



**AGENDA**  
**BREVARD BOARD OF ADJUSTMENT - REGULAR MEETING**  
**Tuesday, March 3, 2026 - 3:00 PM**  
**City Council Chambers**

**I. Welcome**

**II. Introduction of Board Members**

**III. Certification of Quorum**

**IV. Approval of Agenda**

**V. Approval of Minutes**

- a. Draft Minutes 02/03/2026

**VI. Approval of Orders**

**VII. New Business**

- a. VAR-25-0003 - Dolly's Dairy Bar, 128 Pisgah Hwy
- b. VAR-26-0001 - 775 Camptown Rd.
- c. VAR-26-0002 - 85 Trent Rd.

**VIII. Unfinished Business**

**IX. Remarks**

**X. Adjourn**

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Agenda Posted, Website (02/24/2026)  
V. Gass, Clerk to the Board

*To review Agenda materials, go to the City's website [www.cityofbrevard.com](http://www.cityofbrevard.com). Select "Your Government" tab followed by "Agenda Packet" tab. Agenda packet materials are posted on Friday afternoon prior to the meeting.*

**MINUTES**  
**BREVARD BOARD OF ADJUSTMENT REGULAR MEETING**  
**Tuesday, February 3<sup>rd</sup>, 2026- 3:00 PM**

The Brevard Board of Adjustment (BOA) met for a regular meeting on Tuesday February 6<sup>th</sup>, 2026, at 3:00 PM.

Members Present: Peter Offen, Chair  
Reid Wood  
Jackson Tate  
Alan Mercaldo  
Gilley Pearson

Staff Present: Katherine Poe, Planner  
Madalin Baker, Board Clerk  
Aaron Bland, Assistant Planning Director  
Paul Ray, Planning Director  
Brian Gulden, Board Attorney

Guests: Andrew Riddle, owner at 277 N. Broad St.  
James Lee III, attorney representing Andrew Riddle

**I. WELCOME**

Board Chair Peter Offen called the meeting to order at 3:03 PM and welcomed those present.

**II. INTRODUCTION OF BOARD MEMBERS**

Board members and Staff introduced themselves.

**III. CERTIFICATION OF QUORUM**

P. Offen had the Clerk certify that a quorum of the Board was present.

**IV. APPROVAL OF AGENDA**

P. Offen made a motion to strike draft minutes from the agenda, to move “Unfinished Business” before “New Business,” and to move item B under new business up to item A. A. Mercaldo seconded the motion, and it passed unanimously.

**V. UNFINISHED BUSINESS**

- A. APP-25-0001: Administrative Appeal Regarding Permits ENC-25-006 and ENC-25-007
- B. Gulden took a moment to advise the board.

P. Offen made a motion to table APP-25-0001 and APP-26-0001 to the April meeting, to be held April 7<sup>th</sup>, 2026 at 3:00 PM. R. Wood seconded, and the motion passed unanimously.

**VII. NEW BUSINESS**

- A. Consideration of APP-26-0001 – 221 Pinnacle Rd.  
See motion made under unfinished business.
- B. Consideration of VAR-25-0002 – 277 N Broad St.

P. Offen, Chair, explained quasi-judicial procedures and standing.

The following were sworn: Andrew Riddle and Katherine Poe. No ethical conflicts were found. P. Offen opened the hearing.

K. Poe presented her staff report, a portion of which follows:

The applicant, Sign Systems, is the sign contractor for the owners at 277 N. Broad St, which is in the Downtown Mixed Use (DMX) zoning district and the Downtown Development Overlay District. The parcel identification number is 8586-52-8251-000. The owner, Andrew Riddle, has appointed James W Lee III to represent him at the hearing. The applicant is requesting a Ground Sign at the corner of N Caldwell St and Methodist Drive. The Unified Development Ordinance, Chapter 12.9.3.C, permits one ground sign of 32 square feet max in DMX, but only one A-Frame type sign in the Downtown Development Overlay District. Notice of the hearing was advertised and posted on the property in accordance with North Carolina General Statute §160D-406.

Discussion: The property has an existing building, constructed around 1964, that has recently been remodeled from a shopping center into a medical office. The location of the building sits between N. Broad St. and N. Caldwell St. with an entrance and parking primarily on the N. Broad St. side and circulation on all sides. The building has undergone a substantial renovation and has reconfigured what was previously a back side service area into a second frontage on N. Caldwell St. The owner wants to mark both street frontages and entrances with ground signs.

N. Broad Street Sign – Permitted: One ground sign has been permitted for the entrance near the corner of N. Broad St. and Methodist Dr. The previous shopping center had a large ground sign near the mid-block entrance on N. Broad St. that was recently demolished by the redevelopment. NC GS 160D-912.1 permits the non-conforming, lawfully erected ground sign to be replaced if not expanded in size, so the owner is allowed to replace the existing ground sign. The permitted sign is 60” high and 71” wide, or 29.5 square feet. No internal or external lighting is proposed.

N. Caldwell Street Sign - Variance Request: As stated previously, the N. Caldwell St. side of the existing building was a service area for the tenants of the shopping center, with no need for signage for patrons. The newly remodeled building has an entrance and building frontage on N. Caldwell St. and the ground sign on N. Broad St. is not visible from N. Caldwell St. The two ground signs would be about 285’ apart. The proposed sign is 60” high and 71” wide, or 29.5 square feet. No internal or external lighting is proposed.

Investigation: Staff took photos of the previous ground sign during the remodel construction. There are photos of the previous sign on Google as far back as 2008. There is no evidence that there has ever been more than one Ground Sign on the property.

Following her staff report, K. Poe looked to the Board for questions. A. Mercaldo asked if there is any verbiage in the UDO specifically regarding signage for a parcel running along two major roads. K. Poe said there is none, and that the verbiage is clear on designating “one per parcel.” P. Offen asked if there are alternate locations for the proposed signs, and K. Poe shared they already have installed various wall signs and projection signs, but the applicants site wanting something streetside that is visible to drivers as they approach the parking lot. The Board had no further questions for the City.

James “Trey” Lee III, attorney for the applicant, presented their case. J. Lee cited that historically, the building only featured one public entrance facing Broad street, but that now, the building features two public entrances, one facing Broad street and one facing Caldwell. J. Lee called A. Riddle, applicant, to provide additional details to the Board. A. Riddle shared the Caldwell entrance of the building features a pharmacy, and they want wayfinding for pharmacy patrons to be as easy and simple as possible, citing the goal to provide an excellent experience for patients. He noted that the original sign on the property, previously Princess Plaza and then College Plaza, was 162 square feet—A. Riddle went on to explain their request is for significantly less square footage of signage.

The Board questioned the Applicant. P. Offen asked what hardship would be faced by the applicant if the variance was not granted. A. Riddle shared it would not be him who would suffer, as the property owner, but the people of Brevard who would suffer, as the variance would maximize patient accessibility to the site. He emphasized the desire to make both entrances to the property look as presentable and accessible as possible, in the interest of public safety and welfare. J. Lee added that with the high levels of traffic on both Broad street and Caldwell street, that the civil engineer for the project recommended the two-ground-sign plan would be the safest approach as well. A. Mercaldo asked if the driveway access onto Caldwell was preexisting, and A. Riddle said yes, the Princess Plaza used it as a small access road to house dumpsters. J. Tate asked if the entire building is to serve as a pharmacy, and A. Riddle said no, the building also features 48 exam rooms, a 300-capacity event space, a 50 capacity conference room, and many other community resources. P. Offen asked again if the applicant had considered alternative signage placements before applying for a variance, and A. Riddle noted that they are seeking just two ground signs for over 2000 sq. ft. of healthcare space, and called their request “pretty minimal,” again noting the two-sign model was recommended by other professionals.

P. Offen saw there were no further questions and closed the hearing. The Board discussed. R. Wood said the additional requested sign is doing more than just advertising, providing new site-specific information for a property on a very busy street, and could be in the best interest of public safety. G. Pearson noted that area is not an easy spot to turn around and could pose a safety hazard. A. Mercaldo agreed, but said he is not sure that the applicant meets the criteria for facing a “hardship.” Board Attorney B. Gulden shared a case study from another North Carolina municipality where an appeals court supported hardship faced by all users of a particular facility as viable, not just hardship faced by the property owner. P. Offen thanked B. Gulden for his research and preparation, saying he was also struggling to satisfy the hardship requirement, but

acknowledging that hardship would indeed be suffered by the public users of the medical facility without additional streetside signage.

A.Mercaldo made the following motion: With regard to variance request 25-0002, the application of 277 N. Broad Street Partners LLC, through its agent James Lee III, seeking a variance from Chapter 12.9.3.C of the UDO for property located 277 N. Broad Street Partners, LLC, Brevard, North Carolina, within the Downtown Mixed-Use Zoning District, I move the Board to make the following findings of fact:

- a) that unnecessary hardship would result from the strict application of the regulations, making the facility inaccessible to the public and causing increased traffic if a variance is not granted;
- b) the hardship results from conditions that are peculiar to the property such as location size or topography, as the property faces two main roads and features two driveway entrances;
- c) the hardship did not result from actions taken by the applicant or the property owner, as the site featured two pre-existing driveways;
- d) the requested variance is consistent with the spirit purpose and intent of the regulations such that Public Safety is secured and substantial Justice achieved, allowing drivers adequate notice to safely turn into the driveway, and not posing any additional hazard to visibility.

