

TOWN OF WAYNESVILLE Zoning Board of Adjustment

9 South Main Street
Waynesville, NC 28786
Phone (828) 456-8647 • Fax (828) 452-1492
www.waynesvillenc.gov

Henry Kidder, Chair
David Felmet, Vice-Chair
Stephanie Strickland
Joshua Morgan
George Escaravage
Edward Moore

**Development Services
Director**
Elizabeth Teague

TOWN OF WAYNESVILLE ZONING BOARD OF ADJUSTMENT REGULAR MEETING

**Town Hall – 9 South Main Street, Waynesville, NC 28786
Tuesday, January 7, 2020, 5:30 PM**

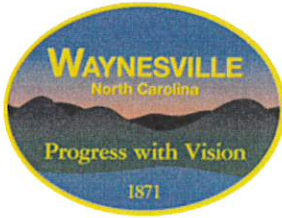
A. CALL TO ORDER:

1. Welcome/Announcements
2. Adoption of Minutes (as presented or amended) from December 3, 2019

B. BUSINESS ITEMS:

1. Public Hearing on request for a variance to Land Development Standards Section 2.4.1 Table of Dimensional Standards 4. Building Setback at 180 Ridgewood Drive, PIN 8615-05-4762.

C. ADJOURN



TOWN OF WAYNESVILLE Zoning Board of Adjustment

9 South Main Street
Waynesville, NC 28786
Phone (828) 456-8647 • Fax (828) 452-1492
www.waynesvillenc.gov

Development Services
Director
Elizabeth Teague

Stephanie Strickland
Henry Kidder (Chairman)
Joshua Morgan
George Escaravage
Margaret Chandler
Edward Moore

Regular Meeting

Town Hall, 9 South Main Street, Waynesville, NC 28786
Tuesday, December 3rd, 2019 at 5:30 pm

THE WAYNESVILLE ZONING BOARD OF ADJUSTMENT held its regular meeting on December 3, 2019 at 5:30 p.m. in the board room of the Town Hall, 9 South Main Street, Waynesville, NC.

A. CALL TO ORDER

Mr. Byron Hickox, Land Use Administrator advised the Board that Chairman Henry Kidder was absent and there was currently no Vice-Chair, therefore Board Member Stephanie Strickland would be serving as temporary Chair until the nominations and elections of Chair and Vice-Chair were complete.

Board Member Stephanie Strickland called the meeting to order at 5:30 p.m.

The following members were present:

Stephanie Strickland, Vice Chair
Joshua Morgan
George Escaravage
Edward Moore
Margaret Chandler

The following members were absent:

Henry Kidder, Chairman

The following staff members were present:

Byron Hickox, Land Use Administrator
Chelle Baker, Administrative Assistant

1. Welcome/Calendar/Announcements

Temporary Chair Stephanie Strickland welcomed everyone.

2. Election of Chair and Vice Chair

Mr. Byron Hickox advised that Mr. Henry Kidder stated although he was absent, he was willing to serve the Board in whatever capacity needed. Mr. Hickox opened nominations for chairman.

A motion was made by Board Member George Escaravage to nominate Mr. Henry Kidder as Chair. There being no other nominations, Board Member Joshua Morgan seconded the nomination. The motion passed unanimously (5-0).

Mr. Hickox advised by acclamation that Board Member Henry Kidder was elected as chairman.

A motion was made by Board Member George Escaravage to nominate Ms. Stephanie Strickland as Vice-Chair. There being no other nominations, Board Member Joshua Morgan seconded the nomination. The motion passed unanimously (5-0).

Mr. Hickox advised by acclamation that Board Member Stephanie Strickland was elected as Vice-chair.

3. Adoption of Minutes

A motion was made by Board Member George Escaravage, seconded by Board Member Edward Moore, to approve the minutes of the April 2, 2019 No quorum minutes, the May 7, 2019 regular meeting minutes and the July 2, 2019 No quorum minutes. The motion passed unanimously (5-0).

