



**Notice of a Meeting  
of the  
Town of Stallings  
Board of Adjustment**

This meeting will be held at  
Stallings Town Hall  
321 Stallings Road  
Stallings, NC 28104

Please note the following agenda of the Stallings Board of Adjustment:

- **June 21, 2021**  
7:30 PM\*

*\*Approximate time. The Board of Adjustment meeting is held directly after the 7 PM Planning Board meeting concludes.*

**AGENDA**

1. Call the meeting to order
2. Approval of the Minutes from 11-16-2021
3. **V22.05.01** - A variance at 1092 Callonwood Dr. PID#07144004E to request relief from Article 2.13-7(B) of the Stallings Development Ordinance.
  - a. 2.13-7 (B) Swimming Pools - Located a minimum of fifteen (15') feet from any property line
4. Adjournment

*s/Max Hsiang*

Max Hsiang, Planning Director

**MINUTES OF BOARD OF ADJUSTMENT  
OF THE  
TOWN OF STALLINGS, NORTH CAROLINA**

The Board of Adjustment for the Town of Stallings met on November 16, 2021, at 9:04 p.m. The meeting was held at the Stallings Government Center, 321 Stallings Road, Stallings, NC 28106

Board of Adjustment members present: Chairman Jack Hudson, Vice Chairman Rocky Crenshaw, Robert Koehler, David Barnes, Misti Craver, Laurie Wojtowicz and Robert Ragon.

Board of Adjustment members absent: Shawna Steele and Jacqueline Wilson

Staff members present: Max Hsiang-Planning Director, Matthew West-Planning Technician, Mary McCall-Deputy Town Clerk and Bill Bailey-Town Planning Consultant

1. Call to Order

Chairman Hudson called the meeting to order. At that time, the following attendees were sworn in to give testimony:

- Max Hsiang-Planning Director
- Matthew West-Planning Technician
- Bill Bailey-Town Planning Consultant
- Bryan Murr – Project Civil Engineer from MC<sup>2</sup>

Joel Trice, Developer with Encompass Building Group was also present.

2. V21-11.01 – Request for a variance at 165 Cupped Oak Drive to reduce the front setback requirement from eighty feet (80') to forty feet (40').

Planning Technician West explained this was a request for parcel #07102010Z to reduce the setback from 80' to 40' in the INU zoning.

No one asked to be recused from the hearing.

Planning Technician West continued to explain that the parcel had been subdivided previously and noted other buildings in the proximity of the property were not set back 80' due to being grandfathered.

Mr. Murr presented evidence in support of the variance request, showing that the limitations due to the unusual dimensions and parcel shape of the land preventing the owner's ability to develop a docking warehouse due to the restriction of buildable space. That presentation is attached to these minutes and therefore incorporated herein.

Mr. Murr explained that the strict application of the ordinance caused a hardship for these reasons.

After questions and discussion by the board Chairman Hudson closed the public hearing.

The Board discussed the evidence supporting the hardship for the variance request.

The following pieces of evidence were read into the record:

- The strict application of the ordinance creates a hardship because the current setback would remove 36% of buildable area on a 3.5-acre site due to the width of the parcel.
- The shape of the property being wider and shallower than other properties caused hardship.
- The applicant was not responsible for the subdivision that created the peculiar shape of the property.
- The reduced setback is consistent with the adjacent properties that were grandfathered in.

The Board approved each item of V21.11.01 unanimously.

### 3. Adjournment

Board Member Craver made the motion for adjournment. It was accepted unanimously after a second from Vice Chairman Crenshaw.

Chairman Hudson adjourned the meeting at 9:38 pm.

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Robert Koehler, Planning Board Vice Chair

Mary McCall, Deputy Town Clerk



Town of  
**Stallings**

315 Stallings Road • Stallings, North Carolina 28104

Application Type: **Variance \$300**  **Appeal \$150**

Application Number (Staff): V21.11.01

Date Filed: 11/2/21

Hearing Date(s): 11/16/21

**Applicant Information:**

Name: Latin Quarters LLC Phone #: 843-540-3025

Address: 1014 Waxhaw Indian Trail Road, Indian Trail, NC 28079

Email: joelt@encompassbuilding.com

**Property Location and Description:**

Address: Cupped Oak Drive, Stallings, NC 28104

Tax Parcel ID#: 07102010Z

Current Zoning Classification: IND

Description of Request: Reduction of required 80' setback to 40'

This application should be accompanied by a scaled site plan of the property which includes the following information:

- Lot Dimensions
- Setback dimensions for existing structures
- Location of all existing structures
- Location of all underground utilities (water, sewer, power, cable & gas)
- Location of all dedicated easements
- Other topographical features (bodies of water, significant stands of trees etc.)

