recorded deed, plats, and other public records and data. Some of these documents are private agreements. Users of this report are hereby notified that the aforementioned public primary information sources should be consulted for verification of the information contained in this report. The county and its mapping companies assume no legal responsibility for the information on this report. Please contact staff at 919-245-2575 if you have floodplain, High Quality Water Zone, or wetlands indicated on this report.

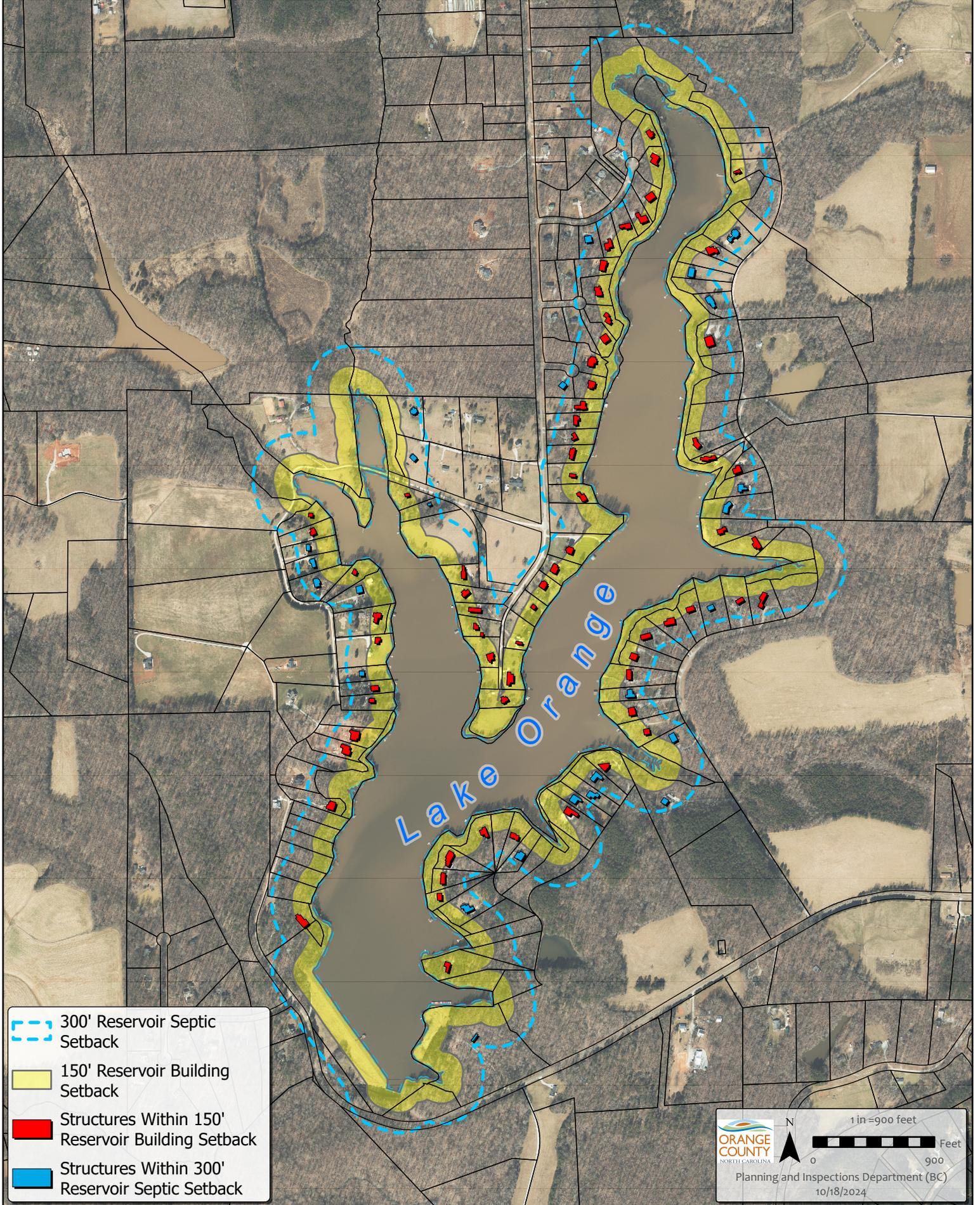


Data shown on this map is obtained from Orange County GIS and is for reference only. Exact locations and boundaries should be verified. Wetland information represented (of any) does not constitute a jurisdictional determination of exact location of wetland features. Map prepared by Orange County Planning & Inspections.

