

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

George Escaravage (Chairman)
Henry Kidder (Vice-Chair)
Stephanie Strickland
Edward Moore
Joshua Morgan
John Baus
Robert Herrmann

Development Services
Director
Elizabeth Teague

TOWN OF WAYNESVILLE

ZONING BOARD OF ADJUSTMENT

REGULAR MEETING

Town Hall – 9 South Main Street, Waynesville, NC 28786
Tuesday, April 5, 2022, 5:30 PM

A. CALL TO ORDER/BUSINESS ITEMS:

1. Welcome/Announcements
2. Adoption of Minutes (as presented or amended) from January 4, 2022
3. Public Hearing to consider a variance request at 282 and 296 Richland Street, Waynesville, NC, PIN 8615-06-8891, of the Minimum Lot Width Standards for the Main Street Neighborhood Residential (MS-NR) District, Land Development Standards Section 2.4.1(3)c.
4. Public Hearing on an Appeal of an Administrative Decision related to 134 Belle Meade Drive, Waynesville, NC, PIN 8605-81-6159, in the Hazelwood Urban Residential District (H-UR).

B. ADJOURN



TOWN OF WAYNESVILLE

Zoning Board of Adjustments

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George Escaravage, Chairman
Henry Kidder, Vice-Chairman
Joshua Morgan
Edward Moore
John Baus
Robert Hermann
Stephanie Strickland

Development Services
Director
Elizabeth Teague

MINUTES OF THE TOWN OF WAYNESVILLE ZONING BOARD OF ADJUSTMENTS

Regular Meeting

Town Hall – 9 South Main St., Waynesville, NC 28786
January 4, 2022

THE WAYNESVILLE ZONING BOARD OF ADJUSTMENTS held a Regular Meeting January 4, 2022, at 5:30 p.m. in the Boardroom of Town Hall, 9 South Main Street, Waynesville, NC. 28786.

A. CALL TO ORDER

1. Welcome/Calendar/Announcements

The following members were present:

George Escaravage, Chairman
Henry Kidder, Vice Chairman
Stephanie Strickland
Robert Herman

The following Board members were absent:

Edward Moore
Joshua Morgan
John Baus

The following staff members were present:

Elizabeth Teague, Development Services Director
Olga Grooman, Planner
Kathy Johnson, Deputy Clerk

The following media were present:

No media were present

The following public were present:

Ronnie Justice
Deborah Justice
Daniel Massie

Zoning Board of Adjustment Minutes
Regular Meeting
January 4, 2022

Zoning Board of Adjustment Chairman George Escaravage welcomed everyone and called the meeting to order at 5:30 p.m. He read the protocols for a Quasi-Judicial Hearing and explained the rules of standing. He asked those wanting to testify in this hearing to come forward to be sworn in.

Ronnie Justice, Deborah Justice, Dan Massie, Elizabeth Teague, and Olga Grooman were sworn in.

2. Adoption of Minutes (as presented or amended) from December 7, 2021

Chairman Escaravage asked if everyone had reviewed the minutes for December 7, 2021 meeting.

A motion was made by Board member Robert Hermann, seconded by Board member Henry Kidder to approve the December 7, 2021 meeting (as presented or amended). The motion carried unanimously. (4-0)

3. Request for a Variance of the Minimum Lot Size Standards for the Hazelwood Urban Residential District (H-UR) for the property located at 115 Belle Meade Drive Pin 8605-80-6996.

Chairman Escaravage asked if any members of the Board had conflict of interest in this request for variance. With all Board members agreeing there were no conflict-of-interest, Town Planner Olga Grooman was invited to provide the staff presentation.

Ms. Grooman went over the staff report, providing photographs and maps. She explained the property located at 115 Belle Meade Drive owned by Mr. Hugh Massie is in the H-UR district and has a house and a shed and two parking areas. Mr. Ronnie Justice owns the abutting property at 417 Riverbend Street and the parking area he is using is located on Mr. Massie's property. Both neighbors assumed the parking area was on Mr. Justice property at 417 Riverbend, but recently learned the parking area is on the 115 Belle Meade property owned by Mr. Massie.

Mr. Justice would like to relocate the rear property line of 115 Belle Meade Drive to match the existing fence line so the parking area would become part of the 417 Riverbend lot. Haywood County GIS maps indicates the fence has been in place since 2013. The relocation would make the 115 Belle Meade nonconforming to H-UR district minimum lot size according to the LDS standards. The property at 417 Riverbend is smaller than the minimum lot size for H-UR and is a legal nonconforming lot. If the parking area is added, the lot will still be below minimum lot size but to a lesser degree of nonconformity.

Ms. Grooman went over the map and explained the Hazelwood Urban Residential District is an older neighborhood, once part of the Town of Hazelwood, and explained that many of the lots are smaller than the minimum lot size. She also pointed out that some buildings in the neighborhood are located across property lines. The buildings and lots in question pre-date the current LDS standards.

Ms. Grooman read the purpose and intent of the LDS for H-UR district. Ms. Grooman said that approving the variance would allow the property owner to reduce the size of one lot, creating nonconformity related to the current LDS minimum lot size standards, but would increase lot size on the other lot, decreasing its non-conformity with the standards.

She concluded that the relocation of the boundary line would not change the character of the neighborhood, or the nature of how either lot is used. It would also still be compliant with LDS setbacks for the district. She went over the Variance findings checklist from staff that must be considered by the Zoning Board of Adjustment to approve the proposed Variance.

Public notice signs were posted on the subject property on December 15, 2021. Notice of the public hearing was submitted to local media and mailed to owners of the properties within 100 feet of the subject property on December 16, 2021.

Ms. Grooman entered the following items into Evidence on behalf of the Town of Waynesville:

1. Staff report
2. Variance Request Application
3. Payment Receipt for Variance Application
4. Agent Authorization
5. Survey Showing the Proposed Lot Line Relocation
6. Images of the Subject Property
7. Zoning Map of the Subject Property and Surrounding Area
8. GIS Image Showing Lot Sizes in the Surrounding area
9. Pictures of the Distance between the Shed at 115 Belle Meade Drive and Proposed property line.
10. Notification Material
11. Town of Waynesville Land Development Standards (LDS) by Reference

Chairman Escaravage asked if there were any questions from the Board and explained there were four Board members present and would require a unanimous decision. He asked the applicant if they wished to proceed. The applicant stated they would like to continue with the hearing.

