



Board of Adjustment

Meeting Agenda

May 16, 2017 following the Planning Board
Council Chambers, 201 S Main St

1. Approve minutes of the October 18, 2016 meeting
2. New Business
 - A. VR1701 Border Setbacks. An application to relax a setback for multi-family housing.
4. Public comment on non-agenda items

A complete agenda packet is available at www.cityofgraham.com

CITY OF GRAHAM
BOARD OF ADJUSTMENT
October 19, 2016

There was a called meeting of the Board of Adjustment on Tuesday, October 19, 2016 at 7:00 pm immediately following the Planning Board meeting. Members present were as follows: Dean Ward, Ricky Hall, Andy Rumley and Michael Benesch. Staff members present were Nathan Page, City Planner, and Martha Johnson, Zoning/Inspections Technician.

Chair Ricky Hall called the meeting to order, explained the function of the Board and gave the invocation.

1. Andy Rumley made a motion to approve the minutes from the February 16, 2016 meeting, second by Michael Benesch. All voted aye.

2. New Business

- A. AP1601 Harden Pedestal Sign, letter from Keith Whited, City Attorney. Nathan Page stated he received the Notice of Appeal April 7, 2016 and approached the City Attorney how to process this item. The letter from the attorney dated October 3, 2016 is before the Board. After discussion regarding the letter, Ricky Hall made a motion to dismiss the Appeal as having been previously decided on December 15, 2015 in Case Number AP1501, second by Michael Benesch. All voted aye to dismiss.

The meeting was adjourned.

Respectfully Submitted,
Martha Johnson, Secretary



Application for a VARIANCE

P.O. Drawer 357
201 South Main Street
Graham, NC 27253
(336) 570-6705
Fax (336) 570-6703
www.cityofgraham.com

Variance requests are heard by the Board of Adjustment. This is a quasi-judicial process, meaning that it is similar to a court of law. Decisions are based on evidence and testimony presented during the hearing. Applicants should submit enough evidence to support the request for a variance. Types of evidence might include maps, drawings, pictures, cost estimates, or other information that will clearly demonstrate that the four criteria for a variance, listed below, are met. Applicants should also refrain from discussing the request with any member of the Board of Adjustment.

Property on which a Variance is sought

Street Address: 515 Border Street
Tax Map#: 134887 GPIN: 8874877208
Current Zoning District(s): Multifamily (RZ1501)
Overlay District, if applicable:
☐ Historic ☐ S Main St/Hwy 87 ☐ E Harden St/Hwy 54
Current Use: Vacant
Property Owner: Laurelton Village Inc
Mailing Address: 1851 S. Main Street
City, State, Zip: Graham, NC 27253

Applicant

☒ Property Owner Other ☐
Name: Chris Foust
Mailing Address: 1851 S. Main Street
City, State, Zip: Graham, NC 27253
Phone # (336) 516-5013
Email: kfoust@mcphersongrading.com

I, the applicant, hereby petition the Board of Adjustment for a variance from the strict letter of the *Development Ordinance*, as described in this application.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information and belief.

Signature of Applicant

Date

Purpose of Variance Request

Describe the purpose of this variance request. *What are you trying to do that the Development Ordinance is prohibiting? Attach evidence to illustrate and support your case.*

See Attached

Nature of Variance Request

List the specific part(s) of the *Development Ordinance* from which you are seeking a variance (for example, setbacks).

Setbacks

Criteria for a Variance

When unnecessary hardships would result from carrying out the strict letter of the ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

- Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
- The 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.
- 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.

Office Use Only. DEVID#

PURPOSE OF VARIANCE REQUEST – 515 BORDER STREET

Laurelton Village Inc is the owner of 515 Border Street, GPIN 8874877208 and old tax map 157-637-103. In April of 2015 our request to rezone this property to Residential Multifamily (R-MF) was approved.

Our plans for this property are to build a single building consisting of 5-6 rental units. Upon preparing a site plan for the building our surveyor, Boswell Surveyors, discovered a deed gap on the adjoining property, as shown on the attached survey.