B. BUSINESS

1. Public Hearing on request for a variance to Land Development Standards Section 4.5.2(1)- Permitted Locations for Accessory Structures at 626 Hall Top Road, PIN 8616-05-4687.

Vice-Chair Stephanie Strickland reviewed the protocols for a Quasi-judicial hearing and advised this was a request for a variance to Section 4.5.2(1). Witnesses including staff who wished to speak were directed to come forward and be sworn in. Mr. Byron Hickox presented the staff report.

Background: Mr. Hickox explained that the subject property was .59 acres with frontage along Hall Top Road. He described the lot as containing a single-family dwelling and being heavily wooded. He referenced the topographic map, showing the house site and a small area in the front yard as the only relative flat areas on the lot, stating that the remainder of the lot drops off steeply to the rear.

Mr. Hickox stated that 4.5.2(1) of the LDS indicated that accessory structures on single-family lots of 2 acres or less must be located within the side or rear yard, but due to the steep topography of the side and rear yards this property owner has proposed the construction of an accessory structure within the front yard of the lot.

Mr. Hickox reviewed the current zoning as Hall Top Low Density Residential and read the purpose and intent of the district as established by the LDS, Section 2.3.1 (D).

Variance Requirements and staff recommended findings: Mr. Hickox told the Board that the proposed variance would permit the property owner to construct an accessory structure within the lot's front yard. The proposed structure will otherwise comply with the Town of Waynesville's accessory structure standards. Staff offers the following comments regarding the findings that must be considered by the Zoning Board of Adjustment:

1. That there are unnecessary hardships in the way of carrying out the strict letter of this chapter.
 - The requirement that an accessory structure on this property be located within the side or rear yards would force the property owner to either build no such structure or to incur considerable expense to build a structure on the very steep terrain of the side or rear yards.
2. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings located in the same land development district.
 - The lot's shape, topography, and the principal structure's orientation to the road combine to create a peculiar situation that makes the construction of an accessory structure that meets the town's standards extremely challenging.
3. That the special conditions and circumstances do not result from the actions of the applicant. 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.
 - The hardship is not the result of actions taken by the property owner. The property owner has done considerable work and incurred considerable expense to renovate the existing structure, including removing a manufactured home that was previously on the lot, improving the overall appearance of the lot.
4. That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit.
 - The purpose and intent statement for this zoning district recognizes the unique challenges inherent in the development of its properties. This variance would serve as a recognition of the same challenges.
5. That the variance is the minimum necessary to afford relief.
 - This variance is the minimum necessary to afford relief.
6. That the public safety and welfare have been assured and substantial justice has been done.
 - While the construction of an accessory structure on piers or columns to the side or rear of the dwelling might meet the letter of the town's standards, it might also be considerably less safe and considered aesthetically unappealing.

Mr. Hickox advised the Board that the Public Notice requirements for this Hearing were met and that notice of this public hearing was mailed to owners of property within 100 feet of the subject property on November 19, 2019. Notice was also submitted to local media on November 18, 2019.

Mr. Hickox submitted items into the record for evidence which included:

1. Agenda Packet with staff report
2. Variance request
3. Topographic map
4. Site map
5. Public Notices and address labels

The Board had no questions for Mr. Hickox. The applicant was asked to come forward and speak.

Andrew Noel
626 Hall Top Road
Waynesville, NC 28786

Mr. Noel introduced himself and thanked the Board. He informed the Board that he had put a lot of work into the property trying to make it a nice place not only for himself but for the neighborhood as well. Mr. Noel showed before and after pictures of the property stating that when he acquired the property it had been abandoned since 2005 and it was completely overgrown. He showed the different pictures of his property and property line restrictions combined with the topography of the drop-offs. He also showed where the trailer used to sit in front of the house, before he removed it from the property. Mr. Noel explained to the Board that his intention was to put in a nice shed to store his tools so that he could continue fixing up the property, he was not looking at storing junk, he was wanting to landscape around it to make it look nice.

