

State of North Carolina

Minutes

County of Madison

The Madison County Board of Adjustment met on Monday, April 22, 2024, at 6:30 p.m. at the Madison County Public Library Marshall Branch, 1335 N. Main Street, Marshall, North Carolina.

In attendance were Chairman Robert Briggs; Vice-Chair Hart Barnhill; members Ernie Ramsey, Frank Carr, and Tyler Harwood; alternate members Conley Dewayne Goforth and David Witt; County Planning and Zoning Attorney John Noor; Development Services Director Brad Guth; and Clerk Mandy Bradley.

The meeting was called to order at 6:33 p.m. by Chairman Briggs and an introduction of Board members was provided.

Item 1: Agenda Approval

Upon motion by Vice-Chair Barnhill and second by member Harwood, the Board voted unanimously to approve. (Attachment 1.1)

Item 2: Approval of March 25, 2024 (Regular) Meeting Minutes

Upon motion by Vice-Chair Barnhill and second by member Carr, the Board voted unanimously to accept the minutes.

Item 3: Public Comment

Chairman Briggs opened the floor for public comment with none being available to be heard by the Board.

Item 4: Public Hearings

Chairman Briggs called for any members of the Board engaged in ex-parte communication prior to the meeting regarding issues before the Board, or any Board members with a conflict of interest with none being received.

I. Application: Special Event Facility Special Use Permit-PIN 9738-63-8352

Brad Guth, Development Services Director discussed the request received from the applicant to continue the hearing pending receipt of site plan and additional information with applicant Marissa Dye presenting before the Board to request that the hearing be continued until May in order to provide all of the requested information for the Board.

Counsel was provided by Attorney Noor regarding the process of the hearing.

Witness Diane Van Helden presented before the Board noting that she would provide no opposition to continue, but that her schedule would not permit her to be present at the May meeting. Discussion was had by the Board, applicant Marissa Dye, and Witness Diane Van Helden with counsel being provided by Attorney Noor regarding the selection of a date for continuance of the matter.

Upon motion by member Ramsey and second by Vice-Chair Barnhill, the Board voted unanimously to continue until June 28, 2024.

II. Application: Protected Ridge Building Variance-PIN 9739-96-4086

Counsel was provided by Attorney Noor regarding the previous recusal of member Carr at the April 22, 2024, hearing for the matter, prior to continuance to this meeting. At 6:52 p.m., member Carr exited the Board and alternate member Dewayne Goforth joined the Board as a voting member. Attorney Larry Leak, representative for applicant Monica Tool provided no objection.

Attorney Noor called for additional conflicts or the need to cite ex-parte communications from members of the Board with none being received. Counsel was provided by Attorney Noor regarding the process of the hearing.

Chairman Briggs opened the floor for witnesses requesting standing.

Chris Flaherty and Tahne Flaherty presented for request of standing and the Board Clerk administered the oath to Mr. and Ms. Flaherty. Counsel was provided by Attorney Noor regarding those with special damages of whom standing is applicable. Mr. Flaherty joined by Ms. Flaherty who provided details on lighting from the project; discussed information including the obstruction to the view from his property, dark sky obstruction caused by lighting, and request of application and information for the project as well as answered questions from members of the Board and from the applicant's counsel, Attorney Larry Leak regarding distance of his house to the project, obstruction of views, and compliance with the County's Land Use Ordinance. Counsel was provided by Attorney Noor regarding the process of the hearing. Vice-Chair Barnhill placed a motion on the floor to grant standing with second to the motion being provided by member Harwood. Upon discussion by the Board, the Board voted 3-2 opposed with Vice-Chair Barnhill and member Harwood voting in favor and Chairman Briggs and members Ramsey and Goforth voting opposed. Discussion was had by Mr. Flaherty.

The Board took recess from 7:50 p.m. until 8:02 p.m.

Chairman Briggs discussed decorum of the meeting with those in attendance and called for additional witnesses requesting standing.

Barbara Pautz presented for request of standing and the Board Clerk administered the oath to Ms. Pautz. Ms. Pautz discussed information including property elevation, visibility of lighting from the applicant's property, and support for neighbors in opposition to the applicant as well as answered questions from the Board. Discussion regarding elevation of Ms. Pautz's property in relation to the applicant's was had by the Board and Ms. Pautz and the Board requested that Development Services Director Brad Guth be sworn in to provide additional information with the Board Clerk administering the oath to Mr. Guth who noted that he did not have the applicant's property elevation. Counsel was provided by Attorney Noor. Attorney Larry Leak, counsel for the applicant, declined to provide cross-examination. Additional discussion was had by the Board and Ms. Pautz regarding location and distance of her property to neighbors, views and visible lighting with Development Services Director Brad Guth providing a geographical information system map of Ms. Pautz's property for review of the Board. Chairman Briggs called for a motion to grant standing with no motion being received from the Board. Counsel was provided to the Board by Attorney Noor. Upon motion by Chairman Briggs and second by member Ramsey, the Board voted 4-1 that she does not qualify for standing with Chairman Briggs and members Ramsey, Harwood, and Goforth voting in favor and Vice-Chairman Barnhill voting opposed.

Chairman Briggs called for additional witnesses requesting standing.

Van Hutchins presented for request of standing and the Board Clerk administered the oath to Mr. Hutchins. Mr. Hutchins discussed information including the County's Mountain Ridge Protection Ordinance, watershed and potential for the creek to be impacted near his property, state right-of way on his property that the applicant will use to access their property, and storm water runoff concerns as well as answered questions from members of the Board and discussed the geographical information system map provided by Development Services Director Guth. Chairman Briggs disclosed to the Board that Mr. Hutchins is his cousin and counsel was provided by Attorney Noor with Chairman Briggs noting that he did not feel biased and the hearing continuing with no recusal from Chairman Briggs. Additional discussion was had by the Board and Mr. Hutchins regarding the distance from his property to the applicant's and Mr. Hutchins noting that he had no damages to report at the time but was concerned for the future. Counsel was provided by Attorney Noor regarding the process of the hearing. Attorney Larry Leake, counsel for the applicant, declined to provide cross-examination. Additional discussion was had. Upon motion by Vice-Chair Barnhill and second by member Ramsey, the Board voted 4-0 to deny standing with Chairman Briggs noting that he is abstaining from the vote due to the appearance of impropriety and counsel being provided by Attorney Noor.

Attorney Noor called for additional witnesses requesting standing.

Lauren McCure presented for request of standing and the Board Clerk administered the oath to Ms. McCure. Ms. McCure discussed information regarding ridgetop views from her property, the decrease in property values due to people building on mountain ridges, and distance of her property from the applicant's as well as answered questions from the Board. Attorney Larry Leak, counsel for the applicant, declined to provide cross-examination. Member Ramsey disclosed to the Board that Ms. McCure is his neighbor and that he would not be able to remain impartial so he would recuse himself from this portion of the hearing with member Ramsey exiting the Board. Counsel was provided by Attorney Noor and alternate member Witt joined the Board as a voting member. Additional discussion was had by Ms. McCure and the Board. Upon motion by Vice-Chair Barnhill and second by member Harwood, the Board voted unanimously to deny standing.

Member Ramsey returned to the Board as a voting member and alternate member Witt exited the Board.

Tahne Flaherty, who previously requested standing addressed the Board to discuss that the matter of granting standing to her was not voted on by the Board. Counsel was provided by Attorney Noor. Upon motion by Vice-Chair Barnhill and second by member Harwood, the Board voted 2-3 to grant standing with Vice-Chair Barnhill and member Harwood voting in favor and Chairman Briggs and members Ramsey and Goforth voting opposed.

The Board took recess from 9:04 p.m. until 9:13 p.m.

a. Presentation of Application-Brad Guth, Development Services Director

Development Services Director Brad Guth presented and discussed the application as included in exhibit 4.11.i from applicant, Monica Toole for 1496 Flat Branch Drive containing 5.126 acres zoned for Residential-Agriculture (R-A) use noting that the applicant had requested a variance of eight feet (8') on the fifty feet (50') setback requirement for the Mountain Ridge Protection Ordinance due to encroachment of the garage being located a distance of forty-two feet (42') from the ridgeline. Additional information provided by Mr. Guth included reasoning for allowing the variance as noted in the Ordinance, staff report, ordinance criteria, supporting documents, and variance worksheet as included in exhibit 4.11.ii.

Mr. Guth provided additional information as well as answered questions from the members of the Board regarding the staff review process, requirements of Mountain Ridge Protection Ordinance for issuance of a variance, supporting information regarding the non-compliance complaint received by the Development Services Department after construction of the project and determination of distance from the ridgetop, ridgetop location determination, site visits, property survey, and burden for completion of the building permit application falling on the applicant.

b. Witness Testimony

Attorney Larry Leake, counsel for the applicant, provided information regarding a history of the case, property survey in place when the applicant purchased the property, Environmental Health determination for appropriateness, and deed as included as exhibit 4.11.iii. Attorney Leake also discussed the residential permit application that was submitted by applicant's representative, Anthony Willis for building permits

which were issued for the project and zoning permit completed on behalf of Josh Jenkins, Anthony Willis' agent as included in exhibit 4.II.IV, noting that he would theorize that since the protected ridge portion of the application is completed in blue ink and the remainder of the application was completed by Mr. Jenkins in a different color, that someone else checked the applicable protected ridge box. He also noted that once aware there was an issue with the building being located on a protected ridge, the applicant checked with the closest neighbors, Gregory Wilson and Pamela McCan who allowed that the applicant's home did not negatively impact their property as included in an affidavit submitted as exhibit 4.II.V. Additional information provided included that the applicant's house was already built when they were made aware of the non-compliance issue and Attorney Leake discussed special occasions resulting in unnecessary hardships that the ordinance recognizes giving the Board of Adjustment the authority to interpret and enforce due to times that events could not be anticipated. He also noted that a new survey was performed, and the structure was proven to be out of tolerance from the fifty-foot setback of the protected ridge by eight feet (8') at one location and two feet (2') at another location.

Attorney Leake requested that witness Anthony Willis be sworn in, and additional discussion was had by Attorney Leake and the Board regarding the aforementioned discrepancy in the ink color on the application.

Anthony Willis presented to the Board and the Clerk to the Board administered the oath to Mr. Willis. Attorney Leake provided questioning to Witness Willis who provided testimony regarding his background, relationship with the applicant, and that he had no knowledge of the ridgetop setback requirement or violation. Members of the Board provided questioning to Mr. Willis who provided testimony regarding a setback requirement from the property line of twenty feet (20'), grading to the property, existing road, distances, and property survey.

Discussion was had by the Board and Development Services Director Brad Guth with counsel being provided by Attorney Noor regarding the distance of the applicant's garage from the ridgeline, determination of a protected ridge, and information contained in the geographical information system.

