

Henderson County

Code Enforcement Services

240 2nd Avenue East Hendersonville, North Carolina 28792
Phone (828) 697-4857 Fax (828) 697-4658

MEMORANDUM

DATE: April 25, 2008
TO: Technical Review Committee
TRC MEETING DATE: May 6, 2008
REGARDING: Minor Site Plan Review
NAME OF APPLICANT: Stephen M. Ledbetter / Kanuga Road
DEPARTMENT: Code Enforcement Services
STAFF CONTACT: Toby Linville
ATTACHMENTS: Site Plans

Please find attached plans for the following Variance for a setback, to be reviewed by the Henderson County Technical Review Committee on May 6, 2008.

Minor Site Plan Review

Angela S. Beeker, Agent, on behalf of the owner, Stephen M. Ledbetter submitted the minor site plan, prepared by Parris Land Surveying, PLLC, for this project. They wish to seek a variance on the property for a setback which requires minor site plan review per Review Processes and Procedures 200A-334 & 335, Variances.

§200A-334. General

All applications for a *Variance* shall include, at minimum: (1) the name(s) and address(es) of the owner(s) of the property in question; (2) the location of the property; (3) the *PIN* as shown on the County tax listing; (4) a description and/or statement of the present zoning district; (5) the appropriate level of *site plan*; and, where an *applicant* chooses to appoint an agent to speak on their behalf, (6) an agent form. All applications for a *variance* shall adhere to the applicable review and approval process as outlined in this Subpart.

§200A-335. Variances

A. Purpose. *Variances* are intended to provide limited relief from the requirements of this Chapter in those cases where the strict application of the provisions of this Chapter would result in unnecessary hardship. Any *use* which requires a *Variance* shall not be permitted without the approval of the Zoning Board of Adjustment (*ZBA*) in accordance with the requirements and procedures set forth in this section.

B. Application.

(1) Pre-application Conference. Each *applicant* for a *Variance* shall meet with the appropriate Administrator (within this section "Administrator" shall refer to any of the following: *Communication Facilities, Manufactured Home Park, Soil Erosion and Sedimentation Control, Subdivision, or Zoning Administrator*) in a pre-application conference no later than one (1) calendar week prior to the date the application is due. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.

(2) Application. Each application for a *Variance* shall be submitted along with the appropriate fee and *site plan*, to the Administrator on or before the first business day of the month. Applications may be modified by the Administrator as necessary, who may require the *applicant* to supply additional information pertaining to the *Variance*. Incomplete applications must be resubmitted on or before the first business day of the month or will not be processed until the proceeding month.

(3) Review Schedule. Applications for a *Variance* have a 45 day processing period for notification requirements and review by the Administrator (and, if necessary the Technical Review Committee (*TRC*)) prior to the public hearing.

(4) Fees. Any review fee established by the Board of Commissioners shall be submitted with the application.

C. Staff Review. The Administrator shall process and review all applications for *Variations*.

The Administrator may present the application to the *TRC* for its comments and recommendations and may forward the application on to the appropriate departments and agencies for their review. The Administrator shall also prepare a staff recommendation for the *ZBA* on the application for a *Variance*.

D. Formal Review. Prior to taking any action on a *Variance*, the *ZBA* shall consider the Administrator's recommendation on the *Variance*.

E. Public Hearing. Prior to considering a *variance* application the *ZBA* shall hold a public hearing on the application in accordance with §200A-338 (Quasi-Judicial Process Standards).

F. Public Notification. Public notification of such hearing shall comply with the provisions of §200A-338 (Quasi-Judicial Process Standards). The Administrator shall be responsible for all necessary public notifications.

G. Quasi-Judicial Proceeding. The concurring vote of four-fifths (4/5) of the *ZBA* shall be necessary to grant a *Variance*. Any approval or denial of the request must be in writing and permanently filed with the office of the *ZBA* and with the Administrator as public record.

(1) Standards of Review. The *ZBA* shall not grant a *Variance* the effect of which would be to: (1) allow the establishment of a *use* not otherwise permitted in a general *use district*, (2) extend physically a *nonconforming use* of land or (3) change the district boundaries shown on the Official Zoning Map. No *Variance* shall be granted or considered where the fact that the property could be used more profitably is the reason for the request for the *Variance*. The following written findings must be made in order for the *ZBA* to grant a *Variance*:

a. There are practical difficulties or unnecessary hardships in carrying out the strict letter of this Chapter, as demonstrated by:

1. The fact that, if the *applicant* complies with the literal terms of this Chapter, he/she cannot secure a reasonable return from, or make a reasonable *use* of, the property.

