

Planning and Development Department

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



Staff Report 12/20/2011

<p>Owner: Eastern Minerals, Inc.</p> <p>Applicant: Eastern Minerals, Inc.</p> <p>Parcel ID: 0453 05020</p> <p>Location: 170 Eastern Minerals Road</p> <p>Current Zoning: (L-I) Light Industrial</p> <p>Public Hearing: 12/20/2011</p> <p>Prepared by: Jordan McMillen</p>	<p style="text-align: center;"><u>Description of Variance Request:</u></p> <p>The applicant is requesting a variance from the minimum setback requirements as per section 3.2.11 of the zoning ordinance to allow an industrial structure to be located within 2.5 feet of the property line.</p> <p>Exhibits as follows:</p> <p>Exhibit 1. Application Exhibit 2. Site Plan Exhibit 3. Adjoining Owners, zoning map and 2010 Aerial Exhibit 4. Variance check sheet</p> <p style="text-align: center;"><u>Findings of Fact</u></p> <ol style="list-style-type: none"> 1. The property is owned by Eastern Minerals, Inc. 2. The request is for a variance from the minimum setback requirements as per section 3.2.11 of the zoning ordinance to allow an industrial structure to be located within 2.5 feet of the property line. 3. The property is located along US 1 Bypass and is accessed off of Eastern Minerals Road; more specifically identified as tax parcel 0453 05020. 4. The lot is currently zoned L-I (Light Industrial), which is established and designed to promote sound, permanent, light industrial development and to protect abutting or surrounding residential areas from any undesirable aspect of such use. 5. The lot is directly adjacent to the Henderson-Vance Industrial Park and is surrounded by land zoned General Commercial and Light Industrial. There is no residential property adjacent to the property. 6. The proposed structure will not require fire rating in the walls due to the great distance between the proposed structure and the center line of the US 1 Bypass. 7. There are no floodplains or streams that interfere with the property or proposed structure. 8. The application requesting a variance was filed on December 2, 2011. 9. The adjoining property owners were notified on December 12, 2011. 10. The property was posted on December 8th, 2011. 11. The legal notice was run on December 7th and 11th, 2011. <p style="text-align: center;"><u>Staff Comments</u></p> <p>The applicant is proposing to build a 21'x 110' one story pre-engineered metal building that will include two loading silos (each 9' diameter by 35' tall) and slots for two additional silos in the future. The location of this structure would be 2.9' from the property line at one end and 4.3 feet from the property line at the other end. The exact location of the structure is critical to the activities of the business as a railroad spur is currently built at this location and is necessary as a part of this production flow.</p> <p>It appears that the proposed structure does meet the requirements of a hardship; Without the variance the business cannot operate this aspect of the business in light of the fact that the railroad spur is so critical to their operations. The unique circumstance is directly related to the size, shape and orientation of the property along with the critical location of the railroad spur. The structure will not fit in any other location on the lot that would fit into the production flow of the industry. Additionally, the hardship is not the result of the applicant's own actions; The building was present in 1985 and in 1989 NC DOT took the necessary land with the construction of US 1 Bypass. Therefore, the hardship is not a result of the applicant's own actions.</p>
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The variance would be in harmony with the purpose of the ordinance, particularly being that setbacks are established for safety reasons such as fire separation. Because of the great distance between the proposed structure and the US 1 Highway (greater than 80 feet) the building code will not even require fire rating in the structure. The structure would meet the intention of the Light Industrial Zoning category in that any abutting or surrounding residential property would have adequate separation and thus protection.



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 #	20111220-4
Fee Paid	\$250 chk# 1958
BOA Date	12/20/2011

Property Owner Information

Property Owner: Eastern Minerals is a corporation
Mailing Address: Eastern Minerals, Inc. PO Box 1310
City: Bainbridge State: GA Zip Code: 39818
Phone #: () - Fax #: () -
E-mail Address: _____

Applicant Information

Applicant: Scott Starnes / General Manager & Charles Gordon / Plant
Mailing Address: PO Box 226 Manager
City: Henderson State: NC Zip Code: 27536
Phone #: (252) 492 - 0831 Fax #: (252) 438 - 2361
E-mail Address: charlesgordon@eminerals.com

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

Property Address: 170 Eastern Minerals Road / Henderson, NC 27537
Tax Map Number: 045.3-05020 PIN (parcel identification #): _____
Type of Petition: VARIANCE
Existing Zoning: LT INDUSTRIAL
Acreage: 16 Road Frontage: 800 + LF
Existing Use: LT INDUSTRIAL

Deed Reference

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



Vance COUNTY

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Variance Application

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STATEMENT OF JUSTIFICATION

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

Reduction in Required Setback for
Existing Industry. Request to Allow
and New Structures Attached to Exist.
Structure to be built within 2.5'
of US Hwy #1 Bypass R/W.

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.)

