

# Town of Nashville

BRENDA BROWN, MAYOR  
RANDY LANSING, TOWN MANAGER

TOWN COUNCIL  
LOUISE W. HINTON  
KATE C. BURNS  
LYNNE HOBBS  
LARRY D. TAYLOR



BOARD OF ADJUSTMENT  
ROSS STRICKLAND  
EDDIE THOMAS  
TOMMY SASSER  
DENNIS EVANS  
BRIAN WEST  
BILL LUMPP  
WAYNE SEARS

## REGULAR MEETING AGENDA TOWN OF NASHVILLE BOARD OF ADJUSTMENT TUESDAY, JANUARY 31, 2023

1. **CALL TO ORDER & ROLL CALL: 6:00pm (or immediately after Planning Board Meeting)**
2. **INTRODUCTION OF BOARD OF ADJUSTMENT MEMBERS**
3. **SWEARING IN OF NEW MEMBERS**
4. **ELECTION OF OFFICERS:**
  - a. **CHAIRMAN**
  - b. **VICE-CHAIRMAN**
5. **MINUTES OF THE PRECEDING MEETING: OCTOBER 6, 2022**
6. **APPROVAL OF 2023 BOARD OF ADJUSTMENT MEETING SCHEDULE**
7. **BOARD OF ADJUSTMENT PROCEDURE FOR EVIDENTIARY HEARINGS**
8. **NEW BUSINESS (AGENDA & STAFF REPORT ATTACHED):**
  - a. **EVIDENTIARY HEARING:** to allow reduced setbacks from the minimum requirements of the Nashville Code of Ordinances for property located at 726 E. Washington Street and 101 N. Wheelless Drive; PIN# 380120905121. The property is zoned B-1 (General Business) Zoning District.
9. **ANNOUNCEMENT OF NEXT MEETING:** February 28, 2023, at 6pm (or immediately after Planning Board Meeting)
10. **ADJOURNMENT**

# Town of Nashville

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BOARD OF ADJUSTMENT  
ROSS STRICKLAND, CHAIRMAN  
EDDIE THOMAS, VICE CHAIRMAN  
TOMMY SASSER SR.  
DENNIS EVANS

## TOWN OF NASHVILLE BOARD OF ADJUSTMENT MINUTES OCTOBER 6, 2022

The Town of Nashville Board of Adjustment held a regular scheduled meeting on Thursday, October 6, 2022 at 7:00 PM in the Town Council Chambers located at 114 W. Church Street in Nashville, NC.

**Members Present:** Ross Strickland – Chairman, Eddie Thomas-Vice Chair, Tommy Sasser, Sr., & Dennis Evans

**Members Absent:** None

**Staff:** Sherry Moss, Planning Director

### 1. CALL TO ORDER:

The meeting was called to order by Chairman Ross Strickland at approximately 7:00pm. A quorum was present.

### 2. APPROVAL OF MINUTES (September 9, 2021 & June 9, 2022)

A motion was made by Board Member Tommy Sasser to approve the September 2, 2021, and June 9, 2022, minutes. Vice Chair Eddie Thomas seconded the motion. There was no further discussion. The motion passed unanimously; 3-0.

### 3. NEW BUSINESS

#### A. HEARING OF THE CASE: V 2022-01:

Variance request by Cloudwyze, Inc. to allow a reduced minimum lot area of the minimum lot area requirements of Section 18-111.29.c of the Nashville Code of Ordinances for the use of an 8'x10' public utility station to be located on the property of 890 Birchwood Drive. The property is zoned R-10 (Medium Density) Zoning District, and the PIN# is 3800 0898 3567.

- Hearing of Case: (Public Comments-Sworn testimony)
- Evidence Introduced
- Board Member Worksheet
- Consideration and Determination of Case (Board Members only)

Planning Director Sherry Moss introduced the case to the Board of Adjustment. Ms. Moss proceeded with the items in the agenda packet. She informed the board that they will act a quasi-judicial board for this evidentiary hearing. She added that all testimony received is sworn testimony. The Secretary will read the request as written on the agenda. The planning staff will explain how the request does

and does not meet the requirements of code. The applicant, after being sworn in, testifies and presents information regarding the case.

While reviewing the agenda packet with the board, Ms. Moss gave a report of the variance request. She stated public utilities are allowed within Nashville in all zoning districts. And according to section 18-111.29, special use regulations for public utilities. It meets all requirements except for item "c". Item "c" states that public utility stations require a one-half acre lot. In this case, it's only 0.411 acres. So, CloudWyze is requesting a variance of that 0.089 acres so they would comply with the regulations of section 18-111.

On Tuesday, October 4, the hearing went before Town Council, and Town Council approved the special use permit. In addition, the condition of that special use permit is the variance approval from tonight and the special use permit will be approved.

Mrs. Moss covered the zoning and land use. Everything within the petitioned area is zoned R-10, medium-density residential. The northside of property consists of a railroad and is adjacent on the backside of the property. Across the street, there is the Elks Lodge and other residential uses. On the east side, there is a commercial use that includes a shell building. And to the west of the property, there is a residential use.

Mrs. Moss proceeded with the zoning and future land use map which indicates the current zoning versus what is shown for the future. Section 18-108: Description of Districts was also announced, stating what the R-10 zoning residential district requires or what is composed of. Section 18-109: Table of permitted uses shows that public utilities are allowed in all zoning districts within the Town of Nashville Code of Ordinances as a special use permit. Minimum setback requirements and section 18-111: Regulations for special uses was also mentioned. Section 18-111.29.c was the focus for the variance. Other than that, it meets all the other requirements listed.

Mrs. Moss reviewed staff notes. She stated the completed variance application was submitted to the planning department on September 14. Letters of Public Hearing Notification was mailed out on 9/21, approximately five property owners, that were adjacent/abutting 890 Birchwood Drive for October 6<sup>th</sup> Board of Adjustment Meeting. Also, the public hearing notice was published for two consecutive weeks in the Nashville Graphic on 9/22 and 9/29 prior to tonight's meeting. A sign was posted on the property indicating the special use permit and public hearing for both meetings. Also, the subject property is approximately +/- 0.411 acres. The subject property is not located within a flood hazard zone. The subject property is not located within the North Carolina DEQ water supply watershed. In addition, the property complies with the 10,000 square foot minimum lot size requirement of the R-10 zoning district but doesn't meet the minimum lot area that is called for in the special regulations section. In addition, the petition property complies all setbacks, setback requirements of the R-10 zoning district. Finally, the Technical Review Committee met on Friday, September 23 and they had no comments or concerns with the proposed shed or utility shelter going to that location.

Mrs. Moss continued with the powers on the board, that listed the findings of facts. She first referenced the statement of justification of the variance request to the board. She stated CloudWyze would like to place an 8x10x8 utility shelter on parcel 002594. However, section 18-111 of the Nashville Code of Ordinances states in section "c" that the minimum lot size for a public utility station must be one-half acre. Parcel number 00294 where CloudWyze is proposing to place their utility shelter is only .411 acres. CloudWyze is requesting a variance for the remaining 0.089 acres needed.

**Findings of Fact: Variance Application**

- A. The unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance no reasonable, no reasonable use can be made of the property. The applicant states that unnecessary hardship would result in the strict application of the minimum lot regulations of .50 acres for a utility station in the R-10 zoning area. In the result of strict application of regulation, parcel 002594 would not be able to be used for the utility shelter CloudWyze is proposing. This will prevent CloudWyze to distribute Fiber Internet access in and around Nashville, North Carolina.
- B. That 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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability. The applicant states the size of the parcel 002594 is .089 acres shy of the one-half acre requirement for a utility station stated in Chapter 18 of the Nashville Code of Ordinances.
- C. That 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 the variance shall not be regarded as a self-created hardship. The applicant stated, in this case the hardship results in the parcel size. The Nashville regulations require a .50-acre parcel in order to construct a utility station on the parcel. Parcel 002594 is .411 acres, falling short of .089 acres of the ordinance.
- D. That the requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured, and substantial justice is achieved. The applicant stated that with the proposed utility shelter, CloudWyze intends to provide broadband service to the Town of Nashville. The variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit. The granting of the variance will allow the community to utilize their services, providing flexibility to meet individual and commercial needs.

The evidentiary hearing was opened. CloudWyze representative Jacquelyn Lewis was the only person present to speak at the hearing. Ms. Lewis was sworn in to give her testimony on behalf of CloudWyze. She stated that she is the Director of Community Affairs for CloudWyze. She passed around a photo of what the shelter looks like. She stated CloudWyze is looking at both a metal and a brick one similar to the one she's passing around. The intent of the company is to keep everything maintained and clean. Ms. Lewis reiterated CloudWyze plans to keep the integrity of that area through there.

