



**Planning and Development Department**

156 CHURCH STREET, HENDERSON, NC 27536  
(252) 738-2080 / FAX 738-2089

**Staff Report 12/20/2011**

<b>Owner:</b> Luther Scott	<b><u>Description of Variance Request:</u></b>
<b>Applicant:</b> Cornerstone General Contracting	The applicant is requesting a variance from the maximum height allowance of 35 feet as per section 3.2.1 of the zoning ordinance to allow a single family residence roof to extend to a height of 40.4 feet.
<b>Parcel ID:</b> 0312 01005	<b>Exhibits as follows:</b>
<b>Location:</b> 250 Waterstone Lane	<b>Exhibit 1.</b> Application <b>Exhibit 2.</b> Recorded Survey (PB Y-56) <b>Exhibit 3.</b> Site Plan and House Plan <b>Exhibit 4.</b> Adjoining Owners Map and 2010 Aerial <b>Exhibit 5.</b> Variance check sheet
<b>Current Zoning:</b> (A-R) Agricultural-Residential	<b><u>Findings of Fact</u></b>
<b>Public Hearing:</b> 12/20/2011	<ol style="list-style-type: none"> <li>1. The property is owned by Luther Scott.</li> <li>2. The request is for a variance from the maximum height allowance of 35 feet as per section 3.2.1 of the zoning ordinance to allow a single family residence roof to extend to a height of 40.4 feet.</li> <li>3. The property is located at 250 Waterstone Lane, Henderson, NC; more specifically identified as a portion of the parent tract 0312-01005 following the creation of the Peninsula at Kerr Lake Subdivision.</li> <li>4. The lot is currently vacant and consists of 26.871 acres (Tract 2) as shown in the recorded survey in Plat Book Y-56 (attached).</li> <li>5. The lot is currently zoned A-R (Agricultural Residential), which is established for primarily rural, agricultural and sparsely spaced residential development.</li> <li>6. The lot is directly adjacent to the Peninsula at Kerr Lake Subdivision and access to the lot is through the gated access road of Waterstone Lane.</li> <li>7. There are no wetlands, floodplains, or streams that interfere with the property.</li> <li>8. A Zoning permit was issued on 11-09-2011 to allow the work to begin with a maximum height of 35 feet.</li> <li>9. The application requesting a variance to 40.4 feet in height was filed on November 14, 2011.</li> <li>10. The adjoining property owners were notified on December 10, 2011</li> <li>11. The property was posted on December 8, 2011</li> <li>12. The legal notice was run on December 7<sup>th</sup> and 11<sup>th</sup>, 2011</li> </ol>
<b>Prepared by:</b> Jordan McMillen	<b><u>Staff Comments</u></b>
	<p>The applicant is proposing to build a 2 story single family dwelling consisting of 5 bedrooms, a guesthouse and a barn. The Vance County Zoning Ordinance allows this type of use within the A-R zoning as long as all requirements of section 3.2.1 are met. However this property and the proposed dwelling would extend beyond the 35 feet height requirement for this zone. Therefore, before the applicant can construct the dwelling above 35 feet, a variance is required.</p>
	<p>Due to the A-R zoning, the lot size requirements, and the open space adjacent to the lot, there should be less chance that other dwellings would be located in close proximity and therefore the height should have minimal negative impacts. Within the gated access area of the Peninsula at Kerr Lake subdivision, this tract is unique in that it is much larger and zoned differently than the main subdivision area. Additionally, the variance appears to assure the public safety, would not be injurious to the neighborhood and has the potential to benefit the neighboring subdivision.</p>



# Vance COUNTY

NORTH CAROLINA

## Variance Application

Vance County Planning & Development Department

156 Church Street, Suite 3  
Henderson, NC 27536  
Ph: (252) 738-2080  
Fax: (252) 738-2089

### For Administrative Use Only:

Case #	
Fee Paid	
BOA Date	

### Property Owner Information

Property Owner: Scott Luther  
Mailing Address: 2366 Hickory Hill Road  
City: Oxford State: PA Zip Code: 19363  
Phone #: (610) 932-7040 Cell Fax #: (610) 291-4805  
E-mail Address: luther-scott@ymail.com

