



CITY OF HENDERSONVILLE BOARD OF ADJUSTMENT

City Hall - Council Chambers | 160 Sixth Ave East | Hendersonville NC 28792
Tuesday, July 09, 2024 – 1:30 PM

AGENDA

1. **CALL TO ORDER**
2. **APPROVAL OF AGENDA**
3. **APPROVAL OF MINUTES**
 - A. Minutes of December 5, 2023
4. **OLD BUSINESS**
5. **NEW BUSINESS**
 - A. Election of Chair
 - B. 911 Tebeau Drive – (B24-038-VAR) – *Sam Hayes / Planner II*
6. **OTHER BUSINESS**
7. **ADJOURNMENT**

The City of Hendersonville is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or an accommodation for this meeting please contact the City Clerk no later than 24 hours prior to the meeting at 697-3005.

MINUTES OF THE HENDERSONVILLE BOARD OF ADJUSTMENT

Tuesday, December 5, 2023
1:30 p.m. in the Council Chambers

The Hendersonville Board of Adjustment held a Special Called meeting on December 5, 2023, at 1:30 p.m. in the Council Chambers in City Hall, 160 6th Avenue East, Hendersonville, North Carolina. Those present were: Melinda Lowrance, Chair, Ernest Mowell, Vice-Chair, Charles Webb, Kathy Watkins, Chauncey Whiting, Libby Collina, Laura Flores, Lynette Oliver, Alexandra Hunt, Planner I, Daniel Heyman, Staff Attorney.

Absent:

Chair called the meeting to order at 1:30 p.m.

Approval of the Agenda: A motion was made by Mr. Mowell to approve the agenda. The motion was seconded by Ms. Watkins and passed unanimously.

Approval of the minutes of the September 12, 2023 meeting. A motion was made by Mr. Whiting to approve the minutes as written. The motion was seconded by Mr. Mowell and passed unanimously.

Approval of the Decision for B23-069-VAR (Webb). A motion was made by Mr. Mowell to approve the Decision as written. The motion was seconded by Mr. Whiting and passed unanimously.

Variance – Signal Hill Townhomes – (B23-081-VAR).

Chair swore in all persons to give testimony. Rob Dull, Travis Fowler and Alexandra Hunt were sworn in.

Chair opened the public hearing.

Alexandra Hunt, Planner stated her name and title for the record. She stated The City is in receipt of an application from First Victory Inc. for a variance from the following: A variance to reduce the Minimum Street ROW Requirements in Section 4.03.C.1 of the Hendersonville Subdivision Ordinance for “local” streets from the required 45’ to 30’ in the area identified as Note A on the proposed site plan attached in your packets as Exhibit B; AND a variance to reduce the Minimum Curve Radii Requirements for “local streets” provided in Section 4.03.C.8 of the Hendersonville Subdivision Ordinance from the required 150’ to 90’ in the area identified as Note B on the proposed site plan. However – Since the submission of the Applicant’s variance application, City Council approved an ordinance reducing the Minimum Centerline Radii requirements in the Subdivision Ordinance Sec. 4.03.C8 from 150’ to 90’ during the November 2nd meeting. Therefore, this eliminates the need for a variance from this requirement of the Subdivision Ordinance and leaves just the variance to reduce the Minimum Street Requirements in Section 4.03.C.1 The requested variance is part of a proposed Major Subdivision project referred to as Signal Hill Townhomes. This proposed major subdivision project has not yet been submitted to City staff for review under the major subdivision requirements of the Subdivision Ordinance.

Ms. Hunt gave the project background:

The subject property consists of six parcels outlined in red on the GIS Map image with the PINs listed on the screen. She noted for the record that the staff report only listed five PINs of the six PINs. The correct number of PINs are identified here as part of Staff's presentation. The parcels are zoned R-15 Medium Density Residential and are located in the City's ETJ. Based on the submitted site plan the total project acreage is 13.73 acres. The parcels are currently vacant lots and are accessed by two privately maintained roads: Lafolette Street and Amazing Grace Lane.

The Henderson County GIS map was shown and included in the staff report.

The proposed site plan was shown and is included in the staff report. The site plan identifies two areas that reference the two subdivision ordinance sections the applicant is seeking a variance from but we will only be focusing on Note A since the variance request highlighted in Note B is no longer necessary

Looking at Note A on the site plan, the applicant is requesting a variance from Section 4.03.C.1(a) of the subdivision ordinance which requires that the minimum ROW for local streets be 45'. The proposed site plan indicates a 30' ROW on Lafolette Street. The variance application submitted by the Applicant indicates that the existing 30' ROW has inhabited properties on both sides of Lafolette Street and any expansion of the ROW would create non-compliant setback conditions for the existing structures.

Included in your packet is an aerial from Henderson County GIS Maps showing the two existing parcels containing single family homes which abut Lafolette Street.

Section 2.04.J.4 of the Subdivision Ordinance lists the required findings that the applicant needs to demonstrate for a variance to be approved. As you may have noticed, findings 1-4 are the same findings that are required for a variance from the zoning ordinance so they should look very familiar. There is one additional finding here under the subdivision ordinance which is #5. Additionally, there is another difference from the zoning ordinance variance requirements when it comes to what cannot be considered or used as the basis for approving a variance.

Staff suggested motions were presented to the Board.

Ms. Hunt stated the applicant is present.

Chair asked if there were any questions for staff.

There were no further questions for staff.

Chair asked the applicant to address the Board.

Rob Dull, Architect 305 Pole Creasman Road, Asheville NC stated it is just the right-of-way and it is a very small piece. It is only in front of two adjacent properties. Everywhere else they are able to expand the right-of-way to meet the 45 foot requirement. He pointed out the properties they did not own and therefore are limited to the 30' right-of-way. In working with city staff they are still able to provide the minimum required fire access lane at 24' and a 5' sidewalk to fit within that 30' right-of-way. From conversations with staff this was their best solution.

Homer Howard, PO Box 104 Edneyville, asked if they would be using other neighbors properties. Mr. Dull stated they would not be encroaching on anyone's property. Mr. Dull stated they are not doing anything on that side of the property line. They will not impact him at all.

Mr. Webb asked if there was a road there now. Mr. Dull stated no road, just a right-of-way. Mr. Webb asked if he was turning that into a road or would it still be a private property. Mr. Dull stated that will still remain a private road. The road will get dedicated to the city and built to city standards. It is a public right-of-way now. Mr. Fowler stated they would annex into the city for water and sewer service and that will become a public city maintained road.

Chair asked Mr. Fowler to state his name for the record. Travis Fowler, developer for the project, 542 S. Caldwell Street, Brevard NC stated the property is currently in the ETJ so they would make an application for annexation to have access to water and sewer service so this road would become a public city maintained road and the water and sewer system would be dedicated to the city or accepted by the city so it becomes a public water and sewer system.