Vice-Chair Eddie Thomas asked is that like a junction box for the for the fiber optic cable that's going to be ran throughout the whole town? Ms. Lewis replied yes, and added as they expand, and go further into the Rocky Mounty area, there may be other boxes necessary. But right now, for what they're doing, within the town limits, that box will be sufficient. Mr. Thomas asked if the area had been cleared to place the building. Ms. Lewis replied CloudWyze is waiting to get approval before moving forward.

Mrs. Moss added that's part of the special regulation section of 18-111 and stated the existing vegetative buffer or vegetation is already there. It will still be buffered. That area is shown on the site plan.

It was asked if fencing was required for security purposes. Mrs. Moss replied it wasn't required because there is existing tree vegetation. Ms. Lewis added that the inner workings will be secured with a lock. No one will be able to access it.

The board questioned the driveway. Ms. Lewis also stated the existing driveway would be accessed. A maintenance and construction easement to the property has also been recorded. She added that CloudWyze is tapping in the already existing lines to make it more accessible to the Town of Nashville.



There was no further discussion. The evidentiary hearing was closed. Mrs. Moss made the recommendation that planning staff recommends approval of the variance. Everything is in harmony with the area and is giving a public service to the Town of Nashville.

The Board of Adjustment reviewed and voted on the following findings of facts: 160D-General Statutes

- (1) Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

**Staff comments:** *According to Section 18-111.29.c, the petitioned property does not meet the minimum lot area requirement.*

**The Board's CONCLUSION:** True; unanimously voted 4-0

- (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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

**Staff comments:** *The size of the property meets the minimum 10,000 sf. lot size requirement of the R-10 zoning district but does not meet the one-half acre minimum lot area requirement for a public utility station as listed in Section 18-111.29. c.*

**The Board's CONCLUSION:** True; unanimously voted 4-0

- (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.

**Staff comments:** *The existing 0.411-acre tract was existing prior to submittal of the variance request application.*

**The Board's CONCLUSION:** True; unanimously voted 4-0

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

**Staff comments:** *The requested variance would allow the applicant to provide a public service to the Town of Nashville.*

**The Board's CONCLUSION:** True; unanimously voted 4-0

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be GRANTED, ORDERED this 6<sup>th</sup> day of October 2022.

Board Member Dennis Evans motioned to approve the variance. The motion was seconded by Board Member Tommy Sasser. The motion passed unanimously 4-0.

#### 4. ADJOURNMENT

A motion to adjourn was made by Board Member Dennis Evans and seconded by Vice-Chair Eddie Thomas. The motion passed unanimously; 3-0.

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Secretary

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Chairman/Acting Chairman, Board of Adjustment



## 2023 BOARD OF ADJUSTMENT MEETING SCHEDULE

(Regular Meetings of the Board of Adjustment are held on the Tuesday, prior to the first Town Council Meeting of each month at 6pm or immediately after the Planning Board meeting)

January 31, 2023
February 28, 2023
March 28, 2023
April 25, 2023
May 30, 2023
June 27, 2023
July 25, 2023
August 29, 2023
September 26, 2023
October 31, 2022
November 28, 2022
December - TBD

All meetings are held in the Town Council Chambers located inside the Harold D. Cooley Library, 114 W. Church Street, Nashville, NC 27856.

**The following rules apply to the quasi-judicial public hearing (V 2023-01, Variance Request):**

This application for a variance request requires an evidentiary hearing on the application, which will be heard by the Board of Adjustment acting as a quasi-judicial board. The purpose of the hearing is to gather legally acceptable evidence in order to establish sufficient facts to apply the applicable ordinance. The purpose is not to gather public opinion about the desirability of the project. The Board of Adjustment should not discuss or receive information about the merits of the case from the parties, or members of the public, before the hearing. All testimony before Board of Adjustment must be “sworn” testimony. All persons wishing to speak on this matter must be sworn in. Applicants may elect to be represented by legal counsel.

The applicant has the burden of producing sufficient substantial, competent, and material evidence for the Board of Adjustment to conclude that the criteria of the applicable ordinance(s) have been met.

Staff will not provide a recommendation on denial or approval of the case until after the evidentiary hearing is closed. All evidence must be presented and considered before a recommendation can be submitted. After the hearing is closed, staff will be prepared to make their recommendation to the Board.

**PROCEDURE FOR THE HEARING**

The procedure for hearing this case is as follows:

- Anyone who wants to speak at this quasi-judicial public hearing should sign in with Planning Staff and be sworn in to speak.
- The hearing is opened, and preliminary matters are addressed.
- A staff representative presents a preliminary statement.
- The applicant is called on to present the argument and evidence in support of the application, followed by others who wish to speak in support or opposition of the application.
- Board members may pose questions to the applicant and the speakers who spoke in support or opposition of the application.
- Persons opposed to the application are invited to speak.
- Board members may pose questions to the persons who spoke in opposition to the request.
- Both sides are permitted to question the other side and present rebuttals.
- The Board of Adjustment Chairperson closes the period for public discussion.
- The Board deliberates. In the course of the deliberation, the board members may ask questions of the staff, the applicant or others who have testified, but beyond that, additional comments from the floor will be admitted only at the discretion of the Board of Adjustment Chairperson. Additional cross-examination and rebuttals may be made only on new evidence presented.
- The public hearing is closed and staff may present their recommendation to the Board at this time.
- The Board of Adjustment will render a decision.

**RULES FOR PUBLIC HEARING SPEAKERS**

- All speakers should speak from the podium.
- The applicant should present their argument and evidence to show that the standards of the applicable ordinance(s) have been met as concisely and efficiently as possible.
- All speakers should address the approval criteria and must avoid inflammatory, irrelevant or repetitious testimony. Groups are encouraged to select a spokesperson to speak about general matters for the group.
- Speakers may introduce exhibits only to support their testimony at the hearing. Letters from individuals who do not appear at the hearing and petitions are considered unsworn testimony or hearsay, and cannot be considered by council.
- All speakers should ensure their testimony (i) is relevant to the criteria, (ii) consists of statements and facts about which the speaker can personally testify, and not the statements or words of others who

are not testifying and (iii) is not speculative opinions or generalized objections without supporting facts.

- Only speakers who are qualified as experts in the appropriate field should testify about (i) how the use of property in a particular way would affect the value of other property, (ii) how the increase of vehicular traffic resulting from the proposed development would pose a danger to the public safety, or (iii) other matters that would require expert testimony under the rules of evidence.
- All speakers should direct their testimony to the criteria that must be met for the particular application. For this variance approval the criteria are:

### **QUASI-JUDICIAL REQUIREMENTS FOR VOTING**

The Board of Adjustment should motion on the approval or denial of V 2023-01.

1. If approved, the Board need not make findings of fact.
2. If denied the Board must vote on each specific finding and state a reason as to why the finding was denied. Only one finding must be denied opposing the permit. The findings of fact are as follows:
  - A. 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 in the same district.
  - B. That the literal interpretation of the provisions of this ordinance would deprive the applicant of a right commonly enjoyed by other properties in the same district under the terms of this Ordinance.
  - C. That the special conditions and circumstances do not result from the actions of the applicant.
  - D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this article to other lands, structures or buildings in the same district.

No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other ordinance that regulates land use or development may provide for variances consistent with the provisions of this subsection.

3. If approved, any conditions should be stated in the motion to approve.  
Choices:
  - Denial with specific finding and stated reasoning for such.
  - Approval without conditions (acceptance of project as submitted).
  - Approval with a selection of conditions provided by staff, Board Members and/or applicant.
  - Table for further study.

The Board may place additional restrictions or conditions as deemed necessary.

Important limitations on imposing conditions:

- The ordinance must provide authority and set a process to impose conditions.
- The ordinance must include standards the conditions will address.
- Substantial evidence in the record must support conditions actually imposed.
- Conditions that impose an exaction must be reasonably related and proportionate to the impact of the development.
- A condition cannot be imposed just because the Board thinks it would be a good idea or because it is desired by neighbors.
- Any condition that is imposed must be purposed to bring the permit into compliance with standards that are included in the ordinance.
- All conditions must be based on meeting a relevant standard in the ordinance and the conditions must reasonably relate to that standard.



**TOWN OF NASHVILLE**  
**PLANNING DEPARTMENT**  
 499 S. Barnes Street / Nashville, NC 27856 / 252.459.4511  
 www.townofnashvillenc.gov



**BOARD OF ADJUSTMENT AGENDA-STAFF REPORT**

<b>Variance Case:</b>	V 2023-01
<b>Report By:</b>	Sherry N. Moss, Planning Director
<b>Hearing Date:</b> Board of Adjustment – January 31, 2023	

**ADDRESS OF THE VARIANCE PROPOSAL:**

100 N. Wheelless Drive  
 Nashville, NC 27856

**PROPERTY OWNER:**

Timothy & Yvonne Freeman  
 105 Alex Ct.  
 Emerald Isle, NC 28594

**APPLICANT:**

Same

**ANALYSIS OF THE VARIANCE REQUEST:**

**V 2023-01:** This is a variance request by Timothy and Yvonne Freeman to allow reduced setbacks from the minimum requirements of the Nashville Code of Ordinances for property located at 726 E. Washington Street and 101 N. Wheelless Drive; PIN# 380120905121. The property is zoned B-1 (General Business) Zoning District and consists of 1.246 acres. The property owner is proposing to subdivide the property, to separate the warehouse from the former appliance store. But subdividing the property would cause the existing accessory warehouse to become a primary building instead of an accessory building, requiring the building to meet the setbacks as set forth in the dimensional table included within this document. If subdivided, the property will meet the minimum lot area for the B-1 zoning district but will not meet the required minimum setbacks. The ordinance requires that all new lot lines must be designed so that existing and proposed buildings will comply with the required building setbacks of the applicable zoning district. In this case, only one new lot line is proposed, and that is on N. Wheelless Drive, leaving the other existing property lines as is.