- | | | |
|------------|------------------------------|--------------------------------|
| Zoning | Watersheds | 0.2% Annual Chance of Flooding |
| Parcels | 2' Contours (NCDOT) | Cross Section |
| Soils | 1% Annual Chance of Flooding | FIRM |
| Water Body | Regulatory Floodway | Reservoir Buffer 150ft |



Addressed Structures (2021) Within 300' of 615' Elevation Line




ORANGE COUNTY
NORTH CAROLINAPLANNING *and* INSPECTIONS

Cy Stober, AICP, Director | cstober@orangecountync.gov | 131 W. Margaret Lane, Hillsborough, NC 27278 | 919.245.2575

MEMORANDUM

TO: Cy Stober, Planning Director
CC: Pat Mallett, Deputy Director, Development Services
Taylor Perschau, Current Planning & Zoning Manager
FROM: Christopher Sandt, PE – County Engineer
DATE: July 29, 2025
CASE: **BA25-0002**
PIN: 9857-65-5080
WATERSHED: Upper Eno Critical (Neuse River Basin)
PROJECT: McHale Residence
SUBJECT: Summary of Findings Regarding Case BA25-0002 and Evaluation of Conformance with Orange County Unified Development Ordinance (UDO) for Stream Buffers and Septic Setbacks Specific to Existing Lots

This memo summarizes the County Engineer’s assessment of the submitted application for a Board of Adjustment Variance Request (BA25-0002) for the McHale Residence, (hereafter, the “project”). The project is a proposed single-family residential development located within a 0.48-acre parcel in the Upper Eno Critical Watershed Protection Overlay District in the Cedar Grove township of Orange County, North Carolina. The request proposes variances/reductions to the 150-ft stream/reservoir buffer for proposed structures as required in UDO Section 6.13.4.c, the 300-ft septic setback as required in UDO Section 4.2.9, and the 40-ft front building setback as required in UDO Section 3.3 to accommodate development of the project.

The comments and conclusions contained herein are based upon the County Engineer’s review of Exhibit C as submitted with this variance application and the Planning Director’s request to the County Engineer to evaluate whether the project may qualify for by-right development under the allowances of UDO Section 4.2.2(1)(2) “Watershed Protection, Applicability, Existing Lots”. These findings should not be interpreted as the Planning Department’s final approval of the project. Upon zoning approval, the project would be required to submit for all applicable permits consistent with the UDO.

Project Evaluation:

According to current Orange County GIS imagery, there are no mapped stream features located on the project parcel. The normal pool of Lake Orange (PIN 9857-65-5080) lies adjacent to the west side of the parcel. The project consists of a proposed permanent residential structure, access driveway, and private well/septic systems. The project

proposes a 75-ft wide setback between the normal pool of Lake Orange and the proposed residential structure, a minimum 30-ft wide building setback between the Eno Cemetery Road right-of-way line and the proposed residential structure, and a minimum 100-ft wide setback between the normal pool of Lake Orange and the proposed private septic tank/drainfield. The proposed private water well will be located a minimum of 50-ft from the proposed private septic tank/drainfield.

The project parcel was platted/recorded on April 11, 1974. UDO Section 4.2.2(l)(1) defines an existing lot as a lot which was created prior to January 1, 1994. UDO Section 4.4.4(l)(2) further defines that stream buffers and septic system setbacks may be reduced to the extent necessary to allow for the development of a parcel qualified as an existing lot, provided that all of the following criteria are met:

- a) The septic system is sized to serve no more than two bedrooms; and
- b) The septic tank, drainfield and repair area (where required) can be accommodated on 20,000 square feet of area or less; and
- c) The Orange County Planning Department, in consultation with Orange County Environmental Health and/or the Orange County Engineer has determined that encroachment of the residential structure and/or the septic system or repair area into the stream buffer or reservoir setback is necessary to provide adequate area for septic disposal and repair while maintaining required separations between wells, septic systems, structures and property lines; and
- d) The Orange County Planning Department, in consultation with Orange County Environmental Health and/or the Orange County Engineer, has determined that the relative locations of the well, septic system and residential structure maximize the amount of watershed protection that can be achieved while allowing development of the lot. Generally, an exception to setbacks for septic repair area is preferable to an exception for the initial septic system.