**Notice of Public Hearing**

Whenever there is a variance request made, the Town of Stallings is required to notify the owner of said parcel of land as shown on the county tax listing, and the owner of all parcels of land abutting that parcel of land as shown on the county tax listing. The required notice shall be mailed by first class mail at least 10 days but not more than 25 days prior to the date of the public hearing.

Telephone 704-821-8557 • Fax 704-821-6841 • [www.stallingsnc.org](http://www.stallingsnc.org)



Variance Request Description

Section(s) of Ordinance requesting relief from:  
8.4-10 (E) - 80' Front Yard Setback

The Board of Adjustment after having held a public hearing to consider the request for a variance to the Stallings Regulating Ordinance will make the following findings of fact and draw the following conclusions in order to render their decision.

- 1) There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance.
- 2) That the variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.
- 3) That in granting of the variance, the public safety and welfare have been assured and substantial justice has been done.
- 4) That the reasons set forth in the applications justify the granting of variance, and that the variance is a minimum one that will make possible the reasonable use of land or structures.

A variance may be granted in an individual case of undue and unnecessary hardship upon a finding by the board that each of the following hardships exist. It would be in the best interest of the applicant to submit the following sheet providing proof of each hardship below. (Attach any additional documents)

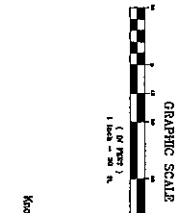
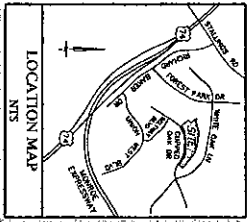
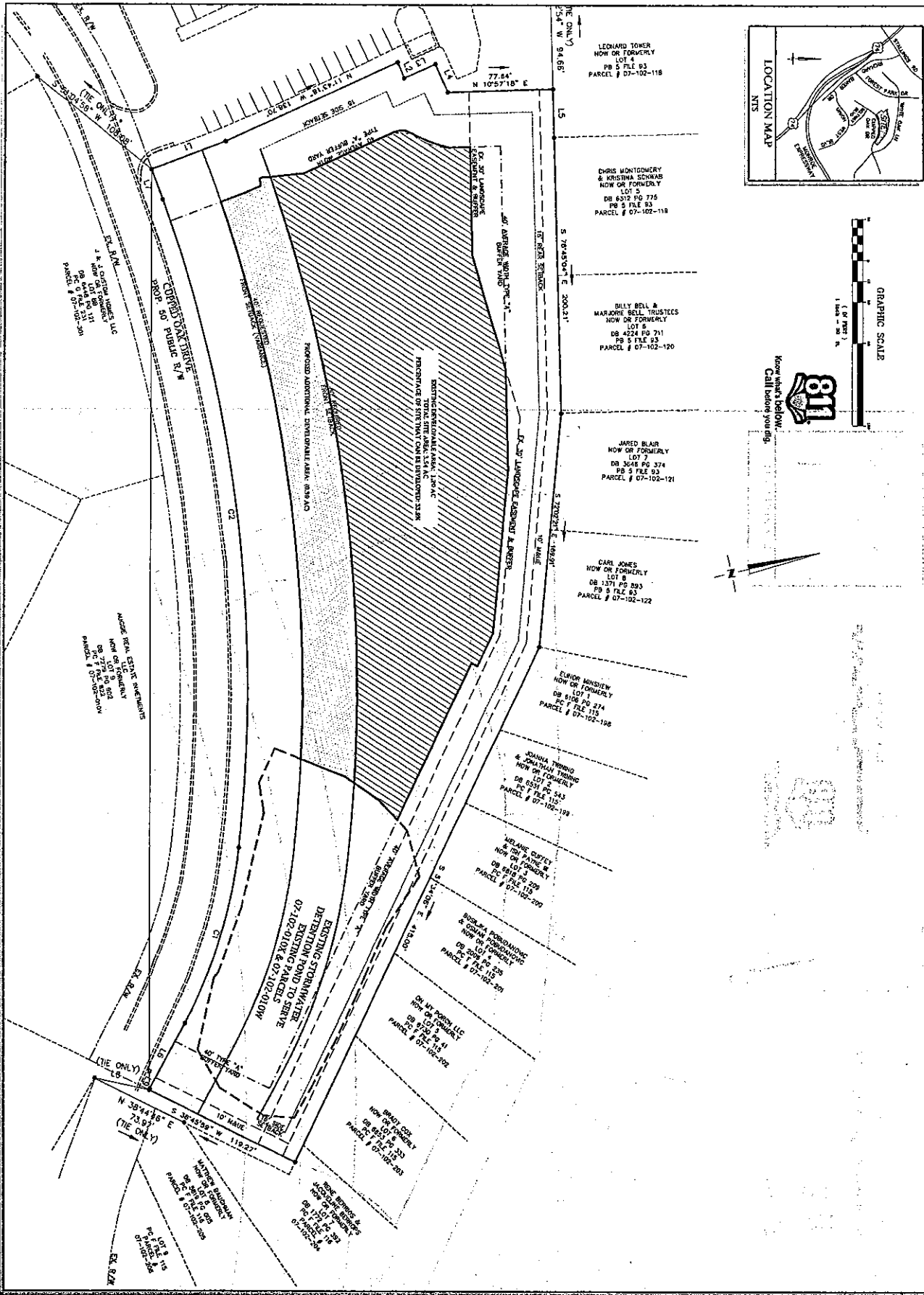
Request for Variance