Accordingly, I further move the board to **grant** the requested variance to allow for the installation of an additional ground sign on the subject property in accordance with and only to the extent and within the area represented in the application and plans and subject to the following conditions: That the newly erected ground sign shall have a notation that such entrance is for the pharmacy and pharmacy entrance.

J. Tate seconded the motion, passed unanimously. The applicants requested the Order be approved via email.

**IX. REMARKS**

The Board considered rescheduling the March 3<sup>rd</sup> meeting, as A. Mercaldo noted he would be absent at the March 3<sup>rd</sup> meeting due to his commitments as a poll worker. Following discussion, the Board decided to leave the March 3<sup>rd</sup> meeting as originally scheduled.

**X. ADJOURN**

R. Wood moved to adjourn the meeting, seconded by A. Mercaldo. The motion carried unanimously. The meeting was adjourned at 3:57 PM.

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Peter Offen, Chair

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Madalin Baker, Board Clerk

**STAFF REPORT**  
**Board of Adjustment, Tuesday, March 3, 2026**

**Title:** VAR-25-0003 - Dolly's Dairy Bar, 128 Pisgah Hwy  
**Speaker:** Katherine Poe  
**Prepared by:** Katherine Poe, Planner/Assistant Zoning Administrator  
**Approved by:** Paul Ray, Planning Director

**Background**

Dolly's Dairy Bar, a tenant at 128 Pisgah Hwy in Pisgah Forest, is zoned Downtown Mixed Use (DMX) and is within the City's Extra Territorial Jurisdiction (ETJ). The parcel identification number is 8597-45-1544-002.

The applicant is requesting a variance of the Unified Development Ordinance's (UDO) Chapter 10.7.D.1 for a non-conforming parking lot to be brought into compliance by paving with permanent non-erodible surface treatment.

Per the Unified Development Ordinance (UDO), the primary structure is considered a pre-existing nonconformity and when a significant or substantial improvement is to be completed, all other nonconforming conditions must be brought into compliance per 14.3.E(5):

*"Significant damage and/or significant improvement to any non-conforming structure that is located within a lot containing any other non-conforming condition shall, to the maximum extent possible, require the satisfaction of the all other requirements of this ordinance and the elimination of all non-conforming conditions. Examples include, but are not limited to, the provision of sufficient parking, landscaping and buffering, and public improvements (i.e., sidewalks and other), and full compliance with all applicable signage, flood hazard reduction, surface water protection, and stormwater management provisions."*

Dolly's sustained damage from Hurricane Helene and construction repairs were estimated at \$60,000 per the permit application. The County tax office has appraised the building's value (primary structure) at \$43,430, so the non-conforming parking lot needs to be brought into compliance.

The owner of the property and the City executed an Infrastructure Improvement Agreement to delay the paving of the parking lot as NCDOT work is scheduled for the R-5799 roundabout.

Notice of the hearing was advertised and posted on the property in accordance with North Carolina General Statute §160D-406.

**Discussion**

The City did approve the building repairs once the Infrastructure Improvement Agreement was on file. Repairs to the building have been completed.

**Investigation**

Upon inspection, the existing parking lot is a gravel lot but does have some holes/low spots. They have added one ADA-compliant space.





**Standards for the Granting of Variances**

In order to grant the variance all of the conditions below must be met:

1. Unnecessary hardship would result from the strict application of the regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.

Economic hardship or the fact that property may be utilized more profitably with a variance shall not constitute an unnecessary hardship. In its motion the Board should include Findings of Fact to support each of the items listed above.

**Attachments:**

1. Application Materials
2. Appointment of Agent
3. Infrastructure Improvement Agreement



VAR File # \_\_\_\_\_

**APPLICATION FOR A VARINACE (VAR)**  
**BREVARD BOARD OF ADJUSTMENT**

**PURPOSE OF VARIANCE** - A variance is the official allowance of a variation from the dimensional requirements of the City of Brevard Unified Development Ordinance or other development regulations. An applicant for a variance must demonstrate valid reasons which create a need for a Variance. These reasons cannot be strictly economic in nature and must generally involve some physical problem with the subject property which will not allow it to be developed in a reasonable manner if City development regulations are followed literally, such as a lot which is substandard in area or width.

**BOARD OF ADJUSTMENT** - The Board of Adjustment or BOA, is the official City Board that considers request for variances. The BOA receives sworn testimony at its meetings and issues decisions on variance requests based on this testimony. It is the responsibility of each applicant for a variance to attend the BOA meeting and present sworn testimony in support of the request. Authority to grant a variance is found in 16.8.E of the City of Brevard's Unified Development Ordinance pursuant to North Carolina General Statute's 160D-705. The Unified Development Ordinance requires that the Brevard Board of Adjustment, when granting a variance must find that all four (4) of the following standards found in UDO Chapter 16.8.E.2. exist. In the spaces provided below, indicate the standards that you intend to show and the arguments that you intend to convince the Brevard Board of Adjustment that it can properly reach the four (4) required conclusions:

**REASONS FOR VARIANCE REQUEST** - Explain in your own words why you are requesting a Variance. Be sure to clearly indicate the problem(s) you will experience in complying with the City development regulations. (Attach additional sheets if needed.)

*Please see attached*

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The BOARD OF ADJUSTMENT is required to make the following four (4) findings before granting a Variance. Write a thorough response to each of these items.

1. Unnecessary hardship would result from the strict application of the regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

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

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

4. The requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.

**ATTACH SITE PLAN DESCRIBING VARIANCE REQUEST**

**PROPERTY LOCATION INFORMATION**

Street address of subject property 128 Pisgah Hwy., Pisgah Forest NC 28768

Tax Parcel Number of subject property 8597-45-1544-001

**ATTACH TAX PARCEL & OWNERSHIP INFORMATION FOR ADJACENT PROPERTIES**

**APPLICANT INFORMATION**

Name: Robert Lee

Address: 8 Cleftridge Ct  
Asheville, NC 28803

Phone: (631) 885-0714 Email: dollysdairybar@gmail.com

**OWNER INFORMATION**

Name: Jerry Brown (BIG INC.)

Address: P.O. Box 1359


Pisgah Forest, NC 28768

Phone: (828) 553-2410

Email: Jerrybrown@comporium.net

ATTACH AGENT FORM IF THE APPLICANT IS NOT OWNER

DATE: 12/5/2025

APPLICANT'S SIGNATURE  \_\_\_\_\_

Please refer to the City of Brevard Planning Department Board of Adjustment Category III Application Timeline for Variances.

VARIANCE REQUEST TO BE HEARD BY BOA ON: February 3, 2026.

We are requesting a variance from the requirement to pave the parking lot at Dolly's Dairy Bar, located at 128 Pisgah Highway, Pisgah Forest, NC 28768.

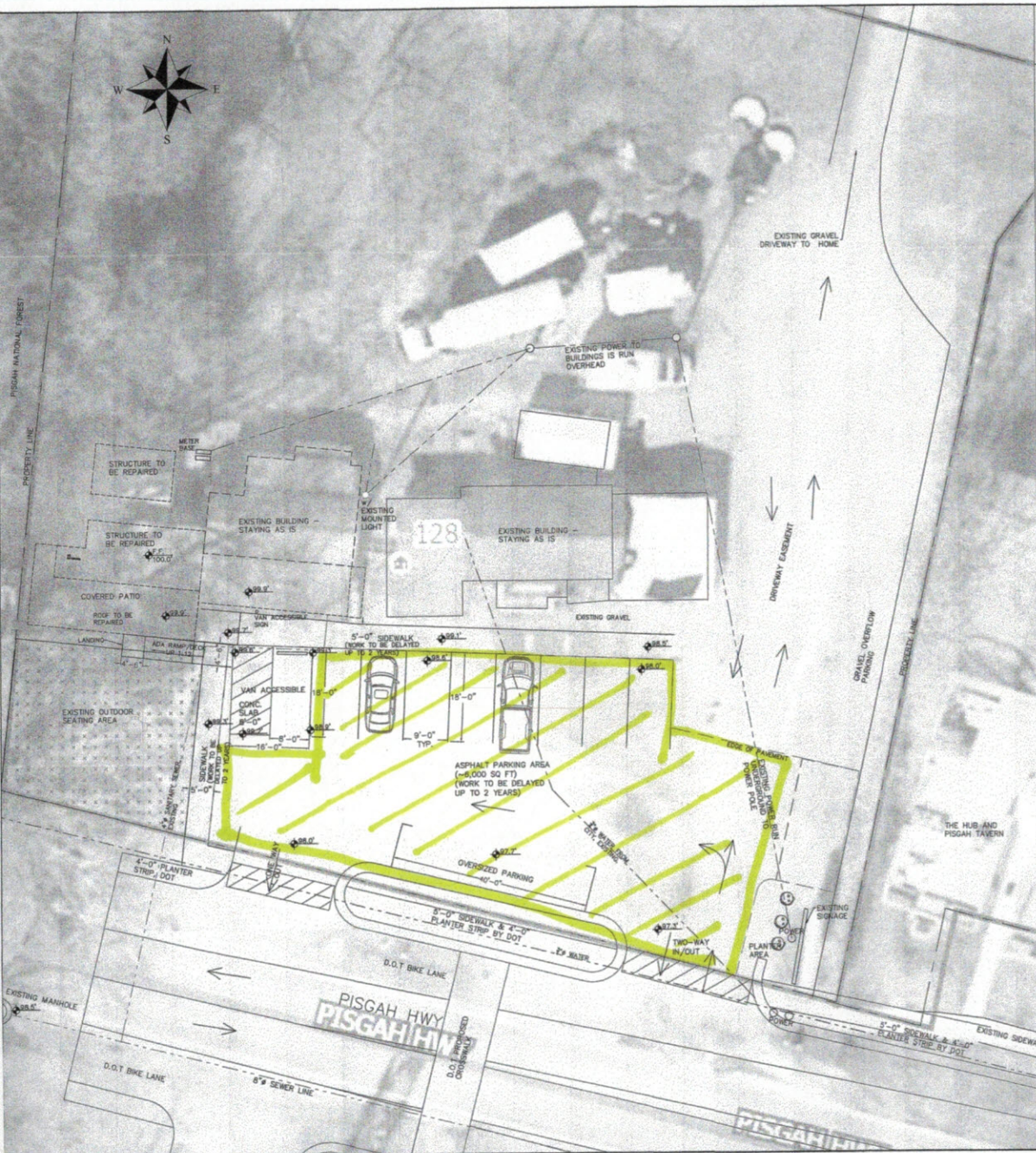
The existing parking area is well-maintained and does not present safety, accessibility or drainage concerns. The lot is used primarily for short-term parking and has served the needs of the business, its customers and employees for approximately 40 years.