**ZONING & LAND USE:**

North	South	East	West
<b>Adjacent/Nearby Zoning Designation</b>			
B-1	B-1	B-1	B-1
<b>Adjacent/Nearby Land Uses</b>			
Residential/Apartments	Commercial	Commercial/Apartments	Commercial

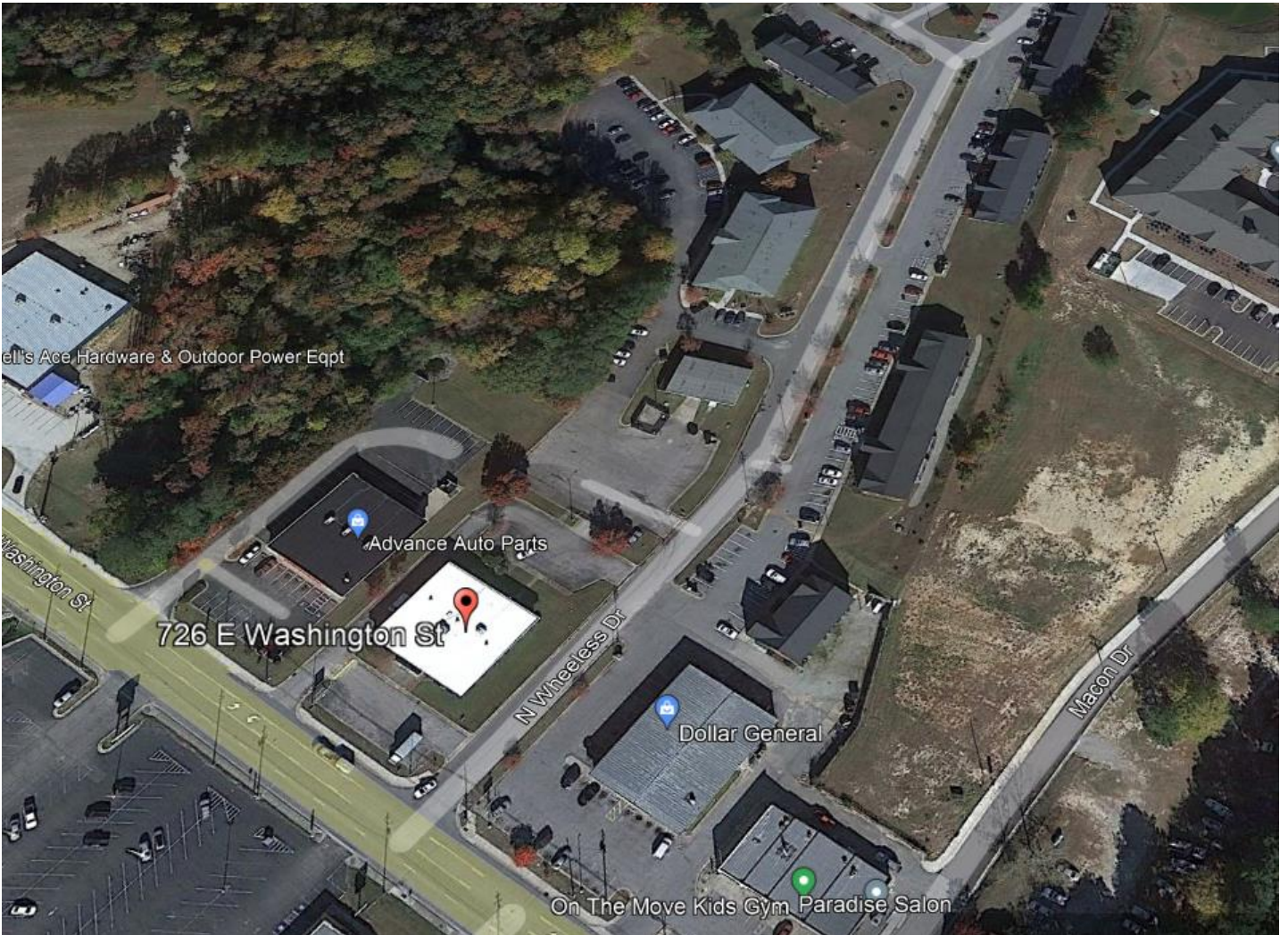
**PHOTOS OF PETITIONED/NEARBY PROPERTIES – 1/19/2023**







Google Earth Pro Photo - 2022

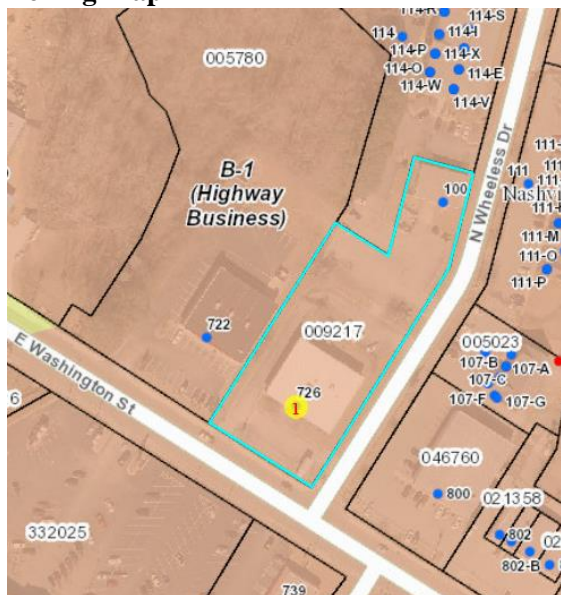




**Google Earth Pro Photo - 1994**



**Zoning Map**



**Future Land Use Map**



**Section 18-108. Description of District.**

B-1(General Business District): The B-1 district is defined as certain commercial areas which provide a wide selection of convenience and comparison-shopping outlets, furniture showrooms, and for personal services, in an orderly arrangement of retail facilities, parking and other amenities. This district is customarily located at the intersection of one or more highways or along thoroughfares. This district may also provide retailing and personal services for the benefit of residents in nearby areas and nonresidents. Included also are certain functions such as warehousing that are compatible with the primary uses.

District	Min. Lot Size		Minimum Yard Regulations				Max. Height
	Area in Sq. Ft	Lot Width	Front Yard Setback	Side Yard Setback	Side Street Setback	Rear Yard Setback	
B-1 Highway Business	4,000	40	25	10	12.5	10	35

**Section 18-374. Resubdivision Procedure.**

For any replating or resubdivision of land, the same procedure, rules or regulations shall apply as prescribed in this article for an original subdivision except that lot sizes may be varied on an approved plat after recording, provided that:

- (1) No lot or tract of land shall be created or sold that is smaller than the average size and width of lot shown on the approved plat, unless it complies with all the current requirements of the zoning district in which it is located;
- (2) The number of lots may not be increased unless they comply with all the current requirements of the zoning district in which they are located;
- (3) *All new lot lines must be designed so that existing and proposed buildings will comply with the required building setbacks of the applicable zoning district;*
- (4) Drainage easements or other rights-of-way shall not be changed;
- (5) Street alignment and block sizes shall not be changed;
- (6) The property lines extending along the rear of the lots shall not be changed;
- (7) The rear portion of the lots shall not be subdivided from the front portion; and
- (8) The character of the area shall be maintained.

**STAFF NOTES**

- The completed variance application submitted to the Planning Department on January 13, 2023.
- Letters of Public Hearing Notification was mailed out 1/17/2023 to approximately seven property owners, adjacent/abutting 726 E. Washington Street and 100 N. Wheelless Drive for the January 31, 2023, BOA meeting.
- The Public Hearing Notice was published for two consecutive weeks in the Nashville Graphic (on 1/19 & 1/26) prior to the January 31, 2023, Board of Adjustment meeting.
- The property was posted with a Public Hearing sign on 1/19/2023.
- The subject property is approximately +/-1.246 acres.
- The subject property is not located in a flood hazard zone.
- The subject property is not located in the NCDEQ Water Supply Watershed.
- A zoning permit was issued on 3/19/2002 as an accessory commercial building.
- A recombination plat was recorded with the Nash County Register of Deeds on 8/2/2002 (Book 30 Page 132), adding the warehouse as an accessory structure to the property of 726 E. Washington Street, with new lot lines.
- If approved, the proposed property will comply with the 4,000 square feet minimum lot size requirement of the B-1 zoning district, per attached minor preliminary plat, but the existing structure will not meet the required setbacks within the B-1 zoning district for a primary structure.