### Applicant Information

Applicant: CORNERSTONE General Contracting, INC.  
Mailing Address: P.O. Box 286  
City: Henderson State: NC Zip Code: 27536  
Phone #: (252) 436-2445 Fax #: (252) 430-6075  
E-mail Address: cornerstonebrian@gmail.com

### Property Information *For multiple properties please attach an additional sheet.*

Property Address: Waterstone Lane, Hen  
Tax Map Number: \_\_\_\_\_ PIN (parcel identification #): \_\_\_\_\_  
Type of Petition: \_\_\_\_\_  
Existing Zoning: AR  
Acreage: 26.871 acres Road Frontage: 629.48'  
Existing Use: AR

### Deed Reference

- ☐ Metes and bounds description attached  
☐ Site plan/sketch of proposal attached





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NORTH CAROLINA

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### STATEMENT OF JUSTIFICATION

Application submitted for a variance from the Zoning Ordinance as follows: *Please explain below:*

*This application is a request for a variance from the maximum height allowance of 35 feet specified in current zoning regulations. The proposed 40.4 foot structure will be built on a 26.871 acre lot where there are no existing structures on the site or surrounding property in the subdivision.*

### FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board is required to reach three conclusions as a prerequisite to the issuance of a variance: (1) that there are practical difficulties or unnecessary hardships that would result from the strict enforcement of this Ordinance, (2) that the variance is in harmony with the general purpose and intent of the Ordinance and preserves its spirit, and (3) that in the granting of the variance, the public safety and welfare have been assured.

In the following spaces, indicate the facts and the argument you plan to render, in order to convince the Board to properly determine that each of these three (3) CONCLUSIONS are applicable to this structure and site.

- (1) THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS THAT WOULD RESULT FROM THE STRICT ENFORCEMENT OF THIS ORDINANCE. The courts have developed three rules to determine whether, in a particular situation, "practical difficulties or unnecessary hardships" exist. State facts and argument in support of each of the following:

- a. **If the applicant complies strictly with the provisions of the Ordinance, he or she can make no reasonable use of their property.** (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

*The height of the proposed house would be cosmetically compromised and require the roof design to be re-engineered. This would alter the appearance of the house.*

- b. **The hardship of which the applicant complains results from unique circumstances related to the applicant's property.**

*The grade of the property is approximately 6 feet from front to back. The grade is more than the 5 feet variance requested for the house.*

- c. **The hardship is not the result of the applicant's own actions.**

*The applicant purchased a house plan separate from the decision to locate it on the lot. No improvements or alterations have been made to the site. The natural grade of the land creates the need for the proposed construction design.*



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## Variance Application

Vance County Planning & Development Department

- (2) THE VARIANCE WILL BE IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES THE SPIRIT OF THE ORDINANCE. (State facts and arguments to show that the requested variance represents the least possible deviation from the letter of the Ordinance to allow a reasonable use of the land; and, that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood.)

*The request to increase the height of the house by only five feet is the least possible deviation from the ordinance that will preserve the structural integrity of the building.*

- (3) THE GRANTING OF THE VARIANCE ASSURES THE PUBLIC SAFETY AND WELFARE.

(State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the Applicant.)