Board Member Joshua Morgan asked Mr. Noel if the house sat below the road and if the accessory structure would sit below the level of the road as well? Mr. Noel answered that yes, the house did, but the accessory structure would not be as far below the level of the road - there would be about a six to eight-foot difference. He described that the property dropped once from the road level to the proposed accessory structure site and then it dropped again to the house site.

Board Member George Escaravage asked Mr. Noel if he had discussed the project with any of his neighbors. Mr. Noel stated no, he had not. Mr. Byron Hickox advised that three of the neighbors had called in to the Development Services office to ask questions about the public notice received and they stated that it sounded fine with them. Board Member Morgan asked according to the topography, it seemed there was no other way to build this structure on the property and Mr. Noel stated that was correct. Vice-Chair Strickland asked if it was a metal building. Mr. Noel advised it was a metal sided pole barn.

Vice-Chair Stephanie Strickland asked if there were any further questions or comments. There were none.

A motion was made by Board Member Joshua Morgan, seconded by Board Member Edward Moore, to close the Public Hearing at 5:50 p.m. The motion passed unanimously (5-0).

Attorney Sneed passed out a checklist to the Board and told them they had to make conclusions based on Findings of Facts.

1. 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.
 - Unnecessary hardship will result. Topography will create an excessive hardship as the grading work for the location required by the LDS would cost more than the accessory structure itself. A tremendous amount of grading work would be required to follow the ordinance.
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.
 - The topography is the largest hardship issue that Mr. Noel is facing.
 - The triangular shape of the lot is also a hardship issue.
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.
 - No, Mr. Noel did not make it steep himself. He did not physically dig the dirt out himself thus this hardship did not result from the actions taken by the applicant himself.
4. 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.
 - Yes, it is consistent with the spirit, purpose and intent of the ordinance.
 - Public safety is secured as Mr. Noel is not trying to build next to the road, he is staying off the road.
 - Mr. Noel is also wanting to place the accessory structure where it is flat for erosion control.
 - Substantial justice is achieved.

A motion was made by Board Member Joshua Morgan, seconded by Board Member Edward Moore, to approve the variance. The motion passed unanimously (5-0).

The request for a variance to Land Development Standards Section 4.5.2(1), permitted locations for Accessory Structures at 626 Hall Top Road, PIN 8616-05-4687 is approved.

C. PUBLIC COMMENT /CALL ON THE AUDIENCE

No one spoke

D. ADJOURN

With no further business, a motion was made by Board Member George Escaravage, seconded by Board Member Joshua Morgan, to adjourn the meeting at 5:58 p.m. The motion passed unanimously (5-0).

Henry Kidder, Chairman

Chelle Baker, Administrative Assistant

Zoning Board of Adjustment Staff Report

Subject: Setback Variance, Land Development Standards Section 2.4.1 (4), on the property described as 180 Ridgewood
Applicant: Ron Muse
Meeting Date: January 7, 2020

Summary Information:

Application Date: December 18, 2019
Proposed Location: 180 Ridgewood; PIN 8615-05-2452
Property Owner: Muse Brothers Construction, Ron Muse
Acreage of site: 2.41 acres
Zoning District: Hazelwood Urban Residential (H-UR)
Existing Development: Multi-family apartment complex

Background:

The subject property consists of 2.41 acres that contains an existing apartment complex of seven buildings (duplexes and triplexes) that total 20 units. There is also one existing storage /garage building. The property is located within the Hazelwood Urban Residential District (H-UR) which allows up to 16 units/acre. There is a chain link fence separating the subject property from Waynesville Middle School.

The purpose and intent of this district as established by the Land Development Standards, Section 2.3.4(B) states:

The **Hazelwood Urban Residential District (H-UR)** is a traditional walkable neighborhood of mostly small, well-built housing in an area where sufficient urban facilities are available. It is a self-contained community with affordable housing, smaller well-kept lots, narrow tree-lined streets and distinct edges and centers. Major public spaces including a park and the "old" Hazelwood School are located in this neighborhood. Since it is convenient to shopping and employment, the goal for Hazelwood is to encourage infill development and the rehabilitation of existing structures in keeping with the residential scale and character of the existing neighborhood. Limited non-residential uses supporting the community are permitted if contributing in scale, design and use to the area. Pedestrian amenities are to be enhanced with all new development as are the development of access points to different parts of Waynesville from the Hazelwood neighborhood. Parking on public streets is permitted and encouraged as an alternative to the development of new parking lots.