Deborah Justice
85 Cherry Cove Road
Cullowhee, NC

Ms. Justice stated she and her husband used to own 115 Belle Meade and sold the property to Mr. Massie. They are currently owners of 417 Riverbend. They purchased 115 Belle Meade and the adjoining 127 Belle Meade property in 1993. In 1995, they purchased the house on Riverbend Street. She said when they purchased it, they made the parking space that is under consideration. Owning all the land involved, they did not think about having the land surveyed off and adjusting deeds. The fence was installed several years before Mr. Massie bought the property. When he bought it from them in July of 2016, the chain link fence had been installed several years prior to that. She said her mother-in-law was the renter at the time and had a pet, and the fence was put in on what they thought was the property line. When the property was sold to Mr. Massie it was a cash sale and no survey was done. The issue of the parking space came to their attention when they put the Riverbend property on the market, and the Realtor pulled the map finding that the parking area is not technically on the deed. Ms. Justice further explained that they had to pull it off of the market and file the variance application so it could be corrected before it was sold. She said her husband Ronnie has spoken with Mr. Massie in person and he is fine with making the change. He did not realize the parking area was on his property. We will be reimbursing him for the taxes he has paid on that portion of the lot since he purchased it.

Zoning Board of Adjustment Minutes
Regular Meeting
January 4, 2022

Ms. Justice answered questions from the Board. She explained Mr. Massie is unable to attend and his son Daniel Massie will be representing him.

Ms. Teague asked Ms. Justice to clarify for the Board that if the variance is not granted, that there would then be no off-street parking for the residence of 417 Riverbend Street. Ms. Justice said that there is a narrow area that is currently lawn that would be the only space available for parking.

Daniel Massie
19 Spruce Street
Canton

Speaking on behalf of his father Mr. Massie said back taxes will be paid to his father, and he nor his father sees a problem with it.

A motion was made by Board Member Robert Herrmann, seconded by Board member Stephanie Strickland to close the public hearing at 5:54 pm. The motion carried unanimously. (4-0)

The Board went through the Variance finding checklist and deliberated the facts of the case. Chair Escaravage read through each criteria and asked the Board to vote on each, with the following result:

- (1) Will unnecessary hardship result from the strict application of the ordinance? (Yes 4-0)
- (2) Does the hardship result from conditions that are peculiar to the property, such as location, size or topography? (Yes 4-0)
- (3) Is the hardship the result of actions taken by the applicant or the property owner? (No 4-0)
- (4) Is the requested variance consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved? (Yes 4-0)

A motion was made by Board member Henry Kidder, seconded by Board member Robert Herrmann to approve the variance of the Minimum Lot Size Standards for the Hazelwood Urban Residential District (H-UR) for the property located at 115 Belle Meade Drive Pin 8605-80-6996. The motion carried unanimously. (4-0)

C. ADJOURN

A motion was made by Board member Stephanie Strickland, seconded by Board member Robert Herrmann to adjourn the meeting at 6:03pm.

George Escaravage, Chairman

Kathy Johnson, Deputy Clerk

Zoning Board of Adjustment Staff Report

Subject: Request for a Variance of the Minimum Lot Width Standards for the Main Street Neighborhood Residential (MS-NR) District, Land Development Standards Section 2.4.1(3)
 Applicant: Andy Brown
 Meeting Date: April 5, 2022

Summary Information:

Application Date: March 7, 2022
 Proposed Location: 282 and 296 Richland Street, NC 28786 – PIN 8615-06-8891
 Property Owner: Andy and Susan Brown
 Acreage of Site: 0.34 acres
 Zoning District: Main Street Neighborhood Residential (MS-NR)
 Existing Development: Two Single Family Residential Structures on a single lot

Background:

The Brown's property is located within the corporate limits of Waynesville and the Main Street Neighborhood Residential District (MC-NR). The property consists of 0.34 acres, with frontage along Richland Street in the vicinity of the intersection with Meadow Street.. The property is surrounded on all sides by single-family lots. The property currently has two single family homes on it which have individual addresses and parking areas.

The applicant would like to subdivide the property in order to create two unique lots around the two individual structures. At one time, the lot was two individual lots which appeared to be recombined and the old lot line is shown on the plat. To return to the original lot line, however, would create a setback violation. In order to meet minimum setbacks between the buildings, the lot drawn around #282 has to be more narrow than the 50' minimum lot width for the district. The proposed lots would otherwise conform to the minimum lot size for the district and the side yard setbacks between the buildings and the new boundary line.

The granting of the variance would not change the appearance or character of the lot itself as the structures are already in existence, but would allow the conveyance of one of the properties. Any future new construction or redevelopment on either of the lots would have to comply with setbacks and other land development standards. The creation the of the property boundary will not change the physical location or visual impact of what is in existence now and would not create a change to the character of the neighborhood or inhibit future development.

The purpose and intent of the MS-NR district (Land Development Standards, Section 2.3.3(C)) states:

The **Main Street Neighborhood District (MS-NR)** is a walkable, in-town neighborhood separating two business districts -- the Central Business District and the South Main Street Business District. In addition to the convenient location, the public library, Central Elementary School and many larger,

older homes are among the amenities that make this area attractive for residential living. Future development should work to maintain this attractive area, continuing a scale and design that will attract ongoing residential use of this district. The dense tree canopy currently found in the area will be maintained and sensitivity to this canopy and the improvement of pedestrian facilities will be important with any new development.

Surrounding Land Use/Zoning Patterns:

The subject property is surrounded by single-family lots within the same zoning district. Several nearby lots within the same district are also less than 50' in lot width:

- 270 and 276 Richland Street are on a single lot of 0.18 acres of 49' and 46'.
- 301 Meadow Street is 0.08 acres and is 35' in width
- 218 Meadow Street is 0.15 acres and 28' in width.

Proposed Variance:

The request would permit the property owner to subdivide the lot in question, compliant to the minimum lot size and side yard setbacks, but with a minimum lot width variance of 11.1' for the lot proposed to contain #282 (shown on preliminary plat as 38.9' in width).

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 variance would create two conforming lots in all but lot width, and the preliminary plat is drawn in order to accommodate existing residential structures.
 - A strict enforcement of the minimum lot width will prevent the subdivision.
- (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 to be subdivided contains two single family homes that are already individually addressed and is drawn so that the proposed property line does not create any setback issues with existing structures.
 - The variance requested would be for minimum lot width for a district in which there are other lots which do not comply with the minimum lot width.
 - Any possible future development on the property in question would still have to comply with the district setbacks.
- (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 property has existed in its current state since at least 2004. It was conveyed from the Brown's to an LLC which they control.

- (4) That the variance is in harmony with the general purpose and intent of this chapter and preserves its spirit.
- There exist properties within this same zoning district which do not meet the minimum lot width standards. The proposed subdivision does not change the nature of the property as it exists now.
 - The property was originally platted as 2 lots as noted in the proposed survey.
- (5) That the variance is the minimum necessary to afford relief.
- The requested variance is for 11.1' reduction in minimum lot width in order to accommodate required property line setbacks.
 - The lots created from the proposed subdivision are compliant with the minimum lot size and setbacks for the MS-NR zoning district.
- (6) That the public safety and welfare have been assured and substantial justice has been done.
- The variance to the minimum lot width would not cause a public safety issue.
 - The variance does not change the physical configuration of existing structures but would allow the property owner the ability to convey by sale either of the structures separately.