*The variance would have no effect on the public safety and welfare*

Property Owners Signature

*Carol W. Steen*  
Please sign in blue or black ink

Date 11/12/11

Applicants' Signature

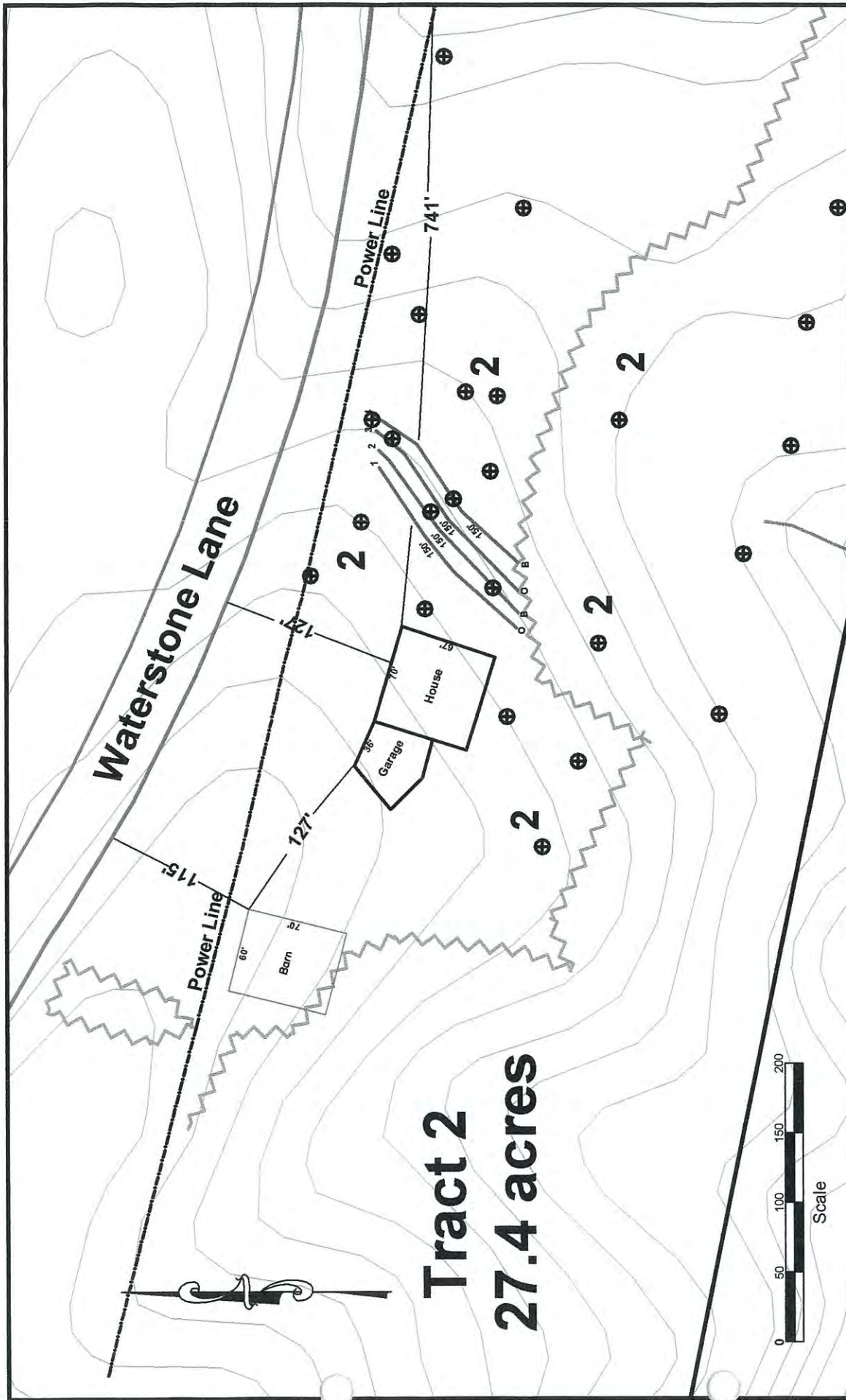
*B. J. B.*  
Please sign in blue or black ink