The applicant states that several years ago a storage building on the site burned down. County aerial data from 2004 indicates that the building was gone at that time, but there remains a concrete pad and cement blocks indicating a former structure. In accordance with LDS 13.2.2, a pre-existing nonconforming use "shall be presumed discontinued when, ... the property, structure, or use has been vacant or completely inactive for 365 days." The pad is opposite a driveway from an existing storage/garage building which is about the same size of the pad. While the address of the property is Ridgewood Drive, the location of the subject building site is accessed from Balsam Drive. Currently cars are parking in the area where the building once stood.

The applicant would like to rebuild a new storage building on the footprint of the one that burned down. However, the rear of the old building footprint would be within any of the minimum setbacks for buildings within the H-UR District (10' side, 6' in the rear, or 5' for accessory structures) and a survey would be required to determine the distance exactly to the boundary line.

Surrounding Land Use/Zoning Patterns:

To the north and west, the subject property is adjacent to Waynesville Middle School property. On the south and east, the property is adjacent to single family homes. The surrounding abutting properties are also zoned H-UR, but the zoning changes to Main Street Neighborhood Residential on the opposite side of Ridgewood.

Proposed Variance:

The requested variance would permit the property owner to construct an accessory structure within the setback. The proposed structure will otherwise have to comply with the Town of Waynesville's accessory structure standards and building codes, including separation from power lines.

Staff offers the following recommendations for possible findings for the Zoning Board of Adjustment's consideration:

- (1) That there are unnecessary hardships in the way of carrying out the strict letter of this chapter.
 - As a property that is already developed, there is no other location available to accommodate a storage structure and garage that can be accessed by vehicles for the residents than on the proposed location.
 - The existing space is already used as a parking area and once held a storage building which was brought down by fire many years ago.
- (2) That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings located in the same land development district.
 - The property serves a multi-family development that is adjacent to the Middle School. The proposed location of the variance would be against the fence line and boundary of the Middle School and would not impact any other residential properties.
- (3) That the special conditions and circumstances do not result from the actions of the applicant. 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.
 - The hardship was not caused by actions of the property owner. Rather, his inaction over time to restore the building after the fire, meant that setbacks imposed by new and updated regulations are now in effect.

- The addition of a structural storage building and garage would help to clean up the parking area that is adjacent to the school, and meet the needs of the residents.
- (4) That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit.
- As indicated above, the purpose and intent statement for this zoning district recognizes the urban nature of the district and the need for “self-contained affordable housing.”
 - The granting of this variance will not change the nature of the development, the density, or traffic pattern. However, it will provide indoor storage area for the residents of this lower income development.
- (5) That the variance is the minimum necessary to afford relief.
- The variance is the minimum necessary to afford relief in order to install a storage building within an existing concrete pad footprint that encroaches in the rear yard setback.
 - A survey will be required as part of the building permit and will determine the actual on-the-ground location of the boundary line so that there is no encroachment onto the school property.
- (6) That the public safety and welfare have been assured and substantial justice has been done.
- The addition of the accessory building will improve the parking lot area and the view from the back of the school building onto the subject lot.

Public Notice:

Notice of this Public Hearing was mailed to owners of property within 100 feet of the subject property on December 23, 2019. Notice was submitted to local media on December 23, 2019.

