

**Planning and Development Department**

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

**Staff Report 04/11/2013**



**Owner:** Robert & Cindy O'Brien

**Applicant:** Tony Hirst

**Parcel ID:** 0589 01021

**Location:** 1536 White Farm Lane

**Current Zoning:** (R-30) Residential Low Density

**Public Hearing:** 04/11/2013

**Prepared by:** Jordan McMillen

**Description of Variance Request:**

The applicant is requesting a variance from the minimum setback (section 3.2.3) requirement to allow a 15 foot setback on the north and south sides of the property. The western side of the property is adjacent to Corps. of Engineer property and currently is allowed a 0 foot setback as per zoning regulations. In addition to the setback variance the applicant is requesting a variance from the separation requirement of 100 feet between the well and septic system as per section 3.2 D 4 of the zoning ordinance. Based upon a designed system and concurrence from the Health Department the applicant is requesting a variance from 100 feet to 50 feet of required separation for the backup septic system or repair area.

**Exhibits as follows:**

- Exhibit 1.** Application
- Exhibit 2.** Site plan
- Exhibit 3.** Adjoining owners map, surrounding zoning and 2010 Aerial
- Exhibit 4.** Variance check sheet

**DRAFT Findings of Fact**

1. The property is owned by Robert & Cindy O'Brien.
2. The request is for a variance from the minimum setback requirement of a 20 foot side setback as per section 3.2.3 of the zoning ordinance to allow a 15 foot setback on the side.
3. The lot consists of 0.69 acres and previously consisted of a doublewide that is no longer present.
4. The property is located at 1536 White Farm Lane and is identified as tax parcel 0589 01021.
5. The lot is currently zoned R-30 (Residential Low Density).
6. The application requesting the variance was filed on March 19, 2013.
7. The adjoining property owners were notified on March 28, 2013.
8. The property was posted on March 28, 2013.
9. **The legal notice was run on March 29, and April 5, 2013.**

**Staff Comments**

The applicant is proposing to build a stick built home that will extend within the setback area due to unique circumstances related to the property. Because of the locations where suitable soil is available for a septic tank, the proposed home is located in a part of the lot that is not wide enough to sustain the single family dwelling. As a result of this a variance is required reducing the setback from 20 feet to 15 feet on the sides. It does appear that without a variance, the owner will be unable to make a reasonable use of their property as a site for the planned stick built single family dwelling.

As a second request, the applicant is proposing to reduce the well/septic separation to 50 feet. It is important to note that the primary septic system will be outside of this 100 foot area, but the repair area would be between 50 and 100 feet from the existing well. The environmental health department has given their approval for the reduction to 50 feet and it would be necessary for the board of adjustment to do so as well.

Within the neighborhood many of the existing lots are situated in a very similar manner creating a situation where single family homes have been built within the setback area. It seems to be unreasonable to insist that homes are turned perpendicular to the roadway, and therefore would be a reasonable use to allow homes to be built parallel to the roadway. Due to this, such a variance appears to be in character with other homes within the neighborhood.



# Vance COUNTY

NORTH CAROLINA

## Variance Application

Vance County Planning &amp; Development Department

For Administrative Use Only:

Case #	20130411-1
Fee Paid	\$ 250
BOA Date	04/11/2013

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

### Property Owner Information

Property Owner: ROBERT & CINDY OBRIEN  
Mailing Address: 811 S. CREEK DR.  
City: NASHVILLE State: NC Zip Code: 27856  
Phone #: (252) 567-5475 Fax #: ( )  
E-mail Address: RCOBRIEN@SADDENLINK.NET

### Applicant Information

Applicant: TONY HIRST  
Mailing Address: 1292 US HWY 1 BYP. S.  
City: KITTRELL State: NC Zip Code: 27544  
Phone #: (252) 430-7722 Fax #: (252) 430-6377  
E-mail Address: ARCHITBLOK@2011.COM

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

Property Address: 1536 WALKER FARM LANE  
Tax Map Number: \_\_\_\_\_ PIN (parcel identification #): 058901021  
Type of Petition: VARIANCE  
Existing Zoning: R30  
Acreage: 30.075 SF Road Frontage: 127.49'  
Existing Use: RESIDENTIAL

### Deed Reference

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



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NORTH CAROLINA

## Variance Application

Vance County Planning & Development Department

### STATEMENT OF JUSTIFICATION

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

RECEIVED ZONING PERMIT FOR SEPTIC PERMIT - MY STAFF  
SUBMITTED - PER ORDINANCE A PLAN IS REQUIRED -  
GOT APPROVAL FROM - DECEASED MAC SINGLETON -  
ORDERED HOUSE HANDCRAFTED HOMES - HOUSE  
COMPLETED 3/19/13 - SUBMITTED PLANS FOR CONSTRUCTION  
FOUND OUT SETBACK 20 FT NOT 15 FT - REQUEST 15 FT.  
SETBACK - WELL VARIANCE AT 50 FT. (HAS BEEN APPROVED BY HEALTH)

### 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 HOME IS BUILT AND AWAITING SHIPPING TO SITE  
TOTAL OF NEW HOME CONTRACT IS \$395,000  
THE SEPTIC IS INSTALLED AND WELL HAS BEEN ABANDONED

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

SEE ABOVE

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

PERMITTING SHOULD HAVE REQUIRED A SITE PLAN  
- WE HAVE "APPROVED ZONING" WHICH MEANS CAN  
BUILD WHAT SUBMITTED



# 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 HOME WILL BE 15'-7" FROM PROPERTY LINE  
VERY NICE HOME - REMOVED DOUBT-WIDE OFF  
PROPERTY ALREADY

- (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.)