Conclusion:

The County Engineer has determined that PIN 9857-65-5080 qualifies as an existing lot as defined in UDO Section 4.2.2(l)(1). The County Engineer has further determined that the requested reductions to the required reservoir setbacks and the required front setback are necessary to provide adequate area for septic disposal and that the locations of the proposed well, septic system, and residential structure have maximized to the best extent practicable the amount of watershed protection that can be achieved while also allowing by-right development of the existing lot. The County Engineer hereby has **No Objections** to development of the project as submitted and as allowable under UDO Section 4.2.2(l)(2) contingent upon the applicant's subsequent written confirmation of compliance with sub-items a) and b) as listed above.

Christopher J. Sandt, P.E.

Digitally signed by Christopher J. Sandt, P.E.
 DN: cn=Christopher J. Sandt, P.E., o=Orange County, North Carolina,
 ou=Engineering Division, email=csandt@orangecountync.gov, c=US
 Date: 2025.07.29 14:29:26 -04'00'

Christopher Sandt, PE

Date

PLANNING *and* INSPECTIONS

Cy Stober, AICP, Director | cstober@orangecountync.gov | 131 W. Margaret Lane, Hillsborough, NC 27278 | 919.245-2575

Development Advisory Committee (DAC) Comments

DAC review comments and recommendations **do not** constitute plan or permit approval for this application and/or replace any other plans and permits that may be required by other County departments and State agencies.

Project:	BA25-0002 (McHale) Variance Application
Location/PIN:	9857655080
Applicant:	David Gates, PE
Staff Planner:	Jack Moran, Planner I
DAC Meeting Date:	8-7-2025

Addressing and Land Records	Date: 7/30/25	Staff: Britney Pendleton brpendleton@orangecountync.gov 919-245-2576
------------------------------------	----------------------	---

1. No comments from the addressing team. - BP

Attorney's Office	Date:	Staff: James Bryan jbryan@orangecountync.gov 919-245-2319
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1. None received.

Building Inspections	Date: 8/6/25	Staff: Michael Rettie mrettie@orangecountync.gov 919-245-2604
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1. Any proposed construction that is regulated by the NC Building Codes will require a permit.

DEAPR	Date:	Staff: Chris Hirni chirni@orangecountync.gov 919-245-2514
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1. None received.

Environmental Health	Date: 2025/08/05	Staff: Thomas Privott tprivott@orangecountync.gov 919-245-2374
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1. The Department does not have records for this parcel.
1. The minimum setback from Class II reservoirs to all components of a septic system, as prescribed by the Orange County Rules for Wastewater Treatment and Dispersal Systems, is 100ft from the normal pool elevation.

Erosion Control	Date: 7/31/2025	Staff: Tyler Sliger Tsliger@orangecountync.gov 919-245-2582
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1. No comment

Fire and Life Safety	Date:	08/06/25	Staff:	Stephen Smith stesmith@orangecountync.gov 919-245-6151
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No comments to add.

NCDOT	Date:	8-5-2025	Staff:	David Genwright digenwright@ncdot.gov 336-570-6833
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1. This project appears to be proposed on the non NCDOT maintained portion of Eno Cemetery Rd. With no proposed roads, no proposed utilities in the right of way, low expected change in daily trips count, and low expected traffic impacts, no NCDOT action or approval is required as long as the county or other jurisdictions do not require an upgrade or change to the connection to the publicly maintained section of Eno Cemetery Road.

Planning	Date:	8-4-2025	Staff:	Jack Moran jomoran@orangecountync.gov 919-245-2571
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1. Staff has deemed the application complete. The variance request is currently scheduled for Board of Adjustment review at the August 13, 2025 meeting of the BOA.
2. In accordance with UDO Section 2.12.6, the property was posted and mailings were sent Wednesday, July 30, 2025, 14 days before the scheduled BOA evidentiary hearing.

Solid Waste	Date:	8/6/25	Staff:	Matt Taylor mtaylor@orangecountync.gov 919-918-4905
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1. No Comments

Stormwater Management	Date:	7/30/25	Staff:	Christopher Sandt csandt@orangecountync.gov 919-245-2583
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1. The project is located in the Upper Eno Critical Watershed Overlay District. The submittal of a Stormwater Management Plan (SMP) is required for any proposed Land-Disturbing Activity exceeding 21,780 square feet. ***Land disturbance thresholds are cumulative to parent tract and will carry over to any/all subdivided lots.***

Transportation Services	Date:		Staff:	Darlene Weaver dweaver@orangecountync.gov 919-245-2002
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1. None received.