2. The hardship of which the *applicant* complains results from unique circumstances related to the *applicant's* land.

3. The hardship is not the result of the *applicant's* own action.

b. The *Variance* is in harmony with the general purpose and intent of this Chapter and will preserve its spirit.

c. The *Variance* will secure the *public safety* and welfare and will do substantial justice.

d. The *Variance* shall not be based on the existence of a *nonconforming use* of neighboring land or *structures* in the same district, or permitted *nonconforming uses* in other districts, and shall in no way constitute a reason for the requested *Variance*.

(2) Conditions. The *ZBA* may, in granting a *Variance*, prescribe: (1) additional conditions; (2) additional safeguards; (3) a time limit within which the action for which a *Variance* is sought shall be begun; (4) a time limit within which the action for a *Variance* is sought shall be completed; and (5) a time duration within which construction, operation or installation shall commence on the project for which the *Variance* was obtained.

H. Variance Validity. Upon issuance of a *Variance*, the *applicant* shall have 12 months within which (unless otherwise specified by the *ZBA*) to commence construction, operation or installation. If construction, operation or installation is commenced within the specified time period the *Variance* shall continue in force as long as the *structure*, operations or installation remains.

(1) Variance Revocation. If construction or operation is not commenced within 12 months (or other specified time period), the *Variance* shall no longer be valid.

The project site is located on approximately 2.073 acres of land (PIN 9567163952) located at 2207 Kanuga Road, Hendersonville, NC. The project is located in a R-40 zoning district. The project meets the requirements of the Land Development Code and all the applicable minor site plan requirements are met.

If you would like to submit your changes early please use the comment sheet provided and sending it back via email to tlinville@hendersoncountync.org.

PLAT OF SURVEY
FOR
M. STEPHEN LEDBETTER
THE CURRENT OWNER OF RECORD
BEING A PROPOSED MINOR SUBDIVISION
OF THE PROPERTY DESCRIBED
IN
DEED BOOK 1302, PAGE 333.
HENDERSONVILLE TOWNSHIP,
HENDERSON COUNTY,
NORTH CAROLINA.

SCALE 1" = 30'

I, _____, SUBDIVISION ADMINISTRATOR FOR
HENDERSON COUNTY, CERTIFY THAT THIS MAP HAS BEEN REVIEWED AND
APPROVED AS A _____ SUBDIVISION IN ACCORDANCE WITH
THE HENDERSON COUNTY LAND DEVELOPMENT ORDINANCE.

STATE OF NORTH CAROLINA,
COUNTY OF HENDERSON,

I, _____, REVIEW OFFICER
OF HENDERSON COUNTY, CERTIFY THAT THE MAP
OF PLAT TO WHICH THIS CERTIFICATION IS APPLIED
MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER

STATE OF NORTH CAROLINA,
COUNTY OF HENDERSON,

THIS INSTRUMENT WAS PREPARED FOR REGISTRATION AND RECORDED
IN THE OFFICE OF REGISTER OF DEEDS IN THE STATE OF COUNTY
DESIGNATED:
AT PLAT SLIDE _____, THIS _____ DAY OF
AT _____ 2008.

BY: _____

I, MARK A. PARRIS, CERTIFY THAT THIS PLAT WAS DRAWN
FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION
(DEED DESCRIPTION RECORDED IN BOOK 1302, PAGE 333)
THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY
INDICATED AS DRAWN FROM THE INFORMATION FOUND
(AS SHOWN); THAT THE RATIO OF PRECISION AS CALCULATED
IS 1:10,000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE
WITH G.S. 47-30; G.S. 47-30(b)(1)(A) AS AMENDED.
WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER
AND SEAL THIS 4th, DAY OF APRIL, 2008 A.D.