The requirement to pave the parking lot came only after we applied for a permit to rebuild our business after Hurricane Helene. Had it not been for the hurricane damages, we would not have been subject to this requirement. It is also worth noting that we are tenants and not owners of the property. To comply with the requirement would pose a significant financial burden. Based on estimates we have obtained, the cost for this project would be upwards of \$20,000.

During the hurricane repairs, we did make adjustments to comply with ADA parking requirements. We continue our commitment to maintaining the existing lot in good condition.

We respectfully request a variance be granted so that we may continue operating our business without undue hardship.

Thank you for your time and consideration.



- CITY OF BREVARD - SITE PLAN NOTES:**
- PROPERTY
    - 1.1. PIN NUMBER 8597-45-1544-001
    - 1.2. CALCULATED ACREAGE 0.827 (28,024 SQ FT)
  - ZONING IS DMX (PLAN IS TO REZONE TO POX IN COMING MONTHS)
  - PARKING REQUIREMENTS
    - 3.1. BUSINESS (1 SPACE PER 500 FT<sup>2</sup>) - 5 SPACES REQUIRED
    - 3.2. BICYCLE PARKING @ 1 PER 20 AUTO SPACES OR 4 PER MINIMUM REQUIRED
    - 3.2.1. REQUIRES 1 BICYCLE SPACES (RACK FOR 4 BICYCLES)
    - 3.3. ALL PARKING SPOTS ARE TO BE WITHIN 65 FT OF A SIDE WALK OR PEDESTRIAN CROSSING.
  - STORMWATER IMPACT: NONE
  - LANDSCAPE
    - 5.1. SIDEWALK AT STREET AND CURB BY D.O.T
    - 5.2. SEE LANDSCAPE DETAIL BELOW.
  - LIGHTING
    - 6.1. LOW INTENSITY LIGHTING WILL BE PROVIDED AT THE OUTDOOR COVERED PATIO.
    - 6.2. PARKING AREA IS LIT BY EXISTING STREET LIGHTING (DUKE POWER POLE)
  - SIGNAGE
    - 7.1. EXISTING - NO CHANGES.
  - UTILITIES
    - 8.1. WATER:
      - 8.1.1. RESTAURANT: EXISTING 3/4" METER AND SUPPLY RUN FROM CITY 4" LINE.
      - 8.2. SEWER:
        - 8.2.1. 4" SEWER (EXISTING) RUNS FROM ICE CREAM SHOP TO PISGAH HWY. 8" CITY SEWER RUNNING UNDER ROAD.
        - 8.3. STORMWATER: NO NEW PERMEABLE SURFACES. NONE REQUIRED.
    9. DELAYED WORK/IMPROVEMENT
      - 9.1. DUE TO WORK UNDERWAY BY NC D.O.T. AT FRONT OF PROPERTY (CURB AND SIDEWALK, ETC.) CITY OF BREVARD IS ALLOWING IDENTIFIED IMPROVEMENTS TO BE DELAYED UP TO TWO YEARS.
      - 9.2. THE FOLLOWING WORK IS INCLUDED AND WILL BE BONDED FOR PERFORMANCE.
        - ASPHALT PARKING (~6000FT<sup>2</sup>): \$19,500
        - SIDEWALKS - FROM STREET AND AT PARKING: \$10,000
        - LANDSCAPE AT STREET FRONTAGE: \$3,600
        - TOTAL: \$32,900

SHRUB - 3 GALLON - PRUNUS LAUROCERASUS OTTO  
 LUYKEN OR CRYPTOMERIA JAPONICA - QTY (-5)  
 SIZE AT PLANTING: 18" TALL x 12"-15" WIDE  
 MATURE SIZE: 30" TALL

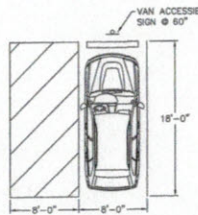
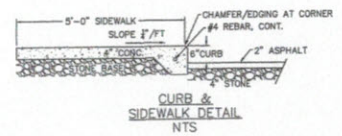
\*\*\*\*\* REFRESHED MULCH: REFRESH EXISTING MULCHED SITTING AREA.

**LANDSCAPING DETAIL**

NOTE: DESIGN TO BE FINALIZED NEAR END OF PROJECT. TREE/SHRUB TYPES TO COMPLY W/ USD.

Occupancy	Units	Design	Gal/Day
Dolly's Dairy Bar	Bar	36 Seats	20 gal/seat 720 Total Usage 720 gal/day
Increase from previous use is			0 gal/day

**WATER USAGE TABLE**



VAN ACCESSIBLE PARKING DETAIL

VAN ACCESSIBLE PARKING SIGN

DESIGN BY:  
S LATELL, F.

DRAWN BY:  
E. JOYNER

DATE:  
16-JAN-2025

PROJECT NO.  
24-119

DRAWING:  
24-119-002

REV. 12-FEB-2025  
REPAIR EXISTING STRUCTURE



SCALE: APPROX.  
1" = 10'-0"

DOLLY'S DAIRY BAR  
SITE PLAN



Engineering of Brevard, PLLC  
PO Box 202  
Brevard, NC 28712

Design Professional:  
Scott Latell, PE  
#043931



VAR File# #VAR-25-0003

**BREVARD BOARD OF ADJUSTMENT - VARIANCE**

**APPOINTMENT OF AGENT**

I JERRY BROWN, President of BIG, INC., owner of property located at  
(street address) 128 Pisgah Hwy, Pisgah Forest, NC 28768 and  
identified by the Transylvania County Tax Identification Number (PIN#):

8597-45-1544-001, located in Transylvania County, North Carolina, do

hereby appoint JOHN NOOR, Esq. of ROBERTS & STEVENS, P.A. to represent me in  
filing an application for Variance before the Brevard Board of Adjustment.

I further authorize JOHN NOOR, Esq. of ROBERTS & STEVENS, P.A. to act as my agent in  
all matters, formal and informal, and to receive all official correspondence as it relates to  
the VARIANCE request and hearing.

Property Owner Signature: *Jerry L. Brown* Date: 2/29/2026  
Mailing Address: P.O. BOX 1359, PISGAH FOREST, NC 28768  
Phone: 828-553-2410 Email: jerrybrown@comporium.net

Agent Name: JOHN NOOR, ROBERTS & STEVENS, P.A.  
Mailing Address: P.O. BOX 7647, ASHEVILLE, NC 28802  
Phone: 828-252-6600 Email: jnoor@roberts-stevens.com

**INFRASTRUCTURE IMPROVEMENT AGREEMENT  
"Performance and Payment Bond or Equivalent"  
March 2, 2025**

**1. AGREEMENT**

Pursuant to Section 16.12 of the City of Brevard Unified Development Ordinance and G.S. 160D-702(a) and 160D-804, this Infrastructure Improvement Agreement (the "Agreement") is made by and between the City of Brevard (the "City") and Chill-Lee Corporation dba Dolly's Dairy Bar (the "Developer"). The purpose of this Agreement is to establish the performance guarantee for the deferred completion of or variance from required site improvements, to include complying with Chapter 10.7 Off-street parking area design and construction standards.

