



CITY OF HENDERSONVILLE BOARD OF ADJUSTMENT

Operations Center - Assembly Room | 305 Williams St. | Hendersonville NC 28792
Tuesday, September 12, 2023 – 1:30 PM

AGENDA

1. **CALL TO ORDER**
2. **APPROVAL OF AGENDA**
3. **APPROVAL OF MINUTES**
 - A. Minutes of August 8, 2023
4. **OLD BUSINESS**
 - A. Approval of Decision B23-064-VAR
5. **NEW BUSINESS**
 - A. 318 Resort St. – Variance (B23-069-VAR) – *Alexandra Hunt / Planner I*
6. **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, August 8, 2023
1:30 p.m. in the Council Chambers

The Hendersonville Board of Adjustment held its regular monthly meeting on August 8, 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, Laura Flores, Lynette Oliver, Alexandra Hunt, Planner I, Daniel Heyman, Staff Attorney and Lew Holloway, Community Development Director.

Absent:

Chair called the meeting to order at 1:40 p.m.

Approval of Amended Meeting Schedule: A motion was made by Mr. Mowell to approve the amended meeting schedule. Mr. Whiting seconded the motion which passed unanimously.

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

Variance – Elizabeth Collina – 869 Thornton Place (B23-064-VAR).

Chair stated today we have one public hearing to consider. A variance request from Elizabeth Collina for the property located at 869 Thornton Place. Any persons desiring to testify in these hearings must first be sworn in. Since this is a quasi-judicial hearing, it is very important that we have an accurate record of what goes on here. Therefore, we must ask that you refrain from speaking until recognized by the Chair and, when recognized, that you come forward to the podium and begin by stating your name and address. Anyone present who has knowledge of anything of value that has been given or promised in exchange for a position to be taken on this application should disclose it now.

Chair swore in all persons to give testimony.

Chair opened the public hearing.

Alexandra Hunt, Planner I stated her name and title for the record. She stated staff is in receipt of an application from Elizabeth Collina for a variance from Section 5-3-3 Dimensional Requirements in accordance with the definition of rear yards in Section 12-2-2 Definition of Terms to reduce the required 15' rear setback requirements to 7'.

Ms. Hunt gave the project background:

The subject property is identified as PIN 9569-51-0060 and is zoned R-15, Medium Density Residential.

The variance request is to reduce the current 12' rear setback to 7' for the purpose of constructing an 8' x 20' elevated rear deck. There is a diagram shown in your staff report that also depicts the requested variance. That will be shown later in the presentation.

The subject property is located at 869 Thornton Place. It is zoned R-15, Medium Density Residential and is approximately 0.46 acres or 20,037.6 sq. ft. The subject property currently contains a single-family residential dwelling. On February 14, 2017 the Board of Adjustment granted a variance to reduce the rear setback from the required 15' to 12' due to the steep topography of the parcel to construct the single-family dwelling that exists today.

The Henderson County GIS parcel map was shown of the property.

Site photos of the property were shown.

An example of a cantilevered deck was shown.

A diagram that staff produced as a visual aid for the requested variance was shown and explained.

Section 10-9 of the Zoning Ordinance states that a variance constitutes permission to depart from the literal requirements of the ordinance. In order for a variance to be granted, the findings of fact in subsections 1-4 of Section 10-9 must be made.

Staff suggested motions were presented to the Board.

Ms. Hunt stated the applicant is present.

Chair asked if there were any questions for staff.

Chair asked if anyone would like to speak concerning the application.

Elizabeth Collina, 869 Thornton Place stated her property was a difficult lot to build on from the start. This was a challenging place to build a house. She would now like to add a deck to the rear.

Daniel Heyman, Staff Attorney asked Ms. Collina if she was a member of the Board of Adjustment and if she had recused herself from consideration of this application because she was the applicant. Ms. Collina stated she was a member and she had recused herself. The Board agreed that Ms. Collina had been recused.

Mr. Mowell stated the variance is peculiar to the lot as this is an oddly shaped lot.

Ms. Watkins asked about the shrubs in the rear of the property. Ms. Collina stated she planted those and they would stay.

Mr. Mowell made the following motion: *With regard to the request by Elizabeth Collina for a variance from Section 5-3-3 Dimensional Requirements in accordance with Section 12-2-2: Definition of Terms – "Rear Yard" to: Reduce the rear setback requirement from 12' to 7' for the addition of an 8' x 20' rear deck. 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.*

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 |

The vote was unanimous. Motion approved.

Meeting adjourned at 2:15 p.m.

Melinda Lowrance, Chair

Terri Swann, Secretary

DRAFT



**CITY OF HENDERSONVILLE
AGENDA ITEM SUMMARY
PLANNING DIVISION**

SUBMITTER: Alexandra Hunt, Planner I **MEETING DATE:** September 12, 2023

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

TITLE OF ITEM: 318 Resort St. – Variance (B23-069-VAR) – *Alexandra Hunt / Planner I*

SUGGESTED MOTION(S):

| | |
|--|---|
| <p>1. <u>For Recommending Approval:</u></p> <p>With regard to the request by Jared Webb for a variance from <u>Section 17-3-3 Dimensional Prohibition Against Development Within the Stream Buffer</u> to:</p> <ol style="list-style-type: none"> 1) <i>Reduce the stream buffer transitional area from the required 20’ to 0’ to construct a single family residential home.</i> <p>I move the Board to find that:</p> <ol style="list-style-type: none"> 2) An unnecessary hardship would result from the strict application of the ordinance. 3) The hardship results from the conditions that are peculiar to the property, such as location, size, or topography. 4) The hardship did not result from actions taken by the applicant or the property owner. 5) 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. <p>For the following reasons: <i>[list factual basis for Approval here.]</i></p> <p><i>Suggested Condition(s) for Approval:</i></p> <ol style="list-style-type: none"> 1) The applicant shall submit a site plan illustrating that no further disturbance can occur beyond that which is permitted by Section 17-3-3 and 17-3-5 of the Zoning Ordinance. 2) The applicant shall submit a revegetation plan of the 30’ buffer area to the Community Development Department for approval prior to a zoning compliance permit being issued. | <p>1. <u>For Recommending Denial:</u></p> <p>With regard to the request by Jared Webb for a variance from <u>Section 17-3-3 Dimensional Prohibition Against Development Within the Stream Buffer</u> to:</p> <ol style="list-style-type: none"> 1) <i>Reduce the stream buffer transitional area from the required 20’ to 0’ to construct a single family residential home.</i> <p>I move the Board to find that:</p> <ol style="list-style-type: none"> 1) An unnecessary hardship would not result from the strict application of the ordinance. 2) The hardship does not result from the conditions that are peculiar to the property, such as location, size, or topography. 3) The hardship did result from actions taken by the applicant or the property owner. 4) The requested variance is not consistent with the spirit, purpose, and intent of the regulation, such that public safety is not secured and substantial justice is not achieved. <p>For the following reasons: <i>[list factual basis for Denial below.]</i></p> <p style="text-align: center;">[DISCUSS & VOTE]</p> |
|--|---|

| | |
|--|--|
| <p>3) The revegetation of the 30’ buffer area must be comprised of appropriate native sedges, grasses, herbaceous, woody ground covers, and low shrubs. No turf grasses are to be used.</p> <p>4) The Community Development Department shall inspect the site for compliance prior to the issuance of a Certificate of Occupancy.</p> <p style="text-align: center;">[DISCUSS & VOTE]</p> | |
|--|--|

SUMMARY:

The Community Development Department has received an application from Jared Webb for a variance from Section 17-3-3 Prohibition Against Development Within the Stream Buffer. The subject property is currently zoned R-15, Medium-Density Residential. The specific variance requested is for the following:

VARIANCE REQUEST: The variance requested is to reduce the required transitional area provided in section 17-3-3 of the Hendersonville Zoning Ordinance in order to construct a single family residential home on the existing vacant lot (See Exhibit B).

The variance is to reduce the stream buffer transitional area from the required 20’ to 0’. The variance requested follows the dimensional requirements set forth in “17-3-8 Special Provisions Pertaining to Certain Residential Uses.” The requirements of section 17-3-8 are not applicable to this parcel since it was platted after September 6th, 2001. Applicant has also submitted a proposed revegetation plan in the stream buffer as part of the variance application and is attached as Exhibit D.

| | |
|-----------------------------------|---|
| PROJECT/PETITIONER NUMBER: | B23-069-VAR |
| PETITIONER NAME: | Jared Webb (Owner/Applicant) |
| EXHIBITS: | <ul style="list-style-type: none"> A. Staff Report B. Warranty Deed C. Site Plan D. Site Photos E. Stream Buffer Revegetation Plan |

MEMORANDUM

TO: Board of Adjustment Members
FROM: Community Development Department
DATE: September 12, 2023
RE: Variance Application – Jared Webb – 318 Resort St.

SUMMARY: The Community Development Department has received an application from Jared Webb for a variance from Section 17-3-3 Prohibition Against Development Within the Stream Buffer. The subject property is currently zoned R-15, Medium-Density Residential. The specific variance requested is for the following:

VARIANCE REQUEST: The variance requested is to reduce the required transitional area provided in section 17-3-3 of the Hendersonville Zoning Ordinance in order to construct a single family residential home on the existing vacant lot (*See Exhibit B*).

The variance is to reduce the stream buffer transitional area from the required 20’ to 0’. The variance requested follows the dimensional requirements set forth in “17-3-8 Special Provisions Pertaining to Certain Residential Uses.” The requirements of section 17-3-8 are not applicable to this parcel since it was platted after September 6th, 2001. The Applicant has also submitted a proposed revegetation plan in the stream buffer as part of the variance application and is attached as Exhibit D.

PROPOSED FINDINGS OF FACT:

- The subject property possesses a PIN of 9577-19-8629 and is zoned as R-15 Medium Density Residential.
- The lot is currently vacant.
- Based on Henderson County records, the lot size is approximately 0.36 acres or 15,681.6 square feet.
- The principal structure setbacks for R-15 are:
 - Front: 30’
 - Side: 10’
 - Rear: 15’
- Based on the most recent USGS seven-and-one-half minute quadrangle topographic maps, the subject property has a blue line stream running through its boundaries.
- The subject property was platted on April 25, 2022. (*See Exhibit 3*).
- City Council adopted an ordinance creating stream buffer protection standards which included a 30’ stream buffer and 20’ transitional area at their meeting on September 6th, 2001.

- Section 17-3-3 of the Hendersonville Zoning Ordinance requires that there be a 20-foot transitional area immediately landward of the stream buffer which may be graded, landscaped and/or used for pedestrian or vehicular purposes so long as no impervious materials are utilized.

CODE REFERENCES.

17-3-1 Applicability. Except as modified in this section, stream buffer protection standards shall apply to all watercourses depicted as a solid blue line on the most recent USGS seven-and-one-half minute quadrangle topographic maps covering the City of Hendersonville and its area of Extraterritorial Jurisdiction (ETJ). Stream buffers shall be clearly indicated on all development plans, including concept plans, preliminary plans and final plans, and on all preliminary and final plats.

17-3-2 Stream Buffer Size. Stream buffers shall apply on each side of the stream and shall measure 30 feet horizontally from the top of the stream bank in a direction perpendicular to the stream flow.

17-3-3 Prohibition Against Development Within the Stream Buffer. To avoid a loss of effectiveness in protecting streams, the stream buffer shall remain in natural undisturbed forest vegetation and no development or land-disturbing activities shall be undertaken therein, except as provided in Section 17-3-5. Furthermore, there shall be a 20-foot transitional area immediately landward of the stream buffer which may be graded, landscaped and/or used for pedestrian or vehicular purposes so long as no impervious materials are utilized. Certain uses of land, as specified in Section 17-3-5, below, may be permitted within the stream buffer so long as they meet the requirements of that Section and are designed and constructed to minimize the amount of intrusion into the stream buffer and to minimize clearing, grading, erosion and water quality degradation. Nothing herein is intended to preclude the removal of downed vegetation from the stream bed in order to improve stream flow dynamics. If it is necessary to remove downed or dead vegetation, it should be cut and the root ball left in place to help maintain stability of the shoreline. Nothing herein is intended to [or shall] preclude any activity specifically authorized pursuant to Section 401 and/or Section 404 of the Clean Water Act.

17-3-8 Special Provisions Pertaining to Certain Residential Uses. For certain residential uses as prescribed herein, the stream buffer shall be reduced to fifteen feet and the transitional area described in Section 17-3-3 shall be reduced to fifteen feet. To qualify for these special provisions, a proposed development must meet the following criteria:

- a) The lot on which the development is to occur must be a lot of record in the Henderson County Registry as of 6 September 2001.
- b) Use of the lot must be limited to a one- or two-family residential dwelling.

- c) The lot may not exceed one acre in area. d) The amount of impervious surface allowed on the lot shall not exceed 25% of the lot or 3,000 square feet, whichever is greater.

Section 10-9 Variance.

A Variance is a means whereby the City may grant relief from the effect of the Zoning Ordinance in cases of hardship. A Variance constitutes permission to depart from the literal requirements of the ordinance. When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment shall vary any of the provisions of the ordinance upon a showing of the following:

- 1) Unnecessary hardship would result from the strict application of the ordinance. It is not necessary to demonstrate that, in the absence of the Variance, no reasonable use can be made of the property.
- 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.
- 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 is not a self-created hardship.
- 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.

The Board of Adjustment shall not have authority to grant a Variance when to do so would:

- 1) result in the extension of a nonconformity regulated pursuant to Section 6-2, above, or
- 2) permit a use of land, building or structure which is not permitted within the applicable zoning district classification. Per NCGS 160D-705 (d), appropriate conditions may be imposed on any Variance, provided that the conditions are reasonably related to the Variance.

EXHIBITS:

- A. Warranty Deed**
- B. Variance Application**
- C. Site Plan**
- D. Site Photos**
- E. Stream Buffer Revegetation Plan**

FILED IN HENDERSON COUNTY REGISTER OF DEEDS
OFFICE. NEDRA W. MOLES, REGISTER

DATE: 3/30/10 TIME: 4:15 PM

EXCISE TAX STAMP: \$280.00

BOOK: 1425 PAGE: 004

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$ 280.00

Parcel Identifier No. 9972768 Verified by _____ County on the _____ day of _____, 20____
By: _____

Mail/Box to: John Rose, Goosmann, Rose, Colvard and Cramer, P.A. P.O. Box 7436; Asheville, NC 28802

(10-0322 VHC ib)

This instrument was prepared by: Ryan E. Gaylord, Law Offices of Richard J. Maita, P.A. - Document Preparation Only

Brief description for the Index: _____

THIS DEED made this 30th day of March, 2010 by and between

GRANTOR
Chad A. Heatherly and wife,
Kyli Heatherly
113 Wisdom Lane
Hendersonville, NC 28739

GRANTEE
Jared C. Webb
318 Resort Street
Hendersonville, NC 28792 *JCW*

Enter in appropriate block for each Grantor and Grantee: name, mailing address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Hendersonville, _____ Township, Henderson County, North Carolina and more particularly described as follows:

See Attached

The property hereinabove described was acquired by Grantor by instrument recorded in Book 1140 page 261.

All or a portion of the property herein conveyed X includes or _____ does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book _____ page _____.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the 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, other than the following exceptions: ad valorem taxes for the current year; utility easements and unviolated restrictive covenants that do not materially affect the value of the Property.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

By: _____ (Entity Name) _____ Print/Type Name: Chad A. Heatherly (SEAL)

Print/Type Name & Title: _____ Print/Type Name: Kyli Heatherly (SEAL)

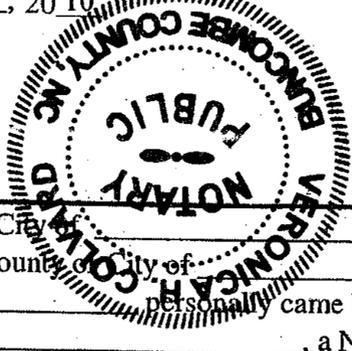
By: _____ Print/Type Name & Title: _____ Print/Type Name: _____ (SEAL)

By: _____ Print/Type Name & Title: _____ Print/Type Name: _____ (SEAL)

State of North Carolina - County or City of Buncombe

I, the undersigned Notary Public of the County or City of Buncombe and State aforesaid, certify that Chad A. Heatherly and wife, Kyli Heatherly personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 30th day of March, 20 10.

My Commission Expires: 10/31/2014
(Affix Seal)



Veronica H. Colvard
VERONICA H. COLVARD Notary Public
Notary's Printed or Typed Name

State of _____ - County or City of _____

I, the undersigned Notary Public of the County or City of _____ and State aforesaid, certify that _____ personally came before me this day and acknowledged that he is the _____ of _____, a North Carolina or _____ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this _____ day of _____, 20____.

My Commission Expires: _____
(Affix Seal) _____ Notary Public
Notary's Printed or Typed Name

State of _____ - County or City of _____

I, the undersigned Notary Public of the County or City of _____ and State aforesaid, certify that _____

Witness my hand and Notarial stamp or seal, this _____ day of _____, 20____.

My Commission Expires: _____
(Affix Seal) _____ Notary Public
Notary's Printed or Typed Name

ATTACHMENT

BEGINNING at a point in the Northern margin of Resort Street, said point standing South 49 deg. 30 min. East 227 feet from the point of intersection of the East margin of Fitzsimmons Street with the Northern margin of Resort Street, and runs thence from said BEGINNING point and with the Northern margin of Resort Street, North 49 deg. 35 min. 51 sec. West 60.0 feet to a point, said point being the Southernmost corner of the property conveyed to Mack W. Morgan, Jr. and wife, Margaret F. Morgan by deed recorded in Deed Book 445, at Page 163, of the Henderson County, NC Register's Office; thence with the Morgan line North 38 deg. 48 min. 06 sec. East 252.53 feet to an iron pipe; thence South 49 deg. 34 min. 04 sec. East 139.18 feet with an alley to an iron pipe; thence South 36 deg. 19 min. 25 sec. West 252.83 feet to an iron pipe in the Northern margin of Resort Street; thence North 49 deg. 35 min. 51 sec. West 90.11 feet to the place of BEGINNING. Containing 0.838 acres, more or less, and being the property conveyed to Adger Burns by deeds recorded in Deed Book 333, at Page 571, and Deed Book 502, at Page 309 of the Henderson County, NC Register's Office, and being bounded on the Southeast by the property of Ward described in deeds recorded in Deed Book 633, at Page 83, and Deed Book 526, at Page 573, said Registry and on the Southwest by Resort Street.

CAH *MA* *EW*

70775

318 Resort Street, Hendersonville, NC 28792

Entry #: 24 - 8/14/2023

Status: Submitted

Submitted: 8/14/2023 10:15 AM

Item A.

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 centerline 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:

8/14/2023

Applicant Name:

Jared Webb

Address

318 Resort Drive, Hendersonville, North Carolina 28792

Phone

(828) 713-5158

Email

jaredcwebb@yahoo.com

Property Owner's Name (if different from above)

Property Owner's Address (if different from above)

Parcel ID #

1008916

Zoning District:

NO

Directions to property from Hendersonville:

South Main Street heading south towards S king Street. Make Left onto Stewart Street and then left on Resort Street. Driveway is to the right of the house. Survey stakes are in tact.

Attach site plan and any supporting documents/pictures

Item A.

| | | |
|---|---|---|
|  | Webb Prpperty.pdf 1.7 MB | ↓ |
|  | image000000 (1).JPG 0.1 MB | ↓ |
|  | image000002.JPG 0.1 MB | ↓ |
|  | image000001.JPG 0.1 MB | ↓ |
|  | image000003.JPG 0.1 MB | ↓ |
|  | image000000.jpg 43.4 KB | ↓ |

To the Board of Adjustment:

Name

Jared Webb

(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 varince from the following provisions of the ordinance (cite section numbers):

17.3

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)

17.3 zoning code results in the inability to construct a home on .51 acre due to a trickle water flow, not a creek. we are providing pictures along with a statement from the neighboring parcel to prove after a hard rain that the amount of water is minut. With the additional required set back in addition to the 30, it will be impossible to build on this parcel of land. I am asking for this to be review with high regards to this old water bed.

The variance is in harmony with the general purpose and intent of the ordinance. preserves its spirit, public safety is 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 benefit to the owner, is building a single family home for me to reside in, causing no hard no foul to anyone around this property. I am 2 lots from the county line with the lot in between explaining her positive reaction to a new build with regards to the "Creek" almost being in non existence.

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).

Being that the surveyor has surveyed the lot, set the house plan, and was not aware of the additional zoning code, we are puzzled and feel that a personal review of this lot is granted. In purchasing this home, it was in high hopes for a new build however as the code is structured, it is impossible to do such thus asking for the 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. (State any facts pertaining to the hardship that is not the result of the applicant's own actions).

The hardship from not being able to build an additional zoning feet due to the setbacks makes this land unbuildable which creates a hardship to my family. I could understand if this was a flowing creek, however it clearly is not. Each area of Henderson County changes due to development, storm drainage, etc...which has deterred the water flow into the "creek" area.

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:

8/14/2023

Jared C Webb

Signature of Property Owner:

Date:

8/14/2023

Jared C Webb

In the event that any discrepancies exist between the criteria outlined on this form and the Zoning Ordinance of the City of

Received By:

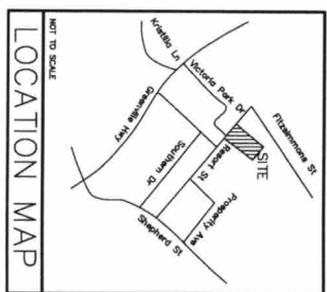
Date:

Item A.

Fee Paid:

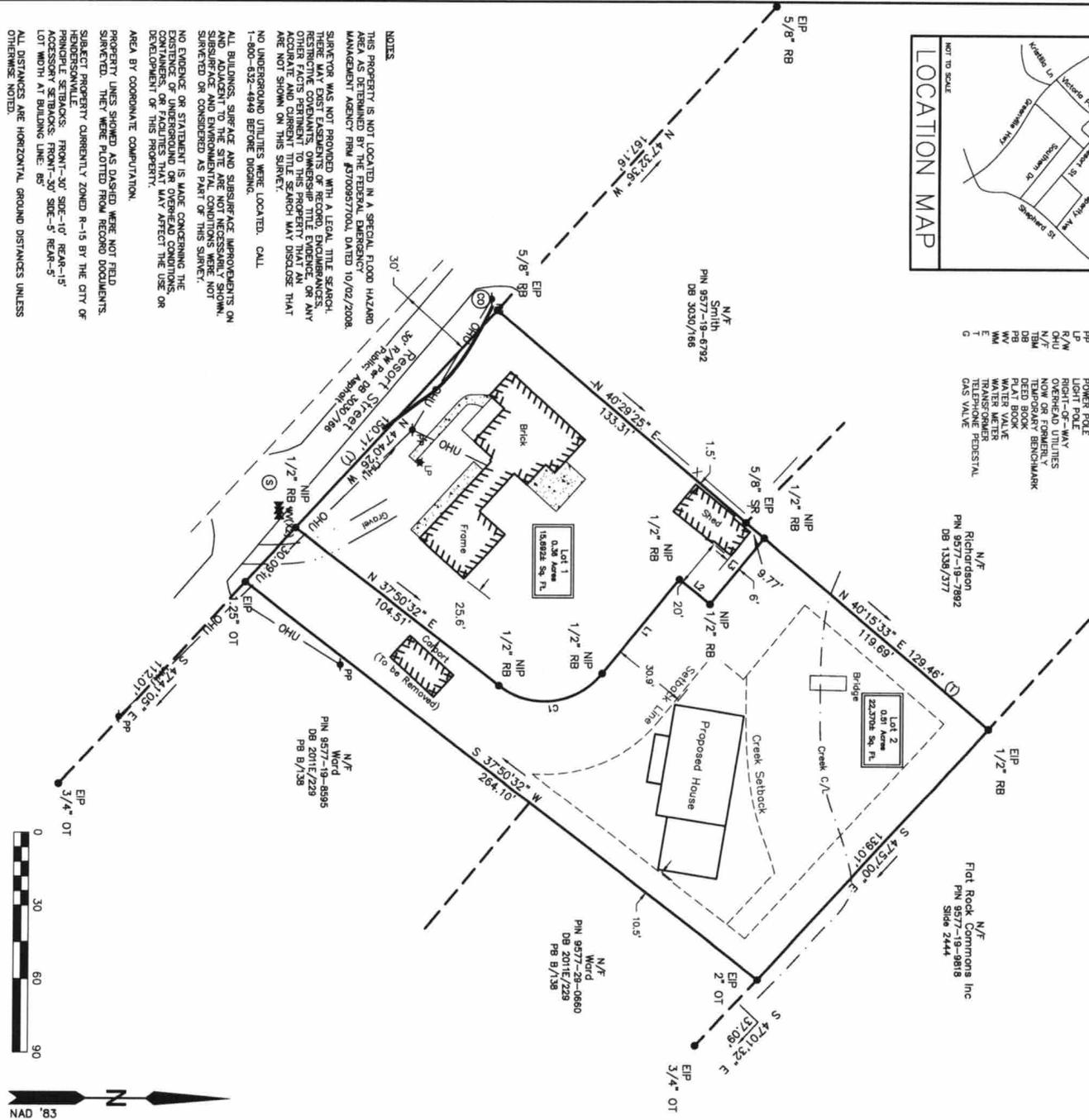
Date Received:

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



- LEGEND**
- EXISTING IRON PIN
 - NEW IRON PIN
 - UNMARKED POINT
 - OPEN TOP
 - SOLID ROD
 - POWER POLE
 - RIGHT-OF-WAY
 - OVERHEAD UTILITIES
 - NOW OR FORMERLY
 - TEMPORARY BENCHMARK
 - DEED
 - PLAT BOOK
 - WATER METER
 - TELEPHONE
 - GAS VALVE
 - PRESTAL

| LINE NUMBER | LENGTH | BEARING | AREA |
|-------------|---------|---------------|------------|
| 1 | 1425.00 | N 47°51'32" E | 108,000.00 |
| 2 | 1062.00 | S 47°51'32" E | 108,000.00 |
| 3 | 1425.00 | S 47°51'32" E | 108,000.00 |
| 4 | 1062.00 | N 47°51'32" E | 108,000.00 |
| 5 | 1425.00 | N 47°51'32" E | 108,000.00 |
| 6 | 1062.00 | S 47°51'32" E | 108,000.00 |
| 7 | 1425.00 | S 47°51'32" E | 108,000.00 |
| 8 | 1062.00 | N 47°51'32" E | 108,000.00 |
| 9 | 1425.00 | N 47°51'32" E | 108,000.00 |
| 10 | 1062.00 | S 47°51'32" E | 108,000.00 |
| 11 | 1425.00 | S 47°51'32" E | 108,000.00 |
| 12 | 1062.00 | N 47°51'32" E | 108,000.00 |
| 13 | 1425.00 | N 47°51'32" E | 108,000.00 |
| 14 | 1062.00 | S 47°51'32" E | 108,000.00 |
| 15 | 1425.00 | S 47°51'32" E | 108,000.00 |
| 16 | 1062.00 | N 47°51'32" E | 108,000.00 |
| 17 | 1425.00 | N 47°51'32" E | 108,000.00 |
| 18 | 1062.00 | S 47°51'32" E | 108,000.00 |
| 19 | 1425.00 | S 47°51'32" E | 108,000.00 |
| 20 | 1062.00 | N 47°51'32" E | 108,000.00 |



-REVISION 08/08/2023: ADDED PROPOSED HOUSE LOCATION-

SITE PLAN FOR
JARED WEBB (OWNER)
318 RESORT STREET
STATE OF NORTH CAROLINA
HENDERSON COUNTY
HENDERSONVILLE TOWNSHIP

TOTAL AREA
 0.87 AC.
 38,062 SQ. FT.
DEED REF:
 D.B. 1425, PG. 4
PLAT REF:
 P.B. B PG 138
 TAX MAP #8577-19-9703

State of North Carolina
 Henderson County
 Review Office of Henderson County certifies that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Community Development Director or Designee
 Date

Filed and recorded in the Register of Deeds Office for Henderson County, N.C. this _____ day of _____, 2022 at _____ o'clock _____ M in _____

Register of Deeds

I, David C. Huntley, certify that this survey creates a subdivision and evidence that regulates parcels of land, G.S. 47-307(1)(2). I also certify that this plat was drawn under my supervision from an actual survey made under my supervision. (Dead description recorded in Bk. 1425, Pg. 4); that the boundaries not surveyed were determined by reference to the plat of the same property recorded in Bk. 1425, Pg. 4; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number, and seal this 25th day of April, 2022.

David C. Huntley
 FLS-1-3204

DAVID C. HUNTLEY
 & ASSOCIATES, INC.
 HENDERSONVILLE, NC
 (803) 653-8077

SEAL
 L-3204
 DAVID C. HUNTLEY
 REGISTER OF DEEDS
 HENDERSON COUNTY, N.C.

SURVEY
 DRAWN
 SCALE
 DATE
 DWG. NO.

CPE
 T-30
 04/11/2022
 H-7530

NOTES

THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY FROM #3700857700, DATED 10/02/2008. SURVEYOR WAS NOT PROVIDED WITH A LEGAL TITLE SEARCH. THERE MAY BE EXISTING RECORDS OF RECORD, TITLE ENCUMBRANCES, EASEMENTS, RIGHTS, INTERESTS, OR OTHER FACTS PERTINENT TO THIS PROPERTY THAT ARE NOT SHOWN ON THIS SURVEY.

NO UNDERGROUND UTILITIES WERE LOCATED. CALL 1-800-632-4949 BEFORE DIGGING.

ALL BUILDINGS, SURFACE AND SUBSURFACE IMPROVEMENTS ON AND ADJACENT TO THE SITE ARE NOT NECESSARILY SHOWN. SURVEYED OR CONSIDERED AS PART OF THIS SURVEY.

NO EVIDENCE OF UNDERGROUND OR OVERHEAD CONDITIONS, CONTAINERS, OR FACILITIES THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS PROPERTY.

AREA BY COORDINATE COMPUTATION.

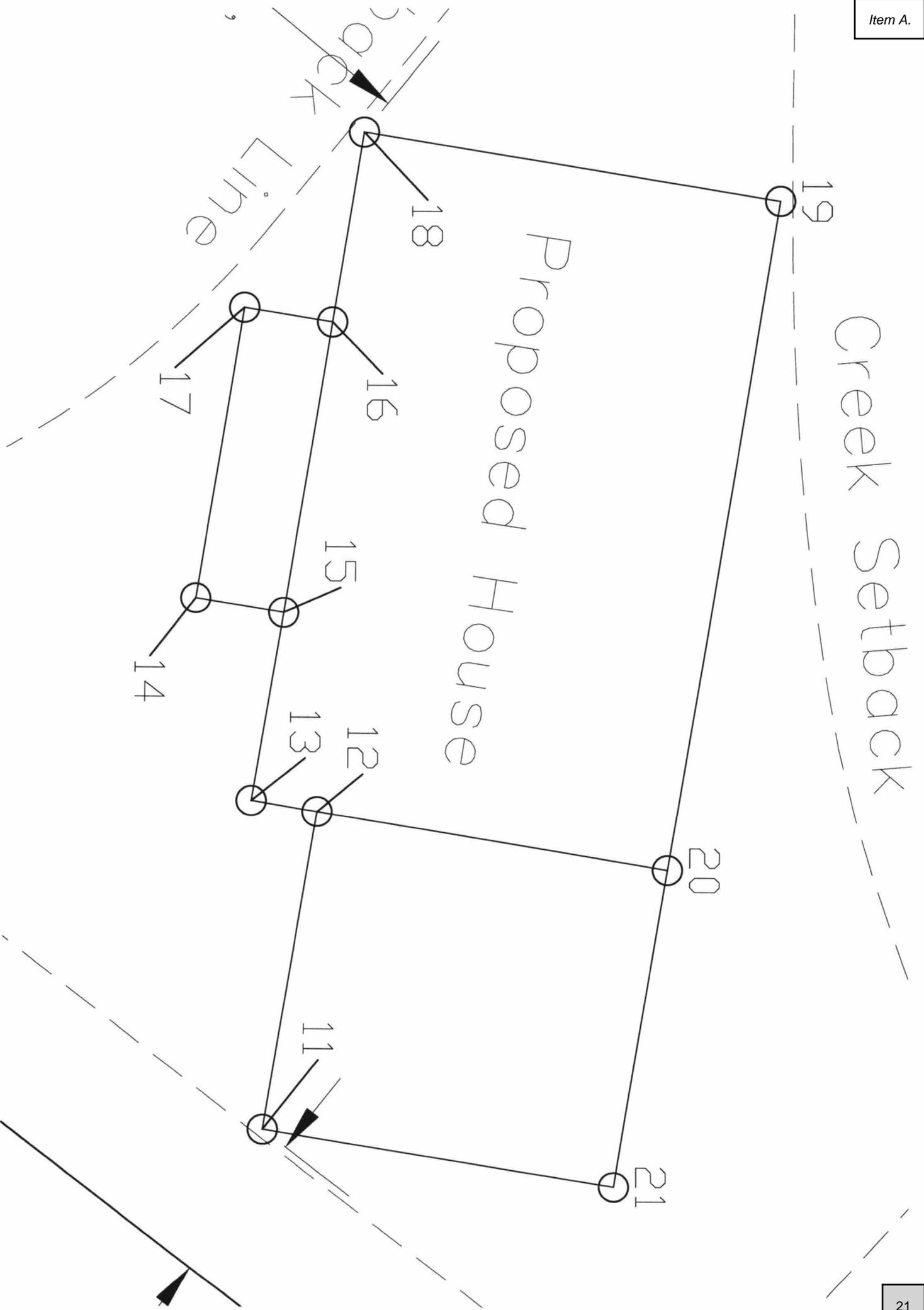
PROPERTY LINES SHOWN AS DASHED WERE NOT FIELD SURVEYED. THEY WERE PLOTTED FROM RECORD DOCUMENTS.

SUBJECT PROPERTY CURRENTLY ZONED R-15 BY THE CITY OF HENDERSONVILLE. FRONT-30' SIDE-10' REAR-15' ACCESSORY SETBACKS. FRONT-30' SIDE-5' REAR-5' LOT WIDTH AT BUILDING LINE: 65'

ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.



NAD '83



August 10, 2023

To whom this may concern,

I, Amanda R Shoemake aka Amanda S Ward, owns the property next door to Jared Webb who lives at 318 Resort Street, Hendersonville NC. I have no problem with him building a home on his lot. The so called creek behind our property, I personally would not consider that to be a creek but more of a ditch that collects the rain water run off. The only part of this creek I have ever seen any running water in is from the pipe that runs under Fitzsimmons Street and the further away from this pipe you go the less water you see.

Sincerely

Amanda R Shoemake
Amanda R Shoemake
828-489-1245 cell



Item A.

Item A.



Item A.



Item A.

August 10, 2023

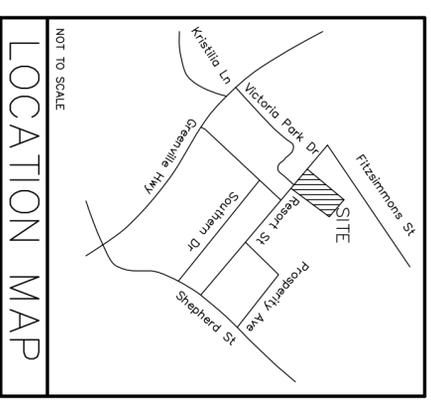
Item A.

To whom this may concern,

I, Amanda R Shoemake aka Amanda S Ward, owns the property next door to Jared Webb who lives at 318 Resort Street, Hendersonville NC. I have no problem with him building a home on his lot. The so called creek behind our property, I personally would not consider that to be a creek but more of a ditch that collects the rain water run off. The only part of this creek I have ever seen any running water in is from the pipe that runs under Fitzsimmons Street and the further away from this pipe you go the less water you see.

Sincerely

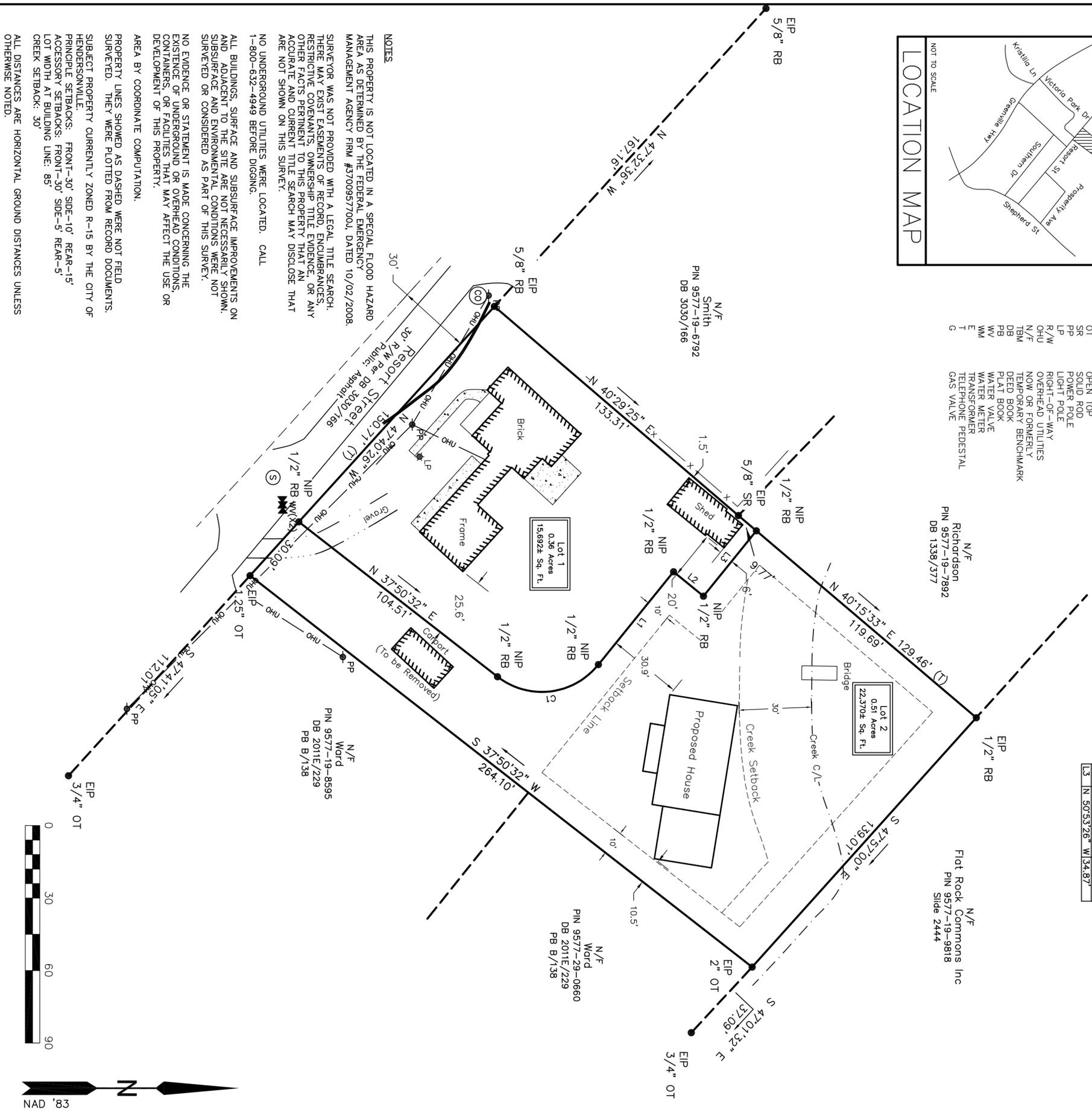
Amanda R Shoemake
Amanda R Shoemake
828-489-1245 cell



LEGEND

- EIP ● EXISTING IRON PIN
- NIP ○ NEW IRON PIN
- PT ○ UNMARKED POINT
- RB REAR TOP
- ST OPEN TOP
- SR SOLID ROD
- LP POWER POLE
- LP LIGHT POLE
- R/W RIGHT-OF-WAY
- OHU OVERHEAD UTILITIES
- N/F NOW OR FORMERLY
- TBM TEMPORARY BENCHMARK
- DB DEED BOOK
- PB PLAT BOOK
- WV WATER VALVE
- WM WATER METER
- TF TRANSFORMER
- TP TELEPHONE PEDESTAL
- G GAS VALVE

| CURVE | ARC LENGTH | RADIUS | DELTA ANGLE | CHORD BEARING | CHORD LENGTH |
|-------|---------------|----------|-------------|---------------|--------------|
| C1 | 46.81' | 30.00' | 89.23.52" | N 06.52.03" W | 42.20' |
| L1 | 50.53.26" | W 49.50' | | | |
| L2 | N 39.08.34" E | 16.00' | | | |
| L3 | N 50.53.26" | W 34.87' | | | |



NOTES

THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS DETERMINED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY FIRM #3700957700L, DATED 10/02/2008.

SURVEYOR WAS NOT PROVIDED WITH A LEGAL TITLE SEARCH. THERE MAY EXIST EASEMENTS OF RECORD, ENCUMBRANCES, RESTRICTIVE COVENANTS, OWNERSHIP TITLE EVIDENCE, OR ANY OTHER FACTS PERTINENT TO THIS PROPERTY THAT AN ACCURATE AND CURRENT TITLE SEARCH MAY DISCLOSE THAT ARE NOT SHOWN ON THIS SURVEY.

NO UNDERGROUND UTILITIES WERE LOCATED. CALL 1-800-652-4949 BEFORE DIGGING.

ALL BUILDINGS, SURFACE AND SUBSURFACE IMPROVEMENTS ON AND ADJACENT TO THE SITE ARE NOT NECESSARILY SHOWN. SUBSURFACE AND ENVIRONMENTAL CONDITIONS WERE NOT SURVEYED OR CONSIDERED AS PART OF THIS SURVEY.

NO EVIDENCE OR STATEMENT IS MADE CONCERNING THE EXISTENCE OF UNDERGROUND OR OVERHEAD CONDITIONS, CONTAINERS, OR FACILITIES THAT MAY AFFECT THE USE OR DEVELOPMENT OF THIS PROPERTY.

AREA BY COORDINATE COMPUTATION.

PROPERTY LINES SHOWN AS DASHED WERE NOT FIELD SURVEYED. THEY WERE PLOTTED FROM RECORD DOCUMENTS, SUBJECT PROPERTY CURRENTLY ZONED R-15 BY THE CITY OF HENDERSONVILLE.

PRINCIPLE SETBACKS: FRONT-30' SIDE-10' REAR-15'

ACCESSORY SETBACKS: FRONT-30' SIDE-5' REAR-5'

LOT WIDTH AT BUILDING LINE: 85'

CREEK SETBACK: 30'

ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES UNLESS OTHERWISE NOTED.

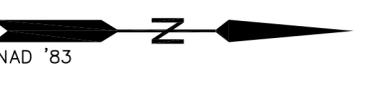
N/F Richardson
PIN 9577-19-7892
DB 1338/377

N/F Flat Rock Commons Inc
PIN 9577-19-9818
Slide 2444

N/F Smith
PIN 9577-19-6792
DB 3030/166

N/F Ward
PIN 9577-29-0660
DB 2011E/229
PB B/138

N/F Ward
PIN 9577-19-8595
DB 2011E/229
PB B/138



-REVISION 08/08/2023: ADDED PROPOSED HOUSE LOCATION-

SITE PLAN FOR
JARED WEBB (OWNER)
318 RESORT STREET

STATE OF NORTH CAROLINA
 HENDERSON COUNTY
 HENDERSONVILLE TOWNSHIP

TOTAL AREA
 0.87 AC.
 38,062 SQ. FT.
DEED REF:
 D.B. 1425, PG. 4
PLAT REF:
 P.B. B PG 138
 TAX MAP #9577-19-9703

State of North Carolina
 Henderson County

I, _____ Review Officer of Henderson County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Review Officer _____

I, _____ Director of Designee for the City of Hendersonville hereby certify that this plat is an exempt subdivision as defined by the City subdivision ordinance and conforms with applicable City zoning dimensional regulations.

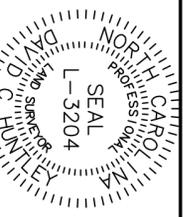
Community Development Director or Designee _____

Filed and recorded in the Register of Deeds Office for Henderson County, N.C. this _____ day of _____, 2022 at _____ o'clock _____ M in Slide _____

Register of Deeds _____

I, David C. Huntley, certify that this survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land. G.S. 47-30(f)(11)a. I also certify that this plat was drawn under my supervision from an actual survey made under my supervision (Deed description recorded in Bk. 1425, Pg. 4); that the boundaries not surveyed are clearly indicated as drawn from information found in Bk. N/A, Pg. N/A; that the rate 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 25th day of April, 2022.

David C. Huntley
 PLS L-3204



DAVID C. HUNTLEY
 & ASSOCIATES, INC.
 675 MAPLE STREET
 HENDERSONVILLE, NC 28792
 (828) 693-8077

SURVEY DRAWN DATE DWG. NO.
 CPE CPE 1"=30' 04/11/2022 H-7530
 C-1963

318 Resort St. – Site Photos



Photo from Resort St. facing north of proposed driveway and carport (to be removed)



Photo of the stream setback line at the rear of the subject property facing west.



Photo of the stream bank at the rear of the subject property.



Photo of the stream setback line of the subject property facing east.

Jared Webb property Pin #10008916

Lisa M. Cabe <lcaberealtor@gmail.com>

Tue 9/5/2023 10:38 AM

To: Hunt, Alexandra <ahunt@hvlnc.gov>; jared webb <jaredcwebb@yahoo.com>

📎 5 attachments (515 KB)

livestake45.jpeg; livestakeprep.jpeg; Live Stake Installation Process.jpeg; livestakeprep2.jpeg; Live Stakes Example.jpeg;

Be Advised: This email originated from outside of the Hendersonville network. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hey Alex:

Thank you for meeting with Jared Webb on the creek issue and the zoning requirements for his property located on Resort Drive. He has asked that I send this letter to be included with the paperwork submitted for the variance meeting on the current foundation plan that is currently proposed by survey to show that vegetation can be added to the property as such and is a viable source for a trickling creek bed. It is in our hopes to keep the current proposed foundation in its current location and feel this is the permanent cure to the zoning issue.

Live stakes are dormant cuttings from live plants that will be installed directly into the ground in areas prone to erosion. These cuttings will root and eventually grow into an adult shrub/tree and the roots will help to stabilize the soil.

Live stakes should be installed during the dormant season to increase survival rates of the plants.

Several species of live stakes including silky willow, silky dogwood, black willow, ninebark, elderberry, and a button bush can be added to the property creek bed.

See attached photos.

Thank you,

--

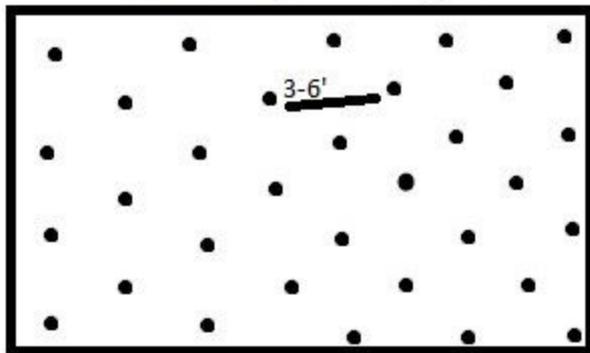
Lisa M. Cabe, Principal Broker/REALTOR
Signature Properties of WNC, LLC
PO Box 5243
Asheville, NC 28813
828-674-5885

lcaberealtor@gmail.com

Item A.

"Welcome to my beautiful hometown of Asheville, NC"

Plant 3-6' apart in "triangle"



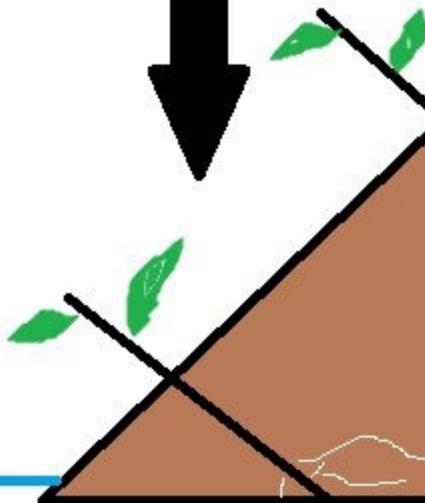
Item A.

3' - 6' Apart



2-5 bud scars remain above ground.

3' - 6' Apart





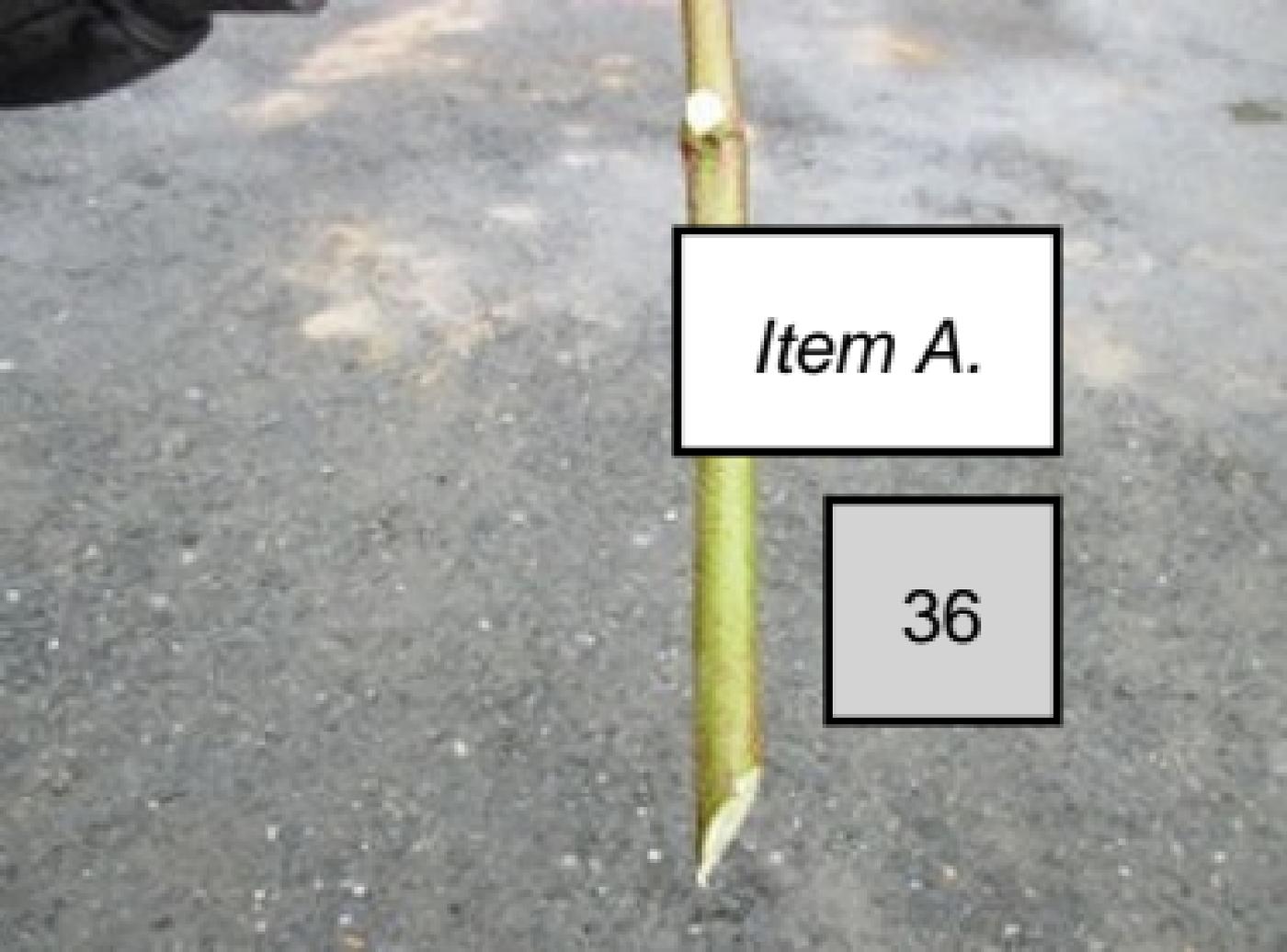
Item A.

34



Item A.

35

A vertical green plant stem is positioned in the center of the frame against a grey asphalt background. A white rectangular label with a black border is placed over the stem, containing the text 'Item A.'. Below this label, a grey rectangular label with a black border contains the number '36'. The stem has a small white mark near the top and a pointed tip at the bottom.

Item A.

36