UNCERTIFIED
ELECTRONICALLY
TRANSMITTED FACSIMILE
OF FINAL PLAT
FOR REVIEW PURPOSES
ONLY

MARK A. PARRIS, PLS 1-4529



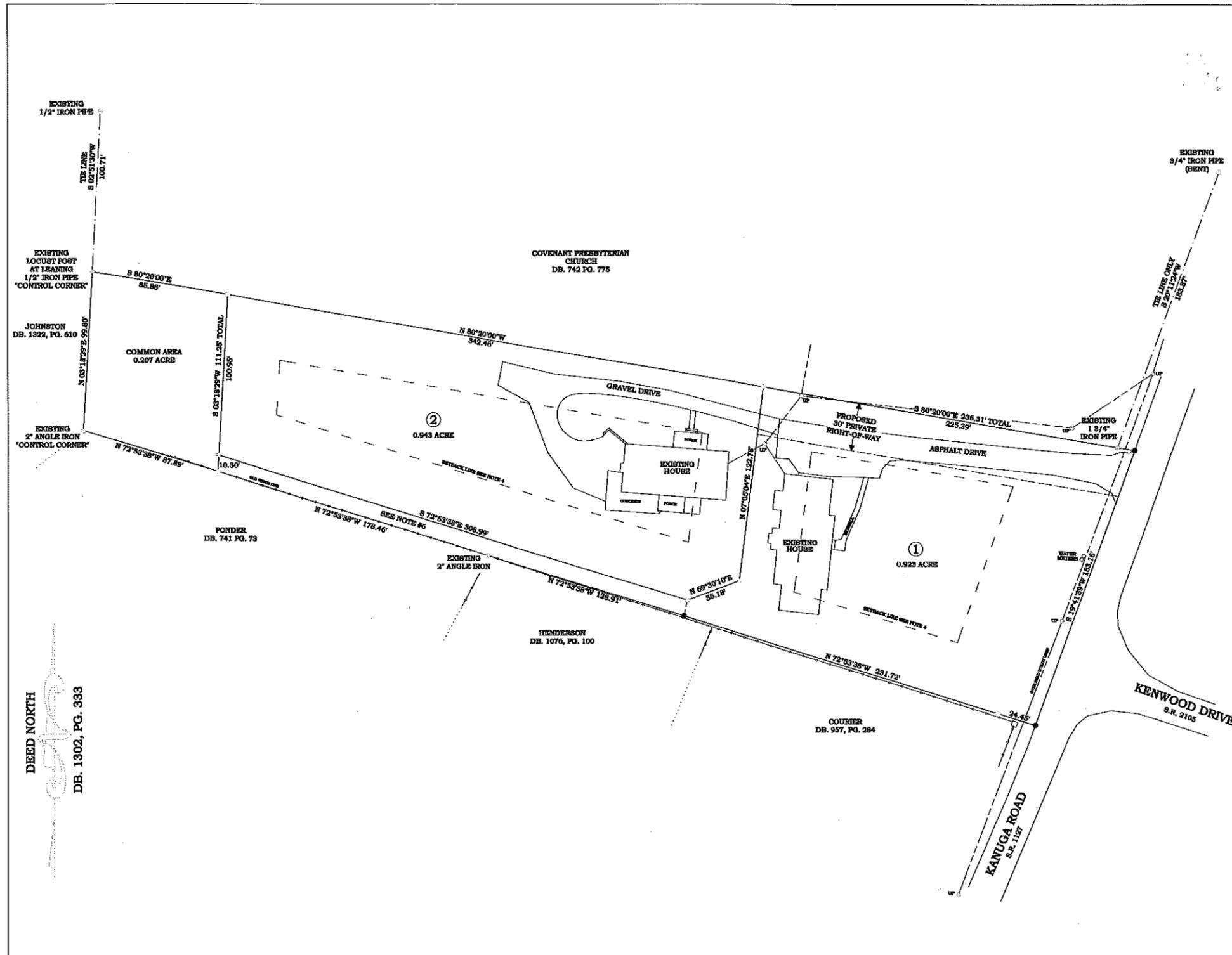
PARRIS LAND SURVEYING, PLLC
3494 CABIN CREEK ROAD
ZIRCONIA, NC 28790
1 (828) 697-5040

VICINITY MAP

DATE: 04.04.08

REVISION:

JOB# 0867



LEGEND

SYMBOL	DESCRIPTION
○	MONUMENT
⊙	5/8" REBAR SET
●	POINT NOT STAKED
UP ○	UTILITY POLE

NOTES:

- 1- ALL AREAS SHOWN ARE SUBJECT TO EASEMENTS AND RESTRICTIONS, EITHER RECORDED OR UNRECORDED.
- 2- AREAS BY COORDINATE COMPUTATION
- 3- ALL DISTANCES ARE HORIZONTAL UNLESS OTHERWISE NOTED
- 4- ZONED R-40 BETA CCKS; MAJOR ROAD 75', SIDE AND REAR 35'
- 5- PIN NUMBER: 9906983
- 6- AREA OF PROPOSED LOT 1, TO BE SUBJECT TO DEED RESTRICTIONS
- 7- PROPERTY APPEARS TO BE WITHIN 1/2 MILE OF A FARM PRESERVATION DISTRICT.

DEED NORTH
DB. 1302, PG. 333