Items Entered as Evidence:

1. Staff Report
2. Variance Request Application
3. Payment Receipt for Variance Application
4. Proposed preliminary plat showing the proposed lots, setbacks, lot widths, and old lot line.
5. Property information and aerials from Haywood County Land Records 2019 and 2004
6. Zoning Map of the Subject Property and Surrounding Area
7. Notification Materials
8. Town of Waynesville Land Development Standards (LDS) by Reference



TOWN OF WAYNESVILLE
Development Services Department
PO Box 100
9 South Main Street
Waynesville, NC 28786
Phone (828) 456-8647 • Fax (828) 452-1492
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Variance Request

Property Address/Location: 282 + 296 RICHLAND ST
Property PIN: 8615-06-8891 Property Zoning District: MAIN ST NEIGHBORHOOD RESIDENTIAL
Flood Zone?: NO Historic Property or District?: UNKNOWN

Signature of property owner of record: Richland St Properties Date: 3-7-2022

*Applicant Name: ANDY BROWN Applicant Phone #: 828-558-1702

Applicant Address: PO BOX 10492 WILLISTON, ND 58803

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

I, Andy Brown (Richland St Properties), 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: LDS 2.4 Dimensional Standards

Ordinance requirement from which relief is sought: Lot Width

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

I would like to reduce the 50' minimum Rear Easement to
split the lot into 2 lots as they were previously split 4 years ago
The Front of 1 lot would be 38.9 ft and the other 61.10 feet. This
gives each rear for 60 ft easement + street median. Both lots would have
50 feet for easement if needed on each lot

Applicant Signature: [Signature] Date: 3-7-2022

Standards of Review for Variances:

1. General Variance Requests: The Board of Adjustment shall not grant a variance unless and until it makes all of the following findings:
 - a. That there are unnecessary hardships in the way of carrying out the strict letter of this chapter.
 - b. Reserved.

TOWN OF WAYNESVILLE
280 GEORGIA AVENUE
WAYNESVILLE NC 28786

MISC RECEIPT 2738258
REFERENCE Admin Appeal
DATE/TIME 03/08/22 11:19
CLERK 2044ecou
CUSTOMER Triangle Automotive Re
EFF. DATE 03/08/2022
DEPT

01

TOTAL: 250.00
250.00

PMT TYPE	QTY	REF
CHECK	1	6244

AMOUNT
250.00

NOTES & LEGEND

- 1.) ZONED - MAIN STREET NEIGHBORHOOD RESIDENTIAL.
- 2.) AREA COMPUTED BY D.M.D. METHOD.
- 3.) TOTAL AREA = 0.344 ACRES.
- 4.) I.P.S. = IRON PIN SET = 5/8" REBAR WITH I.D. CAP.
- 5.) ALL DISTANCES ARE HORIZONTAL DISTANCES.
- 6.) ALL GRID INFORMATION IS N.A.D. '83(2011).
- 7.) FENCE = ---X---X---X---
- 8.) OVERHEAD UTILITIES = ---E---T---C---W---S---
 - 1.) ELECTRIC = ---E---
 - 2.) TELEPHONE = ---T---
 - 3.) CABLE TV = ---C---
 - 4.) WATER = ---W---
 - 5.) SEWER = ---S---
- 9.) SENSE OF GRAVEL = ---S---

CERTIFICATE OF TOWN OF WAYNESVILLE
 I, DENNIS DIXON, TOWN CLERK, DO HEREBY CERTIFY THAT THE MAP IS TRUE AND CORRECT, AND THAT THE MAP IS A TRUE AND CORRECT REPRESENTATION OF THE LAND AND INTERESTS THEREIN, AND THAT THE MAP IS A TRUE AND CORRECT REPRESENTATION OF THE LAND AND INTERESTS THEREIN, AND THAT THE MAP IS A TRUE AND CORRECT REPRESENTATION OF THE LAND AND INTERESTS THEREIN.

TOWN OF WAYNESVILLE - PLANNING DIRECTOR

NANCY LAMM McALISTER
 D.B. 7394 PG. 2112

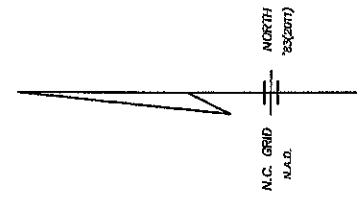
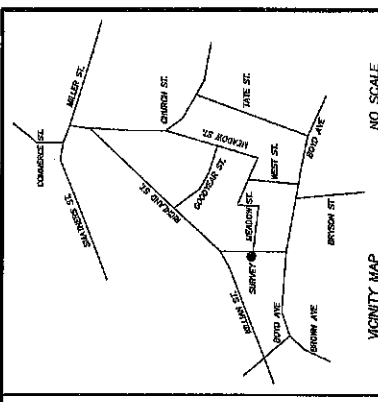
P.B. "D" PG. O-20, BLK "H"

DENNIS DIXON
 D.B. 554 PG. 207

P.B. "D" PG. O-20, BLK "H"

W.R. BOYD INVESTMENTS, LLC
 D.B. 471 PG. 1625
 (D.B. 325 PG. 916)

P.B. "D" PG. O-20, BLK "H"



Preliminary
 SURVEY FOR
294 RICHLAND STREET, LLC
 294 RICHLAND STREET, LLC - OWNER
 WAYNESVILLE TWP. HAYWOOD CO., N.C.
 REFERENCES: D.B. 900 PG. 2253
 P.B. "D" PG. O-20, BLK "H"
 SCALE: 1" = 20'
 DATE: FEBRUARY 16, 2022

I, L. K. BOYD, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY PERSONAL SUPERVISION OR FROM A TRUE AND CORRECT COPY OF A TRUE AND CORRECT SURVEY MADE UNDER MY PERSONAL SUPERVISION, AND THAT THE MAP IS A TRUE AND CORRECT REPRESENTATION OF THE LAND AND INTERESTS THEREIN, AND THAT THE MAP IS A TRUE AND CORRECT REPRESENTATION OF THE LAND AND INTERESTS THEREIN, AND THAT THE MAP IS A TRUE AND CORRECT REPRESENTATION OF THE LAND AND INTERESTS THEREIN.