Additional testimony was provided by Witness Willis regarding the survey and ridgeline, requirement for the issuance of the variance prior to the final inspection being granted, and height of the structure.

The Board took recess from 10:19 p.m. until 10:25 p.m.

Josh Jenkins, representative for Anthony Willis presented to the Board and the Clerk to the Board Administered the oath to Mr. Jenkins. Mr. Jenkins provided testimony noting that he is the qualifying agent who completed the paperwork on behalf of Anthony Willis. Questioning was provided by the Board regarding completion of the application, and assistance offered by the Development Services Department's Inspection Office for completion of such applications with Mr. Jenkins noting that he did not check the protected ridge box on the application, and he discussed new changes to the review process that has been implemented by the County since completion of the application in question.

Brad Guth, Development Services Director provided testimony regarding the process for review of applications and changes made to the process, ordinance review, and enforcement of the process upon questioning from members of the Board. Attorney Leake, counsel for the applicant, declined to provide cross-examination noting that all evidence was presented on behalf of his client.

Upon motion by member Harwood and second by member Ramsey, the Board voted unanimously to close the hearing at 10:45 p.m.

c. Discussion

Counsel was provided by Attorney Noor regarding the process of the hearing and voting requirements as set forth in N.C.G.S. for Board approval of the variance.

Discussion was had by the Board regarding findings of the Board including:

- Finding 1: Demonstration of unnecessary hardship.
- Finding 2: Variance peculiarity.
- Finding 3: Hardship that is not a result of the applicant's or owner's actions.
- Finding 4: Variance consistency with the spirit, purpose, and intent of the Ordinance.

Counsel was provided by Attorney Noor.

- Finding 1: Upon motion by Vice-Chair Barnhill and second by member Harwood, the Board voted unanimously to agree that this is true.
- Finding 2: Upon motion by Vice-Chair Barnhill and second by member Harwood, the Board voted unanimously to find true.
- Finding 3: Upon motion by Vice-Chair Barnhill and second by Chairman Briggs, the Board voted unanimously to prove that it is true.
- Finding 4: Upon motion by Vice-Chair Barnhill and second by member Ramsey, the Board voted unanimously that it is true.

d. Consideration of Approval

Upon motion by Vice-Chair Barnhill and second by member Harwood, the Board voted unanimously to grant this variance.

III. Application: Respite Care Home Special Use Permit-PIN 8795-79-9372, and IV. Application: Land Use Ordinance Parking Requirement Variance

Development Services Director Brad Guth discussed the request to continue the items until the Board's May meeting.

Upon motion by member Harwood and second by Vice-Chair Barnhill, the Board voted unanimously to approve.

Item 5: Announcements/Updates

No discussion was had.

Item 6: Adjournment

Upon motion by member Harwood and second by Vice-Chair Barnhill, the Board voted unanimously to adjourn at 11:26 p.m.

This the 22nd day of April 2024.

MADISON COUNTY

1,1

**Madison County Board of Adjustment
Agenda
April 22, 2024**

**6:30 P.M. Meeting Called to Order
Welcome**

1. Agenda Approval

2. Approval of March 25, 2024 (Regular) Meeting Minutes

3. Public Comment

4. Public Hearings

I. Application: Special Event Facility Special Use Permit-PIN 9738-63-8352

- a. Presentation of Application-Brad Guth, Development Services Director
- b. Witness Testimony
- c. Discussion
- d. Consideration of Approval

II. Application: Protected Ridge Building Variance-PIN 9739-96-4086

- a. Presentation of Application-Brad Guth, Development Services Director
- b. Witnesses Testimony
- c. Discussion
- d. Consideration of Approval

III. Application: Respite Care Home Special Use Permit-PIN 8795-79-9372

- a. Presentation of Application-Brad Guth, Development Services Director
- b. Witnesses Testimony
- c. Discussion
- d. Consideration of Approval

IV. Application: Land Use Ordinance Parking Requirement Variance

- a. Presentation of Application-Brad Guth, Development Services Director
- b. Witness Testimony
- c. Discussion
- d. Consideration of Approval

5. Announcements| Updates

6. Adjournment



4.11.1

Madison County Planning Board

Staff Findings Report

Variance Application: Applicant seeks a Variance from the setback requirement of the Mountain Ridge Protection Ordinance

Applicant: Monica Toole

Representative: Anthony Willis

Property Address: 1496 Flat Branch Drive

Property PIN #: 9739-96-4086

Property Size: 5.12 acres

Existing Land Use: Residential

Existing Zoning:[RA] Residential Agricultural

Variance Requested: Allow an 8ft encroachment on the 50-foot setback.

Date: 3/25/2024

Report Prepared By: Brad Guth

Summary of the Request

The applicant requests an 8-foot variance from the 50-foot Setback Requirement per Section 503 of the Madison County Mountain Ridge Protection Ordinance to allow a garage to be placed 42 feet from the ridgeline.

Ordinance Criteria

Special Conditions: The property must have unique circumstances that are not common to other properties.

Literal Enforcement Hardship: Strict application of the ordinance should cause unnecessary hardship to the property owner.

No Self-Created Hardship: The hardship should not be self-imposed or self-created by the property owner.

No Special Privileges: The variance should not confer special privileges that are denied to other properties in the district.

Minimum Necessary: The variance should represent the minimum deviation from the ordinance necessary to alleviate the hardship.

Harmony with Ordinance's Intent: The variance should be in harmony with the general intent and purpose of the ordinance and should not be injurious to the neighborhood or detrimental to public welfare.

Analysis of the Request

Special Conditions: Evaluate if the property possesses unique physical circumstances distinct from other properties.

Literal Enforcement Hardship: Assess if applying the ordinance as written would cause undue hardship to the applicant.

No Self-Created Hardship: Determine whether the hardship faced by the applicant is a result of their own actions.

No Special Privileges: Consider if granting the variance would give the applicant privileges that are not available to other properties in the district.

Minimum Necessary: Judge whether the requested variance is the least deviation from the ordinance needed to alleviate the hardship.

Harmony with Ordinance's Intent: Examine how the variance aligns with the general purpose and intent of the zoning ordinance and its impact on the neighborhood and public welfare.

Attachments and Supporting Documents

1. Variance Application
2. Survey
3. Residential Permit Application *[Not Reviewed by Planning Board]*
4. Section 503 of the Mountain Ridge Protection Ordinance
5. Original Application and Permit
6. § 160D-705d Variances
7. Aerial Map

VARIANCE WORKSHEET

Finding 1: Special circumstances or conditions affect the property such that the strict application of the provisions of the Ordinance would cause unnecessary hardship.

True: [Provide reasons or evidence if considered true. Example: The property's unique size and historical context may present special circumstances not commonly found in other parcels within the county.]

False: [Provide reasons or evidence if considered false. Example: The property's conditions are similar to other properties in the area, and any hardship may not be due to the ordinance's strict application.]

Finding 2: The circumstance giving rise to the need for the variance is peculiar to the parcel and is not generally characteristic of other parcels in the County's jurisdiction.

True: [Provide reasons or evidence if this is true. For example, the lot's status and size might represent conditions peculiar to this parcel alone.]

False: [Provide reasons or evidence if considered false. Example: Several parcels in the vicinity share similar characteristics, indicating that these conditions are not peculiar to the subject parcel.]

Finding 3: The hardship suffered is NOT a result of the applicant's or property owner's own actions.

True: [Provide reasons or evidence if considered true. Example: The current hardship is due to the property's historical context and pre-existing conditions rather than the actions of the current owner.]

False: [Provide reasons or evidence if considered false. For example, the applicant has made modifications or decisions contributing to the current conditions requiring a variance.]

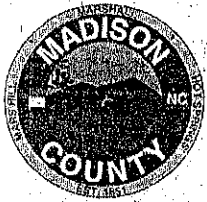
Finding 4: The granting of the variance will be consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.

True: [Provide reasons or evidence if this is true. For example, Granting the variance would allow for reasonable use of the property without undermining the ordinance's objectives or compromising public safety.]

False: [Provide reasons or evidence if considered false. Example: Allowing the variance may set a precedent that could erode the integrity of the regulations and negatively impact the community.]

PAID \$250.00

RECEIVED
MAR 05 2024
BY: Sylvia Shelton



4.11.24

P.O. Box 873
Marshall, N.C. 28753

COUNTY OF MADISON
ZONING APPLICATION

Check Appropriate Item(s):

- *AMENDMENT TO ZONING MAP -- ZONING CHANGE REQUEST
- *CONDITIONAL USE or SPECIAL USE
- *APPEAL OF ADMINISTRATIVE DECISION
- *VARIANCE

To be completed by staff
Date Received: 3/5/24
Fees Rec'd: \$250.00

PART I - To be completed by ALL Applicants

I-A IDENTIFICATION OF PROPERTY

- 1) Number and Street: 1496 Flat Branch Dr
- 2) Present Zoning: 5 3) Acres: 5 4) Pin Number: 9739-96-4086
- 5) Legal Description of Property (Omit for zoning text amendment) - Attach if necessary.

I-B PROPERTY

- 1) The deed restrictions, covenants, trust indentures, etc. on said property are as follows (or copy attached): if NONE so state:
NONE
- 2) (a) Has this property or any part thereof ever been considered for Variance, Special Use, Appeal of Administrative Decision or Amendment to the Zoning Map before? *YES (NO)
- (b) Date: _____ (c) What was the disposition of the case? _____
- (d) Former Applicant Name: _____
Former Applicant Address: _____
Former Phone: _____

I-C IDENTIFICATION OF APPLICANT - All applicants must have standing (an interest in property that will be directly affected by requested action)

1) Applicant:
 Name: Monica Toole
 Address: 711 S MAJIS ST MAJIS HILL NC 28754
 Phone: _____

Agent (if any):
 Name: Anthony Willis
 Address: 5215 CARL ELLER RD MAJIS HILL NC 28754
 Phone: 828-231-3134

2) Owners of all property included in this application:
 Name: _____
 Address: _____
 Phone: _____

3) If the applicant is a Land Trust, Partnership, Corporation, or LLC, etc., or if the subject property is owned or controlled by a Land Trust, Partnership, Corporation or LLC. List name and interest of all Land Trust Beneficiaries or Partners and attach evidence that the person submitting the application on behalf of the Land Trust or Partnership is authorized to do so.

NAME/ADDRESS	PHONE	INTEREST
Trustee/Partner: _____		
Beneficiary/Partner: _____		
Beneficiary/Partner: _____		
Beneficiary/Partner: _____		

5) Does the applicant have a proprietary interest in the land or land improvements? YES NO

If YES, state interest and attach documentation: Build Home
 If NO, state what interest otherwise qualifies the applicant to apply:

6) Names of the owners of the improvement(s) on the property in this applicant if different from above:

NAME	Address
_____	_____
_____	_____

7) If the applicant is a corporation or LLC etc., attach evidence that the person submitting the application on behalf of the corporation is authorized to do so.