PLANNING and INSPECTIONS

Cy Stober, AICP, Director | cstober@orangecountync.gov | 131 W. Margaret Lane, Hillsborough, NC 27278 | 919.245.2575

July 30, 2025

NOTICE OF BOARD OF ADJUSTMENT QUASI-JUDICIAL EVIDENTIARY HEARING TO REVIEW A VARIANCE REQUEST FOR AN UNNADDRESSED PARCEL (PIN 9857-65-5080) OFF ENO CEMETARY ROAD

Dear Property Owner:

This notice is to inform you of the August 13, 2025, Board of Adjustment (BOA) meeting. A quasi-judicial evidentiary hearing will be conducted to review a Variance request for the parcel with the PIN 9857-65-5080 that is located off Eno Cemetery Road, Cedar Grove, NC. This notification is occurring in accordance with the provisions of Section 2.10 *Variances* of the Orange County Unified Development Ordinance (UDO).

NO CHANGES ARE PROPOSED FOR YOUR PROPERTY. You are receiving this notice because you own property located within 1,000-feet of parcel requesting a Variance from the Orange County setback standards, as required by the UDO. **The Evidentiary Hearing for this Variance request will be reviewed by the Orange County BOA at 7:00 p.m. on August 13, 2025 at the Whitted Meeting Facility, 300 West Tryon Street, Hillsborough, NC.**

PROPERTY INFORMATION	
Parcel ID Number (PIN)	9857-65-5080
Owner	James McHale and Tammy McHale
Applicant	David Cates, PE
Acreage	+/-0.47acres
Current Zoning	Agricultural Residential (AR)
Watershed Designation	Upper Eno Critical Watershed

The Evidentiary Hearing is open to the public. **It is a quasi-judicial hearing and testimony is limited to individuals/parties that have legal standing**, as established by State law, and reflected in Sections 2.10 and 2.12 of the UDO. Opinions, hearsay, and/or statements that are not competent, significant and material to the case will not be considered by the BOA.

If you wish to speak and/or establish your legal standing in the case, we **strongly recommend** that you complete the enclosed Legal Standing Form, and e-mail the document to planning staff at planningapps@orangecountync.gov in advance of the meeting. We also **strongly recommend** that you seek legal advice/representation in the matter. Establishing legal standing is a formal part of the evidentiary hearing process with a legal burden of proof on the requestor to establish their standing and evidence that their evidence material(s) are legally relevant and applicable to the case.

DESCRIPTION OF VARIANCE REQUEST

The Orange County UDO requires residential development(s) within the Agricultural Residential (AR) Zoning District to adhere to a 40-foot front setback from a public or private right-of-way. The applicant has applied for a Variance to reduce this setback to 30-feet in order to construct a residential dwelling on the vacant parcel.

In accordance with the provisions of Section 2.10.3 of the UDO, the BOA may approve a variance in cases where unnecessary hardships would result from carrying out the strict letter of the UDO, when substantial evidence entered into the official record supports all of the following findings:

- (A) 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.
- (B) 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 general public, may not be the basis for granting a variance.
- (C) 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.
- (D) 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.

If you cannot attend the Board of Adjustment meeting and the website does not answer your questions about the requested Variance, you may call 919-245-2575 during regular business hours and you will be directed to a staff person who can assist you.

Sincerely,



John "Jack" Moran, Planner I
Orange County Planning and Inspections

Additional information is available on the Orange County Planning Department's website:
<https://www.orangecountync.gov/3038/Active-Development-Projects> or scan below:



Si desea servicios de traducción para esta carta y otros documentos relacionados con el caso/asunto; y/o servicios de interpretación de idiomas en una reunión relacionada con este caso/asunto, comuníquese con Current Planning Division al correo electrónico: planningapps@orangecountync.gov o llame al 919-245-2575. Por favor, espere al menos 10 días para que nuestro personal organice estos servicios.

CC: File; Energov.
Attachments: Legal Standing Form

PLANNING *and* INSPECTIONS

Cy Stober, AICP, Director | cstober@orangecountync.gov | 131 W. Margaret Lane, Hillsborough, NC 27278 | 919.245.2575

**CERTIFICATION OF MAILING
BOARD OF ADJUSTMENT EVIDENTIARY HEARING
ORANGE COUNTY, NORTH CAROLINA**

I, John A. Moran, Planner I with Orange County, North Carolina, DO HEREBY CERTIFY that in accordance with the provisions of Section 2.10.12 of the Orange County Unified Development Ordinance I have mailed, or have caused to be mailed, a Board of Adjustment Evidentiary Hearing Notice regarding a Variance Request for a parcel located off Eno Cemetery Road in Cedar Grove (PIN: 9857-65-5080) on August 13, 2025.