A-024-22

Professional Land Surveyor L-2640

SRP-VB-2022-VNWDG07

- GPS NOTES:
- 1.) CLASS OF SURVEY: A
 - 2.) POSITIONAL ACCURACY: 1H 0.04"
 - 3.) TYPE OF GPS FIELD PROCEDURE: RTK
 - 4.) DATE OF SURVEY: 02/14/2022, 02/16/2022
 - 5.) DATUM: NAD '83(2011)
 - 6.) PUBLISHED/FIXED CONTROL USE: VRS
 - 7.) GEOID MODEL: GRS
 - 8.) COMBINED GRID FACTOR: 0.99974386
 - 9.) UNITS: US SURVEY FEET

Report For

294 RICHLAND STREET LLC A NC LL
 c/o Andy & Susan Brown
 PO Box 10492
 Williston, ND 58803

Account Information

PIN: 8615-06-8891

Legal Ref: 900/2263

Add Ref: D/-20

Site Information

OAK FOREST ADDITION
 DWELLING, DWELLING

282 RICHLAND ST

Heated Area: 1552

Year Built: 1896

Total Acreage: 0.34

Township: Town of Waynesville

Site Value Information

Land Value: \$23,000

Building Value: \$165,100

Market Value: \$188,100

Deferred Value: \$0

Assessed Value: \$188,100

Sale Price: \$0

Sale Date: 2/10/2016



1 inch = 50 feet
 March 30, 2022

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.

Report For

294 RICHLAND STREET LLC A NC LL
c/o Andy & Susan Brown
PO Box 10492
Williston, ND 58803

Account Information

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DWELLING, DWELLING

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Assessed Value: \$188,100
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Sale Date: 2/10/2016



1 inch = 50 feet

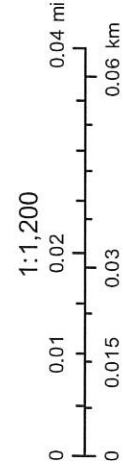
March 30, 2022

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Richland Street Neighborhood View



March 30, 2022



Richland Street Zoning



March 30, 2022

1:1,200





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

March 17, 2022

Notice of Public Hearing

Town of Waynesville Zoning Board of Adjustment

The Town of Waynesville Zoning Board of Adjustment will hold a **public hearing on April 5, 2022 at 5:30 PM** in the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC, to consider an application for a Variance regarding the property at 282 Richland Street (PIN 8615-06-8891).



For questions contact the Development Services Department at: (828) 456-8647, email: bhickox@waynesvillenc.gov, mail: 9 South Main Street, Suite 110, Waynesville, NC 28786.

294 RICHLAND STREET LLC A NC LL;
c/o Andy & Susan Brown
PO Box 10492
Williston, ND 58803

DIPPY, PHILIP A
316 MESSER RD
WAYNESVILLE, NC 28786

MALEK, SHEREEN;
HILL, WENDY M
PO BOX 1164
WAYNESVILLE, NC 28786-1164

CLEMMONS, EDWARD RONNIE;
CLEMMONS, BETTY LORAINÉ
306 MEADOW ST
WAYNESVILLE, NC 28786

W R BOYD INVESTMENTS
474 MOUNTAIN COVE RD
WAYNESVILLE, NC 28786-8514

BRADLEY, BETTY BRUTON
PO BOX 57
EAGLE SPRINGS, NC 27242

MCALISTER, NANCY LAMM
7154 LAKE DR
ORLANDO, FL 32809

MELROSE, ADAM
301 MEADOW ST
WAYNESVILLE, NC 28786-3731

BENSON, SAMUEL K
70 OAK ST
WAYNESVILLE, NC 28786

DIXSON, DENNIS W;
DIXSON, MILDRED L
508 BIG COVE RD
WAYNESVILLE, NC 28786-5487

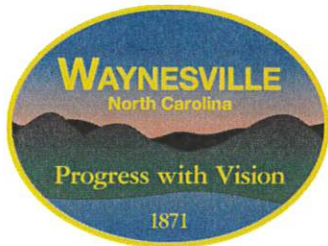
HAYWOOD RENTALS
58 PIGEON ST
WAYNESVILLE, NC 28786

FIE, ANNE F
231 HAMER AVE
WAYNESVILLE, NC 28786

282 Richland
St.

282 and 294 Richland Street Notice





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

FOR PUBLICATION IN THE MOUNTAINEER: March 23 and March 30, 2022 Editions

Date: March 17, 2022

Contact: Byron Hickox – 452-0401

Notice of Public Hearings

Town of Waynesville Zoning Board of Adjustment

The Town of Waynesville Zoning Board of Adjustment will hold two **public hearings on April 5, 2022, at 5:30 PM**, in the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC, to consider:

1. An application for a Variance regarding the subdivision of the property at 282 Richland Street (PIN 8615-06-8891).
2. An Appeal of Administrative Decision regarding the use of the property at 134 Belle Meade Drive (PIN 8605-81-6159).

For more information contact the Development Services Department at: (828) 456-8647, email: bhickox@waynesvillenc.gov, mail: 9 South Main Street, Suite 110, Waynesville, NC 28786.

Zoning Board of Adjustment Staff Report

Subject: Appeal of Administrative Decision
 Applicant: Travis Dustin Smith
 Meeting Date: April 5, 2022

Summary Information:

Location: 134 Belle Meade Drive – PIN 8605-81-6159
 Property Owner: Travis Dustin Smith
 Acreage of site: 0.28 acres
 Zoning District: Hazelwood Urban Residential (H-UR)
 Existing Development: Single-Family Dwelling

Background:

On November 30, 2018, the Development Services Department sent a letter to Travis Smith, owner of the property then described as 1459 Brown Avenue (the structure with this address has since been demolished). The letter informed Mr. Smith that the property was being used as a storage location for vehicles. It appeared that the vehicles had been hauled or towed to the property, were in need of repair, and were associated with Triangle Automotive Repair, located at 1404 Brown Avenue.

The letter further explained that the property is located within the Hazelwood Urban Residential District. The two use types that were taking place on the property, Outside Storage and Vehicle Services, are not permitted within this zoning district. Therefore, vehicle storage and any associated towing activity cannot be conducted at this location. The letter instructed Mr. Smith to discontinue the storage of vehicles and any associated towing activity on the property at 1459 Brown Avenue within 30 days.

Mr. Smith took no action to discontinue these uses on the property, and a subsequent letter to the same effect was sent to him on April 11, 2019. Mr. Smith took no action to discontinue the non-permitted uses.

On September 10, 2019, town staff members visited Triangle Automotive Repair to discuss the above-mentioned violations and other safety concerns. Lauren, with Triangle Automotive Repair, inquired about the possibility of rezoning the property at 1459 Brown Avenue to Hazelwood Business District, which would permit Outside Storage and Vehicle Services with some applicable supplemental standards. That afternoon, Byron Hickox emailed Lauren the application for Zoning Map Amendment. The application was never submitted by Mr. Smith.

