



Planning and Development Department

156 CHURCH STREET, HENDERSON, NC 27536

(252) 738-2080 / FAX 738-2089

Staff Report

Owner: Charles & Tabitha Owens

Applicant: Charles Owens

Parcel ID: 0542A01006

Location: 1304 Faulkner Town Road

Current Zoning: (R-30) Residential Low Density

Public Hearing: 01/12/2017

Prepared by: Amy Sandidge

Description of Variance Request:

The applicant is requesting a variance from the minimum setback (section 3.2.3) requirement to reduce the front setback from 30 feet to 10 feet to allow construction of a detached garage.

Exhibits as follows:

Exhibit 1. Application

Exhibit 2. Site plan / survey

Exhibit 3. Adjoining owners map, surrounding zoning and 2013 Aerial

Exhibit 4. Variance check sheet

DRAFT Findings of Fact

1. The property is owned by Charles & Tabitha Owens.
2. The request is for a variance from section 3.2.3 of the zoning ordinance to allow a reduction of the front setback from 30 to 10 feet.
3. The lot is located at 1304 Faulkner Town Road (tax parcel 0542A01006).
4. The property is a corner lot and consists of two front yards facing Faulkner Town Road and Dogwood Trail.
5. The lot consists of 0.80 acres according to attached survey.
6. The lot currently consists of a single family dwelling.
7. The lot is currently zoned R-30 (Residential Low Density).
8. Due to the nature of a corner lot having two front setback requirements and the location of the septic system, there is limited room for placement of the garage on other areas of the property.
9. The application requesting the variance was filed on December 21, 2016.
10. The adjoining property owners were notified on December 28, 2016.
11. The property was posted on December 29, 2016.

Staff Comments

The applicant is proposing to build a detached 30x40 garage as an accessory structure to an existing single family home. The applicant would like to construct the structure to provide protection for their vehicles from the weather. The property is a corner lot and therefore consisting of two front yard setbacks, they have a 30' setback along the north property line (Faulkner Town Road) and west property line (Dogwood Trail). The second constraint on this lot is the location of the septic system which restricts placing the garage on the southeast corner of the property (see attached illustration). The applicant is requesting a variance to reduce the 30 foot setback along Dogwood Trail to 10 feet. The proposed location will not create any site issues at the intersection of these two roads.

It is important to note that the NC general statues have changed slightly regarding the criteria for granting a variance. See the last page of this packet for the revised criteria.



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 #	20170112-01
Fee Paid	12-5-16
BOA Date	01-12-17

Property Owner Information

Property Owner: Charles and Tabitha Owens

Mailing Address: 1304 Faulkner Town Rd.

City: Henderson State: NC Zip Code: 27537

Phone #: (252) 269 - 8710 Fax #: () -

E-mail Address: charlese@gmail.com

Applicant Information

Applicant: Charles Owens

Mailing Address: 1304 Faulkner Town Rd.

City: Henderson State: NC Zip Code: 27537

Phone #: (252) 269 - 8710 Fax #: () -

E-mail Address: charlese@gmail.com

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

Property Address: 1304 Faulkner Town Rd. Henderson, NC 27537

Tax Map Number: 542A-1-6 PIN (parcel identification #): 0542A01006

Type of Petition: Garage Location

Existing Zoning: R-30

Acreage: 0.80 Acre Road Frontage: 157.71'

Existing Use: Fenced in back yard.

Deed Reference

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



Vance COUNTY

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:*

Please see attached letter.

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. No change in permitted uses may be authorized by variance. Also, the Board may impose appropriate conditions on any variance, provided that the conditions are reasonably related to the variance.

Under the state enabling act, the Board shall vary ordinance provisions when unnecessary hardships would result from carrying out the strict letter of the ordinance. In order to determine whether a hardship is present the applicant shall provide an argument for the following items. In the following spaces, indicate the facts and the argument you plan to render, in order to convince the Board to properly determine that an unnecessary hardship exists from carrying out the strict letter of the ordinance.

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

- a. **The unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.** (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

Please see attached letter.

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

Please see attached letter.