NO SAFETY CONCERNS

Property Owners Signature

*[Signature]*

Please sign in blue or black ink

Date 3-11-13

Applicants' Signature

*[Signature]*

Please sign in blue or black ink

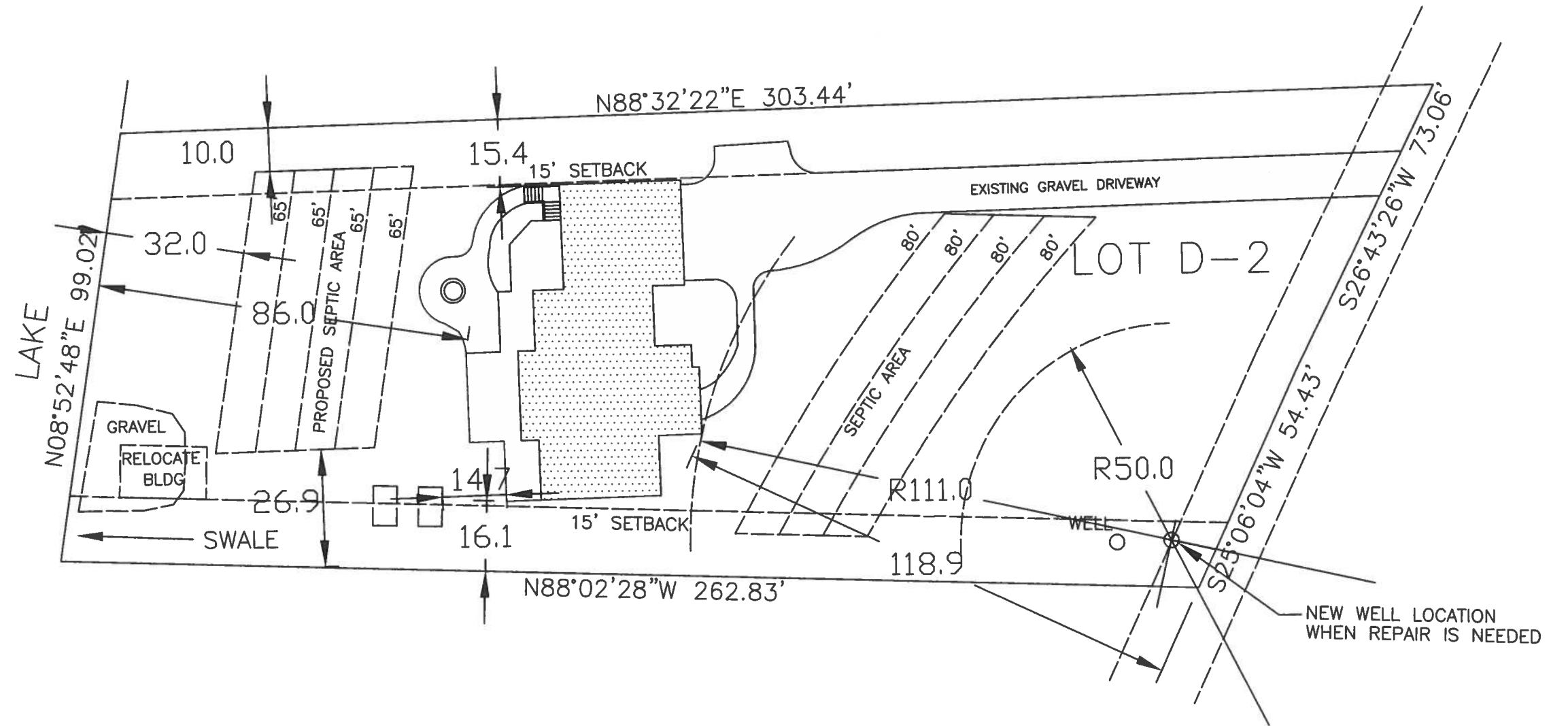
Date 3-11-13



# BUILDER—Tony Hirst LLC

1292 U.S. HWY 1 BYPASS S.  
KITTRELL, N.C. 27544  
PH: 252-430-7722  
FAX: 252-430-6377

These drawings are property of Builder—Tony Hirst LLC  
and cannot be copied or reproduced without  
written permission from Builder—Tony Hirst LLC



TOTAL SITE 30,075 SF  
HOME FOOTPRINT 2,279 SF = 7.6%

SITE PLAN

2/21/13 1"=30'

Obrien Residence  
1536 White Farm Lane  
Manson, NC  
Vance County — Beautiful Kerr Lake







**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"/>	<input type="text"/>
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"/>	<input type="text"/>
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"/>	<input type="text"/>
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"/>	<input type="text"/>
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"/>	

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"/>	<input type="text"/>
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