THERE IS NO OTHER SPACE ALONG RAILROAD
SPUR WITH LOADING/UNLOADING FACILITIES IN PLACE

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

This facility will be built in the only place
that can fit in with the production flow ~~AND~~ EXIST

RAILROAD SPUR IS LOCATED HERE AND EXIST UNLOADING ^{EQUIPMENT}
^{AND PIT ARE}
^{ADJ}

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

The building (Eastern Block) has been in place
since 1985.

Construction of US #1 made site non-conforming. This was
done in 1989.



Vance COUNTY

NORTH CAROLINA

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 additional facility and equipment will operate

according to Federal and NC State Guidelines for

producing a feed grade product. THERE IS 80' OF BUFFER BETWEEN STRUCTURE AND ROADWAY.

- (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.)

This expansion will increase the current tax base

and possibly add employees. DUE TO SITE CONDITIONS

IE (BUFFER DISTANCE AND HIGH ROADWAY EMBANKMENT)
NO DAMAGE EXISTS TO ROADWAY TRAFFIC OR PEDESTRIANS SHOULD STRUCTURE FAIL.

Property Owners Signature

Please sign in blue or black ink

Date

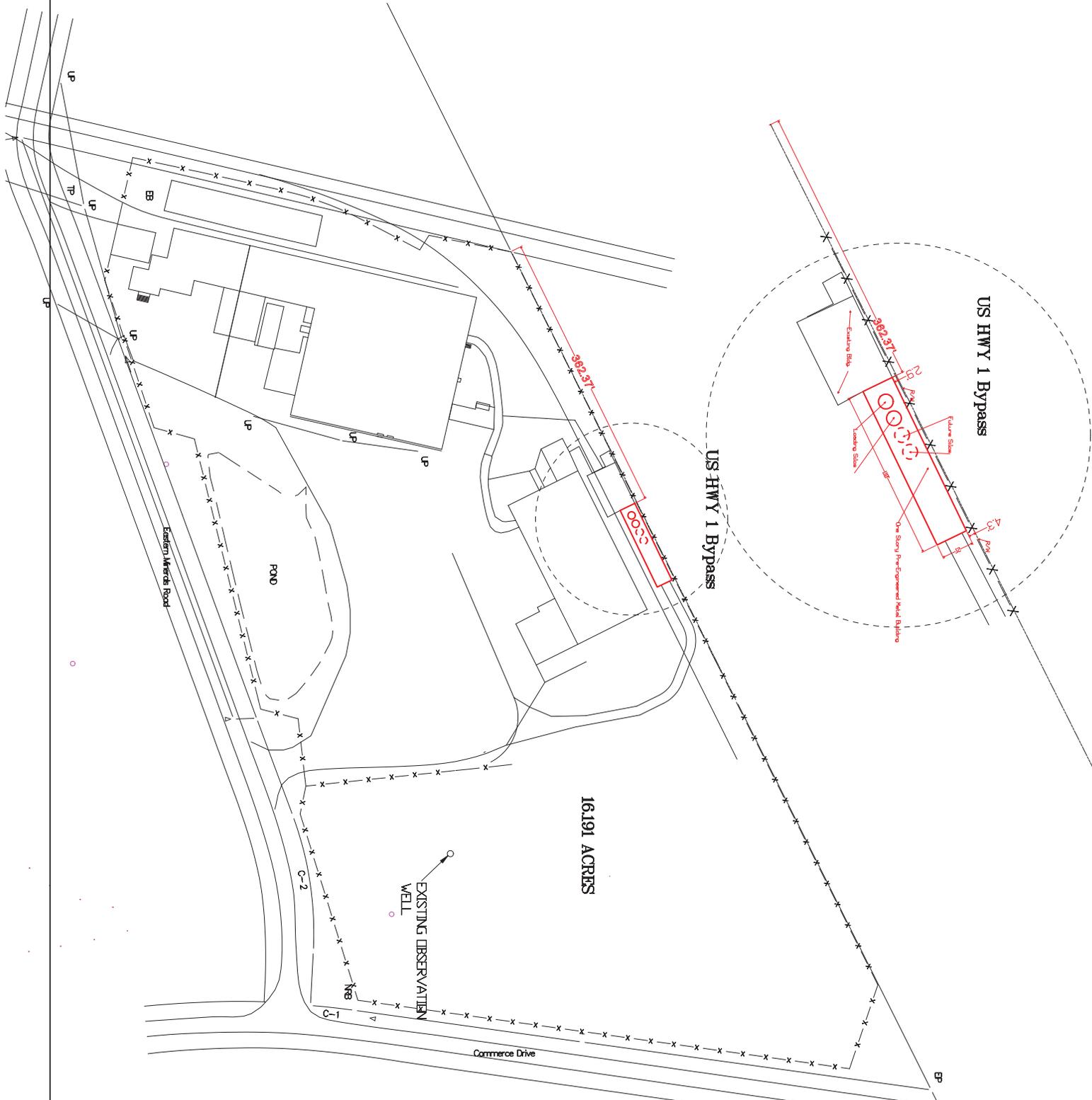
12/2/11

Applicants' Signature