**STAFF ANALYSIS AND FINDINGS:**

In order to meet the requirements of the Town Zoning Ordinance and the NC Statutes for granting a variance, the Planning Department has determined that the Board must find that the following six statements are true as applied to the variance request. Board members should not decide how they will vote on the variance request, until after they have considered each statement on its own merits. According to the NC Institute of Government, if any of the required statements are found not true, then the variance should be denied.

1. 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 in the same district.

*Staff comments: The petitioned property is located in the B-1 (Highway Business) District with a primary building and a commercial accessory building on it. The accessory building was previously*

located on the adjacent lot before it was recombined with the former appliance building. Now the owner would like to subdivide the property of 726 E. Washington Street and 101 N. Wheelless Drive but is unable to do so because the accessory building would become the primary building and would not meet the required setbacks of the B-1 zoning district.

2. That the literal interpretation of the provisions of this ordinance would deprive the applicant of a right commonly enjoyed by other properties in the same district under the terms of this Ordinance.

**Staff comments:** *The existing accessory building would not meet the required setbacks if the lot is subdivided, but could be used for many uses within the B-1 zoning district.*

3. That the special conditions and circumstances **do not** result from the actions of the applicant.

**Staff comments:** *The accessory building was already existing prior to ownership of Mr. Freeman. Although the existing building was always used as an accessory building, subdividing the lot would result in a self-created hardship.*

4. That granting the variance will not confer on the applicant any special privilege that is denied by this article to other lands, structures or buildings in the same district.

**Staff comments:** *If the variance is granted, the existing warehouse can be on its separate lot and be permitted for B-1 land uses as indicated within the table of permitted uses.*

5. That if granted, the variance requested will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit.

**Staff comments:** *The variance requested will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit. The property will comply with the minimum lot area requirements and allow permitted uses within the B-1 zoning district.*

6. That if granted, the variance will secure the public safety and welfare and will do substantial justice.

**Staff comments:** *The variance will secure the public safety and welfare and will do substantial justice.*

## **STAFF RECOMMENDATION**

Staff finds that the requested variance will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit and secure the public safety and welfare and do substantial justice. Although the existing accessory warehouse building will not meet the existing setbacks if it is on its own lot as a primary building, the variance request will not adversely affect the adjacent properties.

Therefore, staff recommends that the proposed variance be approved based on the facts of this report and supporting evidence provided within the Board of Adjustment Packet. If the Board of Adjustment moves to approve the variance, staff recommends it be approved with the following conditions:

1. If the warehouse is demolished, the new building must meet the required setbacks of the B-1 zoning district.

## **ATTACHMENTS:**

1. Application
2. Metes and bounds description with a portion of recorded plat - 11/17/1998
3. Zoning Certificate -Accessory Building - 3/19/2022
4. Recorded recombination plat - 8/2/2022
5. Survey - 12/6/2022
6. Preliminary minor subdivision plat
7. Adjacent/nearby property owners
8. Dimensional Requirements
9. Board of Adjustment Variance Worksheet
10. Order Granting a Variance
11. Board of Adjustment Voting Action





**TOWN OF NASHVILLE  
PLANNING DEPARTMENT**

499 S. Barnes Street  
Nashville, NC 27856  
252.459.4511 Phone / 252.459.8926 Fax  
[www.townofnashville.com](http://www.townofnashville.com)

**VARIANCE APPLICATION**

**FOR ADMINISTRATIVE USE ONLY**

Case #	Date Submitted	Fee Paid	Board of Adjustment Date	Public Notice Dates
V2023-01	1/12/2023	\$200.00	1/31/2023	1/19 & 1/26

**PROPERTY INFORMATION**

Property Address: 726 E. Washington Street and 100 N. Wheelless Dr. Acreage of Property: 1.246

ParID: 380120905121 PIN: \_\_\_\_\_

Existing Land Use: Commercial

Existing Zoning Description: B-1

Required Zoning Setbacks: Front 25 Side 10 Rear 10

Actual Zoning Setbacks: Front 9.3 Side 7 Rear 7

Proposed Setbacks for Variance Request: Front 9.3 Side 7 Rear 7

List the Zoning Ordinance provision(s) from which the variance is sought: \_\_\_\_\_  
Setback requirements

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**APPLICANT / OWNER INFORMATION**

Applicant:	Property Owner:
Timothy L & Yvonne B. Freeman	Timothy L. & Yvonne B. Freeman
Mailing Address:	Mailing Address:
105 Alex Court	105 Alex Court
City:	City:
Emerald Isle	Emerald Isle
Phone:	Phone:
252-885-2425	252-885-2425
Email:	Email:
freetv@earthlink.net	freetv@earthlink.net

**REQUIRED ATTACHMENTS**

- Metes and bounds description attached
- Scaled site plan/sketch of property/area attached



**TOWN OF NASHVILLE  
PLANNING DEPARTMENT**

499 S. Barnes Street  
Nashville, NC 27856  
252.459.4511 Phone / 252.459.8926 Fax  
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**VARIANCE APPLICATION**

**STATEMENT OF JUSTIFICATION**

Application is hereby made for the following variance. Briefly describe your variance request below.

Owner proposes to subdivide the property into two lots. The proposed Lot 1 contained an accessory building to the adjoining apartment complex and was a portion of that property. The proposed Lot 1 was then combined with proposed Lot 2 to create one Lot and the accessory building did not violate setback requirements because it was treated as an accessory building. If the lot is subdivided then the accessory building will become a primary building and will violate the setback requirements.

To authorize upon appeal in specific cases such variance from the terms of this article as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this article would result in unnecessary hardship. In granting any variance, the board of adjustment may prescribe appropriate conditions and safeguards in conformity with this article.

Briefly explain how your variance request meets each requirement in the space provided and refer to your site plan where it is useful.

*A variance from the terms of this article shall not be granted by the board of adjustment unless and until it shall make the following findings:*

- A. 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 in the same district;

Because this building was originally constructed and used as an accessory building the setback requirements were not the same as if the building had been built as a primary structure. The adjoining proposed Lot 2 is more usable without proposed Lot 1. In order for proposed Lot 2 to become a desirable lot to be developed, proposed Lot 1 will have to be subdivided and the building on proposed Lot 1 will not be usable thereby requiring the owner to tear down the valuable structure.

- B. That a literal interpretation of the provisions of this ordinance would deprive the applicant of a right commonly enjoyed by other properties in the same district under the terms of this article;

A literal interpretation of the setback requirements would require demolition of this building. This building is unique as it was originally constructed as an accessory building to the adjoining apartment complex and has been put to good use over the years. The building has many uses remaining and should not be destroyed.



**TOWN OF NASHVILLE  
PLANNING DEPARTMENT**

499 S. Barnes Street  
Nashville, NC 27856  
252.459.4511 Phone / 252.459.8926 Fax  
[www.townofnashville.com](http://www.townofnashville.com)

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**VARIANCE APPLICATION**

- C. That the special conditions and circumstances do not result from the actions of the applicant;

The applicant did not construct the accessory building on the current lot and simply desires to subdivide the lots to create a better use for both lots and utilize the existing structures on the lots.

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- D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this article to other lands, structures or buildings in the same district;

The granting of the variance will simply allow an existing building to be used in a B-1 district allowing for proper usage of the land for business within the town limits of Nashville and will not result in any special privilege. Further, 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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**APPLICATION AFFIDAVIT**

*I certify that all information furnished in this application is accurate to the best of my knowledge.*