**2. PERFORMANCE GUARANTEE**

The Developer agrees to provide a performance guarantee to ensure the completion of the required parking lot construction as depicted on the approved site plan and permit application number: 2-25-043. The performance guarantee has been provided in one of the following forms:

*Check one that applies:*

A surety bond issued by a company authorized to do business in North Carolina.

A letter of credit issued by a financial institution licensed to do business in North Carolina.

An alternative form of guarantee that provides equivalent security to a surety bond or letter of credit and is valid in North Carolina.

The base cost of the guarantee shall be the full (100%) estimated cost of construction of the required improvements being deferred, as certified by a licensed design professional (architect or engineer).

**3. PERFORMANCE GUARANTEE PROVISIONS**

No person other than the City of Brevard, the Developer, or the entity issuing or providing the performance guarantee shall have any rights under or to the performance guarantee or its proceeds.

The performance guarantee shall be released or returned in writing by the City of Brevard upon the satisfactory completion of the specified work, as acknowledged by the City of Brevard, or by the granting of a variance by the Board of Adjustment, eliminating or reducing the requirement for complying with Chapter 10.7 of the UDO off-street parking area design and construction standards.

In the event of default, as defined in Chapter 19 of the Unified Development Ordinance, the Developer shall pay all or any portion of the bond, cash account, or funds represented by a letter of credit to the City of Brevard up to the amount specified in this Agreement. The surety or bank issuing the letter of credit shall comply with the City's demand for payment. The City, at its discretion, may use the funds to complete the specified work and shall return any unspent funds to the Developer upon completion of the work.

#### 4. SPECIFIED WORK

The Developer agrees obtain a variance from Chapter 10.7 of the UDO or complete the following specified work within the time provided:

Construction of an off-street hard surface parking area approximately 6,000 sq ft in area as illustrated on the site plan provided by the developer and attached to permit number 2-25-043 which shall comply with Chapter 10.7 of the City of Brevard UDO. For the purpose of this agreement, the parking area shall be defined as any public or private open area or facility used for parking automobiles and other vehicles serving primary use or uses and the vehicular use area from the proposed private sidewalk at the front of the building to the future curb cuts provided by NCDOT as part of their highway improvement project, R-5799.

The City shall hold a performance guarantee in the amount of \$18,500.00 for the work described as estimated by a qualified engineer or architect licensed to practice in the State of North Carolina. The City shall have the right to draw on the guaranteed funds and enter the adjoining property, if necessary, to construct the parking lot in compliance with Chapter 10.7 of the UDO if the Developer does not obtain a variance from Chapter 10.7 of the UDO or complete the work by March 28, 2027. The City Manager may extend this deadline in their discretion by one year or less. Any extension

#### 5. BINDING EFFECT

The terms and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective legal representatives, heirs, legatees, successors, assigns, and any other transferee. If the terms of this Agreement are correctly understood, please sign and date below.

#### 6. SIGNATURES

Developer

By: [Signature]  
Name: Jean P. Lee  
Title: President  
Date: 03/13/2025

CITY OF BREVARD

By: Wilson B. Hooper  
Name: Wilson B. Hooper  
Title: City Manager  
Date: 3/14/25

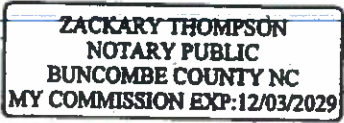
7. NOTARIZATION

STATE OF NORTH CAROLINA  
COUNTY OF Buncombe

I, Zackary Thompson, a Notary Public, do hereby certify that JEAN P. LEE personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and Notarial Seal, this the 13 day of March, 2025.

Signature of Notary Public: [Signature]  
Printed Name of Notary Public: ZACKARY Thompson  
My Commission Expires: 12/03/2029

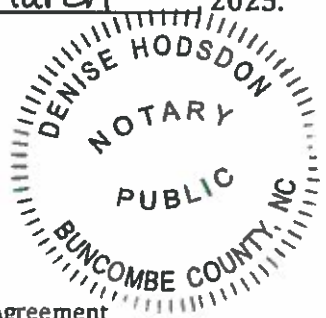


STATE OF NORTH CAROLINA  
COUNTY OF Transylvania

I, Denise Hodsdon, a Notary Public of said State and County, do hereby certify that WILSON B. HOOPER personally appeared before me this day and acknowledged that he is the City Manager for the City of Brevard, a North Carolina municipal corporation, and that by authority duly given and as the act of this corporation, the foregoing instrument was signed in its name by him as its City Manager.

WITNESS my hand and Notarial Seal, this the 14<sup>th</sup> day of March, 2025.

Signature of Notary Public: [Signature]  
Printed Name of Notary Public: Denise Hodsdon  
My Commission Expires: 10/6/2029



**STAFF REPORT**  
**Board of Adjustment, Tuesday, March 3, 2026**

**Title:** VAR-26-0001 - 775 Camptown Rd.  
**Speaker:** Katherine Poe  
**Prepared by:** Katherine Poe, Planner/Assistant Zoning Administrator  
**Approved by:** Paul Ray, Planning Director

**Background**

The applicant, Connie Miels-Perry, owns property at 775 Camptown Rd, which is located in the General Residential-8 (GR-8) zoning district and in the City’s municipal limits. The parcel identification number is 8597-90-2186-000.

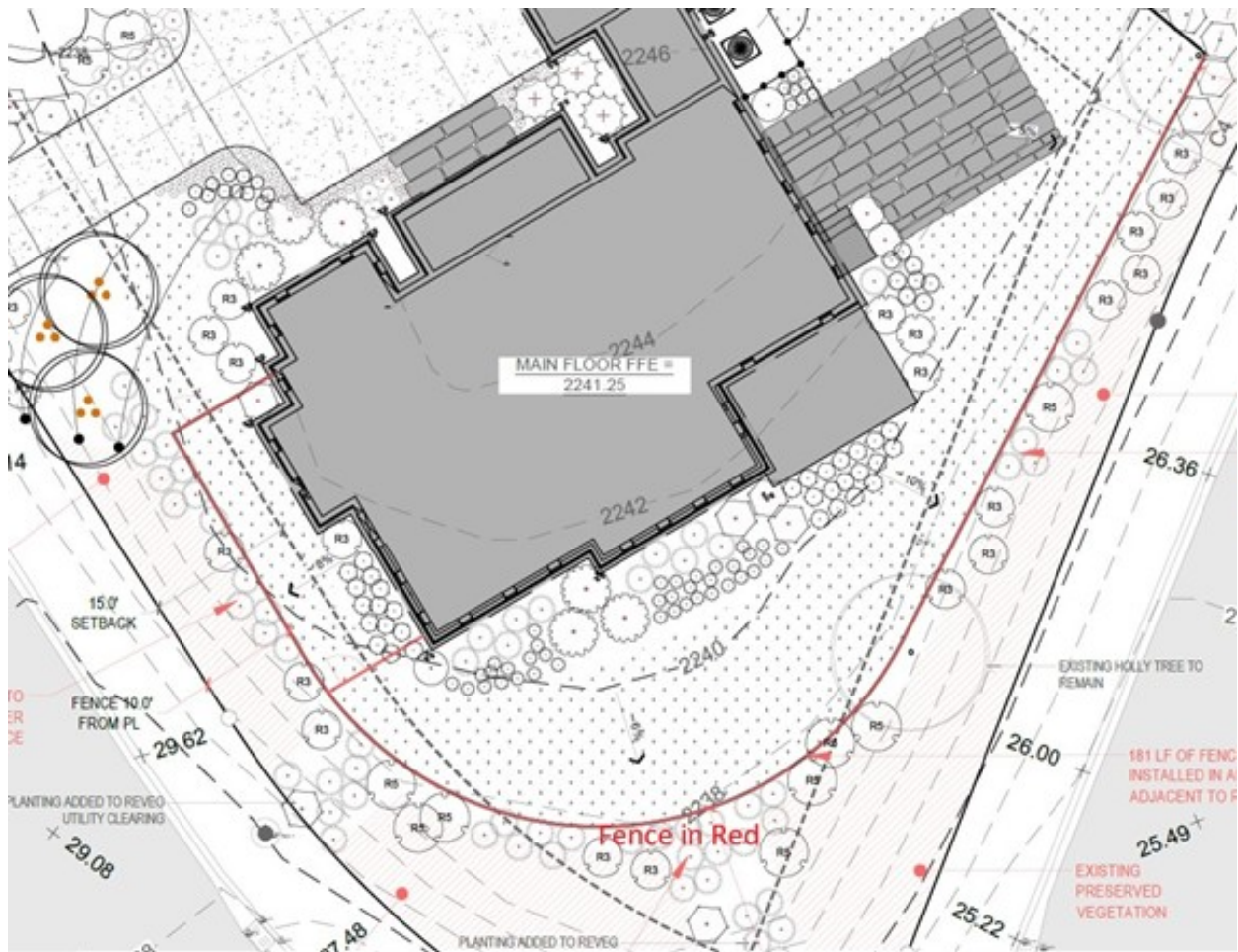
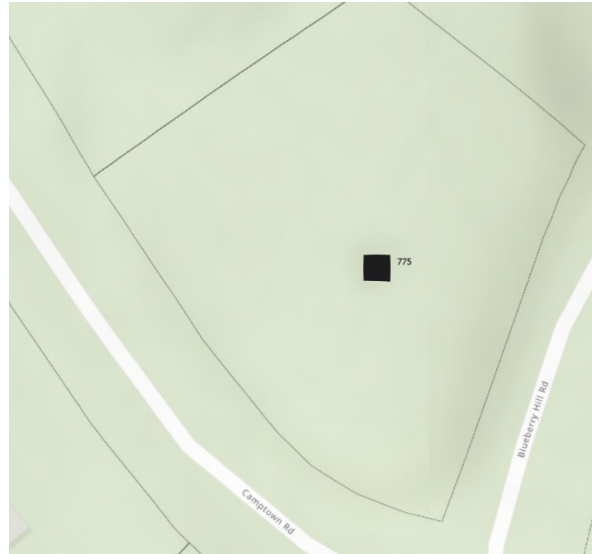
The applicant is requesting a variance from the Unified Development Ordinance’s (UDO) Chapter 2.8.D.1(a), which does not allow chain link fences in the front yard of the property in GR zoned districts.