Report For

MUSE BROTHERS CONSTRUCTION CO INC
730 WOODFIELD DR
WAYNESVILLE, NC 28786-4762

Account Information

PIN: 8615-05-2452

Legal Ref: 727/2463

Add Ref: A/102

368/631

Site Information

DWELLING, DWELLING, DWELLING, DWELL
Duplex, Duplex, Duplex, Multi-Family, Apartment,
180 RIDGEWOOD DR

Heated Area: 2250

Year Built: 1953

Total Acreage: 2.41

Township: Town of Waynesville

Site Value Information

Land Value:

Building Value:

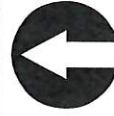
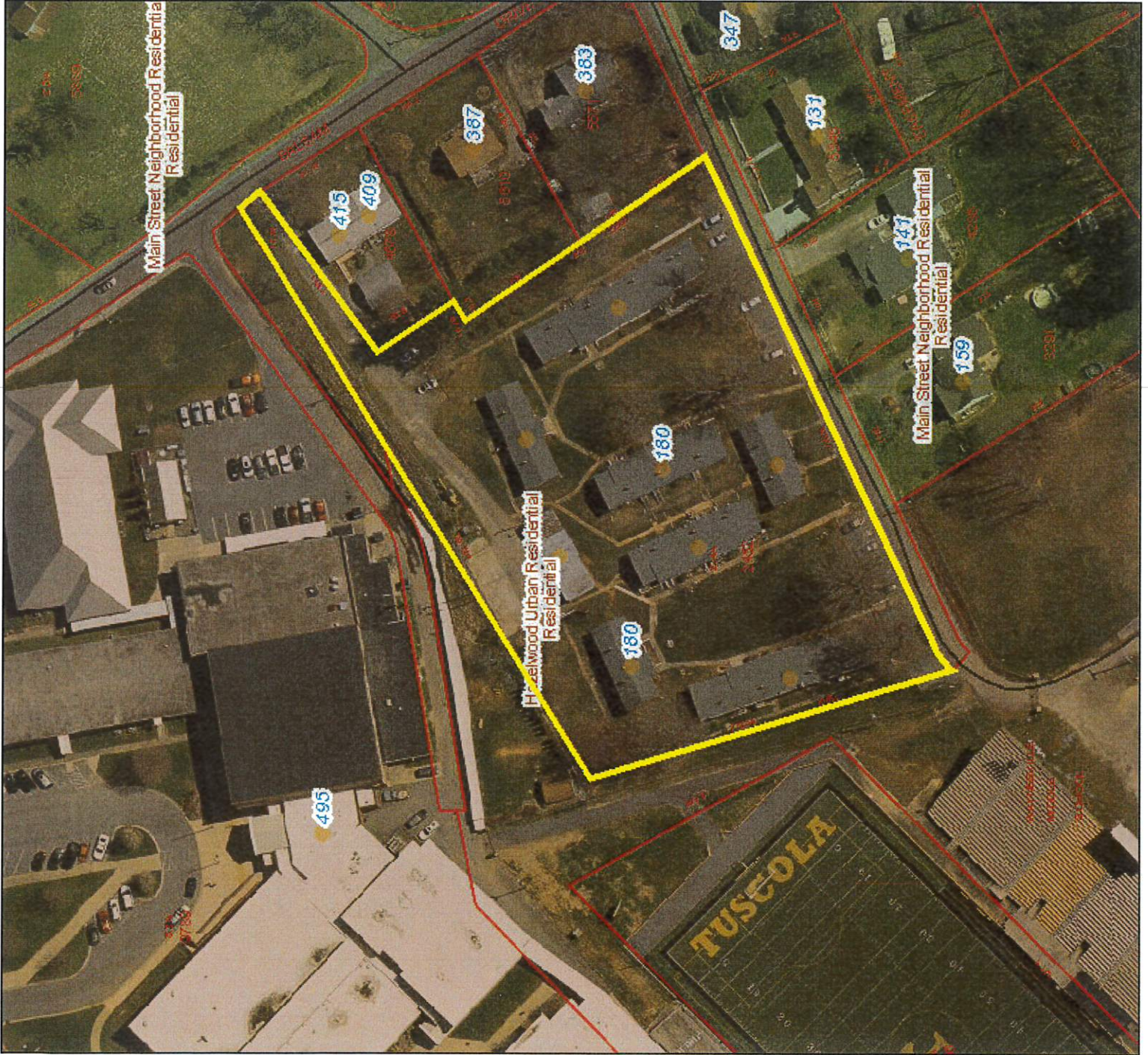
Market Value:

Deferred Value:

Assessed Value:

Sale Price:

Sale Date: 2/6/2008



1 inch = 100 feet

December 20, 2019

Disclaimer: The maps on this site are not surveys. They are prepared from the inventory of real property found within this jurisdiction and are compiled from recorded deeds, plats and other public records and data. Users of this site are hereby notified that the aforementioned public primary information sources should be consulted for verification of any information contained on these maps. Haywood county and the website provider assume no legal responsibility for the information contained on these maps.