Part 2 - Request Type

2-A REZONING – (AMENDMENT TO THE ZONING MAP) – Application for amendments to the Zoning District Map are heard by the Planning Board which makes a recommendation to the County Commissioners. Only the County Commissioners has authority to grant or deny amendments to the Zoning District Map.

- 1) (a) Existing Zoning: _____
- (b) Proposed Zoning: _____
- (c) Existing Use: _____
- (d) Proposed Use: _____

Zoning Designations:

AO Agriculture Open-Space District
R-1 Residential District
I-D Industrial District
N-C Neighborhood Commercial

RA Residential Agriculture
R-2 Residential-Resort District
C Commercial
CMU Commercial Mixed Use

2) The following must be submitted with this application:

- *Preliminary Site Plan – prepared by a registered design professional
- *Rendering or Perspective – depicting possible uses
- *Other – please describe

3) Please list names, addresses, and phone numbers of the adjoining property owners.

2-B SPECIAL USE REQUEST or CONDITIONAL USE – Conditional Use requests are heard by the Board of Adjustment which will make a decision. Special Use requests are heard by the Planning Board.

1) Are development plans submitted with this application? *YES *NO

2) Parking requirements:

- a) Proposed number of parking spaces to be provided: _____
- b) Number of parking spaces required of Zoning Ordinance: _____

Other

- a) Attach tabulation of total land area and percentage thereof designated for various uses
- b) Are there any land use intensity requirements? *YES *NO If yes, attach data.

2-C

VARIANCE

To the Madison County Board of Adjustment:

I, hereby petition the Board of Adjustment for a Variance from the provisions of the Madison County Ordinance because, under the interpretation given to me by the Zoning Administrator, I am Prohibited from using the parcel of land described in the application in a manner shown by the plot plan attached. I request a variance from the following provision(s) of the ordinance:

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE

The board must find there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance, that the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit, and that in granting of the variance the public safety and welfare have been assured and substantial justice has been done. Please attach any proof, evidence or other documentation to show why this variance is being applied for.

2-D Appeal of an Administrators Decision

An appeal must be taken within 30 days after the date of the decision or order appealed from.

I, the undersigned, do hereby respectfully make application and petition the Board of Adjustment of Madison County as hereinafter requested, and in support of this application, the following facts are shown:

1. Reasons for appeal.
2. Decision rendered by Zoning Office.

PART 3 - TO BE COMPLETED BY ALL APPLICANTS

To the best of my knowledge, I hereby affirm that all information in this application and any attached material and documents are true and accurate.

- a) Signature of Applicant: _____
- b) Signature of Agent (if any): Anthony Williams
- c) Date: 2/26/24

Property Summary

Data last updated on: 3/5/2024 Ownership current as of: 12/12/2023 Tax Year: 2024

REID 27046

PIN # 9739-96-4086

Print Property Info

Location Address
1496 FLAT BRANCH DR

Property Description
LO:4 PL:6-299

Property Owner
TOOLE, MONICA SPREHE

Owner's Mailing Address
711 SOUTH MAIN ST.
MARS HILL NC 28754

Parcel	Buildings	Misc Improvements	Land	Deeds	Notes	Sales
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Administrative Data

Plat Book & Page	6-299
Old Map#	
Market Area	2110
Township	GRAPEVINE
Planning Jurisdiction	MADISON
City	
Fire District	MARS HILL
Spec District	
Land Class	RESIDENTIAL VACANT
History REID 1	
History REID 2	
Acreage	5.12
Permit Date	
Permit #	

Transfer Information

Deed Date	11/01/2022
Deed Book	000761
Deed Page	00502
Revenue Stamps	400.00
Package Sale Date	
Package Sale Price	
Land Sale Date	11/01/2022
Land Sale Price	\$200,000

Improvement Summary

Total Buildings	0
Total Units	0
Total Living Area	0
Total Gross Leasable Area	0

Property Value

Total Appraised Land Value
Total Appraised Building Value
Total Appraised Misc Improvement Value
Other Exemptions
Exemption Desc
Use Value Deferred
Historic Value Deferred
Total Deferred Value
Total Taxable Value

4.11.8

Exhibit "A"

BEING all of Lot 4, containing 5.12 acres, more or less, as shown on a plat recorded in Plat Book 6, at Page 299, of the Madison County Register of Deeds, reference is hereby made to said recorded plat for a more complete and particular description of the property herein described.

BEING ALSO a portion of the same property conveyed to David Kent Ramsey on March 22, 1996, in a deed recorded in Deed Book 226, Page 620, Madison County Register of Deeds.

Tax Parcel Number: 9739-96-4086

Property Address: 1496 Flat Branch Drive, Marshall, NC 28753

TO HAVE AND TO HOLD the Property and all privileges and appurtenances thereto belonging to Grantee in fee simple. Grantor covenants with Grantee that Grantor is seized of the Property in fee simple, Grantor has the right to convey the Property in fee simple, title to the Property is marketable and free and clear of all encumbrances, and Grantor shall warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions: Ad valorem taxes for the year 2022 and all easements, restrictions, and rights of way of record.

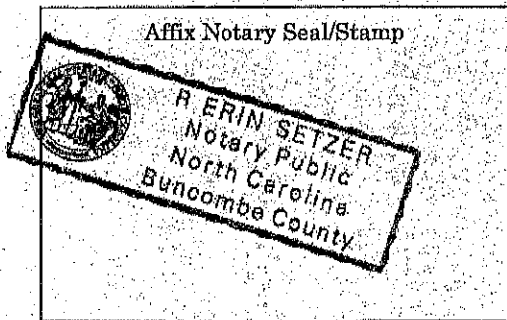
IN WITNESS WHEREOF, Grantor has duly executed this North Carolina General Warranty Deed, if an entity by its duly authorized representative.

David Kent Ramsey
David Kent Ramsey

Janice Ramsey
Janice Ramsey

STATE OF NC, COUNTY OF BUNCOMBE

I, R ERIN SETZER a Notary of the above state and county, certify that the following person(s) personally appeared before me on the 27th day of OCTOBER 2022 each acknowledging to me that he or she signed the foregoing document, in the capacity represented and identified therein (if any): David Kent Ramsey and Janice Ramsey



R Erin Setzer
Notary Public (Official Signature)
My commission expires: 4/23/27

BK 761 PG 502 - 504 (3)
 This Document eRecorded:
 Fee: \$26.00 DocType: DEED
 Madison County, North Carolina
 Mary Jane Wallin, Register of Deeds

DOC# 348751
 11/01/2022 09:55:01 AM
 Tax: \$400.00

NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax:	\$400.00
Parcel ID:	9739-96-4086
Mail/Box to:	Katherine D. Van Marter, PLLC, 183 Bartlett St. Ste 110, Asheville, NC 28801
Prepared by:	Katherine D. Van Marter, PLLC, 183 Bartlett St. Ste 110, Asheville, NC 28801, a licensed NC attorney. <i>Delinquent taxes, if any, to be paid by the closing attorney to the county tax collector upon disbursement of closing proceeds.</i>
Brief description for the Index:	Lot 4, 5.12 acres

THIS GENERAL WARRANTY DEED ("Deed") is made on the 27 day of October 2022, by and between:

GRANTOR	GRANTEE
David Kent Ramsey and Janice Ramsey, a married couple 277 Flat Branch Rd Marshall, NC 28753	Monica Sprehe Toole, a single person 711 South Main Street Mars Hill, NC 28754

FOR VALUABLE CONSIDERATION paid by Grantee, the receipt and legal sufficiency of which is acknowledged, Grantor by this Deed does hereby grant, bargain, sell and convey to Grantee, in fee simple, all that certain lot, parcel of land or condominium unit in the City of Marshall, Madison County, North Carolina and more particularly described as follows (the "Property"):

See Exhibit "A" Attached Hereto and Made a Part Hereof

All or a portion of the Property was acquired by Grantor by instrument recorded in Book 226 page 620.

All or a portion of the Property includes or does not include the primary residence of a Grantor.

A map showing the Property is recorded in Plat Book 6 at page 299.

Submitted electronically by "Katherine D. Van Marter, PLLC" in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the Madison County Register of Deeds.

INVOICE

Madison County Inspections & Zoning

5707 US Hwy 25-70
Suite 5
PO Box 579, 28753, Marshall

Phone: (828) 649-3766

Email: inspections@madisoncountync.gov



Bill to
JAS LLC
545 Carl Eller Ford , 28754 Mars Hill

Invoice No.: 24-200-000148
Date: 3/5/2024
Due date: 3/5/2024
Payment status: Paid

#	Item	Quantity	Unit price	Tax	Discount	Total
1	Application for Variance	1	250.00	---	0.00%	250.00

Total	\$250.00
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Payment method:

Check: \$250.00
Paid amount: \$250.00
Amount due: \$0.00

Request for Zoning Variance for
Monica Toole
Check # 010458



**Madison County
Inspections & Zoning**

5707 US Hwy 25-70
Suite 5
PO Box 579

28753, Marshall
(828) 649-3766

inspections@madisoncountync.gov

Receipt No.: 24-200-000148

3/5/2024 3:40:34 PM

User: Sylvia Shelton

Order No.: 4618

Customer:

JAS LLC

Address:

545 Carl Eller Ford
28754 Mars Hill

Tax No.:

Application for Variance

1 x 250.00 250.00

Items count: 1

TOTAL: 250.00

Check: 250.00

Paid amount: 250.00

Request for Zoning Variance for
Monica Toole
Check # 010458

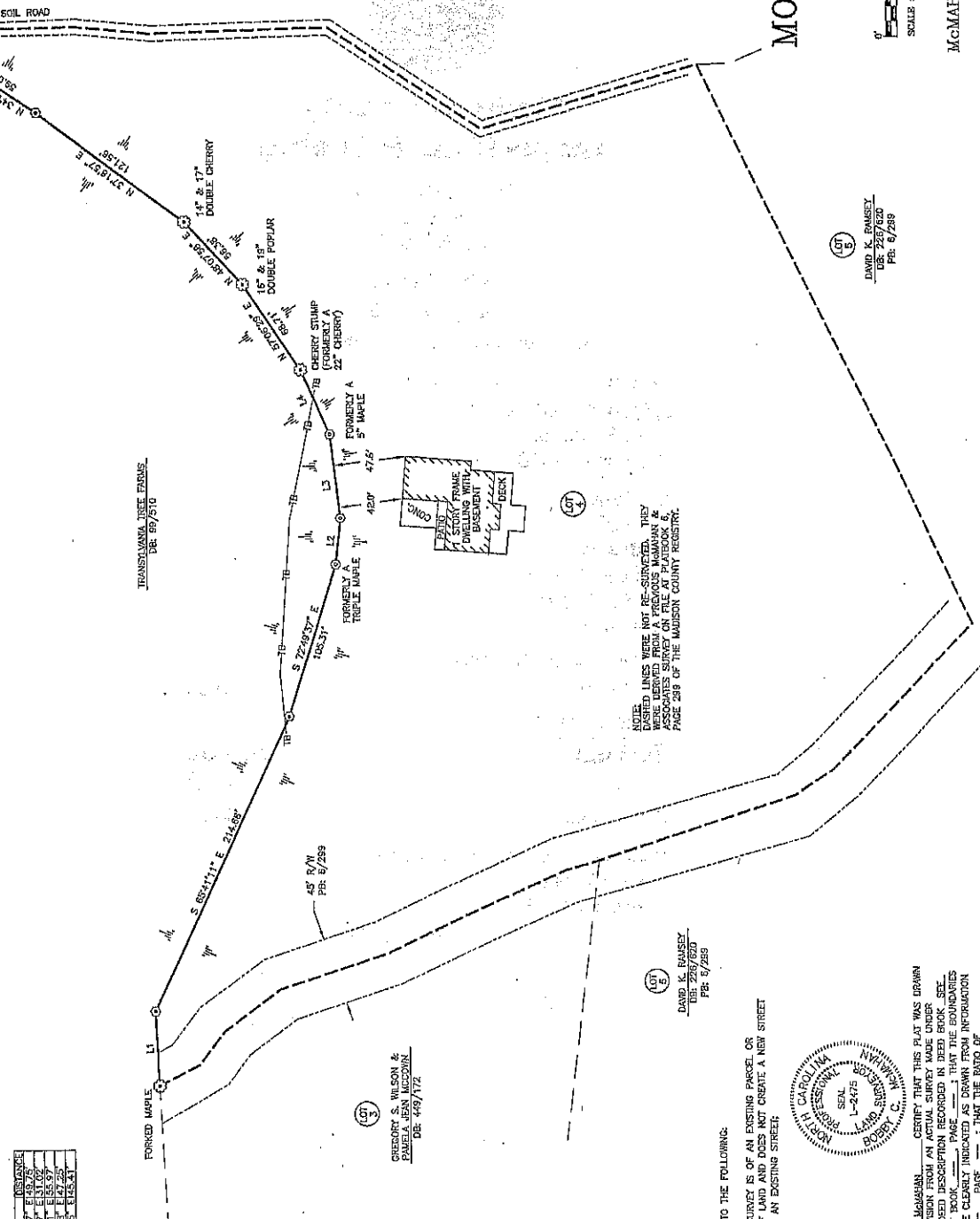
Have a Blessed day!

NORTH - PLAT BOOK 3, PAGE 780

- LEGEND**
- ① 1/2" REBAR (FOUND)
 - ② 1/2" REBAR (SET)
 - TB — TOP OF BANK OF GRAVED AREA
 - RL — RIDGELINE AS IT EXISTED PRIOR TO SITE GRADING (DERIVED FROM P.E. 6/299 SURVEY DATA)
 - 1/4" —
 - 1/8" —
 - 1/16" —

LINE	BEARING	LENGTH	REMARKS
1	S 85° 11' 11" E	214.88'	
2	S 85° 11' 11" E	214.88'	
3	N 85° 11' 11" E	214.88'	
4	N 85° 11' 11" E	214.88'	
5	S 85° 11' 11" E	214.88'	
6	S 85° 11' 11" E	214.88'	

VICINITY MAP



NOTE: DASHED LINES WERE NOT AS SHOWN ON THE ASSOCIATED SURVEY ON FILE AT PLATBOOK 6, PAGE 298 OF THE MADISON COUNTY REGISTRY.

B.L.C.R. L.C.
DR: 026/484

BOOK 10 PAGE 413 (1)
55342

Filed: Madison County, NC
12/15/2023 02:27:19 PM
Mary Jane Wallin, Register of Deeds

NAME OF OFFER: MONICA S. TOOLE
PB: 6/289, LOT 4

SURVEY FOR

MONICA S. TOOLE

NO. 10 TOWNSHIP
MADISON COUNTY
NORTH CAROLINA



DATE: 14TH DECEMBER, 2023
REVISED:
MCMAHAN & ASSOCIATES, P.A. (C-819)
P.O. BOX 1296
WEAVERVILLE, N.C. 28787
828-645-6554

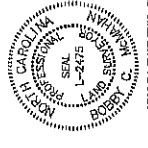
JOB NO. 07-3122
EXP. ADDRESS CHISEL.DWG

LOT 5
DAVID K. BAUSEY
DR: 226/620
PB: 6/289

LOT 5
DAVID K. BAUSEY
DR: 226/620
PB: 6/289

LOT 3
GREGORY S. WILSON &
PAMELA JEAN MCCOY
DR: 449/172

I HEREBY CERTIFY TO THE FOLLOWING:
1. THAT THE SURVEY IS OF AN EXISTING PARCEL OR PARCELS OF LAND AND DOES NOT CREATE A NEW STREET OR CHANGE AN EXISTING STREET



I, ROBERT C. MCMAHAN, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE ON THE DATE DESCRIBED HEREIN. I HAVE REVIEWED THE PLAT AND THE INFORMATION THEREON AND I AM SURE THAT THE INFORMATION NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION IN DEED BOOK _____ PAGE _____; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED; THAT THE ORIGINAL RECORDING NUMBER AND SEAL THIS LABEL OF DECEMBER, 10, 2023.

SURVEYOR: *Robert C. McMahan*
REGISTRATION NUMBER: 2475

FILED FOR REGISTRATION ON THE 15 DAY OF December 2023 AT 2:02 O'CLOCK P.M. AND RECORDED IN PLATBOOK 10 PAGE 413
BY: *Mary Jane Wallin*
REGISTER OF DEEDS, MADISON COUNTY
DEPUTY



4.11.14

**Residential Permit Application
Protected Mountain Ridges (3,000 Foot Elevation)**

Applicant Information:

Full Name of Applicant: Anthony Willis for Monica Pools
Phone Number: 828-231-3134
Email Address: Anthony @ Hardware Mt. Co
Mailing Address: Po Box Marshall

Property Information:

Property Address: 1496 Flat B Marshall
Parcel/Tax ID Number: 9239 96 4086

Proposed Construction Details:

1. Type of Construction (e.g., Single-family dwelling, addition, renovation):

2. Description of Proposed Work:

New House

3. Estimated Project Cost: \$ [REDACTED] \$450,000.00

4. Proposed Start Date: Feb 2023
Proposed Completion Date: Apr 2024

Development Plan Information:

Please ensure that you have attached all required documents and information as outlined below:

✓ 1. Boundary Lines of the Property:

- Attached property survey or plot plan indicating the boundary lines of the property containing the proposed construction.

✓ 2. Existing Site Conditions:

- A comprehensive report or survey of existing site conditions, including watercourses, vegetation, and ground cover.

✓ 3. Location and Use of Buildings/Structures:

- A detailed site plan showing the location, size, and intended use of all existing and proposed buildings or structures. Lot size, Clearing size, Setbacks, Building Height

✓ 4. Water and Sewer Layouts:

- A schematic representation of the proposed water and sewer layouts.

✓ 5. Easements and Rights-of-Way:

- Documentation specifying the location of existing and proposed easements and rights-of-way.

6. Perimeter Treatment:

- Description of the proposed treatment of the development's perimeter, including materials and techniques such as screens, fences, and walls.

7. Adjacent Land Areas:

- Report on adjacent land areas, including land use, zoning classifications, public facilities, and unique natural features.

8. Road Access:

- A map indicating the existing and proposed road access to and within the property, clearly showing road locations.

✓ 9. Building Elevation Profiles:

- Front and side elevation profiles, drawn to scale, of all existing and proposed buildings.

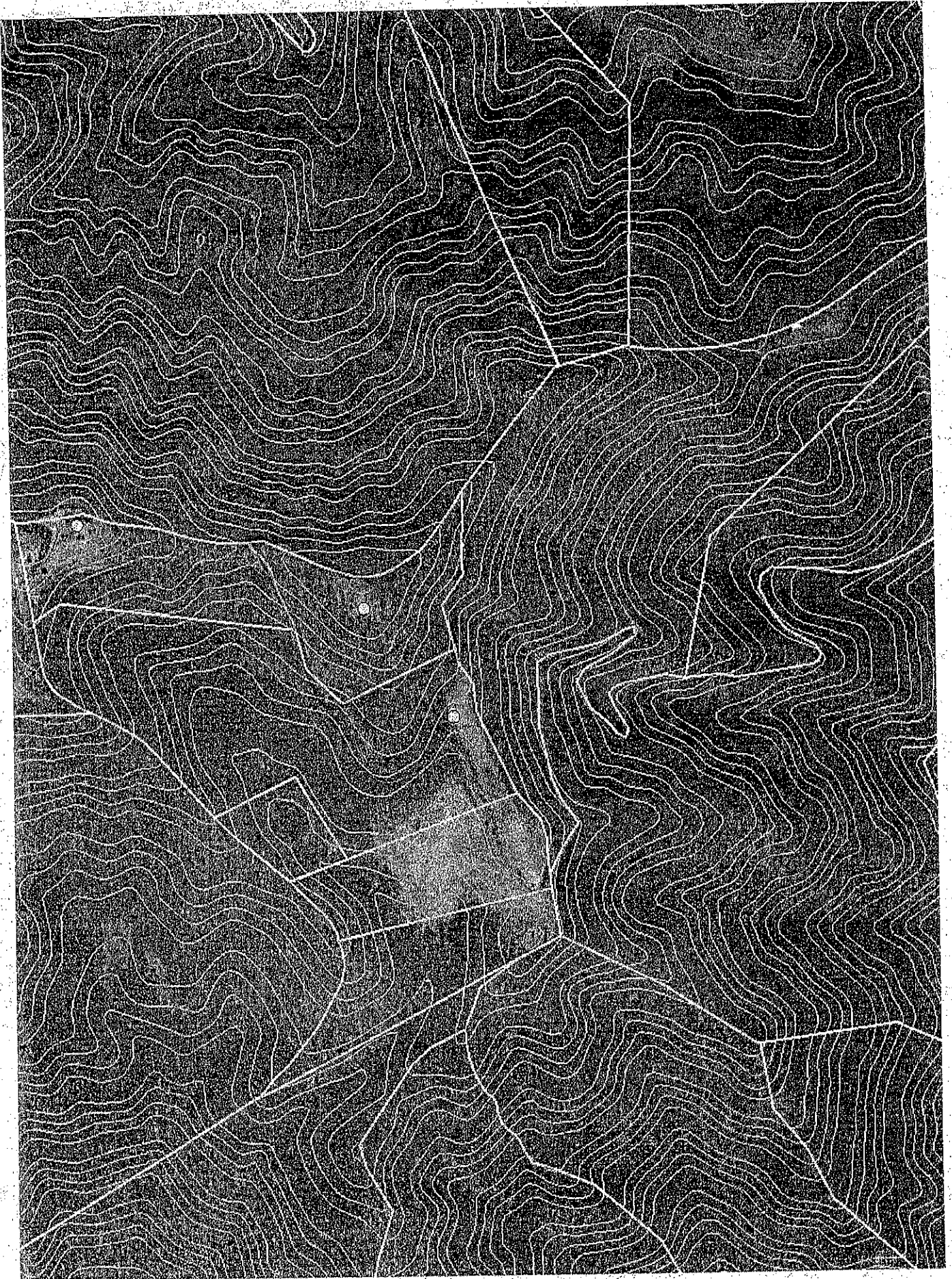
Declaration:

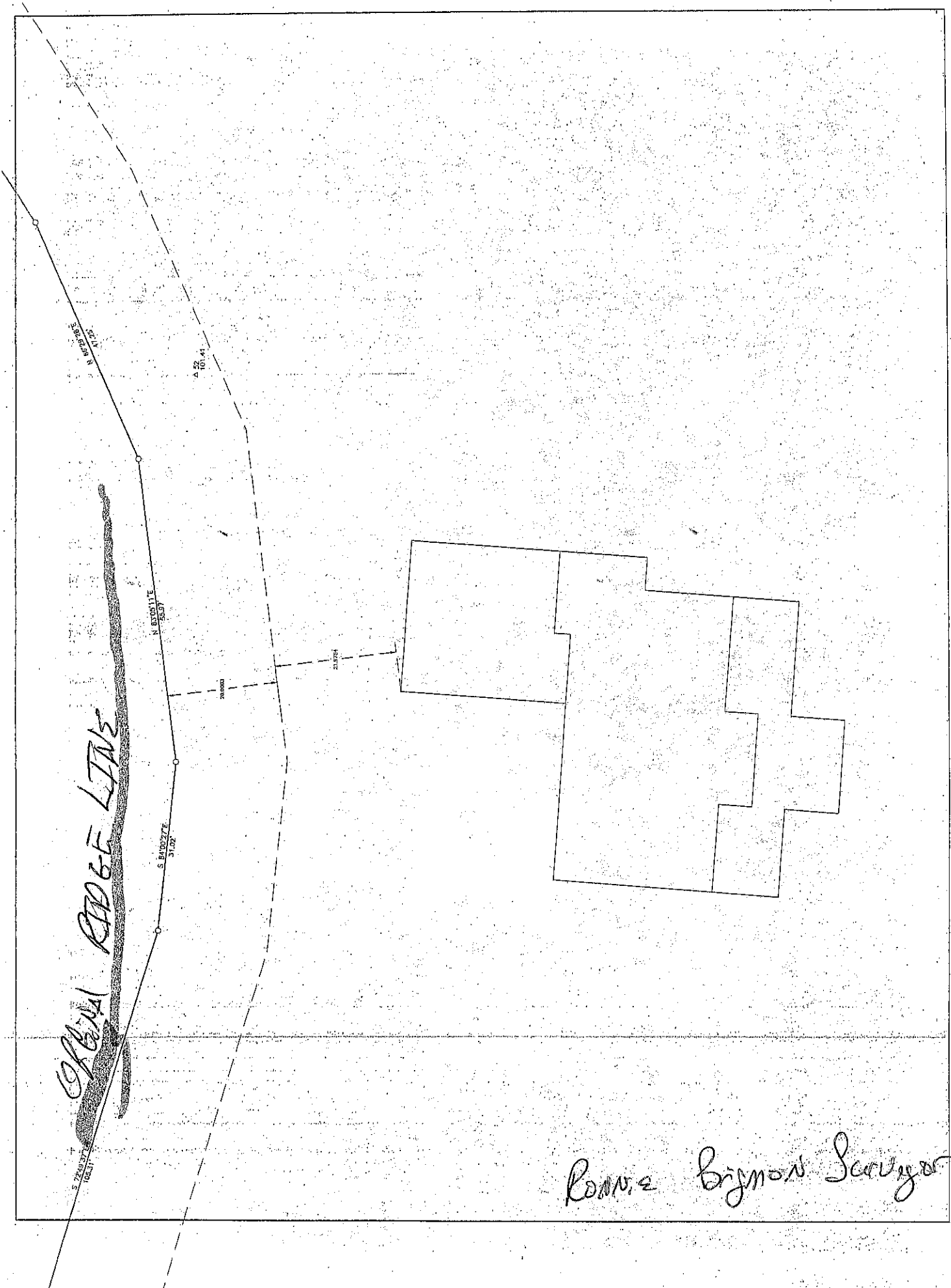
I hereby certify that the information provided in this application is true and accurate to the best of my knowledge. I understand that any false or misleading information may result in the rejection of this application.