APPLICANT (Print Name): Timothy L. Freeman

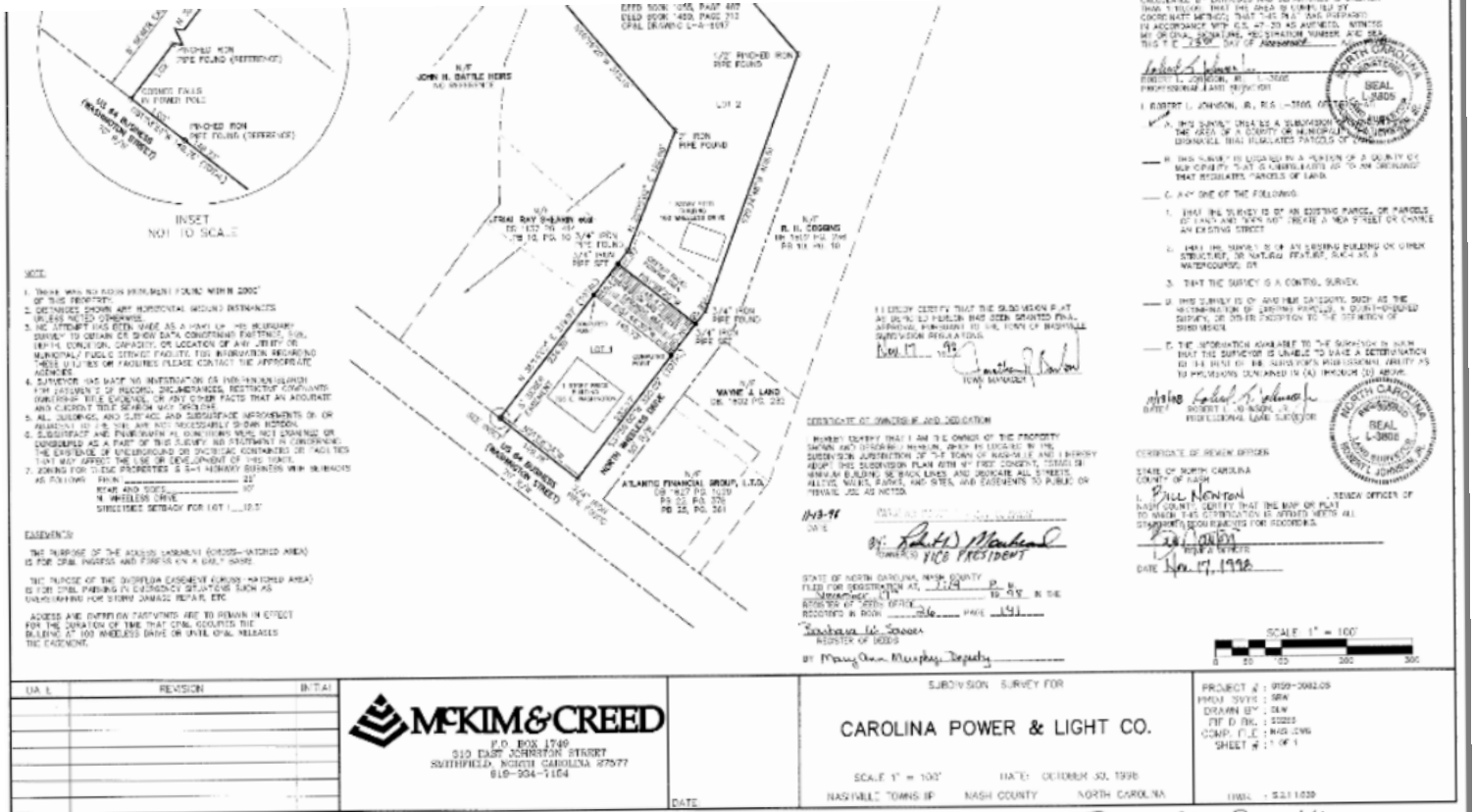
Signature of Applicant: *Timothy L. Freeman* Date 1-12-23

PROPERTY OWNER (Print Name): Timothy L. Freeman and Yvonne B. Freeman

Signature of Property Owner: *Timothy L. Freeman Yvonne B. Freeman* Date 1-12-23



**BEGINNING** at an iron pipe being located at the intersection of the northeastern right of way edge of U S 64 Business (Washington Street) and the northwestern right of way edge of North Wheelless Drive; and runs thence along and with said northeastern right of way edge of U S 64 Business (Washington Street) North 51 degrees 58 minutes 24 seconds West 149 76 feet to a point being located at a southeastern corner of now or formerly Jerial Ray Shearin, et al; thence along and with a southeastern property line of now or formerly Jerial Ray Shearin, et al, North 38 degrees 14 minutes 02 seconds East 294 00 feet to an iron pipe, thence South 51 degrees 59 minutes 20 seconds East 148 47 feet to an iron pipe in the northwestern right of way edge of North Wheelless Drive, and thence along and with said northwestern right of way edge of North Wheelless Drive South 37 degrees 59 minutes 00 seconds West 294 03 feet to the point of **BEGINNING**, containing 1 007 acres, more or less, and shown as LOT 1 on a plat entitled "Subdivision Survey For Carolina Power & Light Co", drawn by McKim & Creed (Smithfield NC), dated October 30, 1998, and recorded in Plat Book 26, page 141, Nash County Registry; and being a portion of the land described in a deed from George Herman Wheelless, et ux, to Carolina Power & Light Company, dated December 20, 1979, and recorded in Book 1055, page 487, Nash County Registry



CHALLENGE BY ANY PERSON WHO HAS INTEREST IN THE PROPERTY TO BE SURVEYED MUST BE MADE IN WRITING TO THE SURVEYOR AT THE TIME OF THE SURVEY OR WITHIN 30 DAYS OF THE DATE OF THE SURVEY. FAILURE TO DO SO SHALL BE DEEMED AN ADMISSION OF THE VALIDITY OF THE SURVEY AND THE SURVEYOR SHALL BE EXEMPTED FROM LIABILITY FOR NEGLIGENCE OR MALPRACTICE IN CONNECTION WITH THE SURVEY.

**Robert L. Johnson**  
 PROFESSIONAL LAND SURVEYOR  
 STATE OF NORTH CAROLINA  
 EXPIRES 12/31/2000

1. THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET.

2. THAT THE SURVEY IS A CONTIGUOUS SURVEY.

3. THAT THE SURVEY IS OF LAND THAT IS CAPABLE OF BEING SURVEYED AS ONE PARCEL AND DOES NOT REQUIRE A SUBDIVISION SURVEY AS DEFINED BY THE STATUTES OF NORTH CAROLINA.

4. THAT THE SURVEYOR IS NOT PROVIDING PROFESSIONAL SERVICE AS TO MATTERS UNRELATED TO THE SURVEY.

**Robert L. Johnson**  
 DATE: 10/30/98  
 PROFESSIONAL LAND SURVEYOR

CERTIFICATE OF REVIEW OFFICER  
 STATE OF NORTH CAROLINA  
 COUNTY OF NASH  
**Bill Norton**  
 REVIEW OFFICER OF  
 NASH COUNTY, CERTIFY THAT THE MAP OR PLAN TO WHICH THIS CERTIFICATE IS ATTACHED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.  
 DATE: 10/17/1998

STATE OF NORTH CAROLINA, NASH COUNTY  
 FILED FOR REGISTRATION AT 1:24 P.M. 10/30/98  
 REGISTERED PROFESSIONAL LAND SURVEYOR  
 RECEIVED IN BOOK 246 PAGE 141  
**Robert L. Johnson**  
 REGISTER OF DEEDS  
 BY: **Maury Ann Murphy, Deputy**

SCALE 1" = 100'

- NOTES:**
1. THERE WAS NO RECORD INSTRUMENT FOUND WITHIN 2000' OF THIS REPORT.
  2. DISTANCES SHOWN ARE HORIZONTAL DISTANCES UNLESS NOTED OTHERWISE.
  3. THE SURVEY HAS BEEN MADE AS A PART OF A "SECONDARY SURVEY" TO OBTAIN CEILING DATA, CONTAINING DISTANCES, BEARINGS, CURVE DATA, CAPACITY, OR LOCATION OF ANY CURVE OR HORIZONTAL CURVE STRIKES EXISTING FACILITIES REGARDING THESE UTILITIES OR FACILITIES PLEASE CONTACT THE APPROPRIATE AGENCIES.
  4. SURVEYOR HAS MADE NO INVESTIGATION OR INTERVIEW REGARDING THE EXISTENCE OF RECORDS, DOCUMENTS, RECORDS, CONTRACTS, AGREEMENTS, ETC. LOCAL OR ANY OTHER FACTS THAT AN ACCURATE AND COMPLETE TITLE SURVEY MAY REQUIRE.
  5. ALL EASEMENTS AND EASEMENTS AND SURFACE IMPROVEMENTS OR OTHERWISE TO THE USE ARE NOT NECESSARILY SHOWN HEREON.
  6. SUBSEQUENT AND FUTURE WORK OR CONSTRUCTION NOT SHOWN OR CONSIDERED AS A PART OF THIS SURVEY AND NOT TO BE CONSIDERED. THE EXISTENCE OF EASEMENTS OR SURFACE IMPROVEMENTS OR OTHERWISE TO THE USE OR ENJOYMENT OF THE TRACT MAY AFFECT THE USE OR ENJOYMENT OF THE TRACT.
  7. ZONING FOR THESE PROPERTIES IS S-1 (MEDIUM DENSITY) WITH SUBORDINATE USES AS FOLLOWS:
    - 1. SINGLE-FAMILY RESIDENTIAL
    - 2. RETAIL AND SERVICE
    - 3. WHEELLESS DRIVE
 STREET SETBACK FOR LOT 1: 10.0'
- EASEMENTS:**
- THE SURFACE OF THE ADJACENT (ADJACENT) EASEMENT-WATCHED AREA IS FOR OPEN PAVED AND DRIVE ON A 6.00' WIDE DRIVE.
- THE SURFACE OF THE ADJACENT (ADJACENT) EASEMENT-WATCHED AREA IS FOR OPEN PAVED AND DRIVE ON A 6.00' WIDE DRIVE.
- ADJACENT ARE EASEMENT-WATCHED AREAS TO REMAIN IN EFFECT FOR THE DURATION OF THE TIME THAT THIS SURVEY IS CONDUCTED. THE SURVEYOR IS NOT RESPONSIBLE FOR THE USE OR ENJOYMENT OF THE TRACT.