Notice of the hearing was advertised and posted on the property in accordance with North Carolina General Statute §160D-406.

**Discussion**

In January 2026, the City received a complaint that the property owners had erected a black chain link fence without a permit. The City verified the complaint and contacted the owner of the property. The owner inquired about obtaining a fence permit and started the online application, but the City was unable to approve the application as chain link fences are not allowed in any front yard in the GR districts.

The applicant’s property has street frontage along two City Streets, Camptown Rd and Blueberry Hill Rd. This lot is considered double-fronted per the UDO, and the new fence is along both streets.



The applicant did go through the approval process with Straus Park's Environmental Control Committee (ECC), and the fence was approved by this committee; however, the owner was unaware of the City's requirements.

The owner states that black chain link fencing is a requirement by the ECC and will discuss this at the hearing.

**Investigation**

Upon inspection, the fence has been erected and is currently along both street frontages.



**Standards for the Granting of Variances**

In order to grant the variance all of the conditions below must be met:

1. Unnecessary hardship would result from the strict application of the regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.

Economic hardship or the fact that property may be utilized more profitably with a variance shall not constitute an unnecessary hardship. In its motion the Board should include Findings of Fact to support each of the items listed above.

**Attachments:**

1. Application Files
2. UDO 2.8 fences and walls



## Record Report for Variance #VAR-26-0001

### Record Overview

**Record Number:** VAR-26-0001

**Record Type:** Variance

**Record Status:** In Progress

**Record Submitted At:** Friday January 9, 2026

**Record Address:** 775 Camptown Rd, Brevard NC 28712

**Record Owner:** Katherine Poe

**Record Applicant:** Connie Miels-Perry

### Form Submission

**Applicant:**

Connie Miels-Perry  
connie.mielsperry@gmail.com, (954) 553-8308

**Property Owner (if different):**

Connie Miels-Perry  
connie.mielsperry@gmail.com, (954) 553-8308

**Property Address:** 775 Camptown Rd, Brevard NC 28712

**Parcel Identification Number (PIN):** 8587-90-2186-000

**Zoning District:** General Residential - 8 (GR8)

**Overlay District:** None

**Description of Variance Request:**

Regulations:

Chain Link or woven wire fencing is allowed in the side and rear yards behind the front building line.  
Chain link is not allowed as a primary front yard fence material on residential lots.

Request: Use of black chain link fence on back and side of house (181 linear feet), which is technically considered front yard in both cases according to zoning map. Our lot faces two streets, but the house was built so the actual front of the house does not face either street.

**Reasons for Variance Request:**

Request: Use of black chain link fence on back and side of house, which is technically considered front yard in both cases according to zoning map. Our lot faces two streets, but the house was built so the actual front of the house does not face either street.

See attached supplemental document responding to the four hardship criteria.

**Signature:**

A handwritten signature in black ink, appearing to be 'C. M. S.', written in a cursive style.

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Signed in GovWell: Friday January 9, 2026, 1:13pm

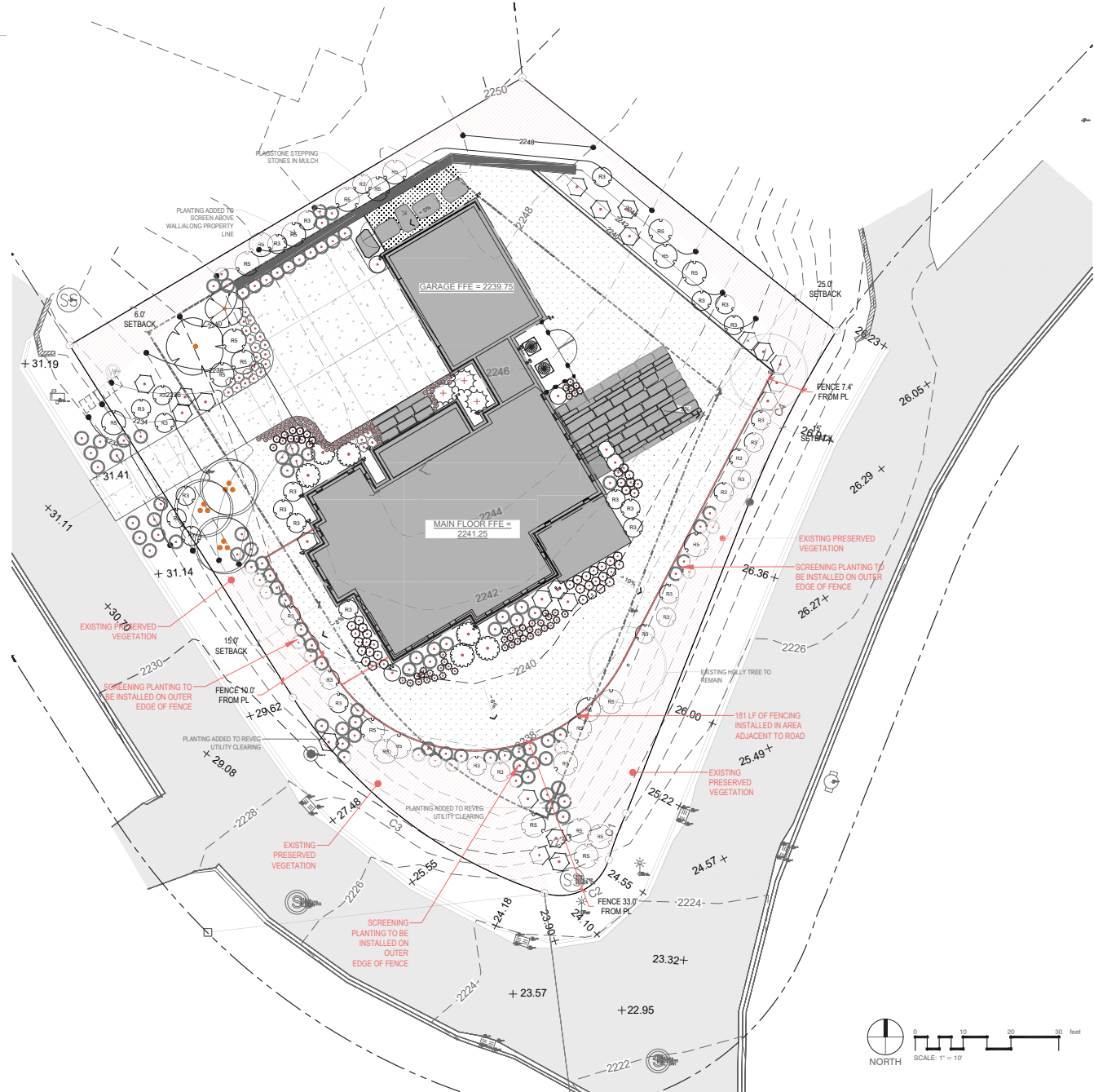
## Details of Hardships that Compliance with Brevard Fence Regulations would Cause