Applicant's Signature: _____

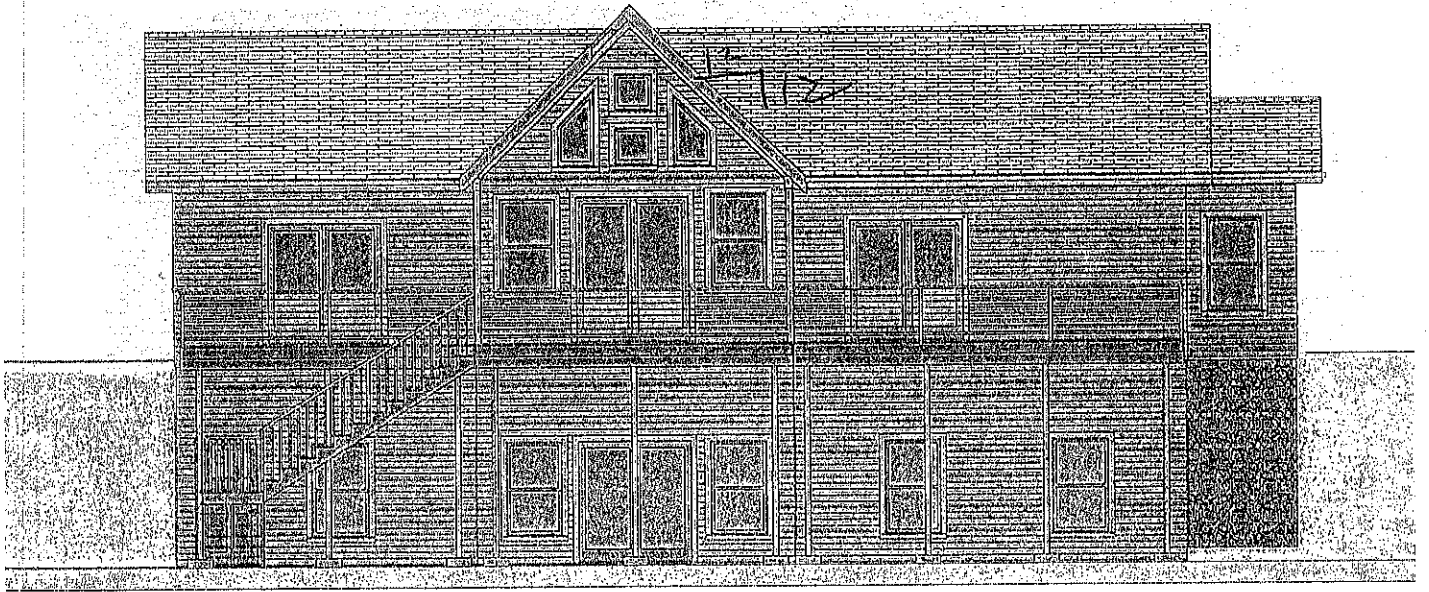
Date: _____

10/25/23

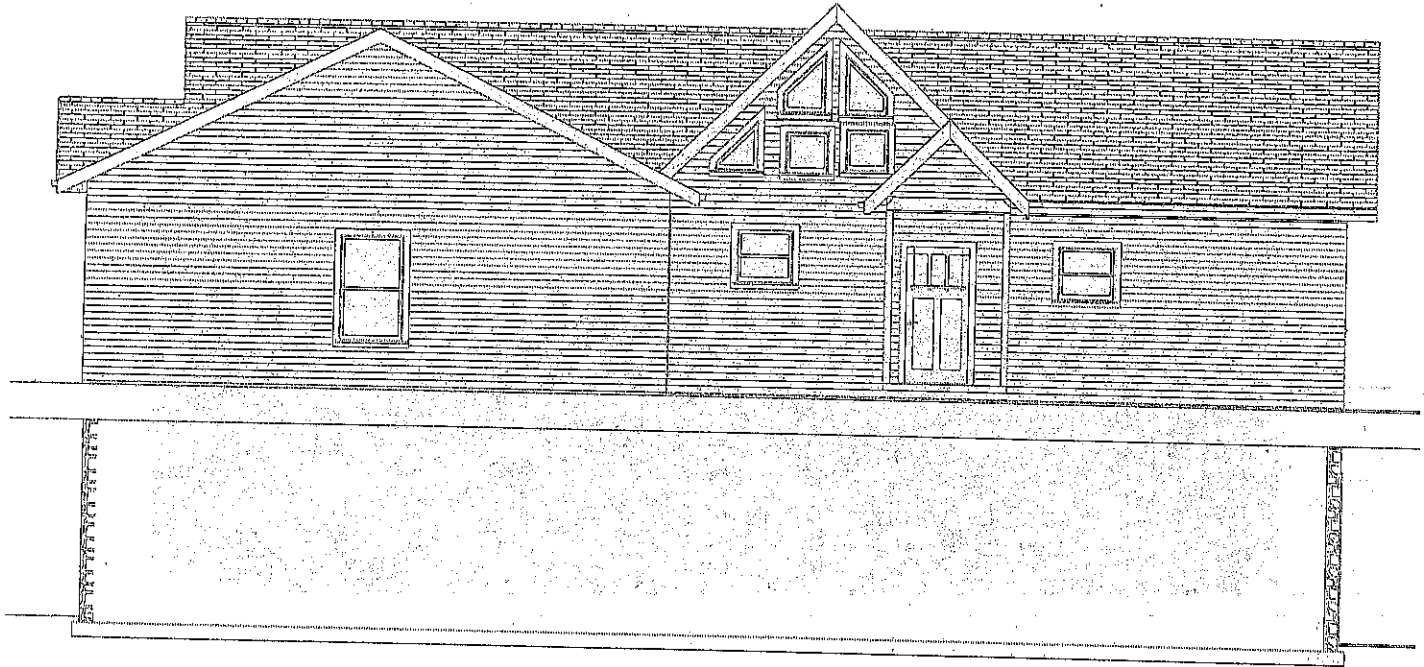




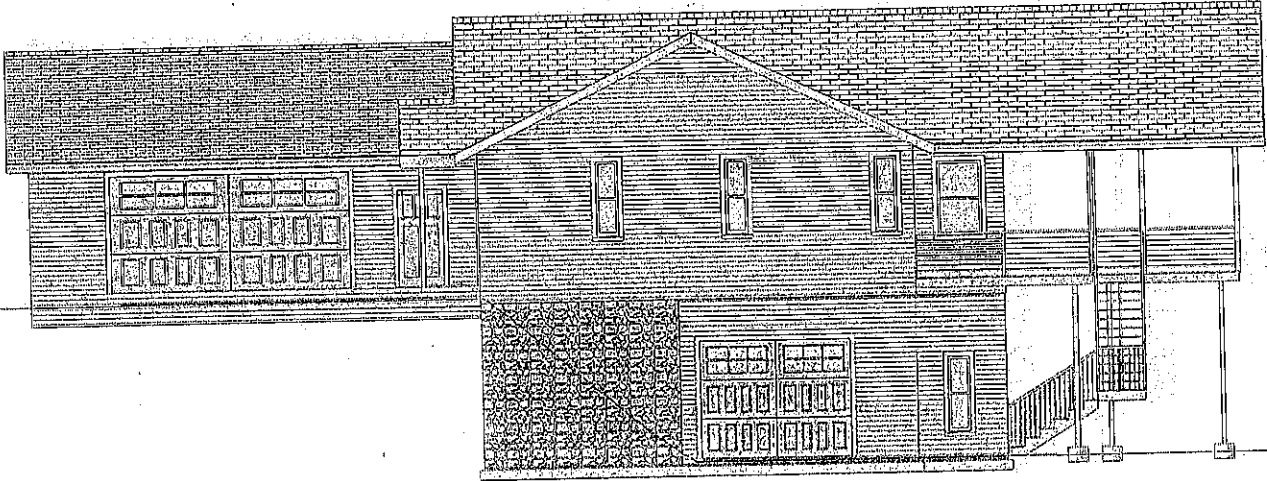
RONNIE BYRON SCARVER



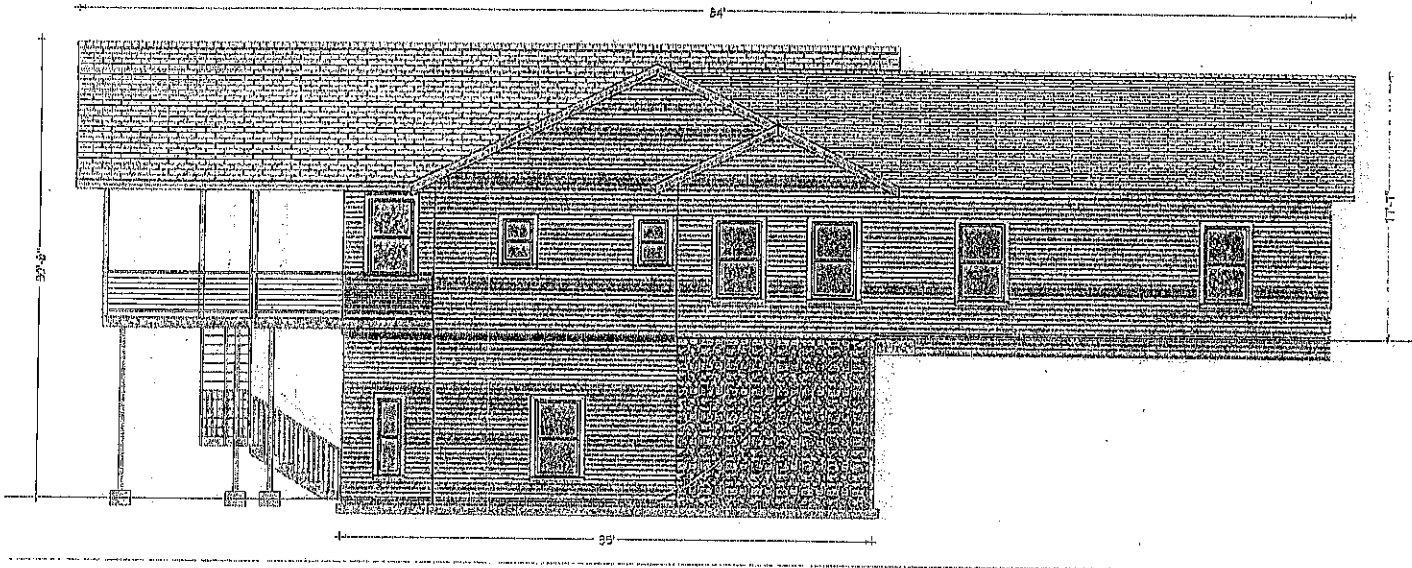
South Elevation



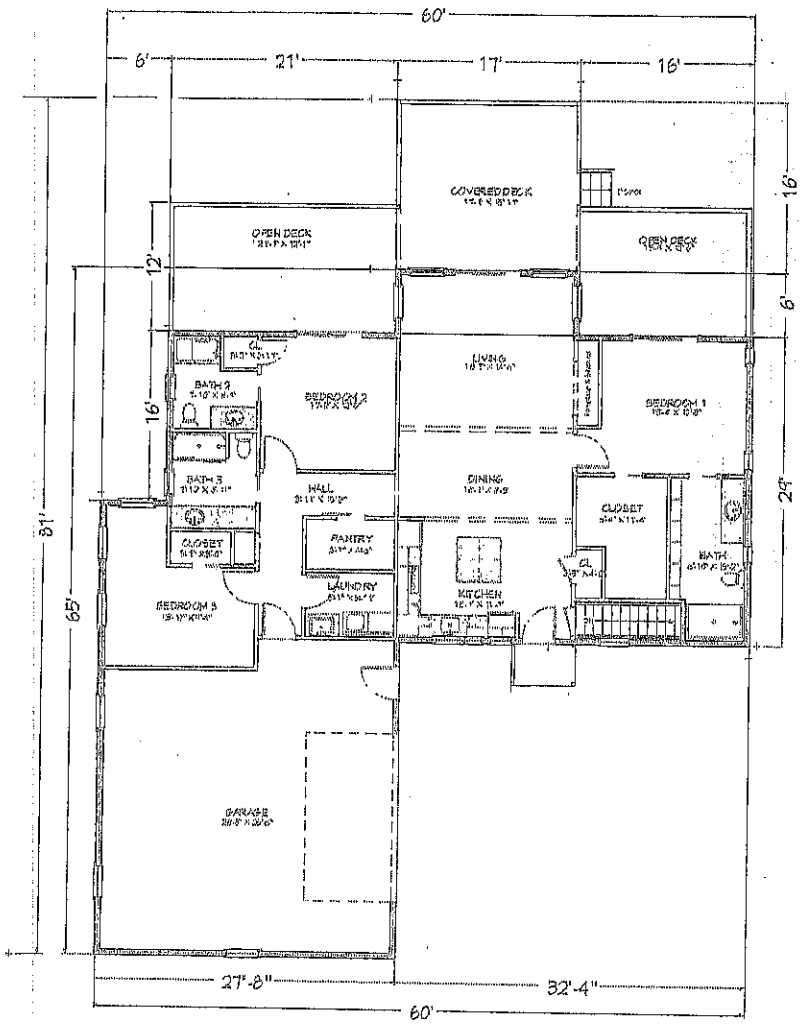
North Elevation



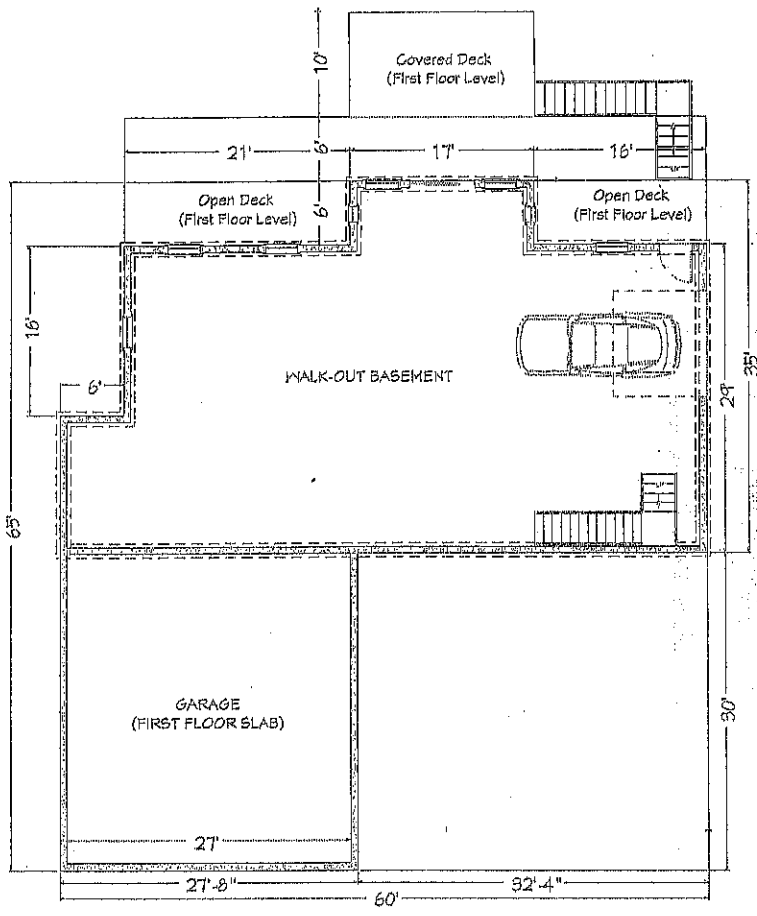
West Elevation



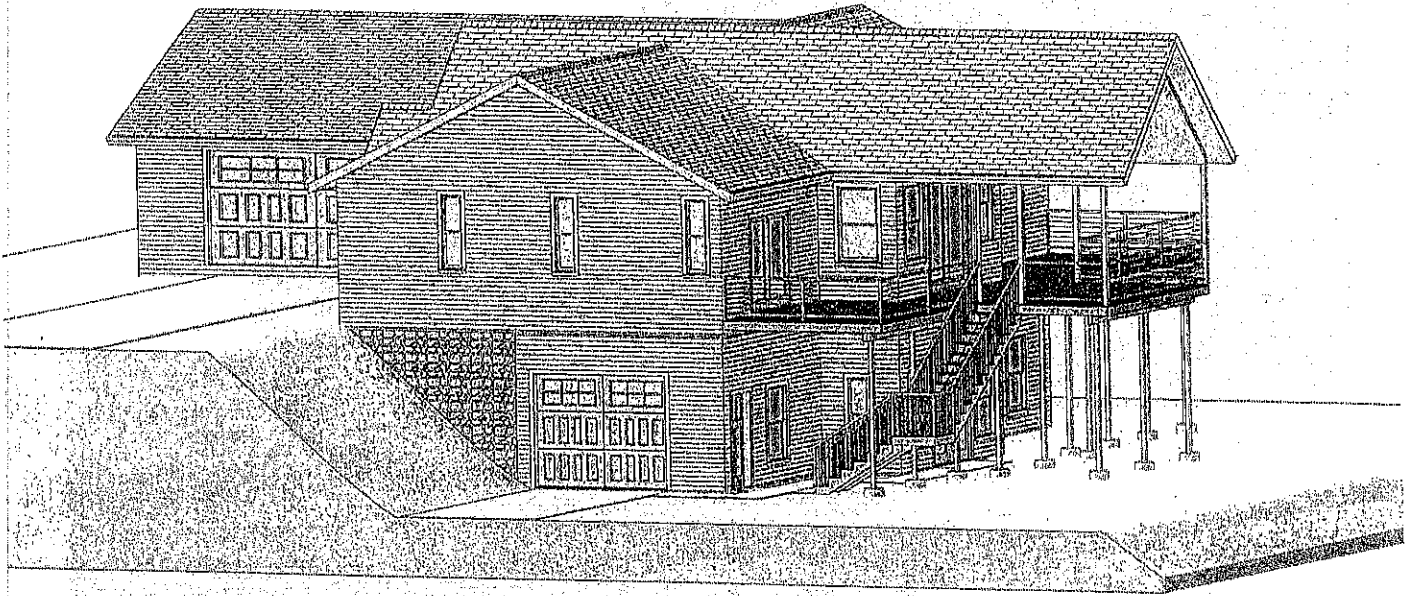
East Elevation

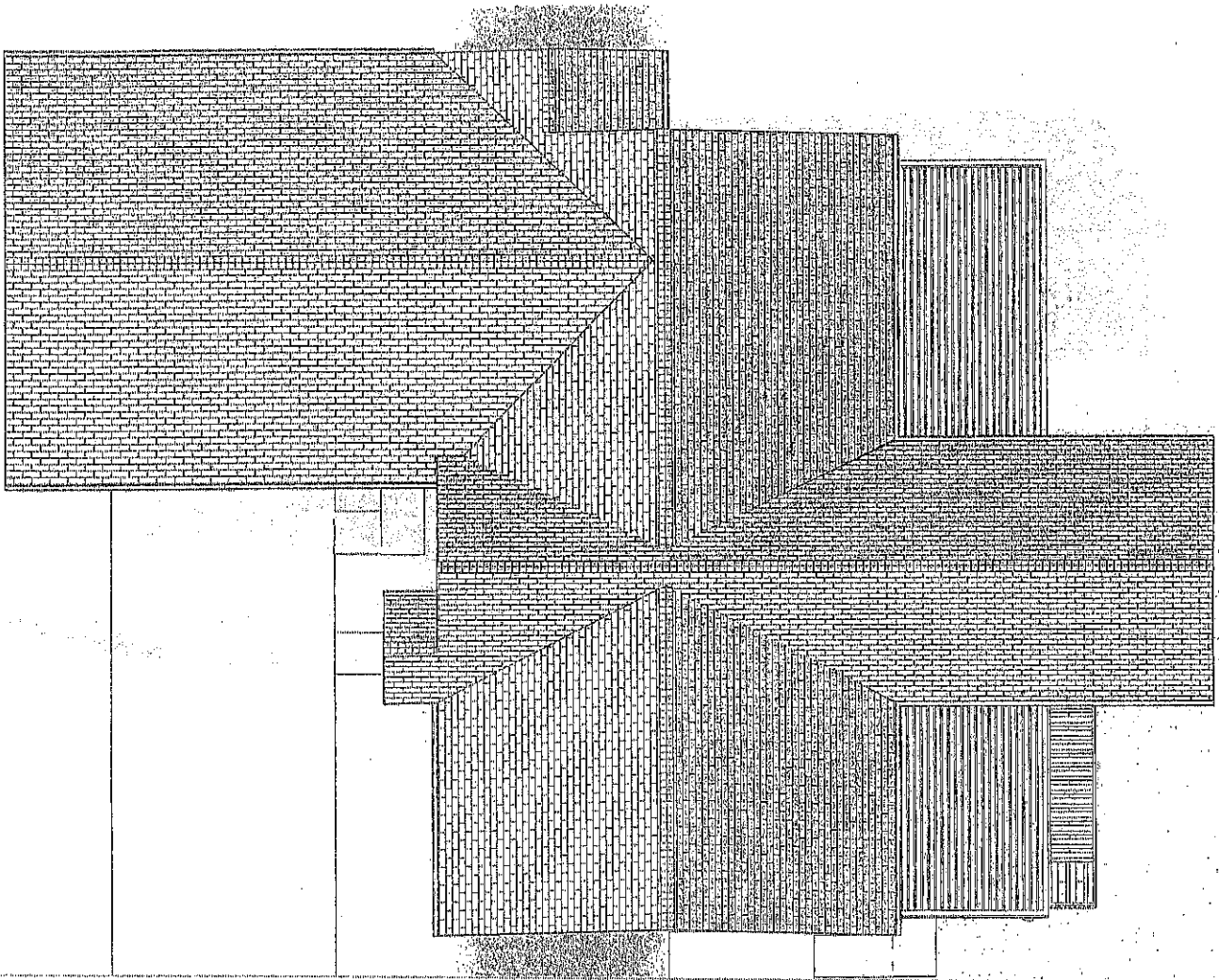


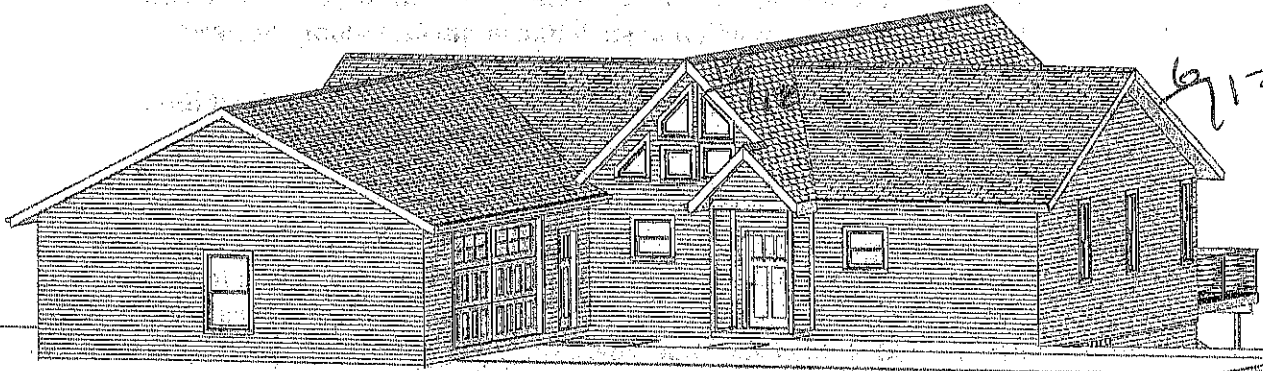
TOOLE RESIDENCE - FIRST FLOOR PLAN
 1486 PLAT BRANCH ROAD
 LINEN & AREA
 1186881



TOOLE RESIDENCE - BASEMENT PLAN
 1418 PLAT BRANCH ROAD







6/12

The house is a single-story structure with a gabled roof. The front entrance is centered under a small dormer window. The house features a mix of window sizes and styles, including a large multi-paned window on the left side. A small porch is visible on the right side of the house.

The house is a single-story structure with a gabled roof. The front entrance is centered under a small dormer window. The house features a mix of window sizes and styles, including a large multi-paned window on the left side. A small porch is visible on the right side of the house.

The house is a single-story structure with a gabled roof. The front entrance is centered under a small dormer window. The house features a mix of window sizes and styles, including a large multi-paned window on the left side. A small porch is visible on the right side of the house.

mountain, and includes all land within one hundred (100) feet below the elevation of any portion of such line or surface along the crest.

501.09 Structure. Anything constructed or erected, including, but not limited to buildings, that requires location on the land or attachment to something having permanent location on the land.