Haywood County



December 30, 2019

1:1,200

0.04 mi

0.06 km

0.01

0.015

0.02

0.03

2004 aerial data



December 30, 2019





TOWN OF WAYNESVILLE

Development Services Department

PO Box 100

9 South Main Street

Waynesville, NC 28786

Phone (828) 456-8647 • Fax (828) 452-1492

www.waynesvillenc.gov

December 30, 2019

Town of Waynesville Board of Adjustment

The Town of Waynesville Zoning Board of Adjustment will hold a public hearing on Tuesday, January 7, 2020 at 5:30 PM in the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC, to consider a variance to setback standards, Land Development Standards Section 2.4.1 on property known as 180 Ridgewood Drive, PIN 8615-05-4762.

For more information please contact Elizabeth Teague or Byron Hickox at (828) 456-8647, or by mail at 9 South Main Street, Suite 110, Waynesville, NC 28786.

Elizabeth Teague
Development Services Director
Town of Waynesville

MUSE BROS CONSTRUCTION CO INC
730 WOODFIELD DR
WAYNESVILLE, NC 28786-4762

K & J W II LLC
PO BOX 338
HAZELWOOD, NC 28738

MARY DECK
387 BALSAM DR
WAYNESVILLE, NC 28786

FREDERICK KAPEL
383 BALSAM DR
WAYNESVILLE, NC 28786

CHARLES F MARTH
347 BALSAM DR
WAYNESVILLE, NC 28786

LARRY A STEWART
325 BALSAM DR
WAYNESVILLE, NC 28786

SHANE STEVEN JORDAN
131 RIDGEWOOD DR
WAYNESVILLE, NC 28786

ALVIN DEAN FORNEY
141 RIDGEWOOD DR
WAYNESVILLE, NC 28786

SCOTT ALDEN MEHAFFEY
159 RIDGEWOOD DR
WAYNESVILLE, NC 28786

HAYWOOD COUNTY SCHOOLS
1230 N MAIN ST
WAYNESVILLE, NC 28786

HAYWOOD COUNTY
HAYWOOD COUNTY COURTHOUSE
215 N MAIN ST
WAYNESVILLE, NC 28786

ROBERT BRADLEY
382 BALSAM DR
WAYNESVILLE, NC 28786

VIRGIL MESSER
124 DAISEY AVE