Date 11/12/11







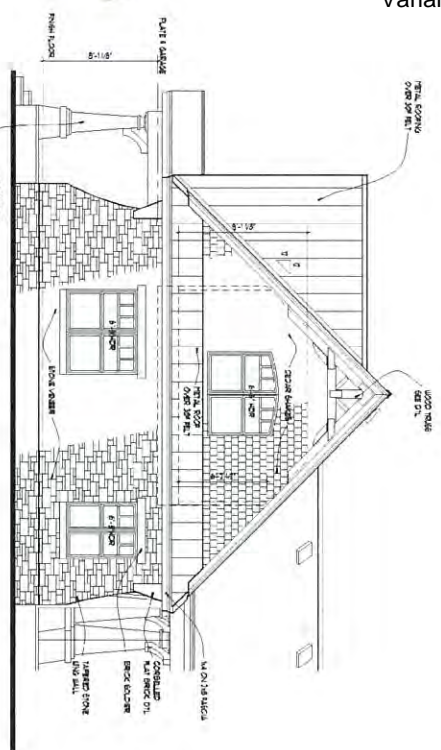


**Legend**

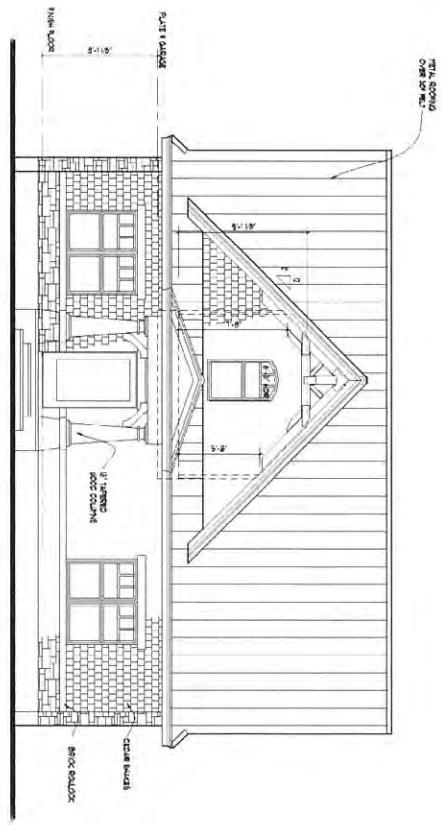
- Flagged Drainfield Trenches
- Provisionally Suitable Soil Borings
- Woods Line

<i>Project:</i>	Tract 2 - Dodson Creek LLC
<i>Client:</i>	Dodson Creek LLC
<i>CAD File:</i>	Peninsula
<i>Scale:</i>	1" = 300'
<i>Date:</i>	May 5, 2011

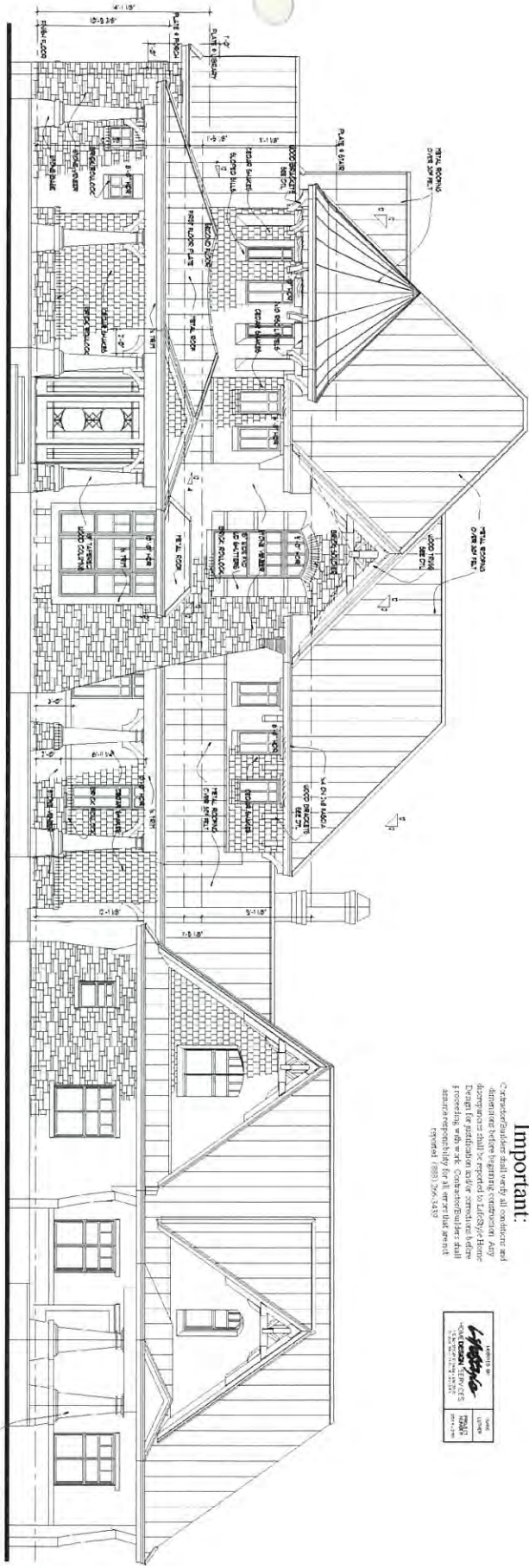
**Daniel J. Biley**  
**Soils and Land Use Consultant**  
 614 South Second Street - Smithfield NC 27577  
 Phone/Fax: (919) 934-8610 - Email: [dbiley1@nc.rr.com](mailto:dbiley1@nc.rr.com)