Vance COUNTY

NORTH CAROLINA

Variance Application

Vance County Planning & Development Department

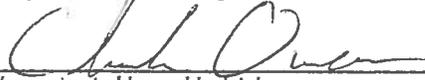
- c. **The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing the property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.**

Please see attached letter.

- d. **The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

Please see attached letter.

Property Owners Signature


Please sign in blue or black ink

Date Dec 5, 2016

Applicants' Signature


Please sign in blue or black ink

Date Dec 5, 2016

STATEMENT OF JUSTIFICATION

Property: 1304 Faulkner Town Rd. Henderson, NC 27537 was purchased with the intentions of eventually building a garage in the back yard. As of Friday, December 2, 2016, I was informed the property that I own has two front yards. I was unaware of this as the house was considered to have a fenced-in back yard when the house was sold to me. Before I made the first step to prepare for the construction, I contacted Vance County Planning and Development by phone in October. I gathered as much information as possible to ensure that all requirements were met to receive a building permit. I was given the required distance off of side and rear property lines (10 Ft.). It was explained that the garage could not extend beyond the front most edge of the house. I was given a list of all paperwork and plans that would be needed to receive a permit (site plan, utility locations, property lines, building distances, building plan, information on manufactured trusses and LVL beam). Everything seemed in order based on the information I received over the phone; therefore, I was ready to start preparing for the construction. At this point I worked with the employees at Builders Discount to put together a garage package to meet my needs. This cost my wife and I \$7193.77. I received a basic building plan which had to be redesigned based on altered door and window locations. I then contacted the manufacture of the trusses and LVL. I requested design information to attach with my application for a building permit. After having 811 services locate all utilities, Duke Energy relocated my electrical away from proposed building location. After assembling all of the required documents and feeling confident in my application, it was submitted Thursday, December 1. There was an immediate concern with the location of the septic tank which later that evening was found acceptable. I received a phone call from Planning and Development stating that that the septic tank was not a problem and that the reviewing process would only take a few days to receive the permit. At this point again I was very excited and optimistic that soon we could begin the construction process. On Friday, December 2, as stated above, I received the crushing news about the corner lot situation.