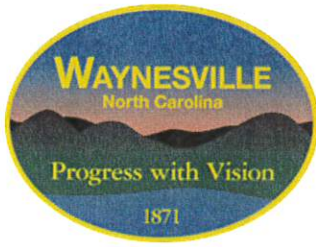
On December 21, 2021, during a mediation procedure between town staff and Mr. Smith's attorney, John Sutton, Mr. Sutton inquired about the Appeal of Administrative Decision process. The Land Development Standards Section 15.12.2(B) states that "*An appeal of an administrative decision may be taken by any person aggrieved (or by their authorized agent) or may be taken by any officer, department, board or bureau of the town. Such an appeal shall be made to the Town Clerk within thirty (30) days of the receipt of the written notice of decision from the town.*" More than 30 days had passed since the most recent written notice of violation.

On the advice of the Town Attorney, town staff issued a written interpretation regarding the use of the property in question on December 22, 2021 to provide Mr. Smith a new 30-day window in which to appeal this administrative decision.

On February 11, 2022, Mr. Sutton submitted an email to Eddie Ward, Town Clerk, officially appealing the administrative decision regarding this matter, to be taken before the Zoning Board of Adjustment.

Items Entered as Evidence:

1. Staff Report
2. Staff Interpretation Letter Sent to Mr. Sutton
3. Zoning Violation Letters sent to Mr. Smith (2)
4. Email to Lauren at Triangle Automotive with Zoning Map Amendment Application
5. Email to Town Clerk Eddie Ward from Mr. Sutton
6. Letter to Byron Hickox from Mr. Sutton
7. Zoning Map of Subject Property
8. Aerial Photographs of Subject Property from 2015 & 2019
9. Photographs of Property Posting Sign
10. Adjacent Landowner Notice
11. Adjacent Landowner Mailing List
12. LDS Definitions of Outside Storage and Vehicle Services – Section 17.3
13. Land Development Standards – By Reference



TOWN OF WAYNESVILLE

Development Services Department

P.O. Box 100

9 South Main Street

Waynesville, NC 28786

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

www.waynesvillenc.gov

December 22, 2021

John R. Sutton, Jr.
The Sutton Firm, P.A.
P.O. Box 145
Candler, NC 28715

RE: Use of property as vehicle storage

Dear Mr. Sutton,

I am writing this letter to provide a Development Services staff interpretation regarding the use of the property located at 134 Belle Meade Drive (PIN 8605-81-6159). Based on previous inspections of the property, it is being used as a storage location for vehicles. These vehicles appear to have been hauled or towed to this location, are in need of repair, and are associated with Triangle Automotive Repair, located at 1404 Brown Avenue. Additionally, tow trucks associated with Triangle Automotive Repair have been observed on the property.

This property is located within the Hazelwood Urban Residential District. The two use types, Outside Storage and Vehicle Services, are not permitted within this zoning district. Therefore, vehicle storage and any associated towing activity cannot be conducted at this location.

This interpretation is identical to the interpretation expressed in the letter sent to the property's owner, Travis Smith, on April 11, 2019. According to the Land Development Standards, Section 15.12.2(B), *"An appeal of an administrative decision may be taken by any person aggrieved (or by their authorized agent) or may be taken by any officer, department, board, or bureau of the town. Such an appeal shall be made to the Town Clerk within thirty (30) days of the receipt of the written notice of decision from the town."* Such an appeal would be heard in a quasi-judicial hearing before the Town of Waynesville Zoning Board of Adjustment.

If you have any additional questions or comments, please do not hesitate to contact Byron Hickox at 828-452-0401 or by email at bhickox@waynesvillenc.gov.

Sincerely,

Byron Hickox
Land Use Administrator



TOWN OF WAYNESVILLE

Development Services Department

P.O. Box 100

9 South Main Street

Waynesville, NC 28786

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

www.waynesvillenc.gov

April 11, 2019

Travis Smith
85 Mississippi Avenue
Waynesville, NC 28786

RE: Use of property as vehicle storage

Dear Mr. Smith,

I am writing this letter to inform you of a Zoning Violation that has come to the attention of the Town of Waynesville Development Services Department. It is evident that the property described as 1459 Brown Avenue (PIN 8605-81-6159) is being used as a storage location for vehicles. It appears that these vehicles have been hauled or towed to this location, are in need of repair, and are associated with Triangle Automotive Repair, located at 1404 Brown Avenue. The storage of these vehicles at this location violates the Town of Waynesville's Land Development Standards. This letter is your second notification regarding this violation.

This property is located within the Hazelwood Urban Residential District. The two use types, Outside Storage and Vehicle Services, are not permitted within this zoning district. Therefore, vehicle storage and any associated towing activity cannot be conducted at this location.

Please discontinue the storage of vehicles and any associated towing activity on the property at 1459 Brown Avenue within 30 days of the receipt of this letter. Failure to discontinue this particular activity by this date can result in fines or other legal action against you.

Thank you in advance for your cooperation regarding this matter. If you have any additional questions or comments, please do not hesitate to contact Byron Hickox at 828-452-0401 or by email at bhickox@waynesvillenc.gov.

Sincerely,

Byron Hickox
Land Development Administrator



TOWN OF WAYNESVILLE

Development Services Department

P.O. Box 100

9 South Main Street

Waynesville, NC 28786

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

www.waynesvillenc.gov

November 30, 2018

Travis Smith
85 Mississippi Avenue
Waynesville, NC 28786

RE: Use of property as vehicle storage

Dear Mr. Smith,

I am writing this letter to inform you of a Zoning Violation that has come to the attention of the Town of Waynesville Development Services Department. It is evident that the property described as 1459 Brown Avenue (PIN 8605-81-6159) is being used as a storage location for vehicles. It appears that these vehicles have been hauled or towed to this location, are in need of repair, and are associated with Triangle Automotive Repair, located at 1404 Brown Avenue. The storage of these vehicles at this location violates the Town of Waynesville's Land Development Standards.

This property is located within the Hazelwood Urban Residential District. The two use types, Outside Storage and Vehicle Services, are not permitted within this zoning district. Therefore, vehicle storage and any associated towing activity cannot be conducted at this location.

Please discontinue the storage of vehicles and any associated towing activity on the property at 1459 Brown Avenue within 30 days of the receipt of this letter. Failure to discontinue this particular activity by this date can result in fines or other legal action against you.

Thank you in advance for your cooperation regarding this matter. If you have any additional questions or comments, please do not hesitate to contact Byron Hickox at 828-452-0401 or by email at bhickox@waynesvillenc.gov.

Sincerely,

Byron Hickox
Land Development Administrator

Byron Hickox

From: Byron Hickox
Sent: Tuesday, September 10, 2019 12:31 PM
To: 'triauxto1404@yahoo.com'
Cc: Elizabeth Teague
Subject: Rezoning Application
Attachments: Development Office_20190910_113203.pdf

Lauren,

Attached is the application for Map Amendment (rezoning). The form can also be found at this link: <https://www.waynesvillenc.gov/sites/default/files/2019-08/land-development-standards-map-amendment.pdf>

If you decide to pursue rezoning, please contact Elizabeth Teague at eteague@waynesvillenc.gov or by phone at 456-2004.