Mr. Webb asked if this is annexed by the city will the other properties around them be affected by that and be annexed as well?

Daniel Heyman, Staff Attorney stated no.

Ms. Collina asked if the variance is approved and the right-of-way is 30' would that prohibit NCDOT or the city from taking over the road. Mr. Dull stated it should not from his conversations with Planning staff. The next step for this is a full submittal. He stated the application would go through the Technical Review Committee which would include city staff and NCDOT and any issues they saw would be brought to their attention at that point.

Virginia Haynes, Brevard Knoll Drive stated she is a neighbor of Mr. Howard's. She asked when the entrance comes back on Signal Hill, because we already have so much traffic on that road, will there be a wide turn lane from Lafolette onto Signal Hill or will they have the same problem they have with the storage unit people of traffic backed up on the hill. She is mainly interested on the entrance to Signal Hill and how wide that entrance will be for the traffic? Mr. Fowler stated that would be part of the technical review. NCDOT has standards for site distances as you come over a hill or stack lanes for the number of residents on roads and apartment complexes. They will abide by all of those requirements and standards. He is not an engineer so did not want to give his opinion but they are not that far along with the plan either.

Discussion was made on the 30' right-of-way compared to the 45' right-of-way.

There were no further questions for the applicant.

Chair closed the public hearing for Board discussion.

Mr. Mowell made the following motion: *With regard to the request by First Victory Inc. for a variance from Section 4.03.C.1 Minimum Street Right-of-Way Requirements of the City of Hendersonville Subdivision Ordinance to: Reduce the required 45' minimum street right-of-way provided in Sec. 4.03.C.1 to 30' as presented, I move the Board to find that: 1. An unnecessary hardship **would result** from the strict application of the ordinance. 2. The hardship **results** from the conditions that are peculiar to the property, such as location, size, or topography. 3. The hardship **did not result** from actions taken by the applicant or the property owner. 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. 5. The variance approval **is** the minimum necessary to make possible the reasonable use of the land, building, or structure. For the following reasons: taking 45' would impact on people who already have property there from no fault or action of their own and the 30' still allows for emergency vehicle traffic especially with it having two entrances and exits Ms. Watkins seconded the motion.*

Chair called for the vote. The following vote was taken by a show of hands.

Mr. Mowell	Yes
Mr. Webb	Yes
Ms. Lowrance	Yes
Ms. Flores	Yes
Ms. Oliver	Yes
Ms. Watkins	Yes
Mr. Whiting	Yes
Ms. Collina	Yes

The vote was unanimous. Motion approved.

Meeting adjourned at 1:53 p.m.

Melinda Lowrance, Chair

Terri Swann, Secretary



CITY OF HENDERSONVILLE AGENDA ITEM SUMMARY PLANNING DIVISION

SUBMITTER: Linda Carter **MEETING DATE:** July 9, 2024

AGENDA SECTION: New Business **DEPARTMENT:** Community Development

TITLE OF ITEM: 911 Tebeau Drive – (B24-038-VAR) – *Sam Hayes / Planner II*

SUGGESTED MOTION(S):

1. For Recommending Approval:

With regard to the request by Linda Carter (Western Carolina Community Action, Inc.) for the Board of Adjustment to authorize the extension of a structure that contains a nonconforming use located on parcel 911 Tebeau Drive (PIN 9569408533), under Section 6-2-1 – Nonconforming Uses to:

1. Construct a 14' x 20' storage building on the rear corner of the property to be used for nonconforming use.

I move the Board to find that:

- 1) The proposed enlargement or extension **shall be** de minimis in relation to the existing building.
- 2) The proposed enlargement or extension **shall not** increase the intensity of the nonconforming use, which is to say, it will not result in an increase in gross floor area for a nonresidential use.
- 3) The proposed enlargement or extension **is designed** so that it will not render the use of the property any less compatible than it is in its existing circumstances.
- 4) The authorization of such proposed enlargement or extension **is not** otherwise contrary to the public health, safety or welfare.

For the following reasons: *[list factual basis for Approval here.]*

[DISCUSS & VOTE]

1. For Recommending Denial:

With regard to the request by Linda Carter (Western Carolina Community Action, Inc.) for the Board of Adjustment to authorize the extension of a structure that contains a nonconforming use located on parcel 911 Tebeau Drive (PIN 9569408533), under Section 6-2-1 – Nonconforming Uses to:

1. Construct a 14' x 20' shed on the rear corner of the property to be used for nonconforming use.

I move the Board to find that:

- 1) The proposed enlargement or extension **is not** de minimis in relation to the existing building.
- 2) The proposed enlargement or extension **does** increase the intensity of the nonconforming use, which is to say, it results in gross floor area for a nonresidential use.
- 3) The proposed enlargement or extension is designed so that it **will** render the use of the property less compatible than it is in its existing circumstances.
- 4) The authorization of such proposed enlargement or extension **is** otherwise contrary to the public health, safety or welfare.

For the following reasons: *[list factual basis for Denial below.]*

[DISCUSS & VOTE]

SUMMARY: The Community Development Department has received an application from Linda Carter (Western Carolina Community Action, Inc.) for the Board of Adjustment to authorize the extension of a structure that contains a nonconforming use located on the parcel at 911 Tebeau Drive (PIN 9569408533), under Section 6-2-1 (b) Nonconforming Uses. The subject property is currently zoned R-15, Medium-Density Residential.

Section 6-2-1 (b) provides that the Board of Adjustment (BOA) may authorize such a change if they find that:

- 1) The proposed enlargement or extension shall be de minimis in relation to the existing building or structure.
- 2) The proposed enlargement or extension shall not increase the intensity of the nonconforming use, which is to say, it will not result in an increase in dwelling units for a residential use nor in gross floor area for a nonresidential use.
- 3) The proposed enlargement or extension is designed so that it will not render the use of the property any less compatible than it is in its existing circumstances.
- 4) The authorization of such proposed enlargement or extension is not otherwise contrary to the public health, safety or welfare.

REQUEST: The Applicant is requesting to construct a 14' x 20' storage building on the rear corner of the property to be used for a nonconforming use. (*Exhibit A*).

On May 12, 2021, the Board voted to grant the Applicant's request to alter a structure that houses a nonconforming use in order to construct a childcare center in an existing building on the property.

The Applicant is now requesting to expand the structures associated with the non-conforming use with the construction of a 14' x 20' storage building for playground equipment. The proposed storage building would conform with all other requirements of the R-15 zoning district.