- 1) The overriding goal of the Straus Park Environmental Control Committee (ECC) is to maintain to the greatest extent possible the 'Natural', undisturbed aspects of each individual property within the community. To this end, it is only permitted to use 4', black, vinyl coated fencing because it is the least obtrusive fencing option, being the building material that is most easily buffered with vegetative screening, to preserve the natural appearance of the site. Use of other materials, ornamental or prominent architectural designs, are prohibited. None of the City of Brevard's approved fencing materials for use in front yards (wood, brick, stucco, etc.), which border street fronting side and rear yards are permitted.
- 2) There is no other suitable orientation of the house on the lot, due to its size, configuration and topography, resulting in the side and rear yards both facing streets, triggering the city's prohibition of chain link fencing in these areas: The orientation of the house is the only possible way to incorporate a garage. Plus, any other orientation would have caused significant disturbance to the site, which is discouraged by the Straus Park ECC. Any other orientation of the house would have also either required substantial "cutting in" for a driveway, which is also discouraged, or constructing a driveway that would be unreasonably steep and unsafe.
- 3) The only possible design/orientation of the house could not have been anticipated prior to purchasing the lot and was only discovered during the Preliminary Plan Review with the ECC and not caused by any actions taken by the owner/applicants. No other site plans were deemed possible during this approval phase, as they would have substantially disturbed the site, contrary to the overarching building precepts of the Straus Park ECC.
- 4) The requested variance is consistent with the spirit, purpose and intent of both the City of Brevard and the community of Straus Park. Both entities are pursuing the same goal of preserving the city's natural beauty, by only allowing less obtrusive, visually appealing fence designs, in keeping with the environment of the greater rural mountain community. The only disagreement is over what materials best achieve this objective and whether a variance should be granted to be consistent with the community's guidelines, or whether the city's permitted materials should supersede those of the community. We believe that there are also a couple other factors that should be considered that may help mitigate the conflict between the two sets of requirements. First: When approaching the house from either of the two streets it faces, whether by car or foot, there is a berm around the property, bordering the frontage streets, ranging approximately 12-18 feet in height, so not in

direct line of sight. Second: There is already considerable vegetation on the front face of the berm (excluding areas where utilities were installed during construction and will be re-vegetated as part of the landscape installation). In addition, we went through a very rigorous approval process for the landscape design with the community, requiring substantial screening around the fencing. Aside from the community's requirement, there was considerable effort on our part to source the most mature plant material possible, to minimize the time for the landscaping to "grow in". These measures were not only a requirement, but also our preference, to provide us with the maximum enjoyment of the property from the beginning. We believe that all the above will contribute to the fence being barely visible from the street.

PLANT SCHEDULE

SYMBOL	BOTANICAL / COMMON NAME	SIZE	QTY
<b>TREES</b>			
	Amelanchier x grandiflora 'Autumn Brilliance' / Autumn Brilliance Apple Serviceberry	6' HL	3
	Cornus florida 'Cherokee Princess' / Cherokee Princess Dogwood	12' HL	1
	Ilex x 'Nellie R. Stevens' / Nellie R. Stevens Holly	6' HL	1
<b>SHRUBS</b>			
	Althium filix-femina / Common Lady Fern	3 gal.	25
	Cornus sericea / Red Twig Dogwood	7 gal.	3
	Demissaedtia punctilobula / Hay-scented Fern	3 gal.	8
	Dryopteris erythrosora / Autumn Fern	3 gal.	31
	Echinacea purpurea / Coneflower	1 gal.	12
	Hydrangea paniculata 'Limelight' / Limelight Panicle Hydrangea	5 gal.	6
	Hydrangea quercifolia / Oakleaf Hydrangea	3 gal.	22
	Ilex glabra 'Shamrock' / Shamrock Inkberry Holly	5 gal.	5
	Pachysandra terminalis / Japanese Pachysandra	4"	79
	Panicum virgatum 'Heavy Metal' / Heavy Metal Switch Grass	3 gal.	97
	Rhododendron maximum / Rosebay Rhododendron	3' HL	33
	Rhododendron maximum / Rosebay Rhododendron	5' HL	25
	Rudbeckia hirta / Black-eyed Susan	1 gal.	44
<b>GROUND COVERS</b>			
	Festuca arundinacea 'Black Beauty' / Black Beauty Tall Fescue	sod	3,121 sf



PERRY RESIDENCE

**HALLORAN**  
design studio

Asheville, NC  
P: 413.244.0661  
E: kyle@hallorandesignstudio.com

Preliminary  
For Review Purposes Only  
Not for Construction

PERRY RESIDENCE

Camptown Road, Lot Mno2  
Brevard, NC 28712  
Transylvania County

NO.	DATE	REVISION
1	11/13/24	PRELIM ECC
2	12/01/24	FINAL ECC
3	1/29/25	FINAL ECC REV 1
4	10/13/25	FINAL ECC REV 2
5	10/27/25	FINAL ECC REV 3
6	1/9/26	FENCE NOTES

DATE: January 9, 2026

PLANTING PLAN

SHEET TITLE

L 1.04

SHEET NUMBER

PROGRESS PRINT - NOT FOR CONSTRUCTION

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Image courtesy of the Straus Park Development Corp.

**Straus Park**  
**Environmental Control Committee**  
**PO Box 580**  
**Arden, NC 28704**

## **Design Manual**

**Guidelines**  
**Including Application and Approval Procedures, Construction Aspects,**  
**And General Policies**

**May 2023 Edition**

## 5.6 Permanent Fences

The ECC requires that above ground fences shall be reviewed on a case-by-case basis. Each site is unique and requests for approval of fences shall be reviewed based on the project's site-specific conditions and its compliance with general objectives and site planning concepts and goals of Straus Park. Approval of any fence does not establish precedent or have bearing on future requests. Generally, Straus Park is intended to be a natural, open landscape, emphasizing the natural over the manmade.

- a. Fences shall not be permitted in front yards or side yards, except for small wooden fences serving to obscure HVAC equipment. These fences require ECC authorization.
- b. Functional fences shall be as unobtrusive as possible and shall be allowed only when they are not visually prominent. Setbacks for fences are equal to the required building setbacks.
- c. Maximum fence height shall be sixty (60) inches.
- d. Functional fences shall be black or bronze vinyl-coated steel chain link. Generally, no other materials will be allowed. Decorative fences are discouraged but may be considered as part of an overall landscape plan. Materials shall be natural and shall blend with the natural landscape and the overall architecture of the house. Overly formal or grand fences are prohibited.

The presence and maintenance of existing vegetation visually screening the fence is strongly encouraged and will be considered in the review of any request. Maintenance of such landscape buffers is an on-going condition for fence approval. Removal of landscape buffers will revoke approval of a fence and the ECC may require the Owner to remove the fence.

## 5.7 Landscape Structures and Site Amenities

According to the original Straus Park Design Manual paragraph 1.3.1, Planning, "Preservation of Straus Park's existing natural beauty and heritage was the design team's first priority". The current amendment to the covenants for Straus Park recorded on November 14, 2012, paragraph 5.4 states:

"Proper Condition. No part of Straus Park shall be used in a manner, nor shall any condition be allowed to exist thereon, which would constitute a fire hazard, a nuisance or which would produce or allow emanating therefrom noxious odors or fumes, excessive noise or vibrations."

A goal of Straus Park is to promote and protect the subtle sounds of the outdoors, such as birdsong, the rustling of wind through the trees, and the trickle of flowing streams. This is in keeping with the overall intent of the Design Guidelines to create and maintain a Mountain Park Architecture evocative of the natural environment.

In accordance with Straus Park's covenants regarding lessening noise while enhancing our natural environment, permanent private basketball courts, platform tennis courts, one-wall paddleball courts, or the like are prohibited. Permanent or temporary basketball, soccer, or football goal posts (or similar) within public view are prohibited on private property. Likewise, amenities not deemed by the ECC to blend-in with our natural setting, such as putting greens or synthetic turf dog runs, etc., may be prohibited at the sole and absolute discretion of the ECC. See also paragraphs 6.1.10 and 6.2.10, Landscape Structures and Site Amenities.

## 2.8. Fences and walls.

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- A. All fences and walls shall be constructed so that the best face faces outward from the parcel upon which it is constructed and towards adjacent properties. The "best face" shall generally mean the side opposite to framing members.
- B. Fences and walls shall not be placed within public utility easements or public right-of-way without first securing an encroachment agreement from the City of Brevard, the North Carolina Department of Transportation, or other appropriate entity.
- C. Fence or wall height shall be measured from the side of the fence or wall that is exterior to the property as the vertical distance between the lowest adjacent ground level, natural or filled, and the top of the fence material. Fence heights are restricted as follows:
1. In the General Industrial district, and public safety and other critical facilities. Fences or walls shall be no greater than six feet in height in the front yard(s) and no greater than eight feet in height in the side and rear yards.
  2. All other districts and uses. Fences or walls shall be no greater than four feet in height in the front yard(s) and no more than eight feet in the side and rear yards.
  3. No closed fence or wall shall be greater than two-and-a-half feet in height when placed within the sight triangle of any intersection as specified in Section 9.5 of this ordinance. Open fences are exempt from this provision.
- D. Fence and wall materials shall conform to the following requirements:
1. *GR and RMX districts:*
    - a. All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability, except that chain link or woven wire may be used in the side and rear yards.
    - b. All other wire fences, including barbed wire or concertina wire, are prohibited.
    - c. Nothing in this chapter shall prevent the administrator from approving architecturally variant uses of material to allow creative fence design, such as the contemporary look of heavy-gauged welded wire panels framed in timber.
    - d. The use of plastic plumbing pipe is a prohibited fence material.
  2. *CMX, DMX, PGX, NMX, and IC districts:*
    - a. All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability.
    - b. Chain link wire fences may be used as secure enclosures internal to the property or site subject to the following requirements:
      - i. Chain link fences shall not be visible from a public right-of-way,
      - ii. Chain link fences shall not serve as a perimeter fence or property line fence unless buffered by a type A buffer yard on all sides, and then only in the side or rear yard behind the front building line.
    - c. All other wire fences, including barbed wire or concertina wire, are prohibited.
    - d. All walls and fences shall be materially similar to other walls and fences in the same block or general vicinity.
  3. *General Industrial districts, public safety facilities, and other critical facilities:*
    - a. All fences and walls must be of brick, stone, stucco, wrought iron, wood, or other materials similar in appearance and durability, and shall be materially similar to other walls and fences on the same block or general vicinity.
    - b. Vinyl coated, chain link fencing may be approved by the administrator as perimeter fencing with additional filtering through openings using opaque or semi opaque slats or screening or by installing a type A landscaping buffer between incompatible uses, between different zoning districts or where visible from a public street.
  4. *Barbed wire:* Barbed wire may be permitted within agricultural operations with livestock and any bona-fide agricultural operations within any zoning district.