<table border="1"> <tr> <th>DATE</th> <th>REVISION</th> <th>INITIAL</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	DATE	REVISION	INITIAL													<p><b>McKIM &amp; CREED</b>        P.O. BOX 1740        310 EAST JOHNSTON STREET        SMITHFIELD, NORTH CAROLINA 27577        919-304-1104</p>	<p>SUBVISION SURVEY FOR</p> <p><b>CAROLINA POWER &amp; LIGHT CO.</b></p> <p>SCALE 1" = 100'    DATE: OCTOBER 30, 1998        NASHVILLE TOWNSHIP    NASH COUNTY    NORTH CAROLINA</p> <p>DATE: _____</p>	<p>PROJECT # : 989-204208        DRAWN BY : SW        CHECKED BY : SW        DATE : 10/30/98        SHEET # : 1 OF 1</p> <p>BOOK 26 Page 141</p>
DATE	REVISION	INITIAL																

#25 pd

# TOWN OF NASHVILLE ZONING CERTIFICATE OF COMPLIANCE



APPLICANT CHAMBERS & RABIL / Freeman's Appl. CONSTRUCTION PERM  
 MAILING ADDRESS Suite 10 STATION Square  
Rocky Mount, N.C.  
 PHONE (0) 442-2675 (M) 885-0540

DATE 19 March '02  
 CERTIFICATE NUMBER 02-03-662

Having made application for a zoning compliance certificate is hereby granted a Zoning Certificate to:

- ( ) CHANGE THE USE
- ( ) ERECT A SIGN
- ( ) CONSTRUCT A BUILDING
- ( ) ALTER A BUILDING
- RELOCATE A BUILDING

at 726 E. Washington St parcel ID# 3801.20-90-5121 to be used  
 as an accessory commercial building in a B-1 zone which is permitted by the Zoning Ordinance of the Town of Nashville provided that such activity is carried out in accordance with the following provisions:

- Building Height: 35'
- Setbacks: Front 25' Rear 10' Side 10' Street Side 12.5'
- Off Street Parking Spaces: 28 Off Street Loading Spaces: 1
- Signs: \_\_\_\_\_
- Floodplain: NO  YES \_\_\_\_\_ (If yes, application for permit form attached)
- Watershed: NO  YES \_\_\_\_\_ Exempt: NO \_\_\_\_\_ YES \_\_\_\_\_

- I certify that any construction, alteration, or placement of a building or sign shall be carried out in accordance with this certificate and any attachments thereto. I further understand and agree that I will be responsible for payment of any damage that occurs to any municipal-owned property as a result of construction.
- The provisions of the Town of Nashville Zoning Ordinance are minimum requirements and where at variance with requirements of other lawfully adopted regulations, the most restrictive or that imposing the higher standards.

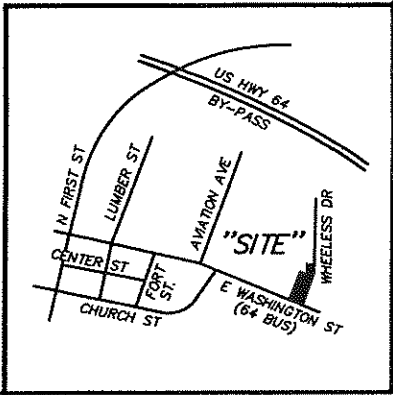
COMMENTS: subject to the conditions contained in the attached letter - these conditions must be met prior to CO of the building.

[Signature] APPLICANT | [Signature] ZONING ADMINISTRATOR | \_\_\_\_\_ NASHVILLE FIRE INSPECTOR

Chambers & Rabil



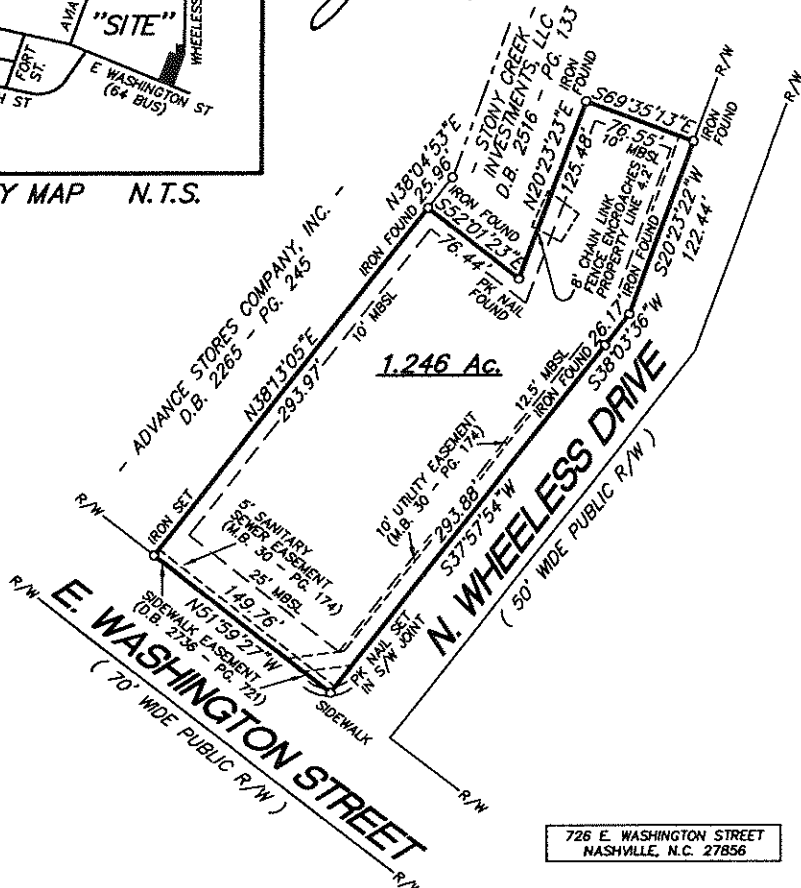




VICINITY MAP N.T.S.

I certify that this map was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 1807, Page 334, Book 1812, Page 838, or other reference source M.B. 30 - PG. 174); that the boundaries not surveyed are indicated as drawn from information in Book \_\_\_\_\_, page \_\_\_\_\_ or other reference source \_\_\_\_\_; that the ratio of precision or positional accuracy is 1:10,000; and that this map meets the requirements of The Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1600).

This day of DECEMBER, 2022  
*James G. Strickland*  
 Professional Land Surveyor



726 E. WASHINGTON STREET  
 NASHVILLE, N.C. 27856



- NOTES:
- MINIMUM BUILDING SETBACK LINES: FRONT 25', SIDE 10', REAR 10', SIDE STREET 12.5'.
  - PROPERTY ZONED B-1.
  - REFER TO: D.B. 1807 - PG. 334  
 D.B. 1812 - PG. 838  
 M.B. 30 - PG. 174
  - PROPERTY IS LOCATED IN THE TAR-PAMLICO RIVER BASIN.
  - PROPERTY IS NOT IN A FLOOD HAZARD ZONE.
  - TAX PARCEL NUMBER: 3801 2090 5121

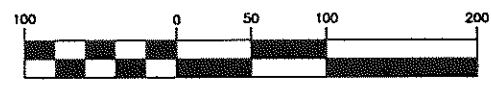
PROPERTY OF

**TIMOTHY L. FREEMAN**  
 AND WIFE  
**YVONNE B. FREEMAN**

LEGEND:	
—	LINES SURVEYED
- - -	LINES NOT SURVEYED
EIP	EXISTING IRON PIPE
EIS	EXISTING IRON STAKE
EIA	EXISTING IRON AXLE
NIP	NEW IRON PIPE SET
IPF	IRON PIPE FOUND
IC	CONTROL CORNER
NI	NO IRON SET
PKF	P.K. NAIL FOUND
PKS	P.K. NAIL SET
RRSF	RAILROAD SPIKE FOUND
CM	CONCRETE MONUMENT
ECM	EX. CONC. MONUMENT
ELS	EX. LIGHTWOOD STAKE
DB	DEED BOOK
PB	PLAT BOOK
R/W	RIGHT OF WAY
C/L	CENTERLINE
CMP	CORRUGATED METAL PIPE
RCP	REINFORCED CONCRETE PIPE
NTS	NOT TO SCALE
MW	MONITORING WELL
LT	LIGHT
PP	POWER POLE
CA	CONTROL ACCESS
[9121]	ADDRESS
AREA CALCULATED BY THE COORDINATE METHOD.	