With the deed gap found in the survey our property lines have been shifted, therefore minimizing the size of the lot. Per the City of Graham Development Ordinance for properties zoned Multifamily, setbacks are 25 feet on all sides of the building. As shown on the attached survey, the proposed building location meets the setback requirement on all sides except the southwest corner only allowing 19.82 feet, just short of the minimum requirement.

We are requesting a variance on this property for the reasons stated and shown in the attached survey as a result of a deed gap and based on the best proposed location we have for building placement.

Please feel free to contact us if you need any other information or questions.

Sincerely

A handwritten signature in dark ink, appearing to read 'Chris Foust', with a stylized, cursive flourish extending to the right.

Chris Foust
Laurelton Village Inc, President



STAFF REPORT

Prepared by Nathan Page, City Planner

Border St MF (VR1701)

Type of Request: Variance

Meeting Dates

Board of Adjustment on May 16, 2017

Contact Information

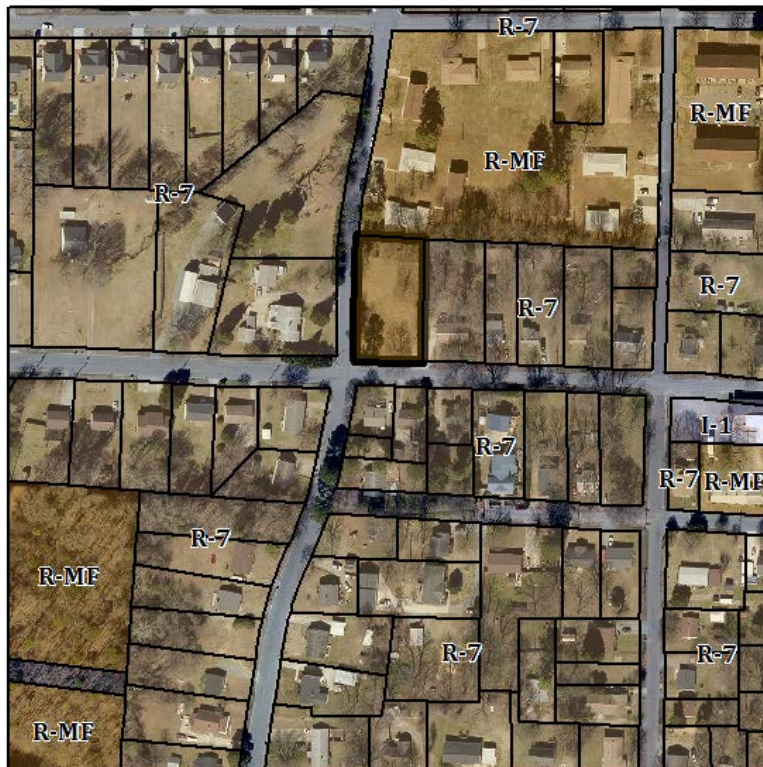
Chris Foust

1851 S Main Street, Graham, NC 27253

336-516-1888; kfoust@mcphersongrading.com

Summary

This is a request for a variance from the side setback for a proposed multifamily development on Border St. The stated purpose of this request is "to build a single building consisting of 5-6 rental units."



Location

515 Border St

GPIN: 8874877208

Current Zoning

Multi-Family Residential (R-MF)