Thanks,

Byron

Byron Hickox | Land Use Administrator
 Town of Waynesville, NC
 9 South Main Street, Suite 110 | Waynesville, NC 28786
 (O) 828.452.0401 | (F) 828.452.1492
bhickox@waynesvillenc.gov | www.waynesvillenc.gov

Pursuant to North Carolina General Statutes Chapter 132 (Public Records), all electronic correspondence to and from this address may be considered public record, and as such, subject to request and review by third parties at any time.

-----Original Message-----

From: copier <copier@waynesvillenc.gov>
Sent: Tuesday, September 10, 2019 12:26 PM
To: Byron Hickox <bhickox@waynesvillenc.gov>
Subject: Scanned image from Town of Waynesville Planning & Development

Reply to: Development Office <Copier@waynesvillenc.gov> Device Name: Town of
 Waynesville Planning & Development Device Model: MX-3070N
 Location: 9 S. Main St. FA907

From: John Sutton <jsuttonjr@suttonfirm.com>
Date: Friday, February 11, 2022 at 12:11 PM
To: eward@waynesvillenc.gov <eward@waynesvillenc.gov>, Martha Bradley
<martha@sosharpe.com>
Subject: Town of Waynesville v. Smith

Ms. Ward,

I am writing to confirm Mr. Smith's appeal of the Town's zoning decision regarding his use of his property located at 134 Belle Meade Drive (PIN # 8605-81-6159). I have attached a letter dated January 21, 2022 to that effect.

Thank you,

John

--

John R. Sutton, Jr.
The Sutton Firm, P.A.
P.O. Box 145
Candler, NC 28715
(828) 667-5476
www.suttonfirm.com

THE SUTTON FIRM, P.A.

Attorneys At Law
Post Office Box 145
70 Pisgah Highway
Candler North Carolina 28715

Attorneys:
George W. Sutton, Jr. (1938 - 1975)
John R. Sutton, Sr. (1943-2014)
John R. Sutton, Jr.

Telephone: (828) 667-5476
Facsimile: (828) 667-0976
www.suttonfirm.com

January 21, 2022

Town of Waynesville
Attn: Byron Hickox, Land Use Administrator
P.O. Box 100
9 South Main Street
Waynesville, NC 28786

RE: Use of Property located at 134 Belle Meade Drive (PIN 8605-81-6159)

Dear Mr. Hickox:

This letter is in response to yours dated December 22, 2021 and received by my office on January 13, 2022. Please consider this correspondence as both a written notice to appeal the Town's decision to the Board of Adjustment as well as a request to review and re-evaluate the decision of the town.

The decision of the Town appears to be based on the allegation that vehicles that are awaiting repair from the Triangle Auto business across the road are being stored on the lot. This is not the case and has not been the case for several years. Additionally, the allegation that there are tow trucks being parked on the lot (while we have denied that this is in violation of the Town's Ordinance) is now moot as the "rollback" truck in question has been sold and is no longer on the property. I would request that the Town review its decision based upon current conditions.

Thank you for your attention to this and all other matters.

Kindest regards,

THE SUTTON FIRM, P.A.

John R. Sutton, Jr.

Cc: Martha Bradley, Attorney for the Town of Waynesville
Travis Smith

Report For

SMITH, TRAVIS D
85 MISSISSIPPE AVE
WAYNESVILLE, NC 28786

Account Information

PIN: 8605-81-6159

Legal Ref: 898/2379

Add Ref: A94/92

A94/72

Site Information

BROOKWOOD
DWELLING

134 BELLE MEADE DR

Heated Area: 821

Year Built: 1935

Total Acreage: 0.28

Township: Town of Waynesville

Site Value Information

Land Value:

Building Value:

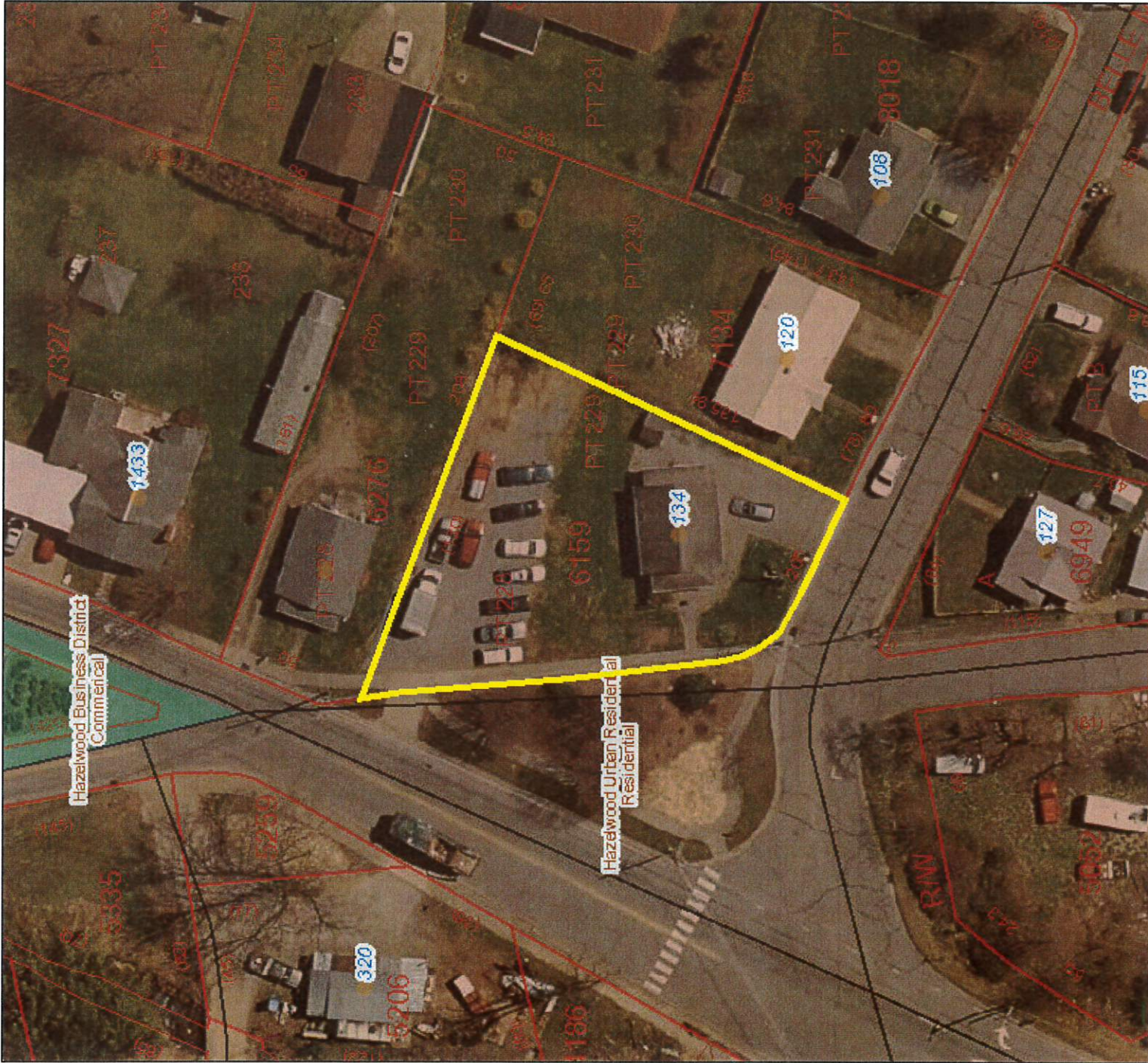
Market Value:

Deferred Value:

Assessed Value:

Sale Price:

Sale Date: 12/29/2015



1 inch = 50 feet

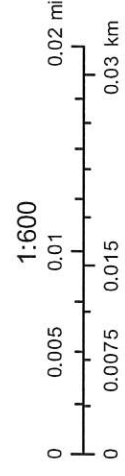
March 30, 2022

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.

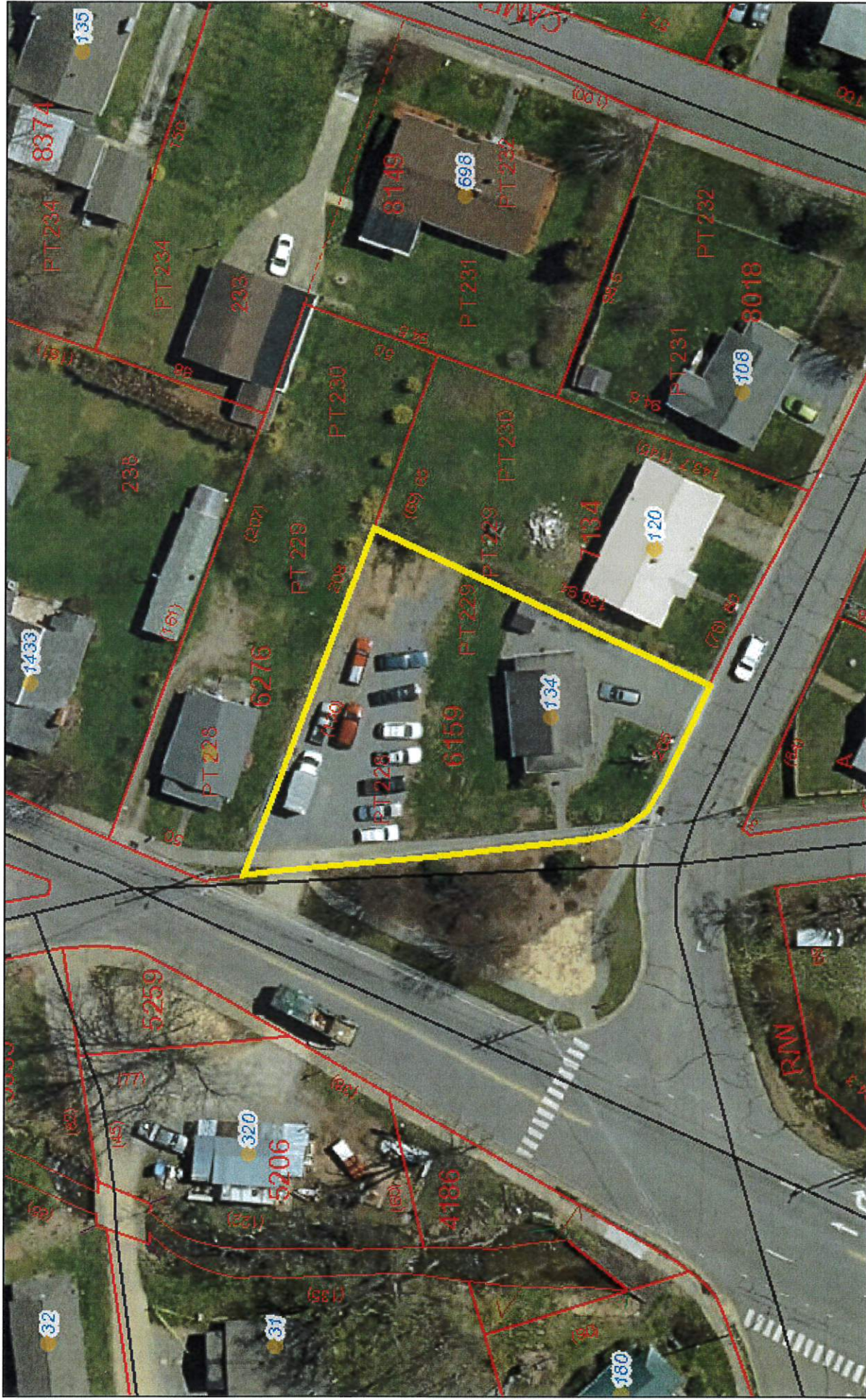
134 Belle Meade Drive - 2015 Aerial Photograph