This notice informed those property owners within 1,000 ft. of the subject property of the proposed Variance Request. The owners were identified according to the Tax Records and as required by the UDO.

The mailed notice specified the date, time, place, and subject of the Evidentiary Hearing meeting and provided information on the Variance Request review process.

WITNESS my hand, this 30th day of July 2025.

A handwritten signature in black ink that reads "John A. Moran". The signature is written in a cursive style and is positioned above a horizontal line.

John A. Moran

Planner I

Orange County Planning and Inspections Department

OWNER1_LAST	OWNER1_FIRST	OWNER2_LAST	OWNER2_FIRST
RIPPENHAGEN	LUCY C	RIPPENHAGEN	HAROLD C
COLLINS	GEORGE	COLLINS	GWENDOLYN H
BELT	DAVID		
FRANCESCON	LISA		
GILL	KARMINDER SINGH TRUSTEE	GILL	RUPINDER KAUR TRUSTEE
PERRETTA	SEBASTIAN G	PERRETTA	KATHERINE J
FOY	ROBERT E JR TRUSTEE	FOY	MARJORIE ELVIN TRUSTEE
JOHNSON	STEPHEN W	JOHNSON	AUDREY T
BERRY	ROBERT G II	BERRY	TAMMY S
LAKE ORANGE INC			
ZAMPI	MARCIA JO TRUSTEE	BARRETT	MICHAEL TRUSTEE
WALKER	ROWDY		
DAVIDSON	TYLER A	SPANIAK	PATRICIA
ORANGE	COUNTY		
TOLAR FAMILY	INC		
FRANCIS	MARK T	FRANCIS	PATRICIA T
HUSKINS	MICHAEL H	HUSKINS	NANCY C
MCHALE	JAMES	MCHALE	TAMMY
LEE	SHARON W		
GORI	ADAM	DYE	AMY
MCHALE	JAMES	MCHALE	TAMMY
MCHALE	JAMES	MCHALE	TAMMY
MOORE	FRANCES S		
BOS	SHERRI M		
CLAYTON	GERALDINE T		
BLANCO	ROBERTO	DEUTSCH BLANCO	MEGHAN
RANDALL	MARK D	RANDALL	SUSAN ANNE
HUSKINS	MICHAEL H	HUSKINS	NANCY C
CLARK	STEVEN C	CLARK	LINDSAY M
FINCH	JAMES		
LIPSHAW	MOSES ANTHONY	GRINER	HEATHER CHRISTOPHER
ALLISON	DANIEL F	MOSS	VALERIE T
NALLEY	GEORGE W	NALLEY	STACY L
JOHNSON	WILLIAM G	JOHNSON	JODIE H
BOOTH	MELISSA L		
RUHE	THOMAS	RUHE	JACCI
SCHRIFT	WALTER A		
HARRIS	MARK WILLIAM HRS		
DIXON	TERESA F		
GUIBERT	JOHN C III	GUIBERT	JUDITH K
RHEW	LOU ANN HICKS		