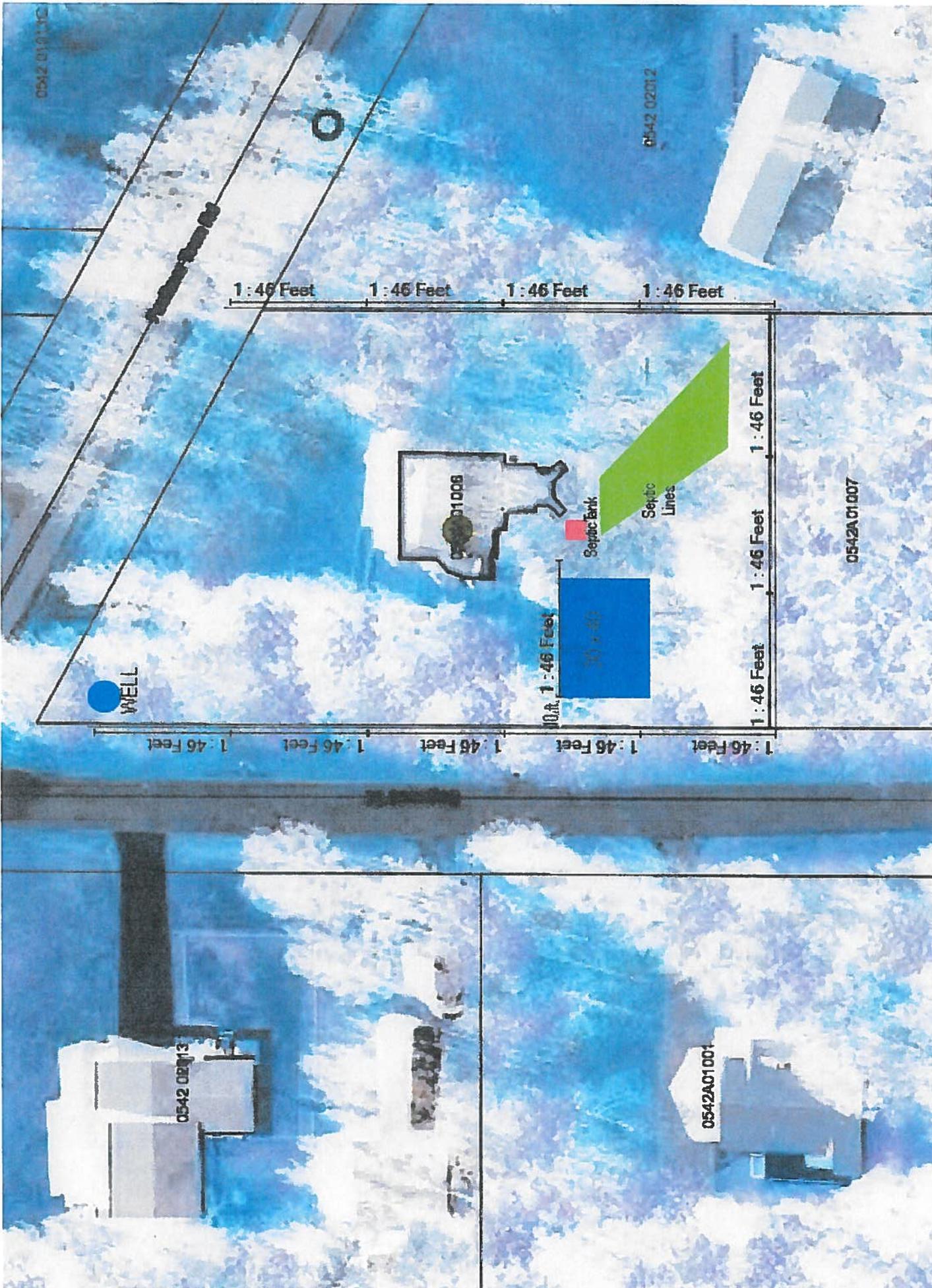
I sincerely ask that you please consider my request for variance based on the information provided in the attached "Factors Relevant to the Issuance of a Variance" page. I typically would never attempt going against the grain on something like this, but there are no other options that I can see. Considering the amount of money that is on the line, this would be a devastating blow to the quality of life for my family.

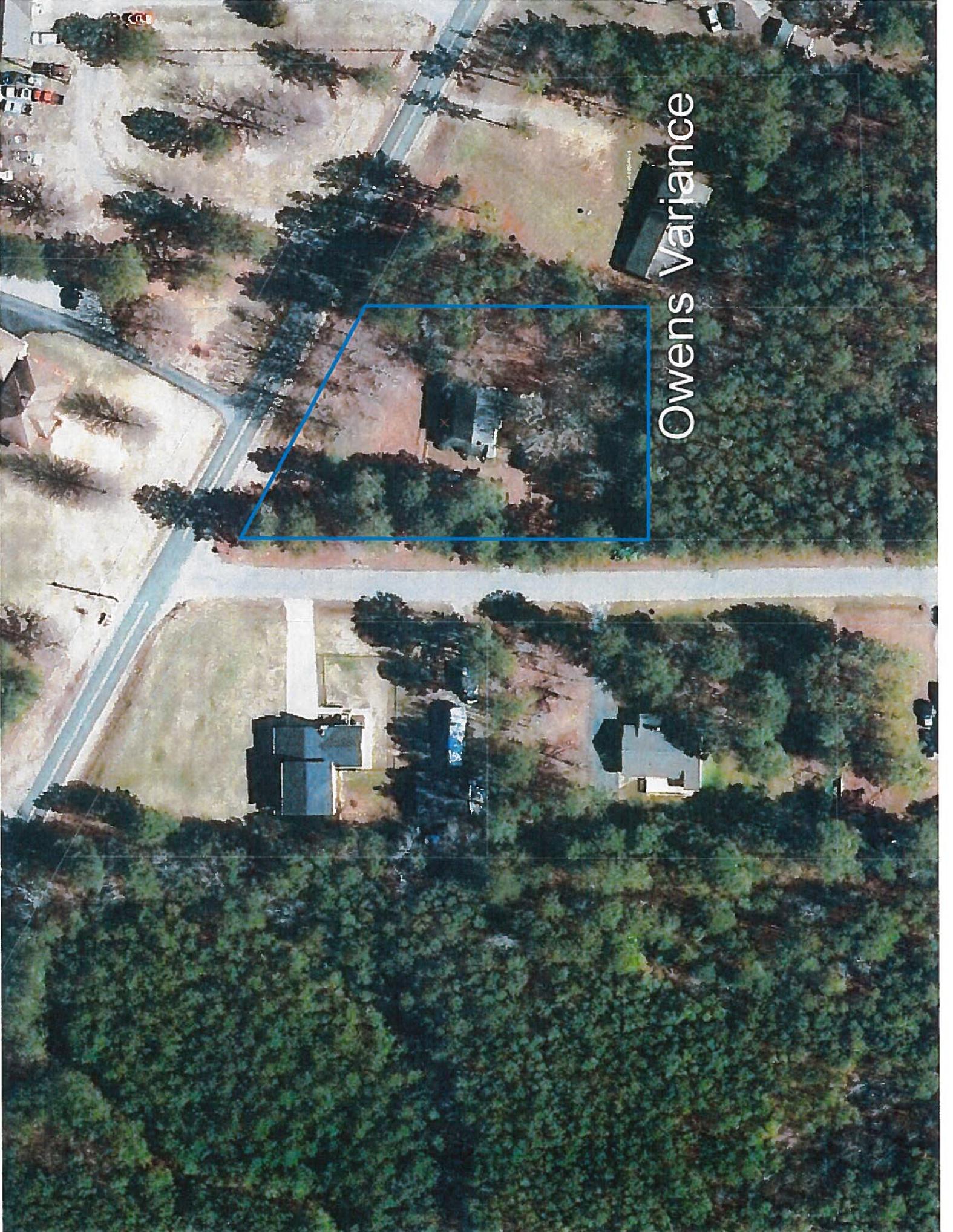
Thank you for your time and consideration,