PROJECT/PETITIONER NUMBER:	B24-038-VAR
PETITIONER NAME:	Linda Carter – Western Carolina Community Action, Inc. (Applicant)
EXHIBITS:	<ul style="list-style-type: none"> A. Staff Report B. Application for Authorization C. Warranty Deed D. Site Photos Provided by Staff

MEMORANDUM

TO: Board of Adjustment Members

FROM: Community Development Department

DATE: July 9, 2024

RE: Application for Authorization – 911 Tebeau Drive

SUMMARY: The Community Development Department has received an application from Linda Carter (Western Carolina Community Action, Inc.) for the Board of Adjustment to authorize the extension of a structure that contains a nonconforming use located on the parcel at 911 Tebeau Drive (PIN 9569408533), under Section 6-2-1 (b) Nonconforming Uses. The subject property is currently zoned R-15, Medium-Density Residential.

Section 6-2-1 (b) provides that the Board of Adjustment (BOA) may authorize such a change if they find that:

- 1) The proposed enlargement or extension shall be de minimis in relation to the existing building or structure.
- 2) The proposed enlargement or extension shall not increase the intensity of the nonconforming use, which is to say, it will not result in an increase in dwelling units for a residential use nor in gross floor area for a nonresidential use.
- 3) The proposed enlargement or extension is designed so that it will not render the use of the property any less compatible than it is in its existing circumstances.
- 4) The authorization of such proposed enlargement or extension is not otherwise contrary to the public health, safety or welfare.

REQUEST: The Applicant is requesting to construct a 14' x 20' storage building on the rear corner of the property to be used for a nonconforming use (*Exhibit B*).

On May 12, 2021, the Board voted to grant the Applicant's request to alter a structure that houses a nonconforming use in order to construct a childcare center in an existing building on the property.

The Applicant is now requesting to expand the structures associated with the non-conforming use with the construction of a 14' x 20' storage building for playground equipment. The proposed storage building would conform with all other requirements of the R-15 zoning district.

PROPOSED FINDINGS OF FACT:

- Based on Henderson County records the subject property possesses a PIN of 9569-40-8533 and is zoned as R-15 Medium Density Residential.
- Based on Henderson County records, the lot size is approximately 1 acre or 43,560 square feet.
- Based on Henderson County records, the subject property contains one building.
- Based on Henderson County records a North Carolina General Warranty Deed between Appleland, Inc. (Grantor) and Western Carolina Community Action, Inc. (Grantees) was recorded on November 30, 2020 (*Exhibit B*).
- Section 5-3-3 requires the Principal Structure setbacks for R-15 are:
 - Front: 30'
 - Side: 10'
 - Rear: 15'
- Based on the Application (*Exhibit B*), the Applicant is proposing to construct a 14' x 20' storage building.
- On May 12, 2021, the Board voted to grant the Applicant's request to alter a structure that houses a nonconforming use.

CODE REFERENCES.

R-15 Dimensional Requirements (Section 5-3-3) :

Minimum Lot Area in Square Feet:	15,000
Lot Area per Dwelling Unit in Square Feet: additional dwelling unit in one building.	15,000 for the first; 7,500 ft ² for one
Minimum Lot Width at Building Line in Feet:	85
Minimum Yard Requirements in Feet:	
Principal Structure	Front: 30 Side: 10 Rear: 15
Accessory Structures	Front: 30 Side: 5 Rear: 5
Maximum Height in Feet:	35

6-2-1 – Nonconforming uses. A nonconforming use is a use of land, buildings, or structures that was lawfully established prior to the effective date of this ordinance, or any amendment thereto, but which does not conform to the regulations for the zoning classification in which it is located. Nonconforming uses may be continued subject to the following limitations:

- a) No nonconforming use shall be extended, expanded, enlarged, or moved to occupy a different or greater area of land, buildings or structures than was occupied by such use at the time it became nonconforming; provided, however, a nonconforming use may be extended throughout any parts of a building which were specifically designed and arranged for such use at the time it became nonconforming.
- b) No building or structure devoted to a nonconforming use shall be enlarged, extended, reconstructed, moved, or structurally altered unless such building or structure is thereafter devoted to a conforming use; provided, however, such building or structure may be enlarged or extended upon prior authorization from the board of adjustment, which authorization shall not be granted unless the board of adjustment makes each of the following findings of fact:
 - 1) The proposed enlargement or extension shall be de minimis in relation to the existing building or structure.
 - 2) The proposed enlargement or extension shall not increase the intensity of the nonconforming use, which is to say, it will not result in an increase in dwelling units for a residential use nor in gross floor area for a nonresidential use.
 - 3) The proposed enlargement or extension is designed so that it will not render the use of the property any less compatible than it is in its existing circumstances.
 - 4) The authorization of such proposed enlargement or extension is not otherwise contrary to the public health, safety or welfare.

EXHIBITS

Exhibit A – Staff Report

Exhibit B – Application

Exhibit C – Warranty Deed

Exhibit D – Site Photos Provided by Staff

Entry #: 26 - 6/18/2024**Status:** Submitted**Submitted:** 6/18/2024 2:45 PM**Item B.**

Items to Accompany Application:

Completed application form

Site plan of property showing existing structures, natural features (i.e. streams, ponds, etc.) proposed building or addition and indicating distance from such to the ceterline of street and to the side and rear lot lines, as applicable. Show placement of septic systems and drain field if applicable and distances from structures.

Copy of septic permit, if applicable

Other documents supporting application, if applicable.

Photographs (optional)

Application fee of \$75.00

Shortly after application for a variance is accepted, staff will take photographs of the site. Please have the corners of the proposed structure and septic system staked so that they may be seen in such photos.

For more information call (828) 697-3010

Date:

6/18/2024

Applicant Name:

Linda Carter

Address

220 King Creek Blvd., Hendersonville, North Carolina 28792

Phone

(828) 693-1711

Email

LINCARTER@WCCA.ORG

Property Owner's Name (if different from above)

Western Carolina Community Action dba WNCSource

Property Owner's Address (if different from above)**Parcel ID #****Zoning District:****Directions to property from Hendersonville:**

9th Ave West, Turn right on Tebeau Drive, property on the left.

Attach site plan and any supporting documents/pictures

To the Board of Adjustment:

Name

(owner/agent), hereby petition the Zoning Board of Adjustment for a VARIANCE from the literal provisions of the Zoning Ordinance of the City of Hendersonville because I am prohibited from using the parcel of land described in the form "Zoning Permit Application" in a manner shown by the site plan.