WAYNESVILLE, NC 28786

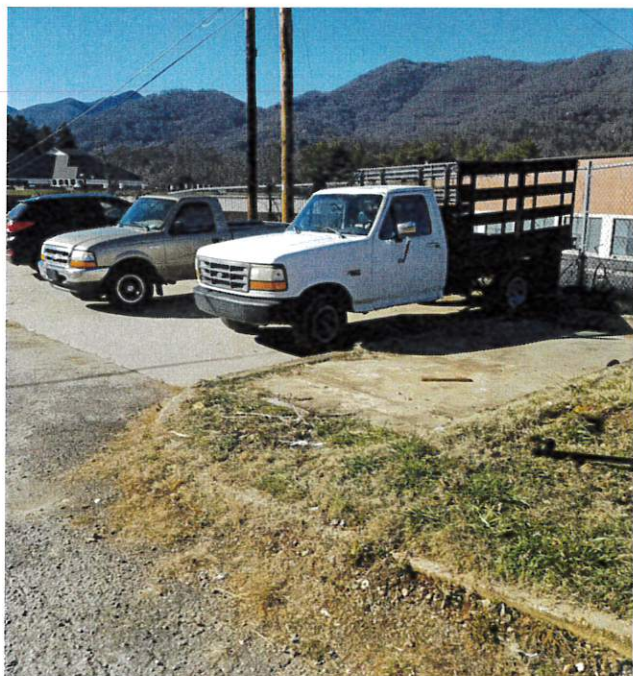
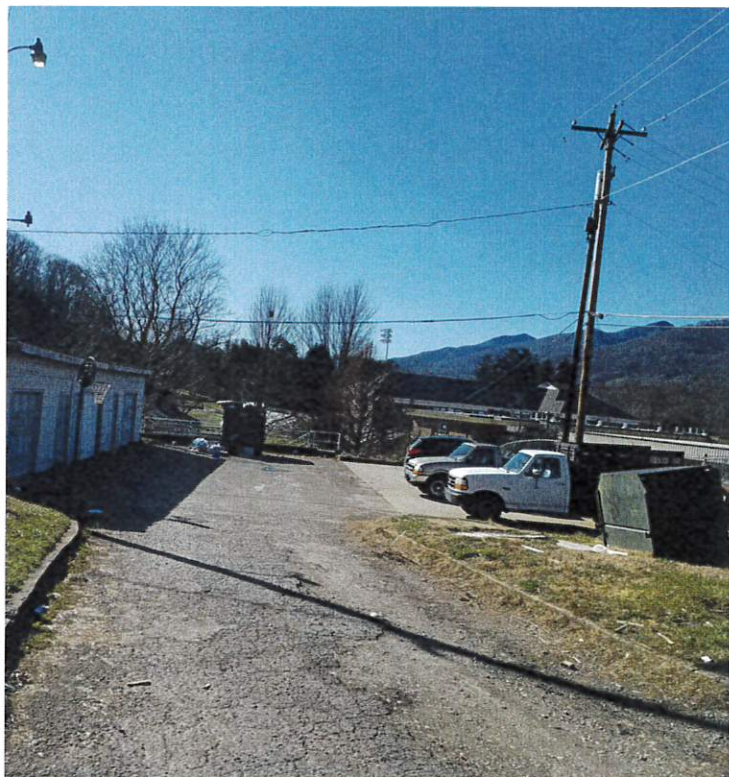
ANDREA A TASHIK
464 BALSAM DR
WAYNESVILLE, NC 28786

January 7, 2020 Variance Request Photographic Evidence: 180 Ridgewood Drive

Posting (taken December 23, 2019)

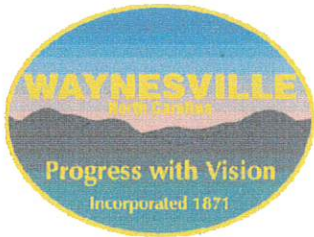


Building Pad location (taken December 30, 2019)



Fence and Boundary line with school (taken December 30, 2019)





TOWN OF WAYNESVILLE

Development Services Department

PO Box 100

9 South Main Street

Waynesville, NC 28786

Phone (828) 456-8647 • Fax (828) 452-1492

www.waynesvillenc.gov

Variance Request

Property Address/Location: 180 Ridgewood

Dr _____

Property PIN: 8615 05 2452 Property Zoning District:

Flood Zone?: no Historic Property or District?:

no

Signature of property owner of record: Ron Muse Date: 12-18-19

*Applicant Name: Ron Muse Applicant Phone #: 828 400

9709 _____

Applicant Address: 730 Woodfield Dr Waynesville NC

28786

Application must be filed by the owner of the property or by an agent specifically authorized by the owner.

I, Ron Muse, hereby petition the Board of Adjustment for a variance from the provisions of the Town Ordinance Land Development Standards for this property as described below.

Applicable Ordinance Section: _____

Ordinance requirement from which relief is sought: The Requirement to have 10 feet

clearance from utility poles for buildings setback (Hazelwood UR)

(Sect. 2.4.1)

Variance requested and why (attach additional sheets, maps, or other information as necessary):

This building was accidently burned and is needed for storage. I request to rebuild it on

original

site.