Charles Owens
252-269-8710
charleseo@gmail.com

1. Factors Relevant to the Issuance of a Variance

- A.) **Unnecessary Hardship (Protection of Property):** My wife and I believe that our vehicles are the second largest investment to our house. The garage would serve to protect our vehicles from weather and vandalism. We also have lawn equipment, tools, and other items that need to be stored in a weatherproof, lockable, and safe location. To build a garage was the initial plan when we purchased this property. We were unaware of there being two front yards on this property until Friday, Dec. 2 2016. We feel that anyone should be able to protect their property. The garage would be the only way for us to do this when we are not at home.
- B.) **Hardship Conditions (Location and Size):** After finding out that our property has what is considered two front yards, we are left with no options for garage placement. With the restrictions placed on building in front yards, we are left with less than one fourth of the property to work with. The majority of the remaining location is occupied by septic tank and septic lines. The area on the opposite side of the house is not wide enough for the garage and is threatened by very tall trees along the entire property line which would be a risk for damage and cause the roof to age rapidly. There is also our existing drive way which works perfectly with the proposed location. It will cause problems if the road needed to be relocated considering power lines and the septic tank lines. (Note: After contacting 811 and having all of my utilities marked, Duke Energy volunteered to move my lines away from the proposed building location which has already been completed.)
- C.) **Hardship Not Self Inflicted:** The hardship did not result from any actions taken by us. We were unaware that Dogwood Trail would cause us to be considered a corner lot as it is marked trail and is not completely developed. In addition, it is to my understanding that chain link fences are only allowed in back yards of properties and the house was marketed to me as having a "fenced in back yard". This back yard was planned from even before we purchased the property to eventually be the location of our garage.
- D.) **Public Safety/ Surrounding Properties:** The proposed location of the garage does not obstruct the view of any other property or road. Many of the other properties around me have large garages and fences. The property directly behind us is a undeveloped lot of trees that extend all the way out to the edge Dogwood Trail, which will be much closer to the road than the closest side of the proposed garage.





Owens Variance

Variance Check Sheet

A variance may be granted by the Board if evidence that is presented by the applicant persuades the Board to reach the following conclusions:

- The unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

	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"/>	

- 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.

	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"/>	

- 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.

	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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- The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

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