Current Use

Vacant

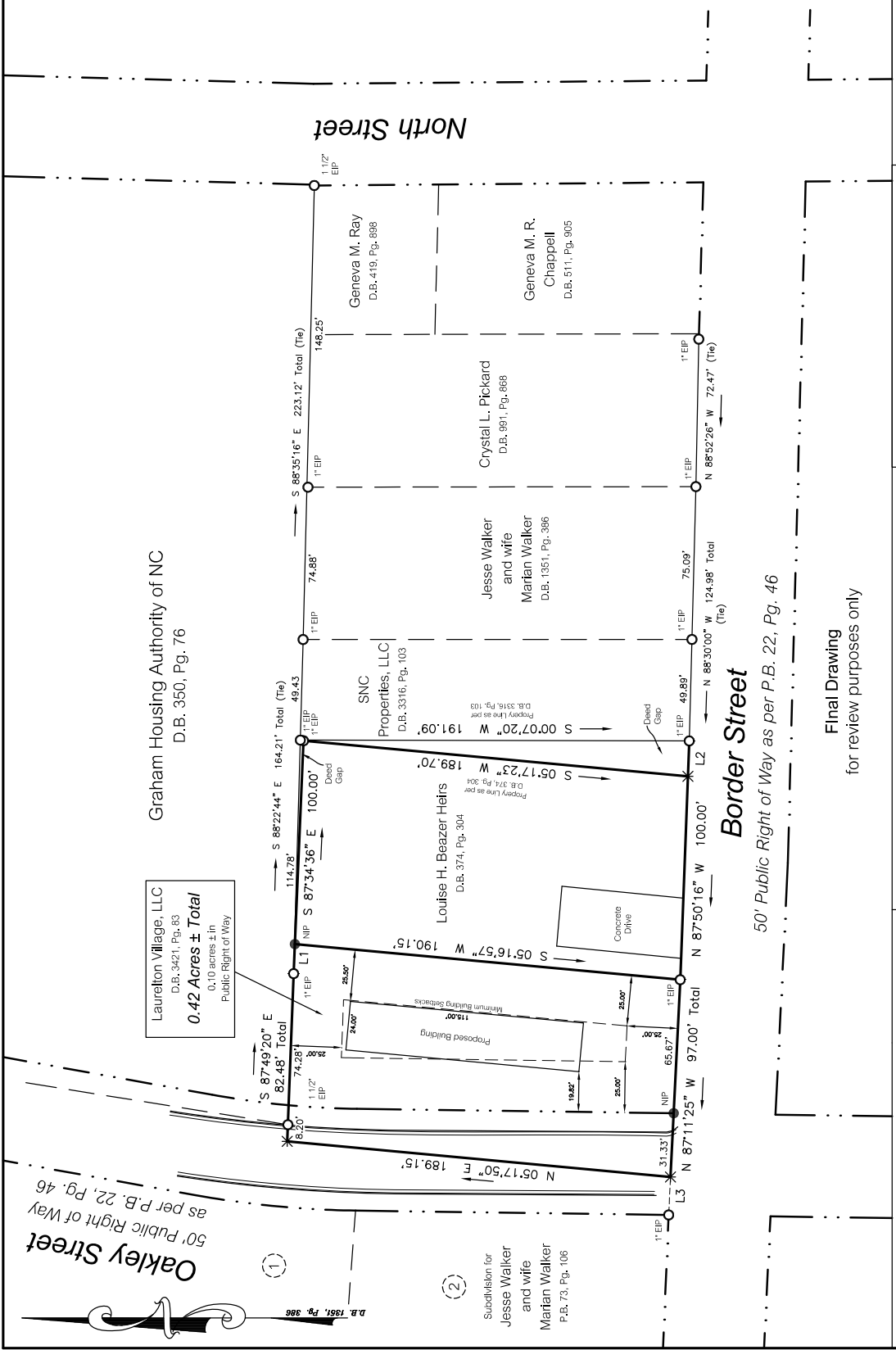
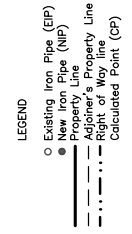
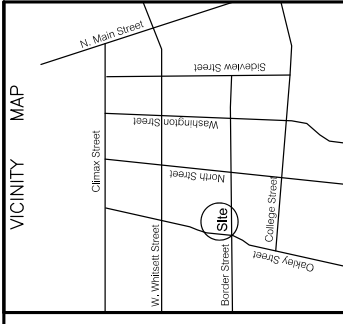
Surrounding Zoning

R-7 & R-MF

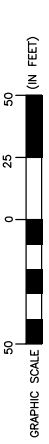
Surrounding Land Uses

Single Family Houses, Multi Family Housing, and Vacant

Attached is a **draft of a Resolution for the Board to consider** when making its decision. This draft Resolution should be modified as the Board sees fit and is only provided by staff as a template.