501.10 Tall buildings or structures. Any building, structure or unit within a multi-unit building, with a vertical height of more than forty (40) feet measured from the top of the foundation of said building, structure or unit; provided however, that where the crest or the natural finished grade of the high side slope of a ridge exceeds three (3) feet, then such measurement in excess of three (3) feet shall be included in the 40-foot limitation described herein; provided, further, that no such building, structure or unit shall protrude at its uppermost point above the crest of the ridge by more than thirty-five (35) feet. Tall buildings or structures do not include:

1. Water, radio, telephone or television towers or any equipment for transmission of electricity or communications or both.
2. Structures of a relatively slender nature and minor vertical projections of a parent building, including chimneys, flag poles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires or windmills.
3. Building and structures designated as National Historic Landmarks or listed in the National Register of Historic Places.

Section 503 Regulation and Setbacks

1. **Lot size:** All lots that fall within the boundaries of a protected ridge as shown on the Madison County Protected Ridges map shall be a minimum of 2 acres. (Lot size shall apply to new lots created after 2010)
2. **Clearing:** When located on a Protected Ridge no one shall disturb or clear more than 25% of the lot. If someone wishes to clear more than 25% of the total lot a variance may be sought from the Madison County Board of Adjustment.
3. **Setbacks:** When located on a Protected Ridge all structures shall be setback 50' from the center of said Ridge.
4. **Height:** All buildings shall be a maximum of 35' from the peak of the Protected Ridge shown on proposed application. This shall be lot specific to each building.