**E.** Retaining walls shall also conform to the following requirements:

1. Retaining walls should minimize the impacts of cut and fill on a site.
2. The height of any retaining wall should not exceed five feet unless required to be higher for engineering reasons.
  - a. An increase in retaining wall height may be allowed if the proposed design minimizes the cut and fill impacts and enhances the existing landscape.
3. In areas where cuts are steeper, a stepped or terraced wall should be used. Large, unbroken retaining walls in a uniform plane should be avoided.

(Ord. No. 2022-76, § 1(Exh. A), 12-5-22; Ord. No. [2023-22](#), § 1(Exh. A), 6-4-23; Ord. No. [2023-61](#), § 1(Exh. A), 12-18-23; Ord. No. [2024-23](#), § 1(Exh. A), 6-3-24; Ord. No. [2024-46](#), § 1(Exh. A), 12-2-24; Ord. No. [2025-39](#), § 1 (Exh. A), 8-4-25)

Effective on: 8/4/2025



**STAFF REPORT**  
**Board of Adjustment, Tuesday, March 3, 2026**

**Title:** VAR-26-002 - Trent Rd.  
**Speaker:** Katherine Poe  
**Prepared by:** Katherine Poe, Planner/Assistant Zoning Administrator  
**Approved by:** Paul Ray, Planning Director

**Background**

The applicant, Farrah Baynard, is the agent for property at 85 Trent Rd, which is located in the General Residential-4 (GR-4) zoning district and the Manufactured Home Overlay within the City’s Extra Territorial Jurisdiction (ETJ). The parcel identification number is 8575-89-5653-000.

The applicant is requesting a variance from the Unified Development Ordinance’s (UDO) Chapter 2.7.2 for principal structures setbacks. The request is for a fifteen (15) feet variance from the required twenty-five (25) feet setback for the rear yard, resulting in a ten (10) foot setback.

Notice of the hearing was advertised and posted on the property in accordance with North Carolina General Statute §160D-406.

**Discussion**

Since the property is in the ETJ, public sewer is not available, and any development will rely on a private septic tank. Per Transylvania County Environmental Health Dept, the existing septic tank and drain field are in the property’s front yard.

Due to the size of the property (0.202 acres) and the location of the septic tank/drain field, the applicant request for a variance from the rear yard setback is to be able to place a new Manufactured Home on the property.



### **Standards for the Granting of Variances**

In order to grant the variance all of the conditions below must be met:

1. Unnecessary hardship would result from the strict application of the regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

4. The requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.

Economic hardship or the fact that property may be utilized more profitably with a variance shall not constitute an unnecessary hardship. In its motion the Board should include Findings of Fact to support each of the items listed above.

**Attachments:**

1. Application Materials



## Record Report for Variance #VAR-26-0002

### Record Overview

**Record Number:** VAR-26-0002

**Record Type:** Variance

**Record Status:** In Progress

**Record Submitted At:** Thursday January 15, 2026

**Record Address:** 85 TRENT RD, Brevard NC 28712

**Record Owner:** Katherine Poe

**Record Applicant:** Farrah Baynard

### Form Submission

**Applicant:**

Matthew Rigdon

matthewdrigdon@gmail.com, (828) 260-1544

**Property Owner (if different):**

Trent Joseph Richard ETAL Rick Trent

rick6647@gmail.com, (828) 553-0124

**Property Address:** 85 TRENT RD, Brevard NC 28712

Property owner information:

Trent Joseph Richard Etal

16 Augustine Ln

Crossville, TN 38558

**Parcel Identification Number (PIN):** 8575895653000

**Zoning District:** General Residential - 4 (GR4)

**Overlay District:** Manufacture Home Overlay District

**Description of Variance Request:**

Reduce the rear yard setback to 10 feet as the regulations say 25 feet. Would like to place a new home in the same place as the old.

**Reasons for Variance Request:**

This lot is only .20 acres. Previously had a single wide trailer on it for years. That is the only place to go back with a new home of equal or smaller size as the septic system is in place already and you could not move the home forward due to being in the septic field. There are no other sites to place a home on this lot because of the well and septic placement for the home removed. Due to ETJ and new setbacks it is making it impossible to use this lot as it was originally intended. This

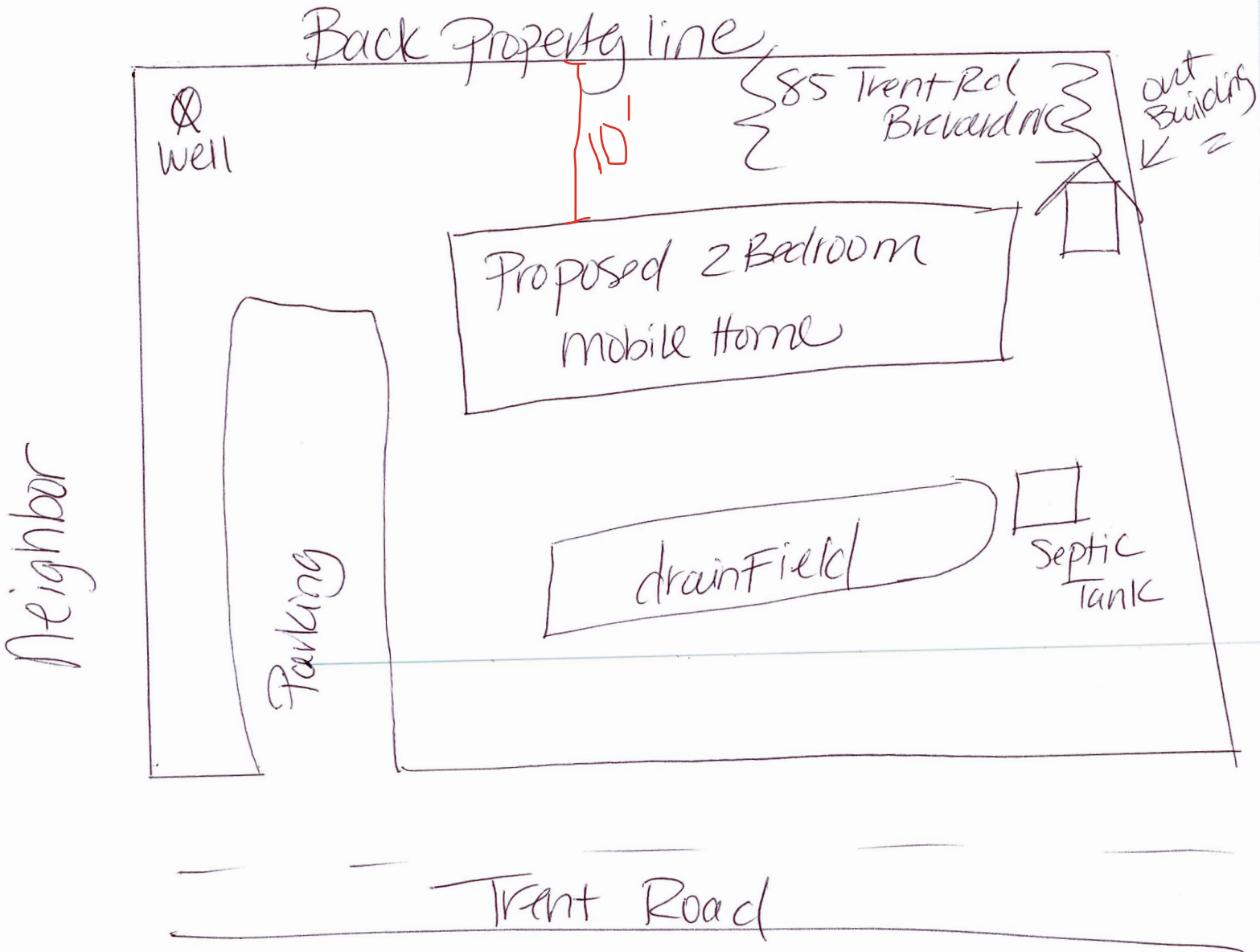
would have no use.

**Signature:** 

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Signed in GovWell: Thursday January 15, 2026, 2:31pm

20 Acre lot Parcel# 8575-89-5653-000



\* Need a Variance From 25 Ft on Back line to 10 Ft so Home will be possible.