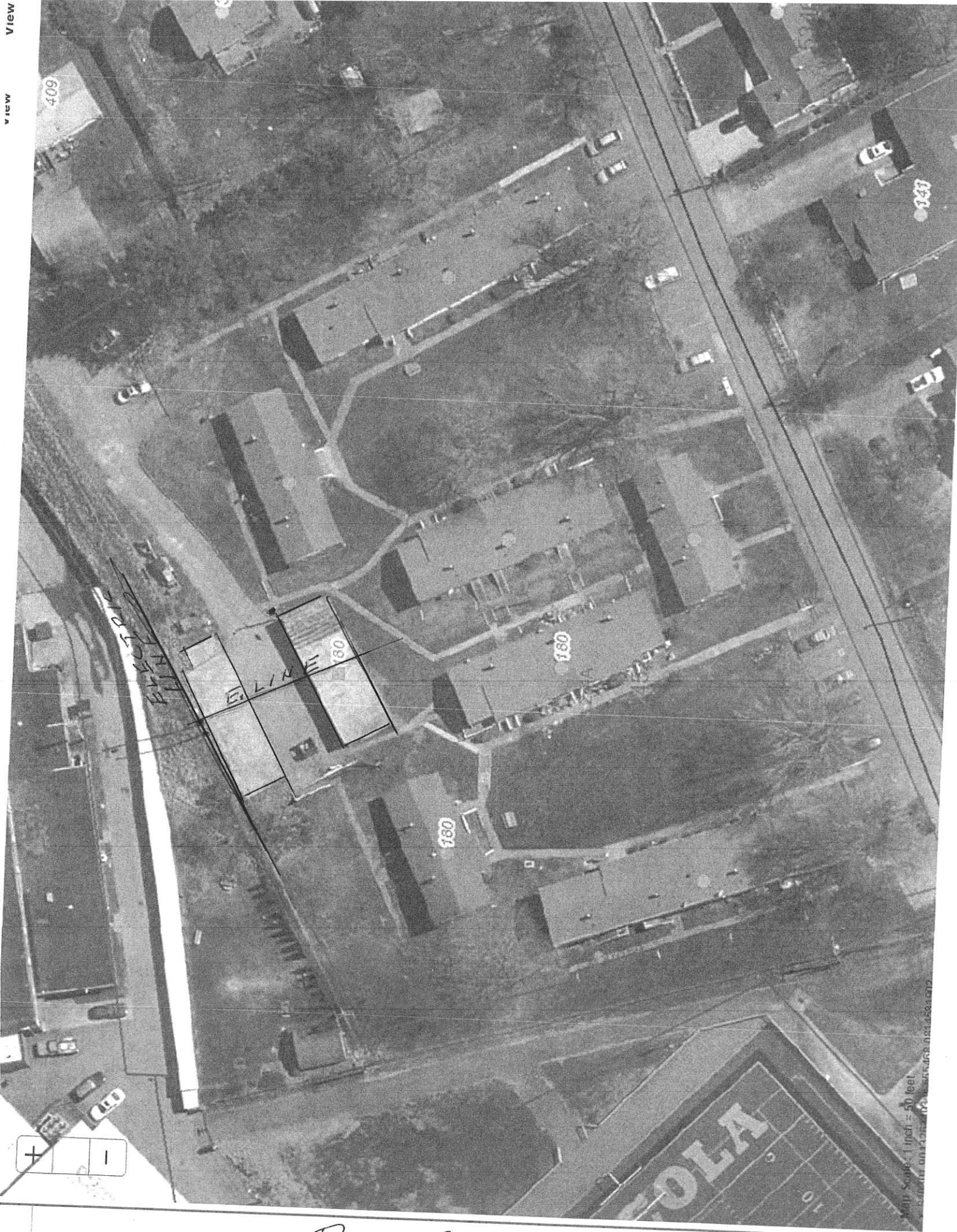
Applicant Signature:

Ron Muse

Date: 12-18-19

Web Address: www.waynesvillenc.gov

This institution is an equal opportunity provider



Ron Muse