RIGHT GARAGE ELEVATION  
SCALE 1/4" = 1'-0"



FRONT GARAGE ELEVATION  
SCALE 1/4" = 1'-0"



FRONT ELEVATION  
SCALE 1/4" = 1'-0"

**Important:**  
Contractors shall verify all conditions and dimensions before beginning construction. Any discrepancies shall be reported to L&B/DAW. Design for satisfaction after construction before final payment. Contractors shall submit requests for information (RFI) to the architect.

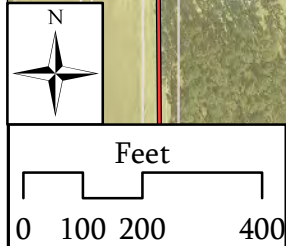
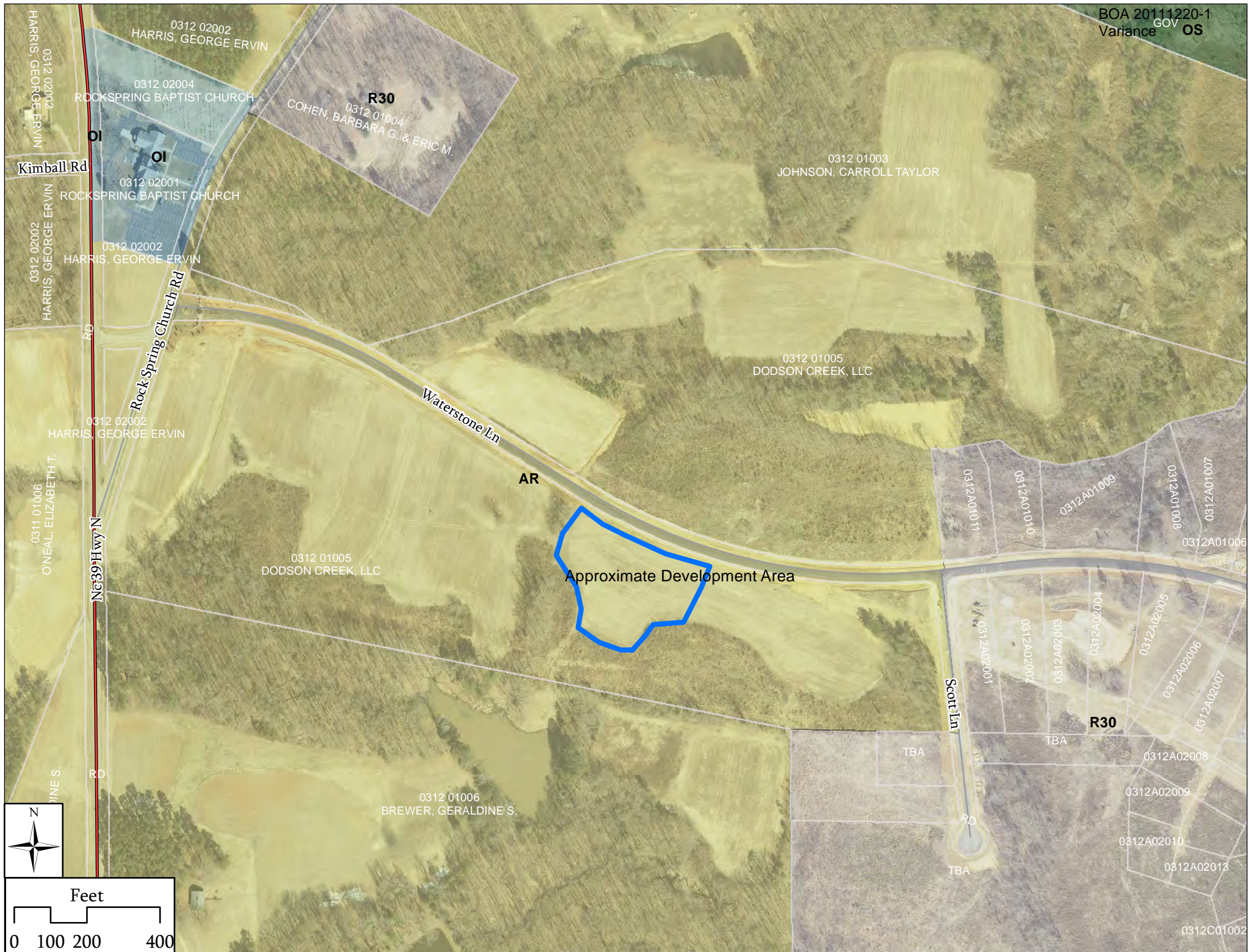