Madison County Property Improvement Check List

Property Owner: Monica Sprehe Toole Previous Owner: David Kent Ramsey

Phone: _____ Cell: _____ Email: _____

Department	Initial	Date	Township	MA Number
Tax Assessor	OP	10/5/2022	Gradyville	27046
Parent Pin		2739-06-10810	Temp Pin	
Street Name of Property	1496 Flat Branch Rd			
Vacant Property	Yes	No	Notes	

Town Limits?	Water?		Sewer		
Yes	No	Yes	No	Yes	No
Zoning					

Town Signature: _____

Three bedroom style

Department	Initial	Date	Special Notes
Environmental Health-CA	RAC	10/25/22	Family residence w dishes
Operational Permit:			W.O. X

Department	Initial	Date	Special Notes
911 Center		3/20/23	
Fixed Address:		1496 Flat Branch Rd	

Department	Initial	Date	Disposal Card
Solid Waste	R Shook	3-20-23	T023213
Disposal Card	R Shook	3-20-23	Town of

Department	Initial	Date	Residential	Commercial
Building Inspections	SS	3/20/23	BR-23-92 Dwelling	
Zoning	RA			

Revised: 04/07/2014

Property Owners: _____ Phone: _____

Madison County
Application for Zoning Permit



Applicant/Owner Information:

Name: Monica Toole

Date: 3/20/23

Address: _____

Phone #: Day: 410-409-2616

Evening: _____

Property Information:

PIN#: 9739-96-4086

LOT SIZE (acreage): 5.12

Property Address: 1496 Flat Branch

Zoning Classification:

<input checked="" type="checkbox"/>	RA
<input type="checkbox"/>	N-C
<input type="checkbox"/>	LD

<input type="checkbox"/>	C
<input type="checkbox"/>	R-1
<input type="checkbox"/>	GMU

<input type="checkbox"/>	A-O
<input type="checkbox"/>	R-2

Flood Plain:

Floodplain: Y N

Watershed:

Watershed: Y N

Protected Ridge: Y N

Setbacks:

Please provide a property map showing the location of your project with the setbacks marked.

New Construction Dwelling

15' side setback

20' rear

40' front

Accessory Structure

10' side and rear property line

20' street or highway right of way

There shall be a 30' setback from all creeks in the Watershed District.

NOTES:

Permit #: BR-23-92

Certifications:

If a permit is granted I/We the undersigned agree to conform to all county ordinances and codes. Furthermore we agree to meet all state mandated standards such as health, building safety, and fire. I hereby swear that the above information is truthful and accurate to the best of my understanding.

Signature of Applicant: _____

Date: 3/20/23

APPLICATION FOR BUILDING PERMIT
MADISON COUNTY INSPECTIONS



OWNER Monica Toole DATE 3/20/23

MAILING ADDRESS _____ TELEPHONE 410-409-2616

BUILDING LOCATION/DIRECTIONS 1496 Flat Branch
East Fork to Ramsey Brothers to Flat Branch to #1496

PIN NUMBER 9739-96-4086 ACREAGE 5.12 ZONING CLASSIFICATION RA
TOWN JURISDICTION: Y N TOWN APPROVALS: Y N TOWNSHIP: Marshall

OCCUPANCY: SINGLE FAMILY MULTI-FAMILY COMMERCIAL

TYPE OF WORK: NEW ADDITION RENOVATION CHANGE OF USE DEMOLITION REPAIR UPFIT

USE OF PROPERTY: OWNER OCCUPIED RENTAL SALE LIEN AGENT NUMBER: 1879774

PROJECT DESCRIPTION Stick Built Home

TOTAL ESTIMATED COST OF PROJECT 450K NO. OF STORIES 1

CONSTRUCTION TYPE Stick Built

LENGTH 60 WIDTH 65 # BEDROOMS 3 BATHROOMS 3

BASEMENT CRAWL SPACE SLAB BASEMENT FINISHED YES NO

DWELLING SQ. FT. 1746 GARAGE SQ. FT. 810 TOTAL SQ. FT. 3272

PERMIT COST: BLDG: \$966.12 Zoning: \$45.00 Total: \$1006.12

Check # 009568

GENERAL CONTRACTOR Anthony Willis LICENSE NO. 17202

Contact Number _____ Address _____

SUBCONTRACTORS:

ELECTRICAL CONTRACTOR James Willis LICENSE NO. 13768-U

Contact Number _____ Address _____

PLUMBING CONTRACTOR JAS LLC Hills Plumbing LICENSE NO. 11874

Contact Number 689-5699 Address _____

MECHANICAL CONTRACTOR JAS LLC LICENSE NO. 11874

Contact Number _____ Address _____

GAS CONTRACTOR _____ LICENSE NO. _____

Contact Number _____ Address _____

The undersigned hereby certifies that he/she is the contractor and authorized agent of the owner and the above information is correct to the best of his/her knowledge and hereby makes application for a permit and inspection of work described above. All work will be done in accordance with all applicable State and local laws and regulations.

Signature: [Signature] Date: _____ Printed name: Josh Senkows

APPROVED BY: SS DATE 3/20/23 PERMIT NUMBER: PR-23-92

ELECTRICAL

AMPERE SERVICE: 200

TYPE: UNDERGROUND OVERHEAD

PREMISE OR ACCOUNTY NUMBER: _____

French Broad Electric

Progress Energy _____

Haywood Electric _____

PLUMBING

NUMBER OF FIXTURES: 10

SEPTIC APPROVED FOR _____ NUMBER OF BEDROOMS _____

Septic (new)

Septic (existing) _____

Town Sewer _____

HEATING

TYPE OF HEAT: Electric Minisplit

Gas: LP Range Natural _____

Oil _____ Wood _____

FIREPLACE: Yes _____ No _____

MASONRY _____ INSERT _____ GAS _____

RESCHECK: YES _____ NO _____ (REQUIRED FOR ALL LOG HOMES)

INSULATION TYPE: Flash + Batt

R-VALUES: FLOOR 19

CEILING 38

WALLS 19

The following must be turned in with plans at the time of building permit application.

BUILDING

FOOTING: DEPTH 12" WIDTH 24"

REINFORCEMENT _____

FOUNDATION WALL: TYPE ~~12x8~~ CMU

SIZE 12x8x16

AMOUNT OF BACKFILL _____

FRAMING:

FLOOR JOIST: TRUSS Eng 2X _____

TGI _____ SPACING _____ OC

WALLS: 2X 6 SPACING 16 OC

ROOF/CEILING: TRUSS Eng 2X _____

TGI _____ SPACING _____ OC

LOG HOME: LOG SIZE _____

DECK: FOOTER SIZE 2x2x1

POST SIZE 6x6

JOIST SIZE 2x8

IN ALL APPLICATIONS IF A DESIGN IS PROVIDED IT MUST BE SEALED BY A NORTH CAROLINA REGISTERED DESIGN PROFESSIONAL.

MADISON COUNTY INSPECTIONS DEPARTMENT



LIEN AGENT INFORMATION

EFFECTIVE APRIL 1, 2013

In accordance with North Carolina General Assembly Session Law 2012-158, Inspection Departments are not allowed to issue any permit where the project cost is \$30,000 or more unless the application is for improvements to an existing dwelling that the applicant uses as a residence OR the property owner has designated a lien agent and provided the inspections office with the information below:

Name of Lien Agent: North American Title Ins Lien Agent #: 1879774

Mailing Address of Agent: 223 S W Street Suite 900 Raleigh NC 27603

Physical address of Agent: _____

Telephone: 888-690-7304 Fax: _____

Email: _____

CONTRACTOR AND CONSTRUCTION SITE INFORMATION

Name of Contractor and/or Owner: JAS LLC

Telephone: 828-689-2810 Fax: _____

Construction Site Address and/or parcel #: 1496 Flat Branch

I certify that to the best of my knowledge, the above statements provided are true and correct.

Signature of Contractor/Owner: [Signature] Date: 3/17/23

The Information will be attached to the permit record and a copy provided to the applicant. The applicant is required to post a copy on the construction site. For further information regarding the Lien Agent process you may visit liensnc.com or contact Nancy Ferguson at 800-445-9983 or email her at Nancy.Ferguson@ctt.com

Excerpt from North Carolina G.S. 153A-357:

(Effective April 1, 2013) No permit shall be issued pursuant to subdivision (1) of subsection (a) of this section where the cost of the work is thirty thousand dollars (\$30,000) or more, other than for improvements to an existing single-family residential dwelling unit as defined in G.S. 87-15.5(7) that the applicant uses as a residence, unless the name, physical and mailing address, telephone number, facsimile number, and electronic mail address of the lien agent designated by the owner pursuant to G.S. 44A-11.1(a) is conspicuously set forth in the permit or in an attachment thereto. The building permit may contain the lien agent's electronic mail address. The lien agent information for each permit issued pursuant to this subsection shall be maintained by the inspection department in the same manner and in the same location in which it maintains its record of building permits issued.

AFFIDAVIT OF WORKERS' COMPENSATION COVERAGE
N.C.G.S. 87-14

The undersigned applicant for Building Permit # BR 23-92 being the

 Contractor

 Owner

 Officer/Agent of the Contractor or Owner

do hereby aver under penalties of perjury that the person(s), firm(s), or corporation(s) performing the work set forth in the permit:

 has/have three or more employees and have obtained workers compensation insurance to cover them,

 has/have one or more subcontractor(s) and have obtained workers' compensation insurance covering them,

 has/have one or more subcontractor(s), who has/have no employees and has waived in writing their right to coverage by their contractor or have their own policy of workers' compensation covering themselves,

 has/have not more than two employees and no subcontractors,

while working on the project for which this permit is sought. It is understood that the Inspections Department issuing the permit may require certificates of coverage and/or waivers of workers' compensation insurance coverage prior to issuance of the permit and at any time during the permitted work from any person, firm or corporation carrying out the work.

Firm Name: JAS LLC

By: [Signature]

Title: Supervisor

Date: 3/17/23

MADISON COUNTY

Building Permit Number BR: 23-92
LOCATION 1496 Flat Branch Road PIN 9739-96-4086
OWNER Monica Toole

THIS CERTIFIES THAT A BUILDING PERMIT HAS BEEN ISSUED FOR THE
LOCATION ABOVE.

MADISON COUNTY

Date: 3/20/23
By: Sylvia Shelton
Permitting Personnel
Title

§ 160D-705. Quasi-judicial zoning decisions.

(a) Provisions of Ordinance. — The zoning or unified development ordinance may provide that the board of adjustment, planning board, or governing board hear and decide quasi-judicial zoning decisions. The board shall follow quasi-judicial procedures as specified in G.S. 160D-406 when making any quasi-judicial decision.

(b) Appeals. — Except as otherwise provided by this Chapter, the board of adjustment shall hear and decide appeals from administrative decisions regarding administration and enforcement of the zoning regulation or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development. The provisions of G.S. 160D-405 and G.S. 160D-406 are applicable to these appeals.

(c) Special Use Permits. — The regulations may provide that the board of adjustment, planning board, or governing board hear and decide special use permits in accordance with principles, conditions, safeguards, and procedures specified in the regulations. Reasonable and appropriate conditions and safeguards may be imposed upon these permits. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the local government does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the local government, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

The regulations may provide that defined minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification or revocation of a special use permit shall follow the same process for approval as is applicable to the approval of a special use permit. If multiple parcels of land are subject to a special use permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved apply only to those properties whose owners apply for the modification. The regulation may require that special use permits be recorded with the register of deeds.

(d) Variances. — When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

- (1) Unnecessary hardship would result from the strict application of the regulation. 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.