I request a varaince from the following provisions of the ordinance (cite section numbers):

Factors Relevant to the Issuance of a Variance

The Zoning Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act the Board is required to reach four conclusions as a prerequisite to the issuance of a variance: (a) 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, (b) the varaince is in harmony with the general purpose and intent of the ordinance, preserves its spirit, public safety is secured, and substantial justice is achieved, (c) 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 general public, may not be the basis for granting a variance, (d) the hardship did not result from actions taken by the applicant or owner of the property. 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. In the spaces provided, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these four required conclusions:

Unnecessary Hardship would result from the strict application of thei ordinance: State facts and arguments to show that, 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 ise can be made of the property)

The layout of the property does not have any existing storage facilities that can adequately accommodate playground equipment. There are indoor space limitations, all indoor space is allocated for classrooms and classroom equipment: The designated area for playground equipment is limited in space, and any indoor storage solutions would encroach on the play area, thereby reducing the usable space for children. Playground equipment requires safe and secure storage to maintain its condition and ensure safety for children. Without a dedicated storage facility, equipment may become damaged or pose a safety risk if left exposed to the elements. Proper storage is crucial for the maintenance and longevity of the playground equipment. Storing equipment outdoors without adequate protection can lead to quicker wear and tear, resulting in more frequent replacements and higher costs. Proper storage contributes to the organization and safety of the playground. Without appropriate storage, equipment may be improperly scattered, creating potential hazards for children and reducing the overall safety of the playground. The absence of a modular storage building would lead to increased costs associated with frequent replacement and repair of damaged equipment. This financial burden is unnecessary and avoidable with the installation of a proper storage facility. Alternative storage solutions within the existing structures are impractical due to space constraints and would require significant modifications, which could be more costly and disruptive compared to the modular storage building. The proposed modular storage building is designed to be minimally intrusive, ensuring that it does not detract from the aesthetic or functional aspects of the playground. It will be placed in a location that does not interfere with the primary use of the property. Allowing the variance will enhance the property's primary use as Early Head Start, Head Start, NC Prek and Developmental Day services by ensuring that all equipment is properly stored and maintained, thereby increasing the property's overall utility and benefit to the children served.

The variance is in harmony with the general purpose and intent of the ordinance. preserves its spirit, public safety secured and substantial justice is achieved. (State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant).

The primary purpose of the zoning ordinance is to ensure the orderly and beneficial use of land within the community. The proposed modular storage building aligns with this objective by enhancing the functionality of a Children's Center. The modular storage building will be designed and placed in a manner that minimizes its visual and spatial impact on the surrounding area, maintaining the aesthetic and character of the current buildings and neighborhood. The addition of the storage building complements the existing Center and playground infrastructure by providing a necessary facility for equipment storage, thereby supporting the overall utility and purpose of the property. Proper storage of playground equipment prevents potential hazards such as tripping or falling over improperly stored items, thereby enhancing the safety of the playground for children and staff. Storing equipment in a secure facility protects it from weather-related damage, ensuring that equipment remains safe and functional for use. A dedicated storage building reduces the risk of vandalism and theft of playground equipment, contributing to a safer and more secure environment for the community. The benefit to the community from having a well-maintained and safe playground substantially outweighs any perceived negatives of adding a modular storage building. Denying the variance would place an undue burden on the applicant by limiting their ability to maintain and protect playground equipment effectively, resulting in increased costs and decreased utility of the playground. Granting the variance represents a reasonable accommodation that balances the interests of the WNCSource and the community, achieving fairness and justice without compromising the ordinance's objectives.

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. (State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood).

The proposed modular storage building is designed to be compact and non-intrusive, occupying minimal space while providing the necessary storage capacity. This ensures that the deviation from the ordinance is as small as possible. The modular storage building will be designed to blend with the existing aesthetic of the Center and the surrounding neighborhood, ensuring it does not detract from the visual character of the area. The requested variance arises from unique conditions peculiar to the property, including its location, size, and topographical layout. These conditions necessitate the installation of a modular storage building to ensure the proper storage and maintenance of playground equipment. The proposed building represents the least possible deviation from the ordinance, designed to be compact and minimally intrusive. Its implementation will not substantially detract from the character of the neighborhood but rather enhance the functionality and safety of the playground, providing significant benefit to the children and staff.

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. (State any facts pertaining to the hardship that is not the result of the applicant's own actions).

At the time the property was acquired, there was no pre-existing structure designated for storage of playground equipment. This was not due to any action or inaction by WNCSource but rather a condition that has persisted since the Center's inception. The hardship faced by WNCSource is not the result of any actions taken by them. Instead, it arises from pre-existing conditions, evolving safety standards, and use that necessitate a proper storage solution for playground equipment. WNCSource's request for a variance is a reasonable response to these conditions, ensuring the continued safety and functionality of the playground without altering the essential character of the property.

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:

6/18/2024

Linda Carter

Children's Services Director

Signature of Property Owner:

Date:

6/18/2024

Elizabeth Whitten

Chief Financial Officer

In the event that any discrepancies exist between the criteria outlined on this form and the Zoning Ordinance of the City of Hendersonville, the ordinance shall prevail.

Received By:

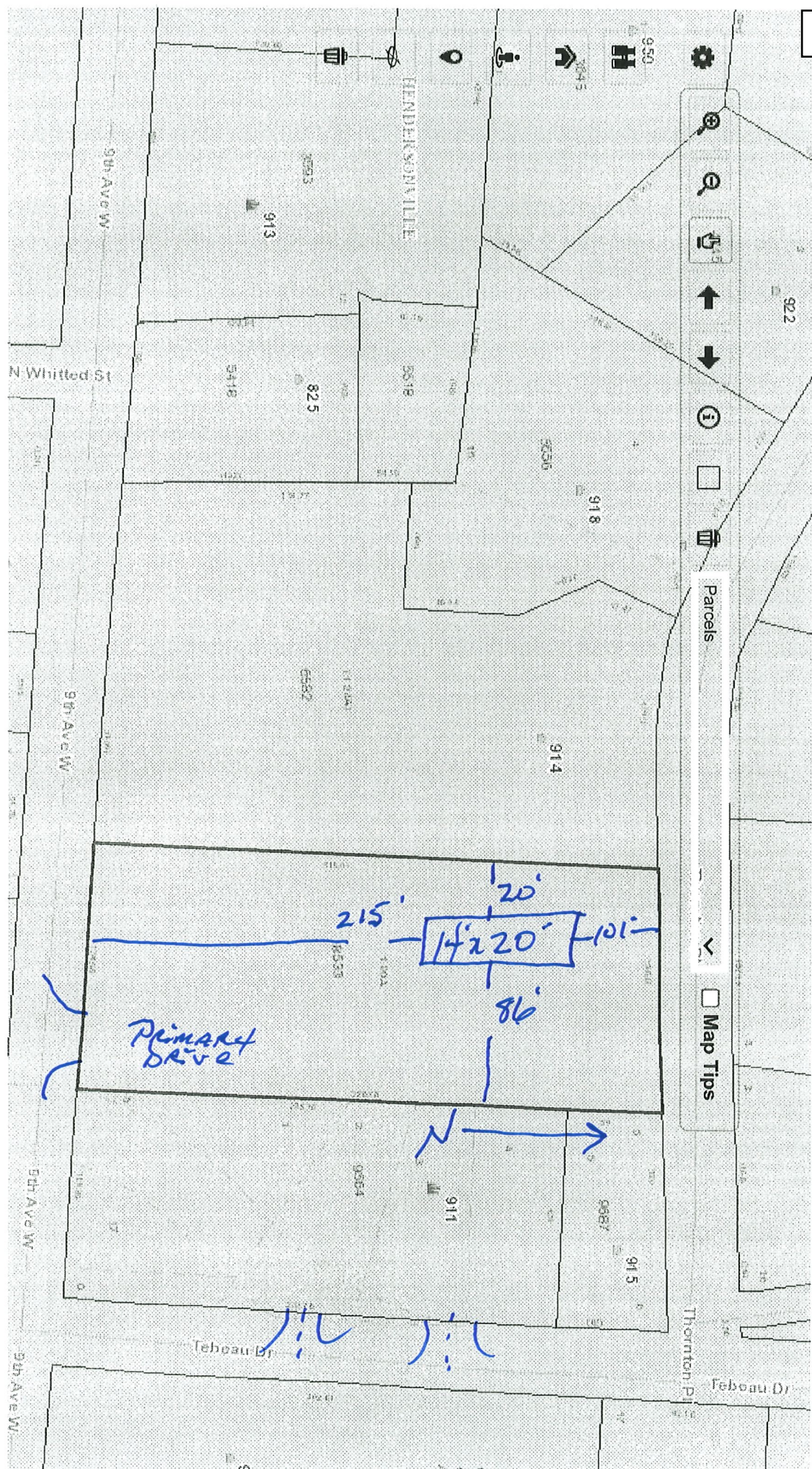
Date:

Fee Paid:

Date Received:

A VOTE OF SEVEN MEMBERS OF THE BOARD IS REQUIRED TO APPROVE A VARIANCE.

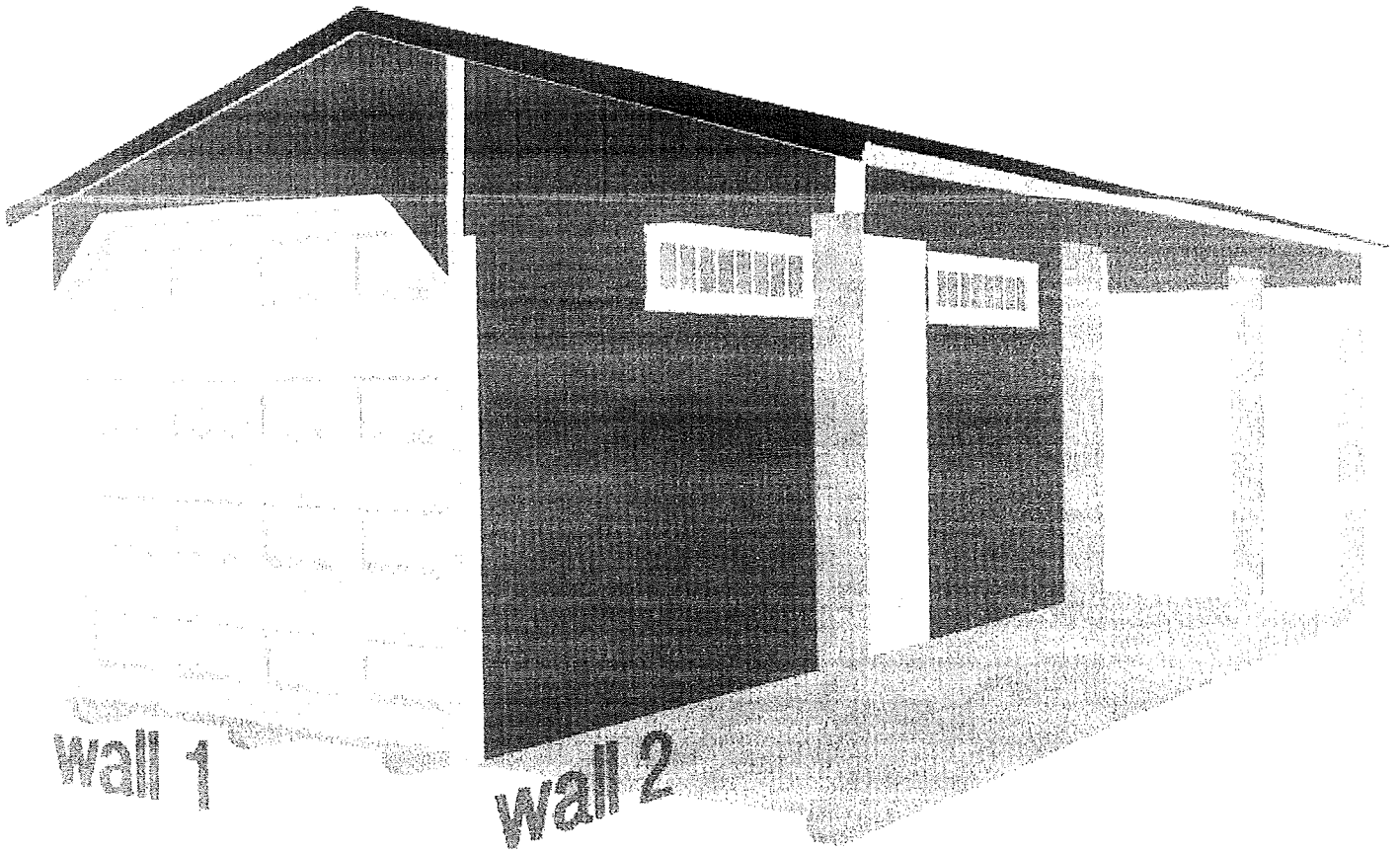
Item B.

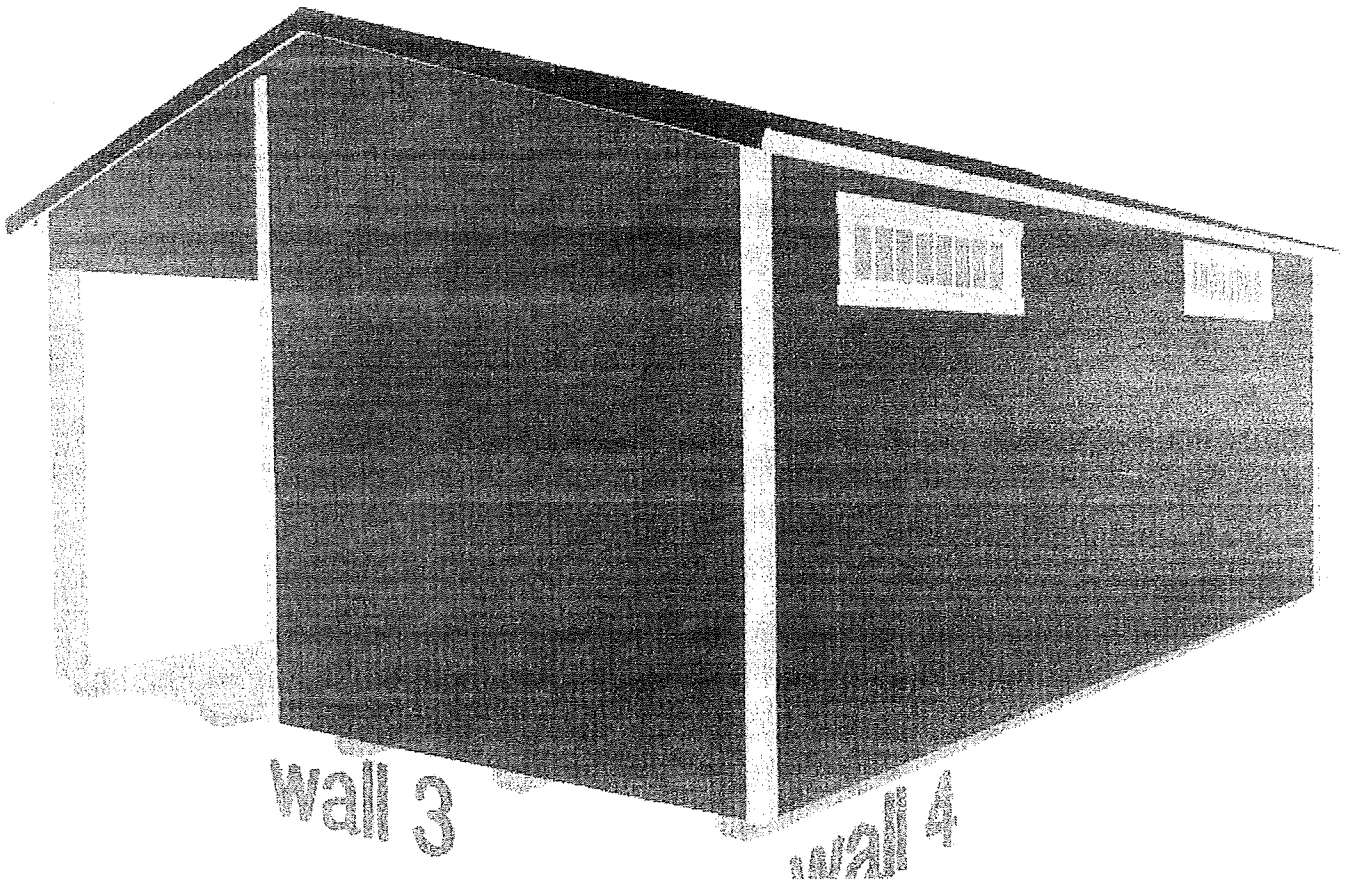
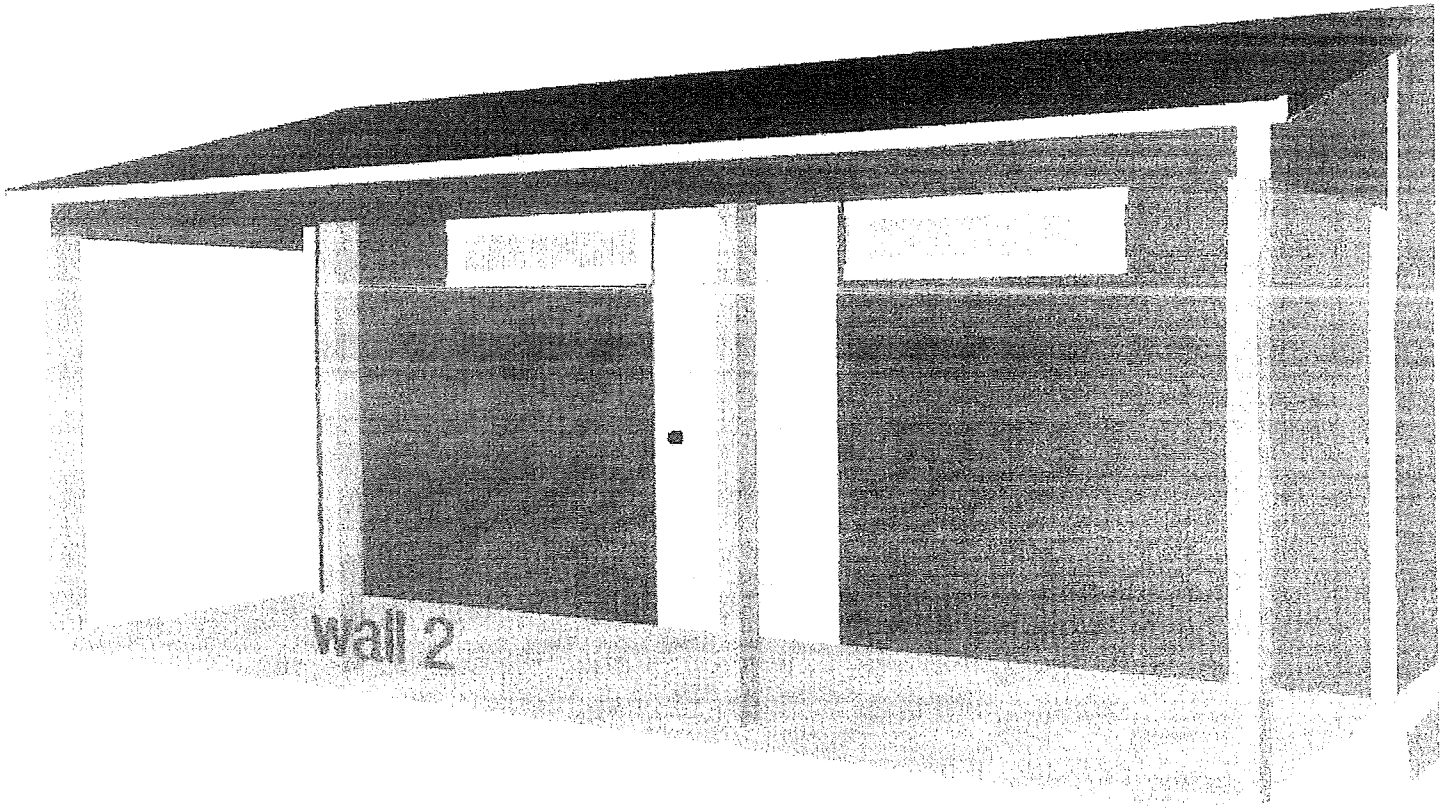


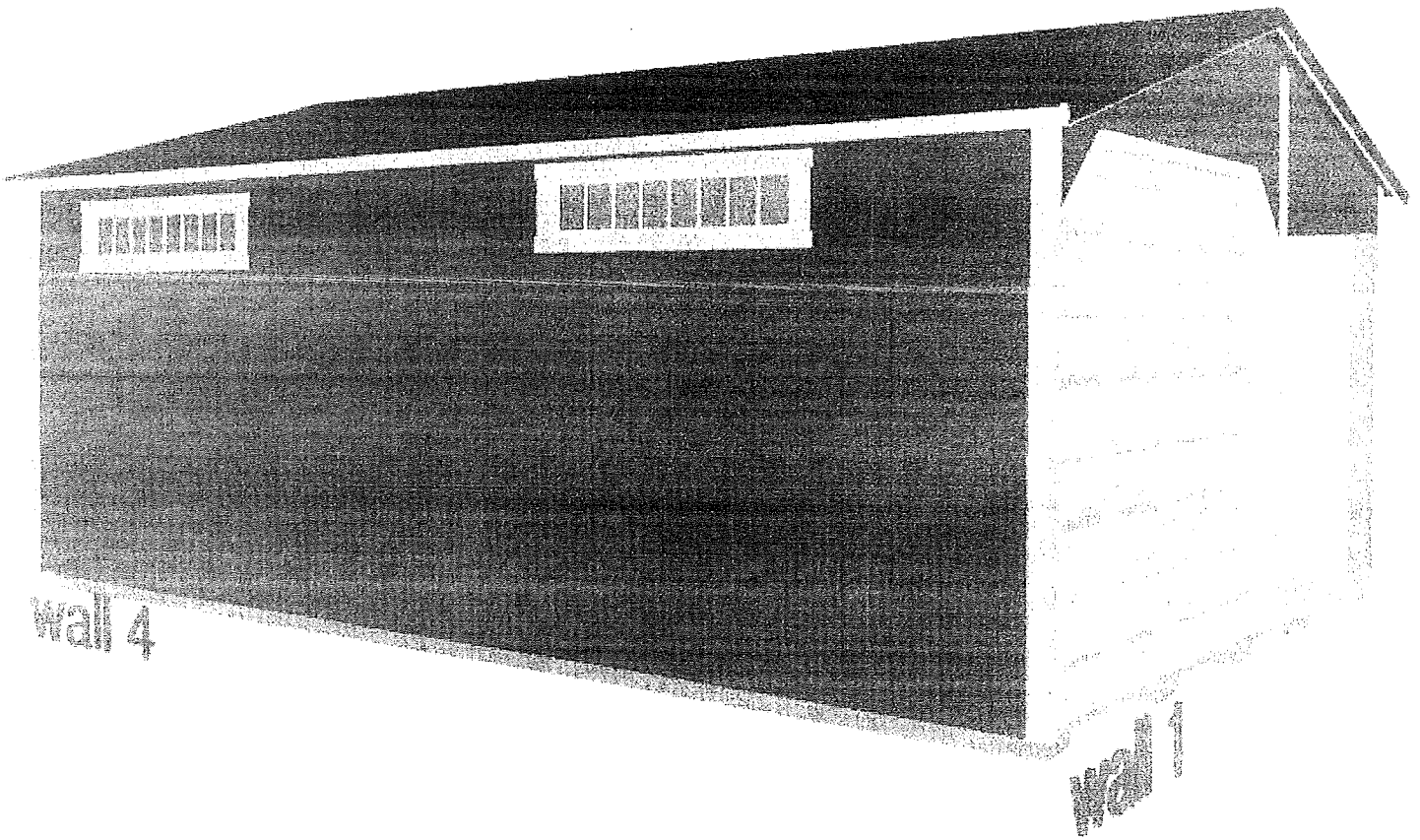
1 Results 20m 100ft



Description	Quantity	Price Each	
Removed Included: 24×36 Standard Window	2	\$-95.00	\$-190.00







Total Structure Price \$13,443.86

Sales Tax \$907.46

Order Total **\$14,351.32**

Use the link to view the structure details online or download your quote request as a PDF. This is not the final quote, but just the details of your quote request.

[View Structure Online](#)

[https://carolinastorage.structureflow.build/cp_structures/form/structure_order?structure_id=1640576\)](https://carolinastorage.structureflow.build/cp_structures/form/structure_order?structure_id=1640576)

[Download Quote Request PDF](#)

[https://carolinastorage.structureflow.build/sf_pdf_merge/1640580?t=order_details\)](https://carolinastorage.structureflow.build/sf_pdf_merge/1640580?t=order_details)

PREPARED BY EDWARD L. HARRELSON
& RETURN TO: ATTORNEY AT LAW
136 S. KING STREET, SUITE B
HENDERSONVILLE, N.C. 28792

Stamps: \$1620.00
Tax Parcel No.: 9957421 & 100615

*This instrument was prepared by Edward L. Harrelson, a North Carolina licensed attorney.
Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon
disbursement of closing proceeds.*

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

GENERAL WARRANTY DEED

THIS DEED, made this the 30 day of November 2020, by and between:

APPLELAND, INC. a North Carolina corporation, hereinafter called Grantor, whose address is:
P. O. Box 118. Flat Rock, NC 28731 and

WESTERN CAROLINA COMMUNITY ACTION, INC., a non-profit corporation,
hereinafter called Grantee, whose address is: P. O. Box 685, Hendersonville, NC 28793

W I T N E S S E T H:

WHEREAS, the property herein granted was acquired by Appleland, Inc. by deed from Elizabeth M. Barber and Edwin R. Groce, Co-Executors of the Estate of I. B. Barber, Jr., and Edwin R. Groce, Trustee under that Revocable Trust Agreement dated June 1, 1983 dated February 21, 1986 and recorded at Deed Book 673 at Page 123 of the Henderson County Registry; and

WHEREAS, the Grantor has not utilized the property as his/her primary residence; and

WHEREAS, the Grantor now desires to sell and convey the herein described property;

submitted electronically by "Romeo, Harrelson & Coiner, P.A."
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Henderson County Register of Deeds.

NOW, THEREFORE, Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable considerations to him paid by Grantee, receipt of which is hereby acknowledged, does give, grant, bargain, sell and convey unto Grantee, their heirs and assigns, in fee simple, the following described property located in Hendersonville Township, Henderson County, North Carolina:

See the attached Exhibit A, incorporated herein by reference as if set out in full for a complete legal description.

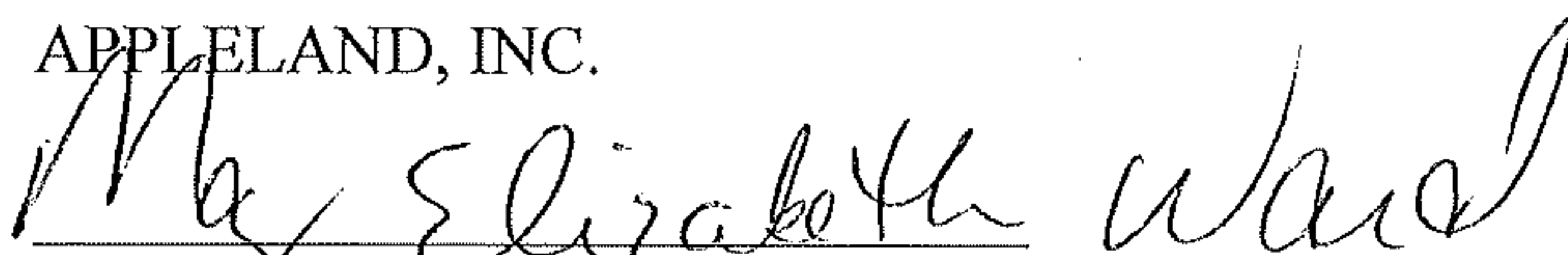
TO HAVE AND TO HOLD the above described premises, with all privileges and appurtenances thereunto appertaining unto Grantee, their heirs and/or successors and assigns, in fee simple.

Grantor covenants with Grantee that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions herein stated.

Subject to restrictions, easements, rights of way of record and for *ad valorem* taxes for the current year.

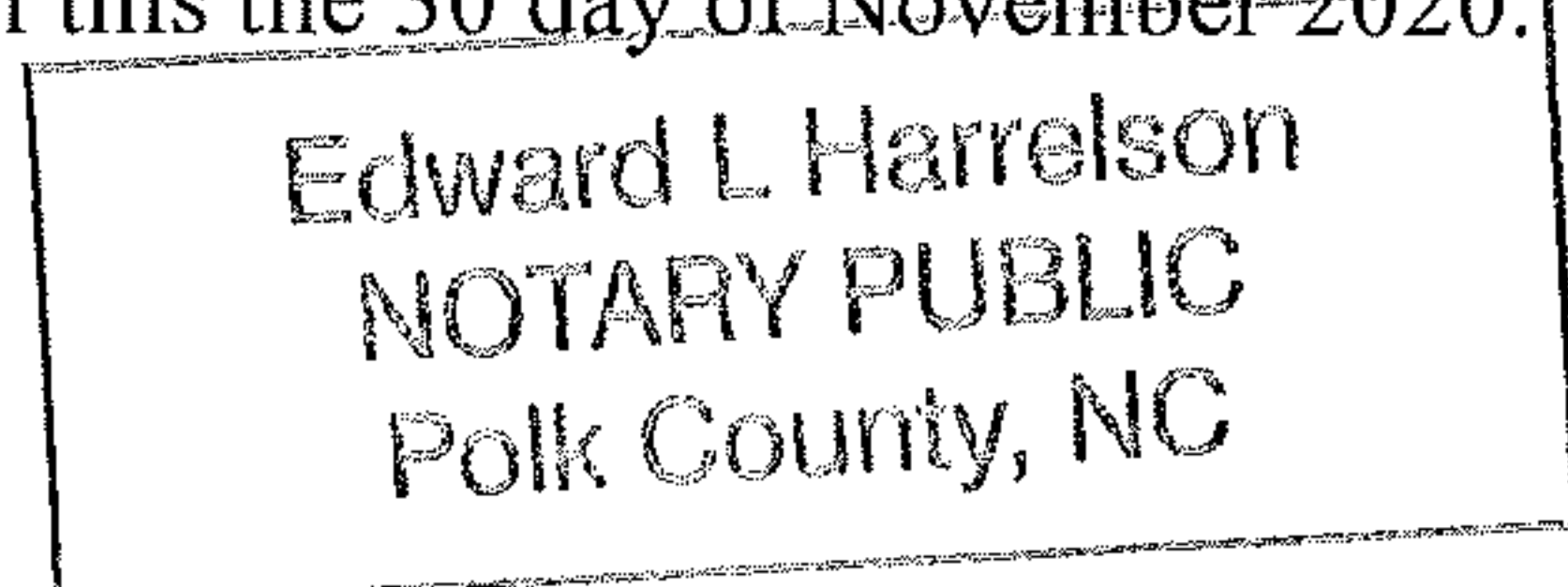
IN WITNESS WHEREOF, Grantor has hereunto set his hand and seal, the day and year first above written.


APPLELAND, INC.


By: VICE PRESIDENT

**STATE OF NORTH CAROLINA
COUNTY OF HENDERSON**

I, the undersigned Notary Public of the County and State aforesaid, certify that Mary Elizabeth Ward personally came before me this day and acknowledged that she is the Vice-President of Appleland, Inc., and that by authority duly given and as the act of such entity, she signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and official seal this the 30 day of November 2020.





Notary Public

My commission expires: Jan 17, 2025.

**EXHIBIT A: PROPERTY of
WESTERN CAROLINA COMMUNITY ACTION, INC.**

TRACT ONE:

A one-acre portion of property conveyed by J. E. Heinemann and wife to David H. Matthews by deed dated July 2, 1992 and recorded in Deed Book 801, Page 177 of the Henderson County Registry and described by metes and bounds in accordance with a plat of survey prepared by William Patterson, R.L.S. dated August 24, 1995 as follows:

BEGINNING on an iron pin marking the southeast corner of the Matthews parcel referred to above, said iron pin marking the southwest corner of property owned by Appleland, Inc. and described by deed recorded in Book 673, Page 123 of the Henderson County Registry and running then from said beginning point with the North margin of Ninth Avenue west, North 85 deg. 15 min. 56 sec. West 134.68 feet to an iron pin; then leaving the North margin of Ninth Avenue West and running a new line North 3 deg. 3 min. 28 sec. East 315.27 feet to an iron pin standing in the South margin of the 40-foot wide right of way for Thornton Place; then with said right of way South 89 deg. 53 min. 30 sec. East 137.17 feet to an iron pin; then leaving the South margin of said 40-foot wide right of way South 3 deg. 28 min. 27 sec. West 325.28 feet to an iron pin and the point of beginning.

TRACT TWO:

BEGINNING at an iron pin at the Southwest corner of Lot 5, Rosemont Subdivision according to the plat thereof recorded in Plat Cabinet B, Slide 103 (formerly Plat Book 2, Page 2), Henderson County Registry, and also being the Southwest corner of that certain parcel described as Tract 1 in that Deed to Estelle F. Strider recorded in Deed Book 442, Page 101, Henderson County Registry, all as shown on the plat of survey hereinafter referred to and running thence South 80 deg. 35 min. 24 sec. East 120 feet to an iron pin; running thence along and with Tebeau Drive South 07 deg. 50 min. 23 sec. West 273.73 feet to an iron pin at the point of intersection of the western margin of Tebeau Drive and the northern margin of Ninth Avenue West; running thence with Ninth Avenue West, North 80 deg. 35 min. 24 sec. West 120.00 feet to an iron pin; running thence North 07 deg. 50 min. 23 sec. East 273.73 feet to the point and place of beginning, containing 0.75 acres, more or less, according to the plat of survey prepared by Laughter, Austin and Associates, P.A., Job No. 86-45.



View of the West rear, side of subject property. Stakes denote the location and size of the shed.



Southeast view of proposed location of shed. Childcare center can be seen on the left side of the image.



View northwest of proposed location of the shed.



View south of property and proposed location of shed.