Line Table		
LINE	BEARING	DISTANCE
L1	S 87°34'36" E	14.52'
L2	N 87°50'16" W	17.41'
L3	N 87°11'25" W	18.69'



BOSWELL SURVEYORS, INC.
 505 East Davis Street 336.227.8723 (phone)
 Burlington, NC 27215 336.222.9917 (fax)
 surveyor@boswellsurveyors.com
 Firm License No. C-664

Date: 5/16/15
 Scale: 1" = 50'
 Drawn By: JEM
 Job No.: 15-076-400

Laurelton Village, LLC

Graham Township, Alamance County, North Carolina
 515 Border Street, Graham, NC 27253
 Deed Reference: DB 3421 Pg. 83
 Parcel ID: 134887

Notes:
 1) No title search was performed by this firm during the course of this survey.
 2) The property shown herein is subject to all easements of record affecting same.
 3) This firm makes no guarantee as to the existence or location of any burial sites, underground utilities, or other improvements shown herein have been located from visible evidence and available information.
 4) Areas are calculated by coordinate geometry.
 5) The area of the subject property is 0.42 acres ±.
 6) Water boundaries are subject to change due to natural causes and may or may not represent actual location of the limit of title.
 7) The purpose of this map is to show the boundary of 515 Border Street (Alamance County Parcel ID: 134887) as recorded in DB 3421, Pg. 83.

I, Eric Miles certify that this map was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 3421, Page 83 or other reference source information), that the boundaries not surveyed are indicated as broken or dashed lines drawn from information furnished to me, and that this map meets the requirements of the Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1600).
 This 7th day of June, 2015.
 Professional Land Surveyor L-4498

Final Drawing
 for review purposes only

50' Public Right of Way as per P.B. 22, Pg. 46



Board of Adjustment Resolution of Findings of Fact, Conclusions of Law and Decision

The Board of Adjustment for the City of Graham, North Carolina, having held a public hearing on **May 16, 2017** to consider **case number VR1701**, submitted by **Chris Foust of Laurelton Village** of 1851 S Main St, for a **variance from the side yard setback**, and having heard all the evidence and arguments presented at the hearings, makes the following FINDINGS OF FACT and draws the following CONCLUSIONS OF LAW:

FINDINGS OF FACT

NOTE: These Findings of Fact were prepared by staff and should be modified by the Board as it sees fit.

1. The property that is the subject of this variance request, 515 Border St, is zoned Residential Multi-Family (R-MF).
2. The property is currently vacant.
3. The minimum yard in a multifamily structure is 25 feet, as outlined in Section 10.245 of the *City of Graham Development Ordinance*. The application is for either side yard to be reduced to 18 feet.
4. An application for a variance was filed with the Planning Department on April 6, 2017. According to the application, the property owner desires to construct 5 or 6 rental units.
5. There is a deed gap that was found by Boswell Surveyors as shown on the attached survey.

[insert additional Findings of Fact, if any are made]

CONCLUSIONS OF LAW

The Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

NOTE: These Conclusions of Law were prepared by staff and should be modified by the Board as it sees fit.

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

Under the strict application of the ordinance, the property would be required to construct a structure not more than 18.82 feet wide.

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.

While there are a number of errors from old surveys in the vicinity, the location of the corner lot in conjunction with the multi-family setbacks increases the standards for the side lot setbacks.

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.

The applicant/property owner was not aware that the property stakes identified on the lot prior to purchase were placed incorrectly by a previous surveyor.

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

The requested variance will not remove the deed gap, it will only permit the construction of a 24 foot wide multifamily dwelling upon the lot.

DECISION

In exercising its powers, the Board of Adjustment may grant or deny a variance and may impose any appropriate conditions on the variance, provided that the conditions are reasonably related to the variance. The concurring vote of four-fifths of the Board shall be necessary to grant a variance.

For the above reasons, the Board of Adjustment [grants/denies] the variance that is the subject of this application.

[insert additional description of the Decision or any appropriate conditions, if necessary]

Staff recommends that, if granted, the following condition be imposed:

- This variance shall apply only to the single primary structure and no outbuildings.

The resolution reflects the decision of the Board of Adjustment, made the 16th day of May, 2017.

Attest:

Ricky Hall, Chair

Martha Johnson, Secretary