"NASHVILLE"  
 NASHVILLE TWP., NASH COUNTY, N.C.  
 DECEMBER 6, 2022 SCALE 1" = 100'



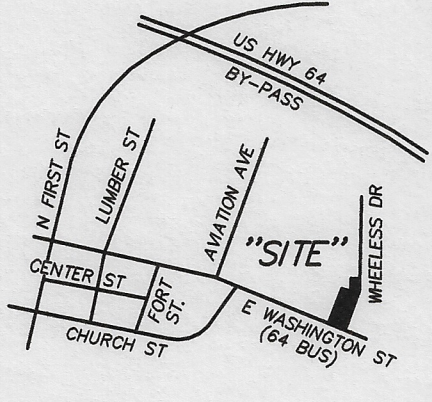
GRAPHIC SCALE: 1 inch = 100 feet

*James G. Strickland*  
 Land Surveying, P.A.

123 West Washington Street  
 Nashville, North Carolina 27856  
 NORTH CAROLINA CERTIFICATE NUMBER: C-3721  
 TELEPHONE (252) 459-3838  
 FAX (252) 459-1885

*James G. Strickland*  
 12-7-2022





VICINITY MAP N.T.S.

KNOW ALL MEN BY THESE PRESENT, THAT (I or WE) HEREBY CERTIFY THAT (I or WE) (AM or ARE) (OWNER(S) OR LIEN HOLDERS) OF THE LAND SHOWN ON THIS PLAT, HAVING ACQUIRED TITLE THERETO BY DEED(S) RECORDED IN THE NASH COUNTY REGISTRY AND THAT (I or WE) HEREBY DEDICATE, UNLESS OTHERWISE NOTED HEREON, TO PUBLIC USE (STREETS, PARKS, PLAYGROUNDS, OPEN SPACES, AND/OR EASEMENTS) FOREVER ALL AREAS SO SHOWN OR INDICATED ON THIS PLAT.

KNOW ALL MEN BY THESE PRESENT, THAT (I or WE) HEREBY CERTIFY THAT SUBDIVISION OR A PORTION THEREOF IS WITHIN THE PLANNING JURISDICTION OF THE TOWN OF NASHVILLE OR SERVICED BY THE TOWN OF NASHVILLE'S WATER AND/OR SEWER UTILITY LINES.

IF CORPORATION, INCLUDE NAME OF CORPORATION, TITLE OF CORPORATE OFFICER ATTESTATION BY CORPORATE SECRETARY, AND CORPORATE SEAL.

SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_.

SIGNED: \_\_\_\_\_ OWNER(S) AND LIENHOLDER(S) SIGNATURES

I HEREBY CERTIFY THAT THE SUBDIVISION PLAT AS DEPICTED HEREON HAS BEEN GRANTED FINAL APPROVAL PURSUANT TO THE TOWN OF NASHVILLE SUBDIVISION REGULATIONS.

\_\_\_\_\_, 20\_\_\_\_.

TOWN MANAGER

I, \_\_\_\_\_ REVIEW OFFICER OF NASH COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

DATE REVIEW OFFICER

LEGEND:	
—	LINES SURVEYED
- - -	LINES NOT SURVEYED
EIP	EXISTING IRON PIPE
EIS	EXISTING IRON STAKE
EIA	EXISTING IRON AXLE
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NI	NO IRON SET
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RRSF	RAILROAD SPIKE FOUND
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ECM	EX. CONC. MONUMENT
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AREA CALCULATED BY THE COORDINATE METHOD.	

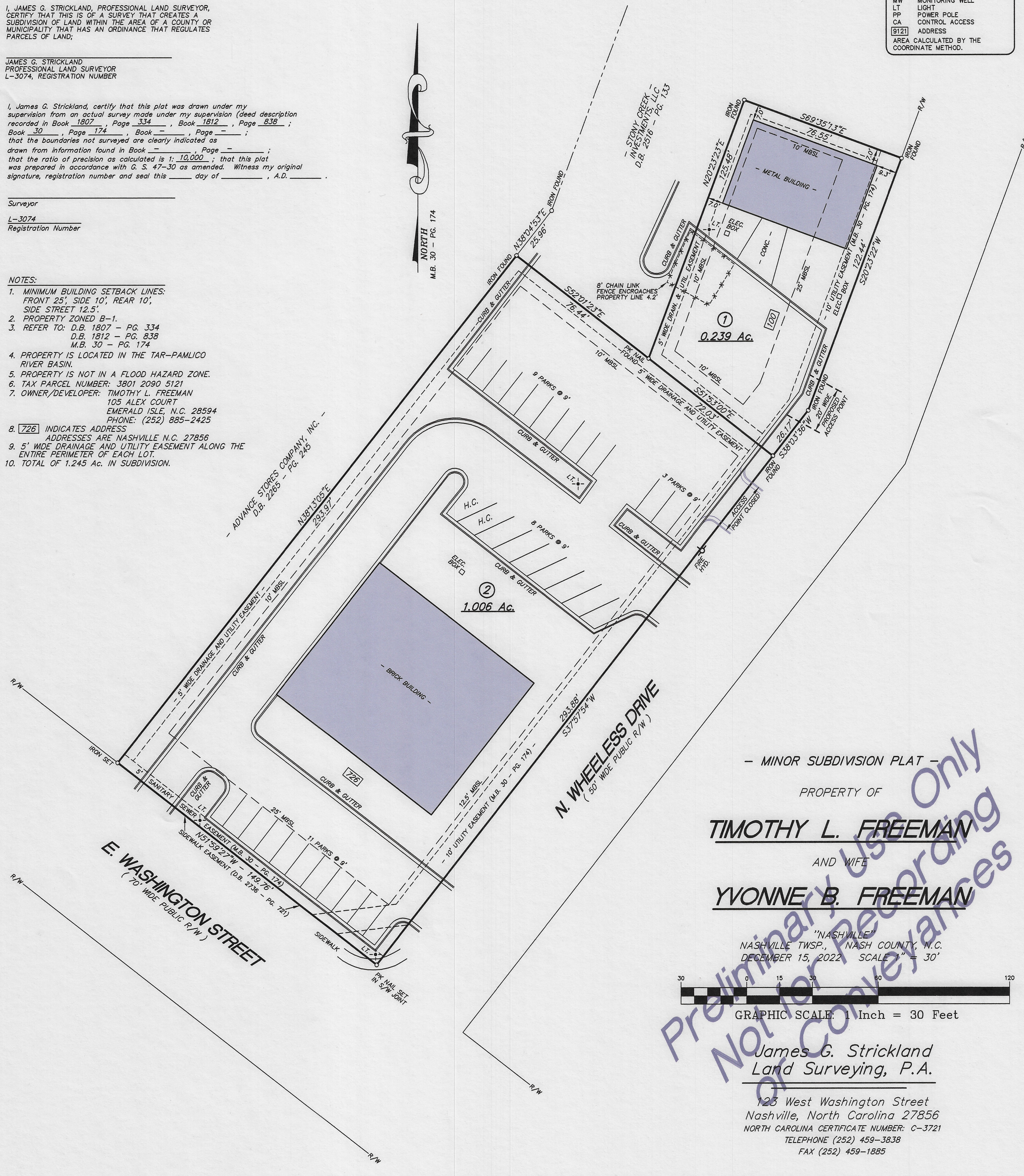
I, JAMES G. STRICKLAND, PROFESSIONAL LAND SURVEYOR, CERTIFY THAT THIS IS OF A SURVEY THAT CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY OR MUNICIPALITY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND;

JAMES G. STRICKLAND  
PROFESSIONAL LAND SURVEYOR  
L-3074, REGISTRATION NUMBER

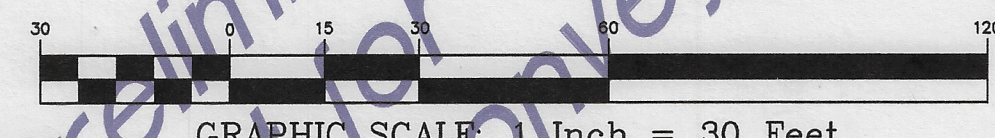
I, James G. Strickland, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 1807, Page 334, Book 1812, Page 838; Book 30, Page 174, Book \_\_\_\_\_, Page \_\_\_\_\_; that the boundaries not surveyed are clearly indicated as drawn from information found in Book \_\_\_\_\_, Page \_\_\_\_\_; that the ratio of precision as calculated is 1:10,000; that this plat was prepared in accordance with G. S. 47-30 as amended. Witness my original signature, registration number and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D. \_\_\_\_\_.