**L'BELLALIZA**  
PLAN NO. 3349

**DAVID E. WIGGINS**  
ARCHITECT  
PROFESSIONAL ARCHITECT, LICENSE NO. 10000









**Variance Check Sheet**

1. If the applicant complies strictly with the provisions of the Ordinance, he or she can make no reasonable use of their property.

	True	False		True	False		True	False	TOTAL
Alston:	<input type="checkbox"/>	<input type="checkbox"/>	Harvin:	<input type="checkbox"/>	<input type="checkbox"/>	Stainback:	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; width: 80px; height: 30px;"></div>
Brummitt:	<input type="checkbox"/>	<input type="checkbox"/>	Johnson:	<input type="checkbox"/>	<input type="checkbox"/>	Alternate 1:	<input type="checkbox"/>	<input type="checkbox"/>	
Haley:	<input type="checkbox"/>	<input type="checkbox"/>	Shaw:	<input type="checkbox"/>	<input type="checkbox"/>	Alternate 2:	<input type="checkbox"/>	<input type="checkbox"/>	

2. The hardship of which the applicant complains results from unique circumstances related to the applicant's property.

	True	False		True	False		True	False	TOTAL
Alston:	<input type="checkbox"/>	<input type="checkbox"/>	Harvin:	<input type="checkbox"/>	<input type="checkbox"/>	Stainback:	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; width: 80px; height: 30px;"></div>
Brummitt:	<input type="checkbox"/>	<input type="checkbox"/>	Johnson:	<input type="checkbox"/>	<input type="checkbox"/>	Alternate 1:	<input type="checkbox"/>	<input type="checkbox"/>	
Haley:	<input type="checkbox"/>	<input type="checkbox"/>	Shaw:	<input type="checkbox"/>	<input type="checkbox"/>	Alternate 2:	<input type="checkbox"/>	<input type="checkbox"/>	

3. The hardship is not the result of the applicant's own actions.

	True	False		True	False		True	False	TOTAL
Alston:	<input type="checkbox"/>	<input type="checkbox"/>	Harvin:	<input type="checkbox"/>	<input type="checkbox"/>	Stainback:	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; width: 80px; height: 30px;"></div>
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Haley:	<input type="checkbox"/>	<input type="checkbox"/>	Shaw:	<input type="checkbox"/>	<input type="checkbox"/>	Alternate 2:	<input type="checkbox"/>	<input type="checkbox"/>	

4. The variance will be in harmony with the general purpose and intent of the ordinance and preserves the spirit of the ordinance. (The requested variance represents the least possible deviation from the letter of the Ordinance to allow a reasonable use of the land; and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood)

	True	False		True	False		True	False	TOTAL
Alston:	<input type="checkbox"/>	<input type="checkbox"/>	Harvin:	<input type="checkbox"/>	<input type="checkbox"/>	Stainback:	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; width: 80px; height: 30px;"></div>
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Haley:	<input type="checkbox"/>	<input type="checkbox"/>	Shaw:	<input type="checkbox"/>	<input type="checkbox"/>	Alternate 2:	<input type="checkbox"/>	<input type="checkbox"/>	

5. The granting of the variance assures the public safety and welfare and will not be injurious to the property or improvements in the neighborhood.

	True	False		True	False		True	False	TOTAL
Alston:	<input type="checkbox"/>	<input type="checkbox"/>	Harvin:	<input type="checkbox"/>	<input type="checkbox"/>	Stainback:	<input type="checkbox"/>	<input type="checkbox"/>	<div style="border: 1px solid black; width: 80px; height: 30px;"></div>
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