Please sign in blue or black ink

Date

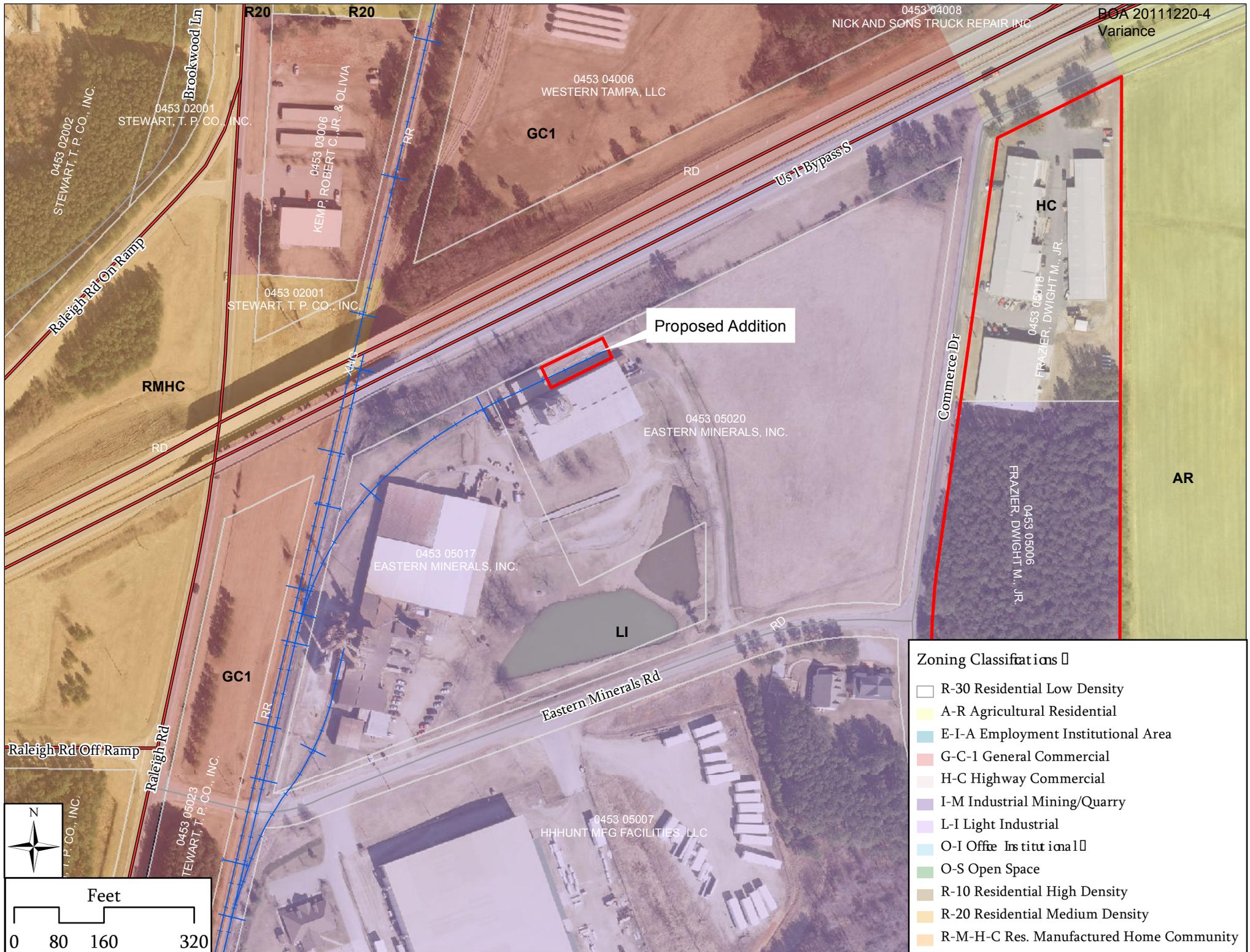
12-2-11



**Eastern Minerals
Proposed Loading Shed
Henderson, NC
Scale 1"=40'
Map by Vance Construction**



This Map based on Actual Field Survey by
Cawthorne and Associates Professional Land Surveyors

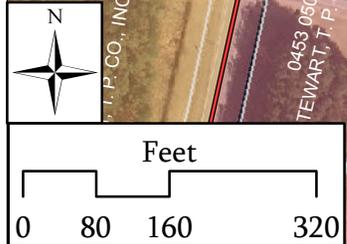


BOA 20111220-4
Variance

Proposed Addition

Zoning Classifications

	R-30 Residential Low Density
	A-R Agricultural Residential
	E-I-A Employment Institutional Area
	G-C-1 General Commercial
	H-C Highway Commercial
	I-M Industrial Mining/Quarry
	L-I Light Industrial
	O-I Office Institutional
	O-S Open Space
	R-10 Residential High Density
	R-20 Residential Medium Density
	R-M-H-C Res. Manufactured Home Community



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"/>	
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"/>	
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"/>	
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"/>	

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"/>	
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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"/>	
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