**EXISTING SYSTEM INSPECTION REPORT**

(For Building Inspection Department)

Date: Sept 27, 2018 PIN: 8575-89-5653-000 Receipt #: 911793 \$7500

Owner: Victoria Trent Agent/Contractor: Rich Trent

Phone: 828-883-2015 CONTACT Phone: 828-553-8124

Mailing Address: 150 Trent Rd, Brevard

Date System Installed: Unknown Approx 1985

Name (s) of Original Permittee: Gerald King ? (septic record not located at the Health Dept.)

Directions to property: left W to Ron Carolina Av. to L on Cashiers Valley to Ron Trent Rd to mobile home on L

Property Address: 85 Trent Rd

Subdivision: NA Section/Phase: \_\_\_\_\_ Lot: \_\_\_\_\_

Inspection requested for:  
 Mobile Home Setup  
 Remodeling  
 Addition  
 Connection to Unused System  
 Business  
 Other

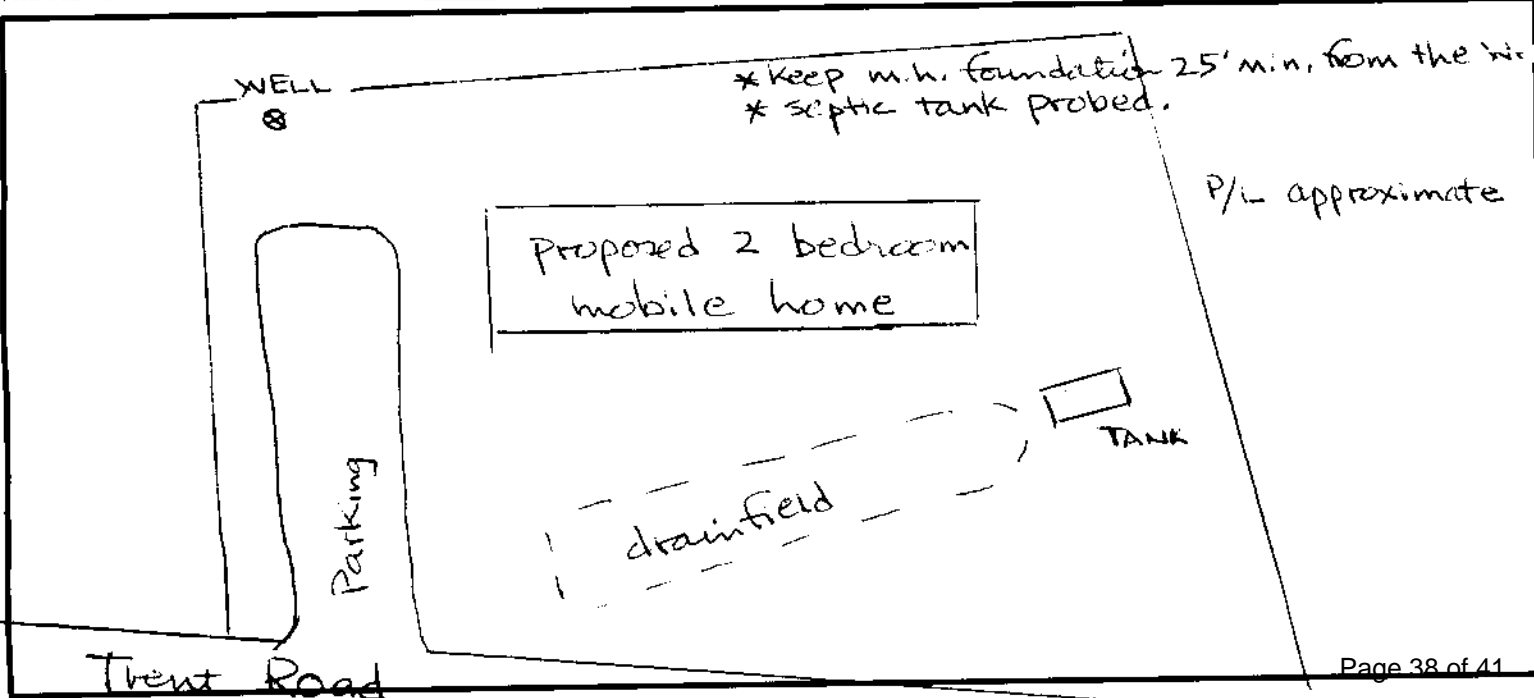
No. of bedrooms upon connection/completion: 2 Current No. of Occupants: 0  
Remarks: FN 9.28.18

Owner/Agent Signature: Richard Trent for Victoria Trent Date: 9-27-18

**I understand that Transylvania Public Health has the right of entry onto the property to perform requested services.**

At the time of the inspection there was no visible evidence of a malfunction in the system. The system is approved for proposed connections/additions/renovations or other improvements.

Signed: Jim R. Adair REHS Date: 9.28.18  
THIS REPORT IS VALID THROUGH 12.28.18



## **85 Trent Road Brevard NC 28712**

Variance Requested

### **1. Unnecessary Hardship**

**Finding:** Strict application of the regulations would result in unnecessary hardship.

**Response:** "Strict adherence to the 25-foot rear setback requirement creates an unnecessary hardship by rendering the property's established building envelope unusable. The lot is a modest .20 acres with a long-standing history of residential use. Because the existing, permitted septic system is located in the front/center of the lot and the well is in a fixed location, the only viable area for a residence is the original footprint at the rear. Enforcing the new 25-foot setback would force the replacement dwelling into the septic repair area or directly over the lines, which is a violation of health department codes and physically impossible. The hardship here is the total loss of the primary residential function of the land, which has been established for decades."

### **2. Conditions Peculiar to the Property**

**Finding:** The hardship results from conditions peculiar to the property (size, location, topography) and not personal circumstances.

**Response:** "The hardship is unique to this specific parcel due to its small size (.20 acres) and the fixed placement of essential subterranean infrastructure. Unlike larger or undeveloped lots in the area, this property is 'locked' by the historical placement of the well and septic system designed specifically for a single-wide trailer. These are physical, immovable characteristics of the land's development. The conflict between the new setback requirements and the pre-existing, state-permitted septic field is a technical layout issue peculiar to this lot's dimensions and not a result of the applicant's personal preferences or financial situation."

### **3. Not a Result of Applicant Actions**

**Finding:** The hardship did not result from actions taken by the applicant or property owner.

**Response:** "The hardship is a direct result of a change in local zoning ordinances that occurred after the property was already developed. The owner did not create the small lot size, nor did they place the septic and well in a manner to intentionally circumvent current rules; these were installed according to the regulations in place at the time of original development. While a permit was obtained in 2018, its expiration coincided with a shift in setback enforcement. The necessity for a variance arises solely from the evolution of the zoning code impacting a 'non-conforming' lot of record, rather than any elective action or purposeful neglect by the owner."

#### 4. Consistent with Spirit and Intent of the Regulations

**Finding:** The variance is consistent with the spirit of the law, ensures public safety, and achieves substantial justice.

**Response:** "Granting this variance achieves substantial justice by allowing the owner to maintain the long-standing residential use of the property. The spirit of the setback regulation is to ensure light, air, and separation between dwellings. Because the trailer will be replaced in the exact footprint where one sat for years, there is no new impact on the privacy or safety of neighbors. Furthermore, public safety is actually *protected* by granting this variance, as it allows the home to be placed at a safe distance from the septic system. Forcing the home forward into the septic field would create a significant public health hazard. Allowing a single-wide trailer on a lot designed specifically for one preserves the neighborhood's character and ensures the property does not become a vacant, unmaintained eyesore."



**PROPERTY OWNER ACKNOWLEDGEMENTS**

PROPERTY INFORMATION	
Property Address: 85 Trent Rd Brevard NC	Property PIN (Tax ID #): 8575-89-5653-000
APPLICANT/AGENT INFORMATION	
Name: Farrah Baynard	Company / Organization: Bluaxis Realty
Email: farrah@bluaxis.com	Phone: 828-553-6460
APPLICATION / PETITION INFORMATION	
Nature of Approval(s) Requested (e.g., rezoning, variance, residential development, sign, change of use, subdivision): Asking for a variance on the back property line setback from 25 ft to 10 ft to go back with mobile home in the same spot as there was once a home there as there is no other options for this .20 Acre lot.	

The persons listed below do affirm that they are the legal owners of the above-reference property and:

- hereby give authorization and permission for the applicant to submit the application(s) or petition(s);
- authorize the applicant to act as my agent in all matters, formal and information, and to receive all official correspondence as it relates to the application(s) or petition(s);
- consent to all condition and/or stipulations that may be imposed or adopted by the City of Brevard as part of this petition / application approval; and
- grant permission to the Zoning Administrator, and designees thereof, to enter upon the property represented herein for the purpose of administering the application(s) or petition(s).

OWNER'S NAME (PRINT)	OWNER'S SIGNATURE	DATE
Rick Trent	<i>RICK TRENT</i>	1/14/26
Lana Vollendorf	<i>Lana Vollendorf L</i>	01/14/2026
Rose Rice	<i>Rose Rice</i>	1/14/2026