March 30, 2022



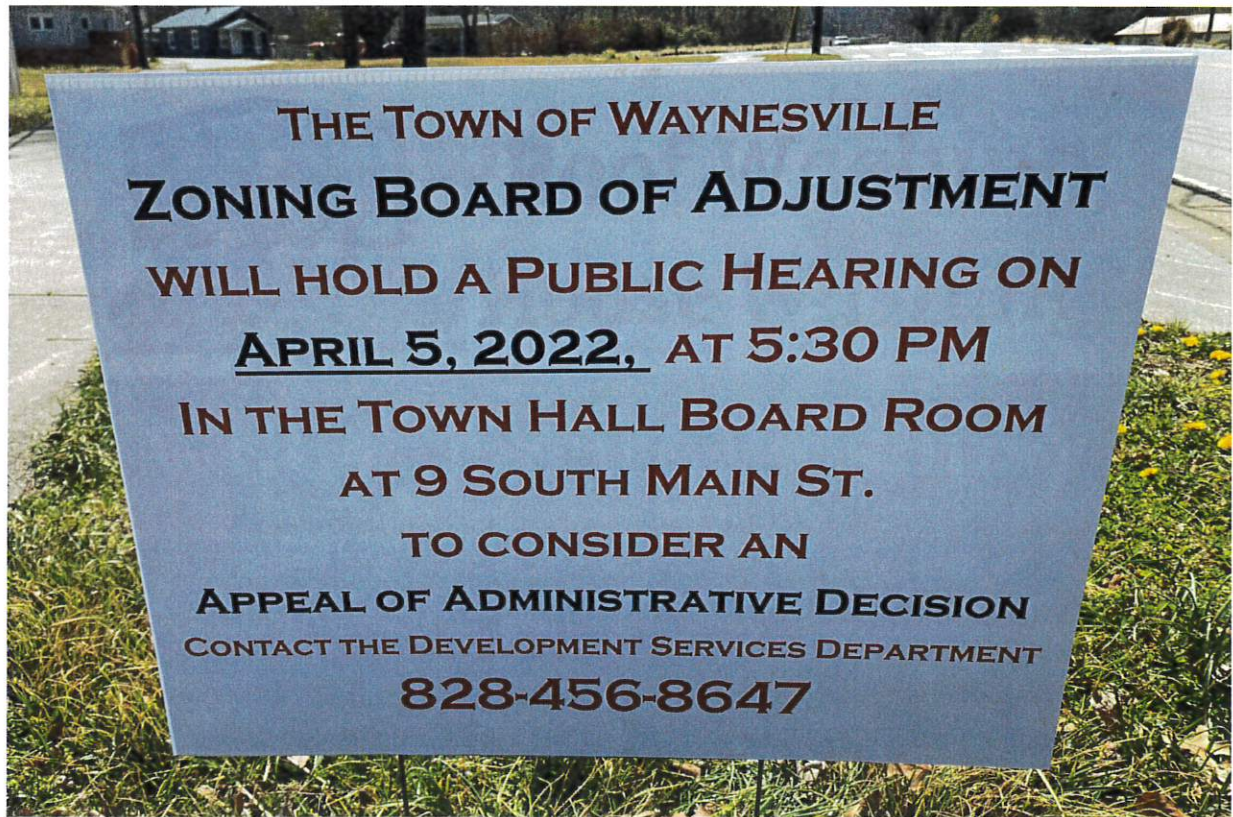
134 Belle Meade Drive - 2019 Aerial Photograph



March 30, 2022

1:600





Posted 3/22/22 - BDH



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

March 17, 2022

Notice of Public Hearing

Town of Waynesville Zoning Board of Adjustment

The Town of Waynesville Zoning Board of Adjustment will hold a **public hearing on April 5, 2022 at 5:30 PM** in the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC, to consider an Appeal of Administrative Decision regarding the property at 134 Belle Meade Drive (PIN 8605-81-6159).



For questions contact the Development Services Department at: (828) 456-8647, email: bhickox@waynesvillenc.gov, mail: 9 South Main Street, Suite 110, Waynesville, NC 28786.

COX, RICHARD
698 CAMELOT DR
WAYNESVILLE, NC 28786-2366

SMITH, TRAVIS DUSTIN
85 MISSISSIPPI AVE
WAYNESVILLE, NC 28786-1965

KIRKPATRICK, MAX D
56 HYATT ST
WAYNESVILLE, NC 28786

PRESSLEY, RICKY F
PO BOX 2018
CANDLER, NC 28715

MILLER, MELANIE S
127 BELLE MEADE DR
WAYNESVILLE, NC 28786-1904

UNKNOWN OWNER
UNKNOWN
WAYNESVILLE, NC 28786

MASSIE, HUGH J
115 BELLE MEADE DR
WAYNESVILLE, NC 28786

DEAN, WILDA/LT;
DEAN, RONALD J
1433 BROWN AVE
WAYNESVILLE, NC 28786

UNKNOWN OWNER
UNKNOWN
WAYNESVILLE, NC 28786

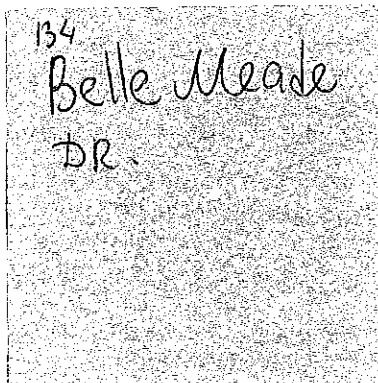
SMITH, TRAVIS D
85 MISSISSIPPE AVE
WAYNESVILLE, NC 28786

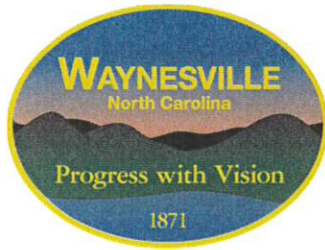
33
CASKEY, PATTI L;
FOWLER, JUDITH JANE
PO BOX 143
WAYNESVILLE, NC 28786

COFFEY, ELEANOR
165 VALLEY VIEW TERR
WAYNESVILLE, NC 28786

YARKOVICH, JOSEPH GENE;
CROOK, ANNELIE
1 Shackleford Dr
Asheville, NC 28806-9534

COCHRAN, LOUIE ALLEN
678 OXNER COVE RD
WAYNESVILLE, NC 28786





TOWN OF WAYNESVILLE

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9 South Main Street

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www.waynesvillenc.gov

FOR PUBLICATION IN THE MOUNTAINEER: March 23 and March 30, 2022 Editions

Date: March 17, 2022

Contact: Byron Hickox – 452-0401

Notice of Public Hearings

Town of Waynesville Zoning Board of Adjustment

The Town of Waynesville Zoning Board of Adjustment will hold two **public hearings on April 5, 2022, at 5:30 PM**, in the Town Hall Board Room, located at 9 South Main Street, Waynesville, NC, to consider:

1. An application for a Variance regarding the subdivision of the property at 282 Richland Street (PIN 8615-06-8891).
2. An Appeal of Administrative Decision regarding the use of the property at 134 Belle Meade Drive (PIN 8605-81-6159).

For more information contact the Development Services Department at: (828) 456-8647, email: bhickox@waynesvillenc.gov, mail: 9 South Main Street, Suite 110, Waynesville, NC 28786.

Definitions – Land Development Standards Section 17.3

Outside Storage. The storage of any material for a period greater than forty-eight (48) hours, including items for sale, lease, processing and repair (excluding vehicles for sale) outside the principal or accessory buildings on a property.

Vehicle Services—Minor Maintenance/Repair/Wash. The repair, servicing, alteration, restoration, towing painting, cleaning, or finishing of automobiles, trucks, recreational vehicles, boats and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. Minor facilities providing limited repair and maintenance services. Examples include: car washes, attended and self-service; car stereo and alarm system installers; detailing services; muffler and radiator shops; quick-lube services; tire and battery sales and installation (not including recapping).

Vehicle Services—Major Repair/Body Work. The repair, servicing, alteration, restoration, towing, painting, cleaning, or finishing of automobiles, trucks, recreational vehicles, boats, large appliances, commercial and industrial equipment and other vehicles as a primary use, including the incidental wholesale and retail sale of vehicle parts as an accessory use. This includes major repair and body work which encompasses towing, collision repair, other body work and painting services, and tire recapping.