Surveyor  
L-3074  
Registration Number

- NOTES:
- MINIMUM BUILDING SETBACK LINES: FRONT 25', SIDE 10', REAR 10', SIDE STREET 12.5'
  - PROPERTY ZONED B-1.
  - REFER TO: D.B. 1807 - PG. 334  
D.B. 1812 - PG. 838  
M.B. 30 - PG. 174
  - PROPERTY IS LOCATED IN THE TAR-PAMLICO RIVER BASIN.
  - PROPERTY IS NOT IN A FLOOD HAZARD ZONE.
  - TAX PARCEL NUMBER: 3801 2090 5121
  - OWNER/DEVELOPER: TIMOTHY L. FREEMAN  
105 ALEX COURT  
EMERALD ISLE, N.C. 28594  
PHONE: (252) 885-2425
  - 726 INDICATES ADDRESS  
ADDRESSES ARE NASHVILLE N.C. 27856
  - 5' WIDE DRAINAGE AND UTILITY EASEMENT ALONG THE ENTIRE PERIMETER OF EACH LOT.
  - TOTAL OF 1.245 AC. IN SUBDIVISION.



— MINOR SUBDIVISION PLAT —  
PROPERTY OF  
**TIMOTHY L. FREEMAN**  
AND WIFE  
**YVONNE B. FREEMAN**  
"NASHVILLE"  
NASHVILLE TWSP., NASH COUNTY, N.C.  
DECEMBER 15, 2022 SCALE: 1" = 30'



James G. Strickland  
Land Surveying, P.A.  
123 West Washington Street  
Nashville, North Carolina 27856  
NORTH CAROLINA CERTIFICATE NUMBER: C-3721  
TELEPHONE (252) 459-3838  
FAX (252) 459-1885



V 2023-01: Abutting / Nearby Property Owners - 726 E. Washington Street & 100 N. Wheelless Drive					
PARID	PIN	Owner	Physical Address	Mailing Address	City/State/Zip
009217	3801 2090 5121	FREEMAN TIMOTHY L YVONNE B	100 N WHEELLESS DR	105 Alex Ct	Emerald Isle NC 28594
005780	3801 2090 4317	ADVANCE STORES COMPANY INC - C/O RYAN LLC	722 E WASHINGTON ST	PO BOX 56607	ATLANTA GA 30343
038844	3801 2090 6331	STONY CREEK INVESTMENTS LLC	114 N WHEELLESS DR	PO BOX 429	NASHVILLE NC 27856
046760	3800 0899 6954	DOLGENCORP INC/DOLLAR GENERAL 4791	800 E WASHINGTON ST	PO BOX 503410	INDIANAPOLIS IN 46256-3410
005023	3801 2090 7038	FRONT PROPERTY LLC	107 N WHEELLESS DR	4883 COUNTRY LN	ROCKY MOUNT NC 27803
031956	3801 2090 7296	AFRESHNEWSTART LLC	111 N WHEELLESS DR	PO BOX 383	ROCKY MOUNT NC 27802
002940	3800 0899 4747	WINTERKINS LLC	739 E WASHINGTON ST	19197 NC 481 HWY	ENFIELD NC 27823
332025	3800 0899 1765	WINTERKINS LLC	735 E WASHINGTON ST	19197 NC 481 HWY	ENFIELD NC 27823



District	Minimum Lot Size		Minimum Yard Regulations				Maximum Height of Structure In Feet	
	Area in Square Feet	Lot Width	Front Yard Set Back in Feet	Side Yard Set Back in Feet	Side Street Setback in Feet	Rear Yard Depth in Feet		
A-1 Agricultural	30,000 w/o central water & sewer	100	50	15		40	35	
	20,000 w central water	100	50	15		40	35	
	15,000 w central sewer	100	50	15		40	35	
R-30 Residential	30,000	100	30	15		30	35	
R-15 Residential	15,000	100	35	15		25	35	
R-10 Residential	Single Unit	10,000	75	30	12		30	35
	Double Unit	12,000	80	30	12		30	35
R-6M	Residential	4,000	40					
	Manufactured Unit	6,000	50	Refer to Manufactured Home Parks Special Use Section				35
R-6 Residential	Single Unit	6,000	60	25	8		20	35
	Double Unit	8,000	80	25	8		20	35
R-4 Residential	Single Unit	4,000	40	15	6	7.5	10	35
	Double Unit	6,000	40	15	6	7.5	10	35
MF Multi-Family	Single Unit	6,000	60	25	8		20	35
	Double Unit	7,000	60	25	8		20	35
	Multi-Units	8,000 for the first 2 units and 2,500 for each additional unit	60	25	8		20	56
O-1 Office and Institutional	4,000	40	25	10	12.5	10	56	
	Residential	4,000	40	25	10		20	56
B-1 Highway Business	4,000	40	25	10	12.5	10	35	
B-2 Central Business	4,000	40	10	0 if B-2, 8 if another zone		10	56	
I-1 Industrial	4,000	40	25	10	12.5	10	56	

**TOWN OF NASHVILLE  
BOARD OF ADJUSTMENT  
VARIANCE WORKSHEET**

The Board of Adjustment for the Town of Nashville, having held a public hearing on the 31<sup>st</sup> day of January 2023 to consider Case # V2023-01, submitted by Tim and Yvonne Freeman to allow reduced setbacks from the minimum requirements of the Nashville Code of Ordinances for property located at 726 E. Washington Street and 101 N. Wheelless Drive; PIN# 380120905121. The property is zoned B-1 (General Business) Zoning District, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. It is the Board's CONCLUSION 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 in the same district. This CONCLUSION is based on the following FINDINGS OF FACT:

This statement is true/false.

2. It is the Board's CONCLUSION that the literal interpretation of the provisions of this ordinance would deprive the applicant of a right commonly enjoyed by other properties in the same district under the terms of this Ordinance. This CONCLUSION is based on the following FINDINGS OF FACT:

This statement is true/false.

3. It is the Board's CONCLUSION that the special conditions and circumstances do not result from the actions of the applicant. This CONCLUSION is based on the following FINDINGS OF FACT:

This statement is true/false.

4. It is the Board's CONCLUSION that granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district. This CONCLUSION is based on the following FINDINGS OF FACT:

This statement is true/false.

5. It is the Board's CONCLUSION that, if granted, the variance will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit. This CONCLUSION is based on all of the FINDINGS OF FACT listed above.

This statement is true/false.

6. It is the Board's CONCLUSION that, if granted, the variance will secure the public safety and welfare and will do substantial justice. This CONCLUSION is based on all of the FINDINGS OF FACT listed above.

This statement is true/false.

**TOWN OF NASHVILLE  
ORDER GRANTING A VARIANCE**

The Board of Adjustment for the Town of Nashville, having held a public hearing on the 31<sup>st</sup> day of January 2023 to consider Case # V2023-01, submitted by Tim and Yvonne Freeman to allow reduced setbacks from the minimum requirements of the Nashville Code of Ordinances for property located at 726 E. Washington Street and 101 N. Wheelless Drive; PIN# 380120905121. The property is zoned B-1 (General Business) Zoning District, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS:

1. It is the Board's CONCLUSION 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 in the same district. This CONCLUSION is based on the following FINDINGS OF FACT: This statement is true.
2. It is the Board's CONCLUSION that the literal interpretation of the provisions of this ordinance would deprive the applicant of a right commonly enjoyed by other properties in the same district under the terms of this Ordinance. This CONCLUSION is based on the following FINDINGS OF FACT: This statement is true.
3. It is the Board's CONCLUSION that the special conditions and circumstances do not result from the actions of the applicant. This CONCLUSION is based on the following FINDINGS OF FACT: This statement is true.
4. It is the Board's CONCLUSION that granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, structures, or buildings in the same district. This CONCLUSION is based on the following FINDINGS OF FACT: This statement is true.
5. It is the Board's CONCLUSION that, if granted, the variance will be in harmony with the general purpose and intent of the ordinance and will preserve its spirit. This CONCLUSION is based on all of the FINDINGS OF FACT listed above.
6. It is the Board's CONCLUSION that, if granted, the variance will secure the public safety and welfare and will do substantial justice. This CONCLUSION is based on all of the FINDINGS OF FACT listed above.

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be GRANTED.

ORDERED this 31<sup>st</sup> day of January 2023.

\_\_\_\_\_  
Chairman

\_\_\_\_\_  
Secretary

NOTE: If you are dissatisfied with the decision of this Board, an appeal may be taken to the Superior Court of Nash County within 30 days after the date of this order is served on you. See Article XI. Section 6: Appeals from Decisions of the Board, of the Nashville Zoning Ordinance.

## **Board of Adjustment Action**

### **Motion to Deny Application**

I move that the Board of Adjustment of the Town of Nashville deny the proposed variance for the property located at 726 W. Washington Street and 100 N. Wheelless Drive and that staff revise the order to reflect the Board's denial.

### **Suggested Motion**

I move to approve the order granting the variance request for the property located at 726 W. Washington Street and 100 N. Wheelless Drive.

### **Suggested Motion to Grant Application with Conditions**

I move to approve the order granting the variance request for the property located at 726 W. Washington Street and 100 N. Wheelless Drive with the following conditions: