

**TOWN OF LAKE LURE BOARD OF  
ADJUSTMENTS REGULAR MEETING**

Tuesday, September 24, 2024 at 1:00 p.m.

**HELD AT THE:  
LAKE LURE MUNICIPAL CENTER**



**BOARD MEMBERS:  
GREGGARDNER, CHAIR  
NEIL GURNEY, VICE CHAIR  
KIMBERLY SAYLES  
AL JOYNER  
MELVIN OWENSBY  
DAVID LUSK ALTERNATE  
MARK WINDFEDT, ALTERNATE  
COMMISSIONER DAVID DIORIO, COUNCIL LIAISON**

# **TOWN OF LAKE LURE**

## **Board of Adjustment Regular Meeting**

Tuesday, September 24, 2024 at 1:00 PM

Lake Lure Municipal Center



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### **Agenda**

- I. Roll Call**
- II. Approval of Agenda**
- III. Approval of August 27 Meeting Minutes - Page 3**
- IV. Public comments (*if any*)**
- V. Old Business**
- VI. New Business - Page 10**
  - A. Special Use Permit: SUP2024006 – property owner, Jonathan Hinkle, is proposing 480 square foot modular commercial building for use as a business office for Marathon Construction. (An office building for this site was reviewed and approved by the board 3/26/24 but was not built and that SUP will be voided if this replacement is approved.) Property address is 2520 Memorial Hwy/tax parcel #1605470 (old school site). The property is zoned Commercial General.
- VII. Adjournment**



**MINUTES OF THE REGULAR MEETING OF THE  
TOWN OF LAKE LURE BOARD OF ADJUSTMENT REGULAR  
MEETING**

Tuesday, August 27, 2024 at 1:00 p.m.

**THIS MEETING WAS HELD AT LAKE LURE TOWN HALL.**

**I. CALL TO ORDER**

Meeting was called to order at 1:00pm

**II. ROLL CALL**

**Board Members Present:**

Greg Gardner, Chair  
Melvin Owensby  
Neil Gurney, Vice Chair  
Kimberly Sayles  
Al Joyner

**Absent:** Mark Windfeldt, Alternate  
David Lusk, Alternate

**Town Council Members present:**

Commissioner David DiOrio, Council Liaison

**Town Hall Staff Members Representative Present:**

Michael Williams, Community Development Director  
Richard Carpenter, Development and Environmental Review Specialist

### **III. APPROVAL OF AGENDA**

#### **IV. APPROVAL OF MINUTES FROM JULY 23, 2024 MEETING**

Neil Gurney made a motion to approve the amended minutes, Melvin Owensby seconded and they all voted in favor.

Greg Gardner made a motion to change the Agenda and hear item C first, Neil Gurney seconded and they all voted in favor.

#### **V. PUBLIC COMMENTS**

No public comments

### **VI. OLD BUSINESS**

No Old Business to Discuss

### **VII. NEW BUSINESS**

- A. Special use Permit SUP2024005 – Property owner, town of Lake Lure, is planning the construction of a maintenance shop and adjacent equipment storage pole barn for the relocation of the town’s public works facilities. Property address is 622 Memorial Highway/ Tax Parcel # 1657063(behind the fire station). The property is zoned government use.

Mike Williams – addressed the board and reported that this was brought up to the Z&P board and they had a recommendation that this item be brought up to this board for further deliberation. And the reason for a new public works facility to be build is because part of that property is no longer town property, also the facility is too small – and the new location will meet all of the criteria’s and it will look presentable. The Z&P made a recommendation to deny it because it does not meet the comprehensive plan.

Dean Lindsey – made a presentation with the mapping plan of the new building and explained all of the details of the building facility, and answered the board members questions.

Greg Gardner – closed the case for deliberation – just a comment under consideration that this building match all of the other building owned by the town.

Neil Gurney made a motion to approve the special use permit Greg Gardner seconded the vote was 4 in favor and 1 oppose.

- B. Variance ZV20240015 – property owner Thomasina Coile, is applying for a variance to reduce the minimum front and side yard setbacks to the existing building; to reduce the minimum required parking spaces; and to exempt the property from required parking lot delineators; for the purpose of allowing the use of the existing commercial structures. Property address is 2400 Memorial Highway/Tax parcel #1657856. The property is zoned General Commercial.

Greg Gardner made a motion that Kimberly Sayles will be recused from this case because the applicants are her neighbors.

Rick Carpenter – addressed the board Thomasina Coile is seeking variances to change the use of a non-conforming property without bringing the subject property into compliance. The property is addressed as 2400 Memorial HWY., Lake Lure, NC (Parcel #1657856) and is in the Commercial General (CG) Zoning District.

**Additional Information for the Board.**

- 1) Per §Sec. 36-64(f)(5) Where the lot abuts upon property used for residential purposes, a buffer strip shall be provided along the side and/or rear lot line of such abutting residential use. If a fence or wall is used, such fence or wall shall be opaque and not less than eight feet in height. If a planted buffer is used, such buffer strip shall be not less than eight feet in width and shall be composed of evergreen trees or shrubs which at planting will be at least four feet high and at maturity will be not less eight feet high. This requirement may be modified by the board of adjustment where sufficient natural buffering exists.
- 2) Per §Sec. 36-64(g) Ingress/egress. All uses in this district abutting the major thoroughfares, being U.S. Highway 64/74, N.C. Highway 9, or Buffalo Creek Road, shall have access only from such thoroughfares and shall be allowed only one means of ingress/egress for each 150 feet of frontage or fraction thereof. All ingress/egress openings, for both one-way or two-way traffic, shall be a minimum of 15 feet wide and a maximum of 30 feet wide, measured at the road right-of-way line, unless otherwise required by the state department of transportation.
- 3) Per §Sec. 36-64(h) Landscaping. Landscaped traffic delineators are required within the front yard of the commercial site extending the full width of the front yard excepting to allow for entrances and exits. Delineators shall begin at the edge of the right-of-way or six feet from the edge of the pavement, whichever is greater, and shall extend a minimum of two feet toward the front of the structure. The area shall be planted and maintained with grass, flowers, and/or shrubs not high enough to obstruct a driver's view of traffic.
- 4) Sec. 36-218(a). Off-street parking required. Off-street automobile storage or parking space shall be provided on every lot on which any of the following uses

are hereafter established. The number of parking spaces provided shall be at least as great as the number specified below for various uses. Each space shall be provided with vehicular access to a street or alley and shall be provided with adequate space for turning so that no vehicle shall be required to back into the street except from space used for single- or two-family dwellings. Commercial parking spaces shall measure at least nine feet by 18 feet. To ensure orderly parking, each parking space shall be appropriately delineated as determined by the zoning administrator.

**Staff Analysis:**

Staff have analyzed the submitted application and supporting material. Staff have made the following determination: The lot was considered a legal non-conformity prior to the change in use. Upon the proposed change, the property must be brought into compliance. However, the location of the structure, and surrounding topography, make conformance difficult. Staff understand the need for a safe, conforming site but recognize the site constraints encountered by the applicant. Staff do not support the variance request, and recommend denial, unless the applicant can produce a competent traffic impact analysis to confirm they're not creating a hazard. Per the attached survey, almost all of the parking is found within the public right-of-way and may constitute a safety hazard. Per the submitted plans, the applicant has failed to illustrate they will not be injurious to the neighborhood or to the general welfare of the public.

**Staff Recommendation is to review the application on the basis of the following criteria and make a determination to grant or deny the variance.**

- 1) Are there extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district?
- 2) Will granting the variance requested confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located?
- 3) Would a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located?
- 4) Will the requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare?
- 5) Are the special circumstances the result of the actions of the applicant? What are any special circumstances due to?
- 6) Is the variance requested is the minimum necessary for the proposed use of the land, building or structure?

Thomasina and Corey Coile – 2400/2414 Memorial Highway, they own property in Riverbend and moving permanently to lake lure from Georgia – they fell in love with

Lake Lure and they want to open their business – they are naming it the Lake Lure Station – Corey presented some pictures – you see that the parking spaces have been change from pull in and pull out to parallel – Mrs. Coile called the NCDOT for a meeting Mike and Rick were invited and attended that meeting – DOT said that it was DOT's decision to make those changes to parallel parking and that they deemed it safe. Mrs. Colie presented copy of DOT letter to board.

Mrs. Coile - The type of business they are opening up is family friendly rooms such as scape rooms, you will not have 40 cars coming in at the same time because are going to be scheduled ahead of time, the other business will be axe throwing and this is only going to be planned as schedule – so we feel like it's going to be enough parking.

David DiOrio – mentioned that the ride of way will have to go to town council and not come back to BOA – so this board will only to approve the variance.

Close case for deliberation – Greg Gardner says that the email from Antoine Boyce is good enough evidence for this to be approved.

Greg Gardner made a motion to grant a variance for the current parking lot, based on the letter from DOT stating that the parking is safe, Mark Windfeldt seconded and they all voted in favor.

- C. Variance ZV2024016 – property owner, Thomas Hausle, is applying for a variance to increase the maximum allowed land disturbance from 50% to 52.75% in order to meet the town's slope grading requirements. Property address is 239 Hawthorne Drive/Tax parcel #1633719. The Property is zoned residential.

Rick Carpenters addressed the board with the following:

Thomas Hausle is seeking a variance to exceed the allowed disturbance limit on a steep slope project. The property is addressed 239 Hawthorne Dr., Lake Lure, NC (Parcel #1633719) and is in the Residential (R-1) Zoning District.

**Additional Information for the Board:**

- 5) Per §Sec.36-399(1) (a). No more than 50 percent of a lot may be disturbed; provided, however, the disturbance area on any lot shall not be required to be less than 7,500 square feet, nor may the disturbance area on any lot exceed 15,000 square feet.
- 6) Per §Sec.36-398(1). Minimum alterations. Earth moving shall be limited to the minimum required for building foundations, driveways, drainage control structures and other approved improvements and immediate areas surrounding the building, structure, road driveway, drainage structure or other approved improvements. With the exception of approved stockpiling or restoration efforts, substantial earth moving beyond that required for the

installation or construction of approved buildings, structures, driveways, roads, or drainage structures shall not be permitted.

- 7) Per §Sec.36-398(2) Cut and fill. Unless otherwise specifically approved by the town, cut slopes shall be no steeper than 1½ half horizontal to one vertical (1½:1) and fill slopes shall not be steeper than two horizontal to one vertical (2:1). Slopes exceeding 35 feet in height shall be benched at 35-foot intervals.
- 8) Per §Sec.36-396(4). Geotechnical analysis and report. This analysis and report shall address the existing geology, topographic and hydrologic conditions of the site, including an evaluation of the ability of the site to accommodate the proposed activity. Such analysis and report shall contain a professional opinion regarding slope stability, soil-bearing capacity, the potential for landslide or other geological hazards and their potential impact on structures or surrounding properties, and any other pertinent information. The analysis and report shall then be used by a qualified licensed professional engineer or qualified licensed architect to create a design that is structurally sound and addresses the design elements outlined in this article.

**Staff Analysis:**

Staff have analyzed the submitted application and supporting material. Staff have made the following determination: Throughout the life of the project the applicant has deviated from the approved plans and exceeded the allowed disturbance limit. Due to this, the applicant will implement restoration efforts to compensate for the loss. This variance request is a new deviation that the applicant would like to implement to bench cut what would otherwise be a vertical cut. I recommend the board analyze all available evidence to determine if the applicant has a valid case to further deviate from town ordinance requirements. The only evidence submitted to staff is a partial site plan without elevations.

**Staff Recommendation is to review the application on the basis of the following criteria and make a determination to grant or deny the variance:**

- 7) Are there extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district?
- 8) Will granting the variance requested confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located?
- 9) Would a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located?
- 10) Will the requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare?
- 11) Are the special circumstances the result of the actions of the applicant? What are any special circumstances due to?



12) Is the variance requested is the minimum necessary for the proposed use of the land, building or structure?

Neil Gurney made a motion to approve the variance with the conditions that it will be approved only on the red lines on the

**VIII. AUGUST DEPARTMENT REPORT**

**None**

**ADJOURNMENT**

Neil Gurney made a motion to adjourn Kimberly Sayles seconded, and they all voted in favor, the meeting ended at 2:54 p.m.

**ATTEST:**

\_\_\_\_\_  
Elba A. Willette, Town Clerk

\_\_\_\_\_  
Greg Gardner, Chair

BY: Michelle

SEP 03 2024

TOWN OF LAKE LURE  
APPLICATION FOR SPECIAL USE PERMIT

RECEIVED

Fee: \$410 Rec'd 9/3/24

SUP- 20240010

Approved by Board of Adjustment: _____	_____
Rejected by Board of Adjustment: _____	Community Development Director
(see attached Order)	Date: _____

**Please complete all three pages of application form**

**APPLICANT:**

(Check one) Owner:  Agent: \_\_\_\_\_ (If applicant is not the owner, attach authorization to act as agent)

Name: Jonathan Hinkle Date of Application: Sept. 3, 2024

**PROPERTY**

Property located at: 2520 Memorial Highway Lake Lure NC 28746

Parcel/Tax PIN#: ~~1633471~~ 1605470 Current zoning: CG

**SPECIAL USE REQUESTED:**

(Use the terms that are found in the zoning regulations. If the terms are not clear as they pertain to your application, add a statement describing your intended use.)

Use Requested: Office Building, Open screened storage of construction equipment and supplies, Dual entrance off of Memorial Highway and Harriss Rd

Clarification: \_\_\_\_\_

We would like to construct a permanent office location at 2520 Memorial Highway. We have three possible locaitons. We have attached a set of plans to show 3 possible locations and parking facilities. On the plan we will locate equipment storage and entrances. Please see attached supporting documents.

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**FINDINGS OF FACT:** The Board of Adjustment is required to make certain findings of fact. To assist the board in their deliberations, the applicant is required to submit the following statements of fact, the best of the applicant's ability and knowledge. You may reference §92.045-047 in the Town's Zoning Ordinance for general application requirements.

Additional requirements may be required for specific special uses. Please do not leave these blank: the applicant is required to submit information specific to the request describing how the proposed use will meet each finding. In the case of applicant's failure to complete the six Findings of Fact, the application will be deemed incomplete and rejected.

1. The application is complete. Yes  No

2. **Public Safety.** The proposed use will not materially endanger the public safety, if located and developed according to the application as submitted. And, satisfactory provision and arrangement has been made for at least the following where applicable: automotive ingress and egress, traffic flow, traffic control, pedestrian and bicycle ways, lake use and fire suppression. (See attached plans, if applicable)

The proposed building locations and storage areas will not endanger public safety  
The plan is consistent with prior uses. Please see attached plan.

3. **Public Health.** The proposed use will not materially endanger the public health, if located and developed according to the application as submitted. And, satisfactory provision and arrangement has been made for at least the following where applicable: water supply, water distribution, sewer collection, and sewer treatment. (See attached plans, if applicable)

There are three sewer locations and two water connections on the property  
Sewer has been approved by the State of NC

4. **Protection of Property Values.** The proposed use will not substantially injure the value of adjoining or abutting property, if developed according to the application as submitted. And, satisfactory provision and arrangement has been made for at least the following where applicable: lighting, noise, odor, and landscaping. (See attached plans, if applicable)

The building locations and storage will not negatively impact the adjoining  
properties. Since ownership we have  
maintained grass, weed and kudzu control. The addition of commercial real  
estate will help increase commercial property values.

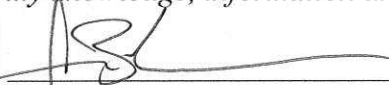
5. **Standards and Requirements.** The proposed use will meet all standards and requirements specified in the regulations, if located and developed according to the application as submitted. And, satisfactory provision and arrangement has been made for at least the following where applicable: parking spaces, loading zones, sign design, and street design. (See attached plans, if applicable)

The permanent insatallation of the construction office does meet the construction standards.  
There are two different wood siding materials, The walls are broken up with windows and doors,  
The foundation will be stucco block

6. **Comprehensive Plan and Neighborhood Character.** The location and character of the proposed use and structures will be in harmony with the neighborhood character and in general conformity with the applicable elements of the Land Use Plan and other officially adopted plans of the Town of Lake Lure, if developed according to the application as submitted. And, satisfactory provision and arrangement has been made for at least the following where applicable: site layout and treatment, building design, relationship of building(s) to site, and harmony of buildings and uses with neighborhood character.

The proposed building is in harmanony with the compreheinsive plan and  
Neighborhood Character.  
The building has a mountain treatment on the exterior.

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

  
 \_\_\_\_\_  
*Signature of applicant*

\_\_\_\_\_  
*Signature of owner (if not applicant)*

2520 MEMORIAL HIGHWAY  
 \_\_\_\_\_  
*Street of P.O. Box*

\_\_\_\_\_  
*Street or P.O. Box*

LAKE LURE NC 28746  
 \_\_\_\_\_  
*City, State, Zip*

\_\_\_\_\_  
*City, State, Zip*

828 289 6702  
 \_\_\_\_\_  
*Daytime telephone number*

\_\_\_\_\_  
*Daytime telephone number*

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# Marathon Builders

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Jonathan Hinkle  
President/ Owner  
Marathon Builders of WNC Inc.  
2520 Memorial Highway  
Lake Lure NC 28746  
info@marathonbuildersnc.com  
828.625.2000  
September 3, 2024

Town Of Lake Lure BOA  
Town of Lake Lure Planning and Zoning Board

Subject: Request for Special Use Permit for Office Building and Open Storage Area

Dear Town of Lake Lure Planning Board, Town of Lake Lure BOA

I am writing on behalf of Marathon Builders to request a special use permit for the construction or placement of an office building on our property located at [Insert Property Address]. We have reviewed the North Carolina building codes and the Rutherford County Building Department's regulations, and we have confirmed that an office trailer would indeed be permitted under the current building codes. For your reference, we have attached an email and a copy of the building code that supports this determination.

We have identified three potential locations for the office building on our property. These locations have been designated in order of preference, and we are ready to discuss them further during the permit review process.

Additionally, we are reapplying for the entrances off of Harris Road and Memorial Highway to enhance accessibility to our site. We believe these entrances are essential for the efficient operation of our business and will ensure the safety and convenience of our operations.


2520 Memorial Highway Lake Lure, North Carolina  
www.marathonbuilderswnc.com

In conjunction with the office building, we are also applying for a special use permit for an open storage screened area. This area will contain construction materials, shipping containers, construction trailers, dump trailers, pontoon boats, pontoon trailers, flatbed trailers for trucks, and other various small pieces of equipment necessary for our construction projects. The storage area will be screened to ensure compliance with local ordinances and to maintain the aesthetic appeal of the surrounding area.

We have been approved by the state of North Carolina to install a bathroom with one toilet and one sink within the office building. To support this installation, we have identified three potential sewer locations on our property and two water tap locations, which are detailed in the attached documents.

We appreciate your attention to this request and are prepared to provide any additional information or documentation necessary to facilitate the approval process. Thank you for considering our application, and we look forward to your favorable response.

Sincerely,

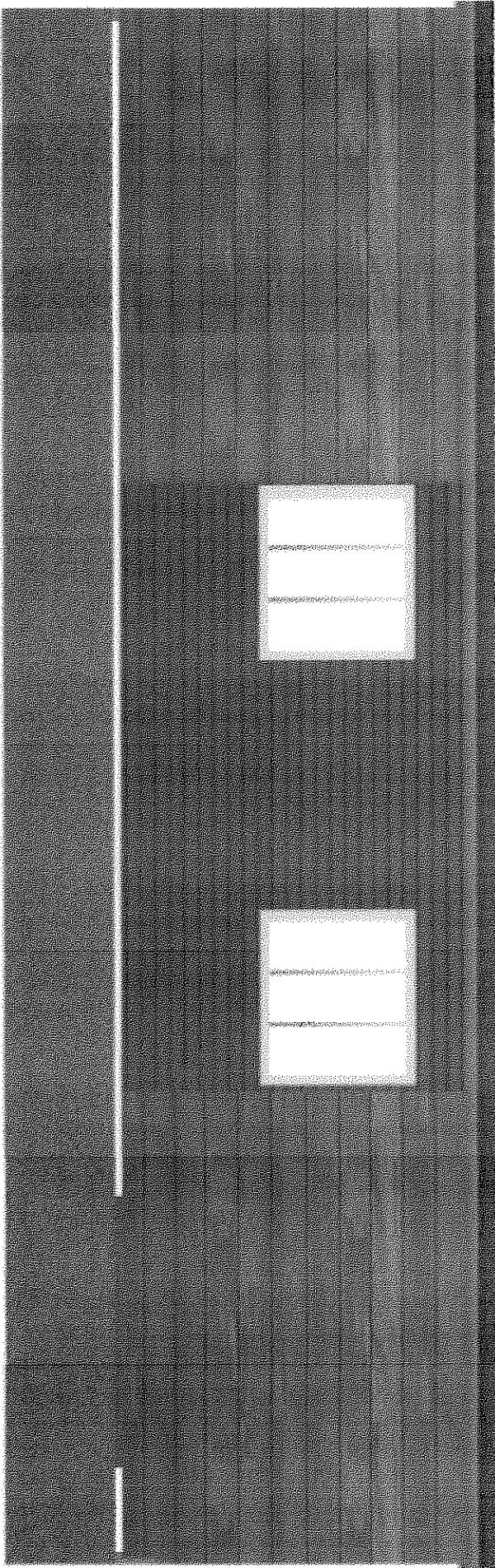


Jonathan Hinkle  
President/ Owner  
Marathon Builders



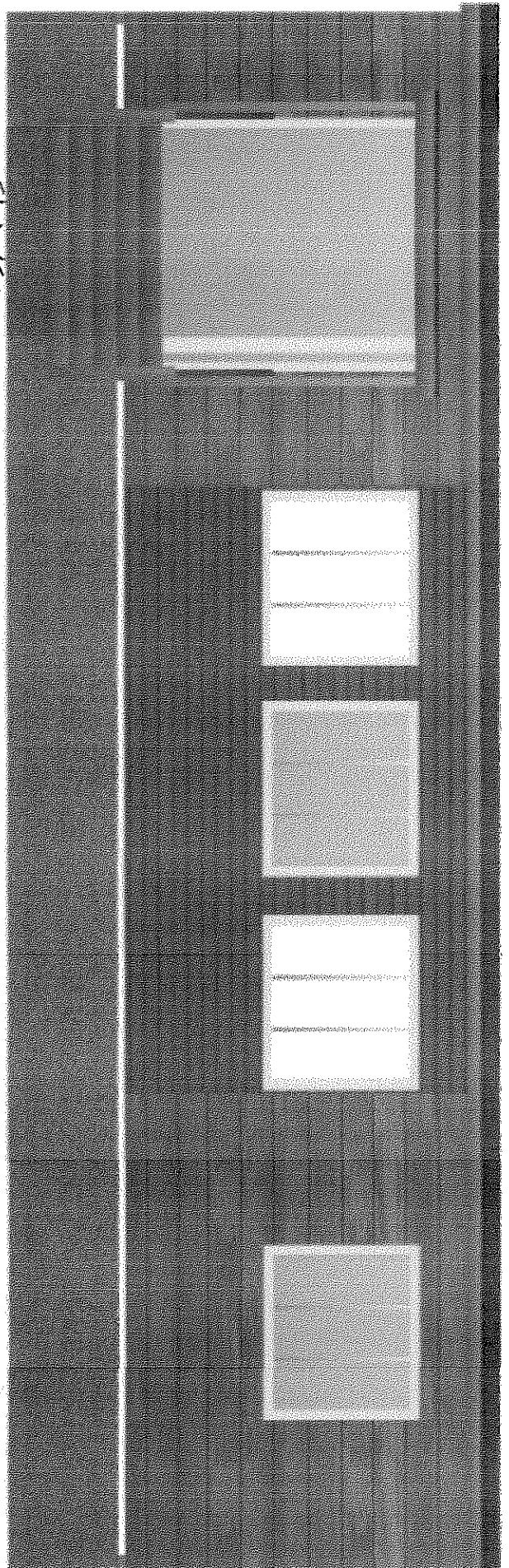




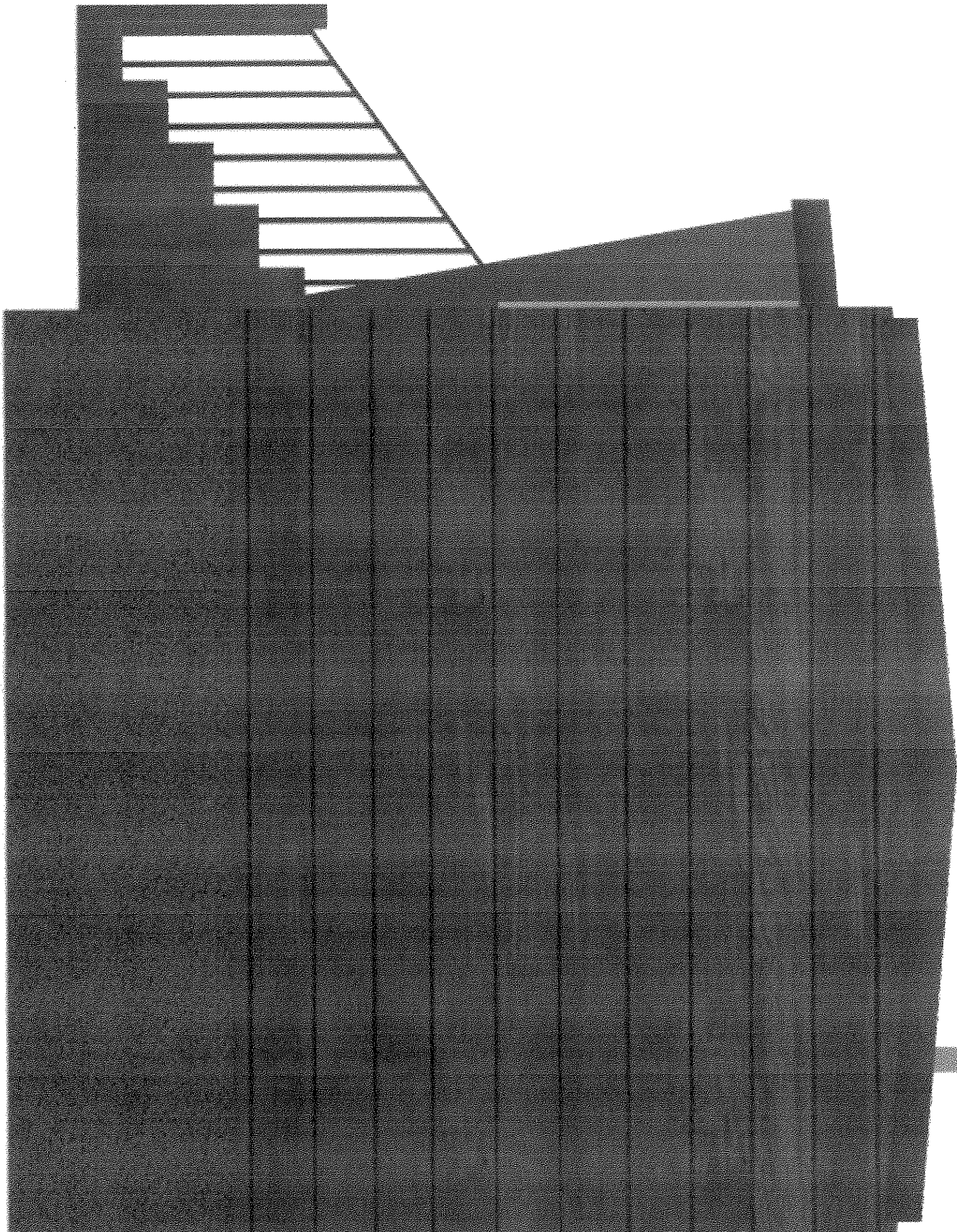


REAR

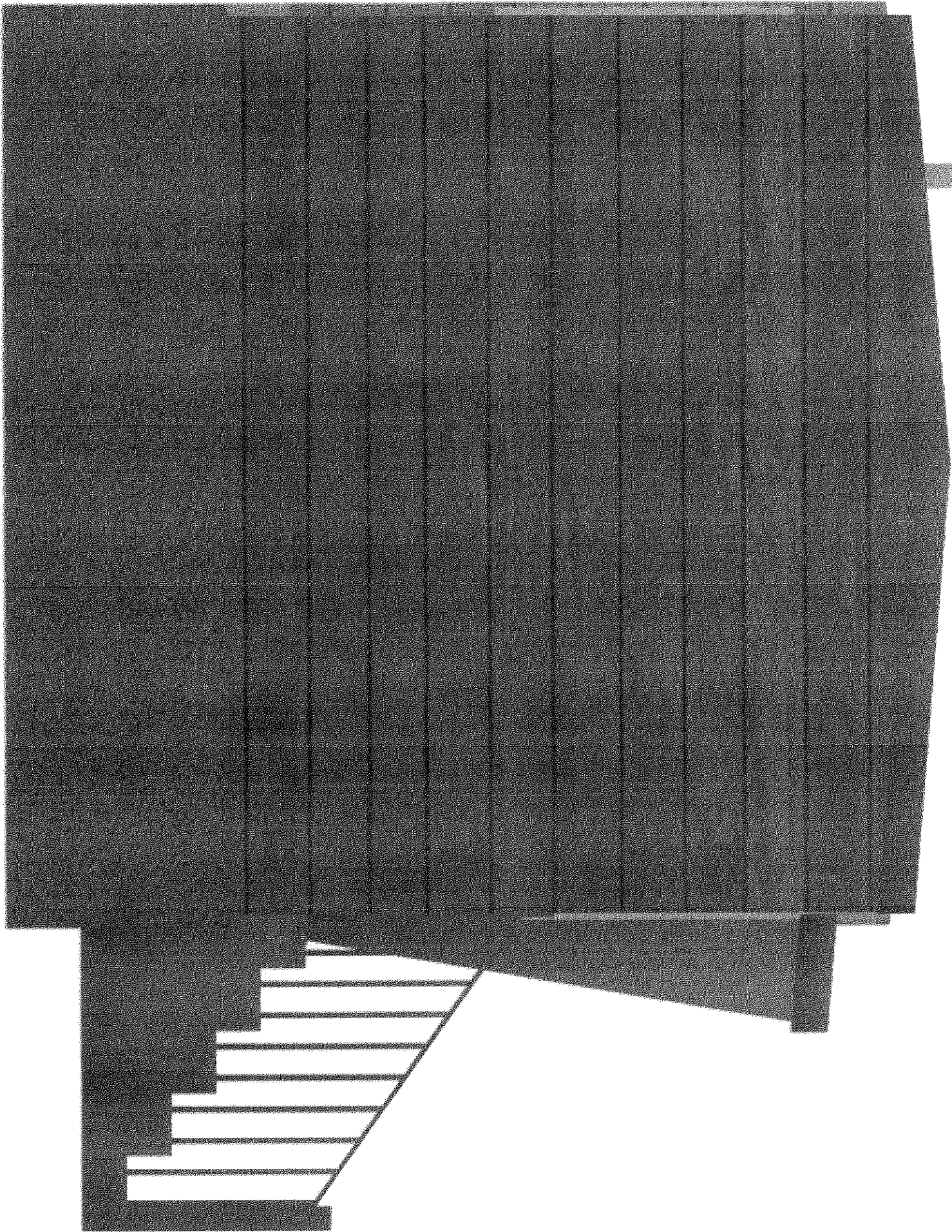
Stairs/Entrance



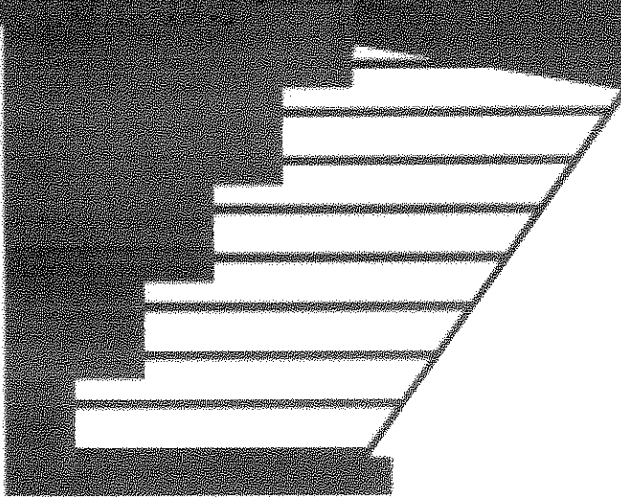
FRONT



SIDE-1



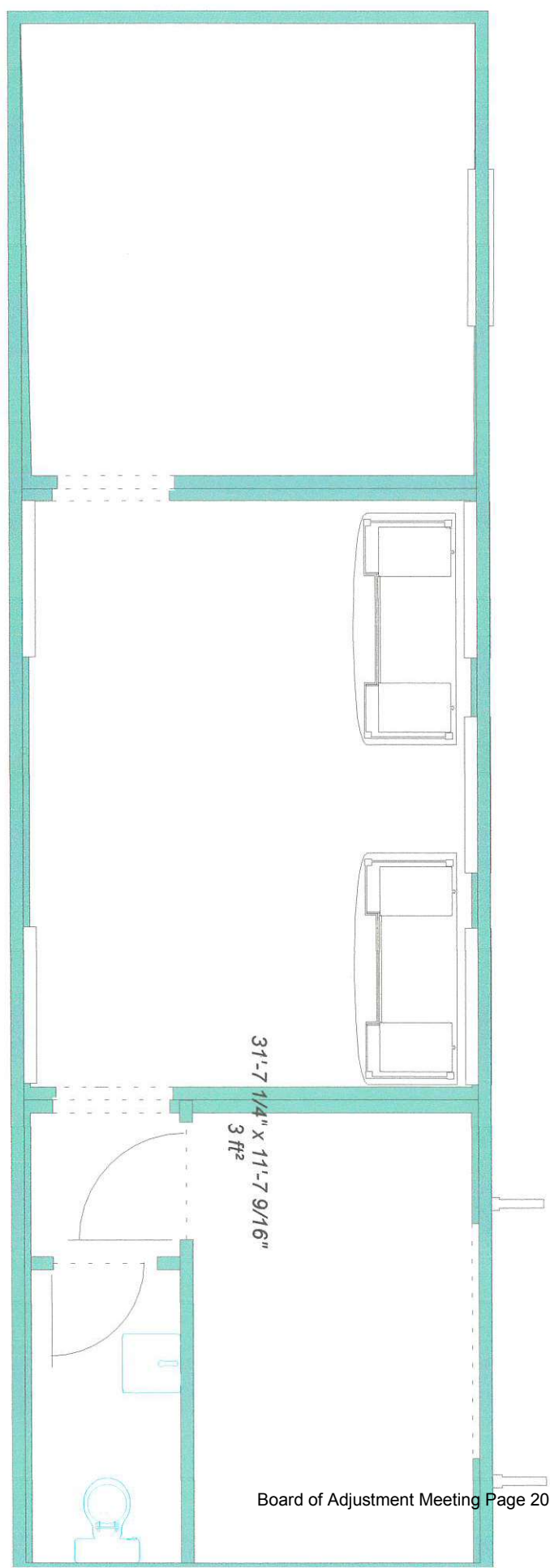
SIDE -2



12'-0"

40'-0"

INTERIOR FLOOR PLAN



31'-7 1/4" x 11'-7 9/16"  
3 ft²



TOWN OF LAKE LURE  
Community Development Department

MEMORANDUM

TO: Zoning and Planning Board  
FROM: Mike Williams, Community Development Department  
DATE: September 17, 2024  
RE: SUP-2024006

9/17/24 - zoning +  
renewed planning +  
to renewed and called  
to renewed approving  
SUP 2024006  
MAD  
WLL  
9/19/24

Jonathan Hinkle has submitted a Special Use Permit to erect a 480sf modular commercial office building. This is a revision of his March 2024 SUP which was approved by the BOA on March 26<sup>th</sup> but has not been exercised in obtaining a zoning permit for the project. Mr. Hinkle has stated that he is replacing the original plans with this new SUP. The use is permitted by right in the district but our zoning ordinance, section 36-107 requires that any new commercial building obtain a special use permit to ensure that the building is in harmony with existing natural environment, neighborhood and community character. Section 36-102(b)(2) directs the Zoning & Planning Board to consider "site treatment, building design, relationship of building to site, harmony of buildings and uses with neighborhood character, landscaping, signs, lights, and any other considerations it feels reasonably affect the appearance of the proposed project. The property is addressed as 2520 Memorial Highway, Lake Lure, NC (Parcel #1605470) and is in the Commercial General (CG) Zoning District.

**Additional Information for the Board:**

- 1) The building is proposed as a 12' x 40', one story modular office building. He is also asking for variances to allow his outside storage, as was approved on March 26. He proposes screening to ensure compliance with local ordinances and appropriate appearances. There are no setback issues.
- 2) Structure is on property and has been resided with wood lap siding and new windows and doors.
- 3) Landscaping is proposed as mulch, with river rock driveway.
- 4) Development Review has identified issues of 1) some concerns regarding the legitimacy of what appears as a construction trailer to be approved as a permanent office building, although Building Inspections has provided opinion that it is a modular, built to code building that could be permanently set up with engineering and building inspections. 2) existing driveway on Harris Road is not permitted by code, Section 36-64(g). Physical nature of property makes accessing upper part of the lot from Memorial Highway very impractical and applicant expressed need to keep Harris Road access. This was approved as an additional access in the March 26 approval. 3) Landscaping and storage issues will need to be considered for compliance and/or variances.

- 5) Future plans for property have included separate business use and structure(s) on lower level of property.
- 6) The current “construction trailer” that is being proposed as a permanent office building is currently cited as a violation since there is no permitted construction project on the property, a violation of Town Code. It has been temporarily allowed as a permissible, temporary use with a building permit and enforcement action was paused pending the approval of the previous SUP.

**Staff Analysis:**

Staff determined that the actual proposed building seems to meet the Code’s appearance and design standards, especially based upon the building inspector’s opinion that the proposed office is in fact a “modular building”. Zoning and Planning should review and make their recommendation based upon the appearance and appropriateness standards. Zoning and Planning may also want to provide an opinion on the ingress/egress, outside storage and landscaping issues.

**Attachments**

- 1) Application
- 2) Submitted Plans
- 3) Building Inspector’s “Modular” documentation

**Staff Contact**

Mike Williams, CZO  
828-625-9983 ext. 117; [mwilliams@townoflakelure.com](mailto:mwilliams@townoflakelure.com)

**\*This project was initially reviewed and approved March 26, 2024. This is revision of both building and site plans\***

**Fire Chief/Emergency Management comments**

- Will not require Sprinklers.
- Knox Box needs to be installed
- Addressing signage will need to be in compliance with town ordinances.
- Fire Extinguisher install so that the travel distance does not exceed 75'
- Exit signage for all exit doors.
- No substantial change from original proposal

**Public Works Director comments:**

- Sewer connection has been approved by NCDEQ

**County Building Inspector comments:**

- The main concern was whether the currently portable 480sf building can be considered as a commercial building. Building Inspections, Shane Dotson, reviewed and determined that the building is a "properly labeled NC modular" that, according to Office of Fire Marshall, to be considered in same major as any other modular, built to building code, structure.
- Will have to be set on engineered and building inspector approved permanent foundation.
- At this point, certification of whether building is a "Residential modular" or "Commercial modular" has not been provided. As a result, must either provide engineered plans and evidence that framing/insulation meets commercial standards or the modular manufacturer's certification of "Commercial" construction.
- Building Inspections, Lee Pace, pointed out ADA bathroom requirement.
- Will handle any other issues in field after construction begins.

**Zoning Permitting comments:**

- Need adequate documentation that the construction trailer can actually be considered as a modular building and meet zoning and state building code. It is his opinion that the construction trailer should be considered as a "mobile home" under the Town's zoning and is prohibited for the permanent business office use.
- Issues with the outside storage of materials, shipping container, work equipment. Variances granted with March approval of the original and similar project are being voided with the discontinued SUP2024002 approval.

2520 Memorial Hwy. (modular office)







**From:** Shane Dotson <Shane.Dotson@rutherfordcountync.gov>   
**Subject:** Fwd: Moving or Relabeling Existing Modular Buildings 9-4-19 (3).pdf  
**Date:** August 30, 2024 at 8:25 PM  
**To:** info@marathonbuildersnc.com



Sorry I think I sent to the wrong email address.  
Sent from my iPhone

Begin forwarded message:

**From:** Shane Dotson <Shane.Dotson@rutherfordcountync.gov>  
**Date:** August 30, 2024 at 9:02:00AM EDT  
**To:** jonathanhinkle@bellsouth.net  
**Cc:** Garvin Pace <Garvin.Pace@rutherfordcountync.gov>  
**Subject:** Moving or Relabeling Existing Modular Buildings 9-4-19 (3).pdf

Jonathan, good morning. Sorry for the delay. Attached is a document you should be able to use for TOL as for your office. You will use #1 when reading the document.

As for the shipping container, we use code section R101.2.1 of the 2018 NCRC. This section addresses Accessory Buildings. Then you would refer to the definition of an *accessory building* and the last sentence gives you examples and one being storage buildings. I hope this helps.

**Shane Dotson**

Rutherford County  
Building Inspections  
(828) 287-6036  
[Shane.dotson@rutherfordcountync.gov](mailto:Shane.dotson@rutherfordcountync.gov)

Pursuant to North Carolina General Statutes, Chapter 132, et. seq., this electronic mail message and any attachment hereto, as well as any electronic mail message(s) that may be sent in response to it may be considered public record and as such are subject to requests for review.

Moving or Relabeling Existing  
Modular Buildings 9-4-19 (3)...





BY: Mike Causey

SEP 03 2024

RECEIVED

For Shane Dotson 8/30/24

MANUFACTURED BUILDING

Toll free 800.587.2716 Tel 919.647.0000 Fax 919.715.0067

MIKE CAUSEY, INSURANCE COMMISSIONER & STATE FIRE MARSHAL  
BRIAN TAYLOR, ASSISTANT STATE FIRE MARSHAL

### MEMORANDUM

DATE: September 4, 2019 (updates August 21, 2013 memo)  
TO: Third Party Inspection Agencies, Building Officials, Modular Manufacturers, Modular Set-Up Contractors, and Other Interested Parties  
FROM: Michael J. Hamm, P.E.  
Chief Building Code Consultant -- Manufactured Building Division  
RE: Moving or Relabeling Existing Modular Buildings

We are occasionally questioned concerning the relocation or relabeling of an existing modular building. Such buildings will fall into one of three categories:

1. The building is a properly labeled NC modular.
2. The building does not have a NC modular label, but was built by a manufacturer who is either currently certified or was certified under the NC modular program at the date of manufacture.
3. The building does not have a NC modular label and the manufacturer has never been certified under the NC modular program.

The procedure for each of these cases is described below.

#### 1. The building is a properly labeled NC modular.

Section 104.2.1 of the *NC State Building Code, Vol. IX, Existing Buildings, 1995 Edition with 1999 Revisions*, states:

*Existing buildings may continue their existing occupancy, provided such buildings are maintained in a safe, sanitary, usable condition and provided such occupancy was legal at the time of construction.*

It is the policy of this Division to allow labeled modular buildings to be moved and occupied when these conditions are met. The local inspection jurisdiction must verify that the building has in fact been maintained as described above. *Please note that, if the occupancy of the building changes, the building must be brought into full compliance with all applicable current Codes for the new occupancy.* Modifications to existing modular buildings are treated the same as for site built buildings. These modifications are under the jurisdiction and subject to the approval of the local inspection department. Since required live loads vary by occupancy (see **Table 1607.1, North Carolina Building Code, 2018 Edition**), it is possible that a revised foundation plan may be required for the new occupancy. This plan must be approved by the local jurisdiction. A foundation design prepared by a NC professional engineer who is familiar with the building and the site may be required.

There may be cases in which the building is old enough that, for whatever reason, the plans are no longer available. When approved set-up plans and instructions are not available, **and the unit is a single, stand-alone classroom**, see the attached **memo of August 20, 2019**. When approved setup plans and instructions are not available, **and the unit other than a single, stand-alone classroom**, a foundation design in compliance with *North Carolina Building Code, 2018 Edition* must be prepared by a NC professional engineer specifically for the site where unit is to be located.

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**2. The building does not have a NC modular label, but was built by a manufacturer who is either currently certified or was certified under the NC modular program at the date of manufacture.**

The same criteria as for Case 1, above, applies, except that the 3rd party must carry out the following:

1. Plans must be reviewed and stamped "approved" by the 3rd party after it is determined that the unit is in full compliance with applicable Volumes of the NC State Building Code *in force at the date of manufacture*.
2. Plant records must be examined by the 3rd party to insure that the unit was properly inspected.
3. If any modifications are required in order to bring the unit into compliance with NC Codes in force at the date of manufacture, the 3rd party must verify that these have been done properly.
4. The 3rd party must inspect the unit to insure that it has been properly maintained as described in Case 1 above.
5. After completion of the above, a new data plate listing all applicable Code Volumes to which the unit is certified must be prepared. A letter to this Division requesting permission to label the unit must be submitted, and no unit falling under Case 2 may be labeled without specific authorization from this office.
6. If the unit is located outside of North Carolina, items 1 through 5 above must be carried out by the 3rd party prior to moving the building into the state.

If plans and/or plant records as described in items 1 & 2 above are not available, the 3rd party must certify compliance with applicable NC Codes by direct inspection of the unit. Dismantling of part of the unit may be necessary to insure that the structural, plumbing, mechanical, and electrical systems are Code compliant.

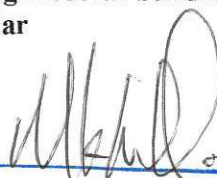
When approved set-up plans and instructions are not available, the criteria for foundations as described for Case 1 above are applicable.

As an alternate to the above (Case 2) the local jurisdiction may accept sealed documentation from a NC professional engineer. Such documentation must state that the engineer has personally inspected the building and found it to be in full compliance with all applicable NC Codes. Each Code (i.e., *NC Building Code, NC Plumbing Code, etc.*), with the edition used, must be listed individually. If modifications were required for the unit, the engineer's letter must state that he or she has personally inspected the modifications after their completion and found them to be satisfactory. If the building is accepted by the local jurisdiction based on sealed engineering documentation in lieu of the 3rd party certification described above, **no NC Modular Stamps will be affixed to the unit.**

**3. The building does not have a NC modular label and the manufacturer has never been certified under the NC modular program.**

The local inspection jurisdiction must be satisfied that the unit is in full compliance with applicable Codes in force at the time of manufacture (if the occupancy does not change) or is in full compliance with current Codes (if there is a change in occupancy). This may be accomplished at the discretion of the local jurisdiction either by their own inspection, by acceptance of 3rd party verification, or through documentation by a NC professional engineer. Please be aware that, since a modular unit in Case 3 was not produced under the NC modular program, the local jurisdiction has the option of turning the building down without exercising any of these options. **Under no circumstances will an existing modular building that was not manufactured under the NC modular certification program receive any NC Modular Stamps.**

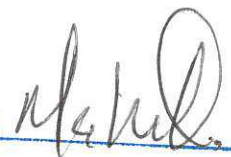
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# CHAPTER 1 SCOPE AND ADMINISTRATION

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## R101.1 Title.

These provisions shall be known as the *North Carolina Residential Code for One- and Two-family Dwellings* and shall be cited as such and will be referred to herein as "this code." These regulations were adopted by the North Carolina Building Code Council on June 13, 2017 to be effective January 1, 2019. References to the *International Codes* shall mean the *North Carolina Codes*. The North Carolina Amendments to the *International Codes* are underlined.

## R101.2 Scope.

The provisions of the *International Residential Code for One- and Two-family Dwellings* shall apply to the construction, *alteration*, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of one or more detached one- and two-family dwellings and townhouses located on a parcel not more than three stories above *grade plane* in height with a separate means of egress and their *accessory structures* not more than three stories above *grade plane* in height. Single family *dwellings* otherwise permitted by this code shall include *bed and breakfast homes*.

Exceptions:

1. Live/work units complying with the requirements of Section 419 of the *International Building Code* shall be permitted to be built as one- and two-family *dwellings* or *townhouses*. Fire suppression required by Section 419.5 of the *International Building Code* where constructed under the *International Residential Code for One- and Two-family Dwellings* shall conform to

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2.Deleted.

(The delayed effective date of this Rule is January 1, 2025.)

## **R101.2.1 Accessory buildings.**

*Accessory buildings* with any dimension greater than 12 feet (3658 mm) shall meet the provisions of this code. *Accessory buildings* are permitted to be constructed without a masonry or concrete foundation, except in *coastal high hazard* or *ocean hazard areas*, provided all of the following conditions are met:

- 1.The *accessory building* shall not exceed 400 square feet (37 m<sup>2</sup>) or one story in height;
- 2.The building is supported on a wood foundation of minimum 2-inch by 6-inch (51-mm by 152-mm) or 3-inch by 4-inch (76-mm by 102-mm) mudsill of approved wood in accordance with Section R317; and
- 3.The building is anchored to resist overturning and sliding by installing a minimum of one ground anchor at each corner of the building. The total resisting force of the anchors shall be equal to 20 psf (958 Pa) times the plan area of the building.

## **R101.2.2 Accessory structures.**

Only the following *accessory structures* shall meet the provisions of this code.

- 1.Decks, see Appendix M,
- 2.Gazebos,

3. Retaining walls, see Section R404.4,

4. Detached masonry chimneys located less than 10 feet (3048 mm) from other buildings or lot lines,

5. Swimming pools and spas, see Appendix V,

6. Detached carports,

Exception: Portable, lightweight carports not exceeding 400 square feet (37 m<sup>2</sup>) or 12 feet (3658 mm) mean roof height.

7. Docks, piers, bulkheads, and waterway structures, see Section R327.

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