ADDRESS1	ADDRESS2	CITY	STATE	ZIPCODE
1381 LAKE ORANGE RD		CEDAR GROVE	NC	27231
1389 LAKE ORANGE RD		CEDAR GROVE	NC	27231
1126 LAKEVIEW DR		CEDAR GROVE	NC	27231
1122 LAKEVIEW DR		CEDAR GROVE	NC	27231
101 WORSHAM DR		CHAPEL HILL	NC	27516
213 CLANCY CIR		CARY	NC	27511
1106 LAKEVIEW DR		CEDAR GROVE	NC	27231
4324 GRASSY RIDGE RD		HILLSBOROUGH	NC	27278
1038 LAKEVIEW DR		CEDAR GROVE	NC	27231
PO BOX 127	C/O JOHN	HILLSBOROUGH	NC	27278
936 SHORE FRONT LN		HILLSBOROUGH	NC	27278
1877 FLYING W TRL		HILLSBOROUGH	NC	27278
342 ROME ST		SAN FRANCISCO	CA	94112
PO BOX 8181		HILLSBOROUGH	NC	27278
PO BOX 127		HILLSBOROUGH	NC	27278
4300 ENO CEMETERY RD		CEDAR GROVE	NC	27231
712 LAKEVIEW DR		CEDAR GROVE	NC	27231
4310 ENO CEMETERY RD		CEDAR GROVE	NC	27231
4322 ENO CEMETERY RD		CEDAR GROVE	NC	27231
4328 ENO CEMETARY RD		CEDAR GROVE	NC	27231
4310 ENO CEMETERY RD		CEDAR GROVE	NC	27231
4310 ENO CEMETERY RD		CEDAR GROVE	NC	27231
PO BOX 155		CEDAR GROVE	NC	27231
PO BOX 608		HILLSBOROUGH	NC	27278
318 CRAWFORD RD		HILLSBOROUGH	NC	27278
4405 ENO CEMETERY		CEDAR GROVE	NC	27231
PO BOX 107		CEDAR GROVE	NC	27231
712 LAKEVIEW DR		CEDAR GROVE	NC	27231
4300 LANDING TRL		HILLSBOROUGH	NC	27278
4308 LANDING TRAIL		HILLSBOROUGH	NC	27278
4001 LATTIMORE DR		HILLSBOROUGH	NC	27278
4316 LANDING TRL		HILLSBOROUGH	NC	27278
4320 LANDING TRAIL		HILLSBOROUGH	NC	27278
4300 ARROWHEAD TR		HILLSBOROUGH	NC	27278
PO BOX 782		HILLSBOROUGH	NC	27278
4222 ARROWHEAD TRL		HILLSBOROUGH	NC	27278
4411 ENO CEMETERY RD		CEDAR GROVE	NC	27231
4308 ARROWHEAD TRL		HILLSBOROUGH	NC	27278
4312 ARROWHEAD TR		HILLSBOROUGH	NC	27278
4316 ARROWHEAD TR		HILLSBOROUGH	NC	27278
4417 ENO CEMETERY RD		CEDAR GROVE	NC	27231



ORANGE COUNTY NOTICE
BOARD OF ADJUSTMENT
CASE: BA25-0002
DATE: August 13, 2025
TIME: 7:00 PM
PLACE: *Hammock's Edge*
B
ORANGE COUNTY BOARD OF ADJUSTMENT
MORE INFO: Scan or 919-245-2575

**FINDINGS OF THE
ORANGE COUNTY BOARD OF ADJUSTMENT**

**PERTAINING TO A VARIANCE REQUEST SUBMITTED ON BEHALF OF JAMES AND
TAMMY MCHALE, CASE BA25-0002
Unaddressed parcel on Eno Cemetery Road
(PIN: 9857-65-5080)**

As permitted under Section 2.10 *Variances* of the Orange County Unified Development Ordinance, the Board of Adjustment is authorized to modify or vary regulations of the UDO when strict compliance with the regulation or standard would result in unnecessary hardships upon the subject property.

In accordance with the provisions of Section 2.10.4 of the UDO, the BOA may approve a variance in cases where unnecessary hardships would result from carrying out the strict letter of the UDO, when substantial evidence in the official record of the application supports all of the following findings:

- (A) 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.
- (B) 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 general public, may not be the basis for granting a variance.
- (C) 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.
- (D) 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.

Per Section 2.12 of the UDO, the Board of Adjustment shall review the evidence at a quasi-judicial evidentiary hearing, allowing for the presentation of evidence and testimony by staff, the applicant, and any parties who establish legal standing, and providing for questioning by the Board members.

Per Section 2.10.9 of the UDO, the Board of Adjustment is not empowered to grant a variance without an affirmative finding of fact supported by substantial evidence in the record of the proceedings before the Board. The Board may impose appropriate conditions provided same are reasonable related to the variance request.

Per Section 2.12.4 of the UDO the affirmative vote of four of the members of the Board shall be necessary to effect any variation of the Ordinance.

In accordance with Section 2.10.9 of the UDO what follows in the Planning Director's assessment of the application and recommended disposition of the request consistent with the information contained therein.

REQUIREMENT	UDO	SUPPORTING EVIDENCE	BOA FOF
FINDINGS			
In accordance with Section 2.10.4 of the UDO, the Board of Adjustment shall also consider the following before the application for a VARIANCE can be approved.			
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.	Sec 2.10.4 (A)	Application package	
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 general public, may not be the basis for granting a variance.	Sec 2.10.4 (B)	Application package	
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.	Sec 2.10.4 (C)	Application package	
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.	Sec 2.10.4 (D)	Application package	

After holding a duly advertised public hearing, the Board voted ____ to _____ the variance request as submitted by the Applicant.

Chair Orange County Board of Adjustment

Date