- 1) Why can there be no reasonable use of the property without the variance?  
The large setbacks and buffers create such tight constraints on the oddly shaped property that it leaves little area to put a reasonably sized building on the parcel.
- 2) How do hardships result from the application of the terms of the ordinance itself?  
The parcel is wide and an 80' setback removes 1.27 AC of build-able area on a 3.54 ac lot (36%). This does not include 40' buffer yards, side yards, scm, open space etc.
- 3) Does the hardship relate to the physical property, not the condition of the applicant?  
Yes, the parcels wide shape and stormwater management requirements of adjacent properties are both physical constraints that the applicant has no control over.
- 4) Was the hardship created from the applicants own making?  
No, preliminary research and adjacent property layouts led the applicant to believe a 40' setback would be required. The shape of the property cannot be changed.
- 5) Is the hardship peculiar to the specific property involved?  
Adjacent properties are using the proposed property for stormwater management as a part of a greater common development.

OWNER/APPLICANT STATEMENT: I certify that I am the property owner or truly represent the property owner(s). I certify that the forgoing statements are accurate and correct to the best of my understanding and knowledge. I understand that the Town of Stallings Ordinances and laws of the State of North Carolina regulating such work and any plans or specifications submitted. Any violation of the Zoning Ordinance will be grounds for revoking this permit and any other permits issued in reliance upon the same.

SIGNATURE OF OWNER: Joel Tim DATE: 10/27/2021

SIGNATURE OF APPLICANT: \_\_\_\_\_ DATE: \_\_\_\_\_



Know what's below.  
Call before you dig.  
**811**

**VARIANCE REQUEST**

REVISION	DATE	BY

PROJECT NO. 20-024  
 SHEET NO. 20-024  
 DATE NOVEMBER 3, 2021

**CUPPED OAK INDUSTRIAL**  
 STALLINGS, NC

**LATIN QUARTERS LLC**  
 1034 WAXHAW INDIAN TRAIL ROAD  
 INDIAN TRAIL, NC 28089

**Mc<sup>2</sup> ENGINEERING**

Mc<sup>2</sup> ENGINEERING, INC.  
 2110 BAY EIGHT DR., SUITE 400  
 CHARLOTTE, NC 28203  
 PHONE: 704-393-3333





# VARIANCE APPLICATION



Date Filed: 6/7/2022 Application Number: V 22.06.01 Fee Paid: \_\_\_\_\_

Fee: \$300 - Residential, \$350 - Non-residential

\$300  
6/7 M+H

The Board of Adjustment (hereinafter "Board"), after having held a public hearing to consider the request for a variance to the Stallings Regulating Ordinance, will make their decision based on competent, material, and substantial evidence. Evidence must be provided that address the Standards of Review found in § 6.1-6 of the Stallings Development Ordinance.

### Property Information

Property Owner Name: Kevin & Elizabeth McGowan

Address or Location: 1092 Callonwood Dr Matthews, NC 28104

Parcel ID #: 07-144-004E lot 35 Lakmore

Applicant Name (if different from Property Owner): \_\_\_\_\_

Phone: 704.651.7994 Email: weathmcg@gmail.com

### Variance Request Description

Section(s) of Ordinance requesting relief from:  
2.13-7(B) Swimming Pools - located a minimum of fifteen (15) feet from any property line.

**OWNER/APPLICANT STATEMENT:** I certify that I am the property owner or truly represent the property owner(s). I certify that the forgoing statements are accurate and correct to the best of my understanding and knowledge. I understand that the Town of Stallings Ordinances and laws of the State of North Carolina regulating such work and any plans or specifications submitted. Any violation of the Zoning Ordinance will be grounds for revoking this permit and

Signature of Owner: [Signature] Date: 6/7/2022

Signature of Applicant: [Signature] Date: 6/7/2022

Signature of Zoning Official: [Signature] Date: 6/7/2022

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## Statement of Justification

**Unnecessary hardship would result from the strict application of the ordinance [Expense is NOT a valid hardship]:**

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**The hardship results from conditions that are peculiar to the property such as location, size, or topography:**

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**The hardship did not result from actions taken by the applicant or the property owner:**

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

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To Whom It May Concern:

Regarding: 1092 Callonwood Drive  
Matthews, NC 28104

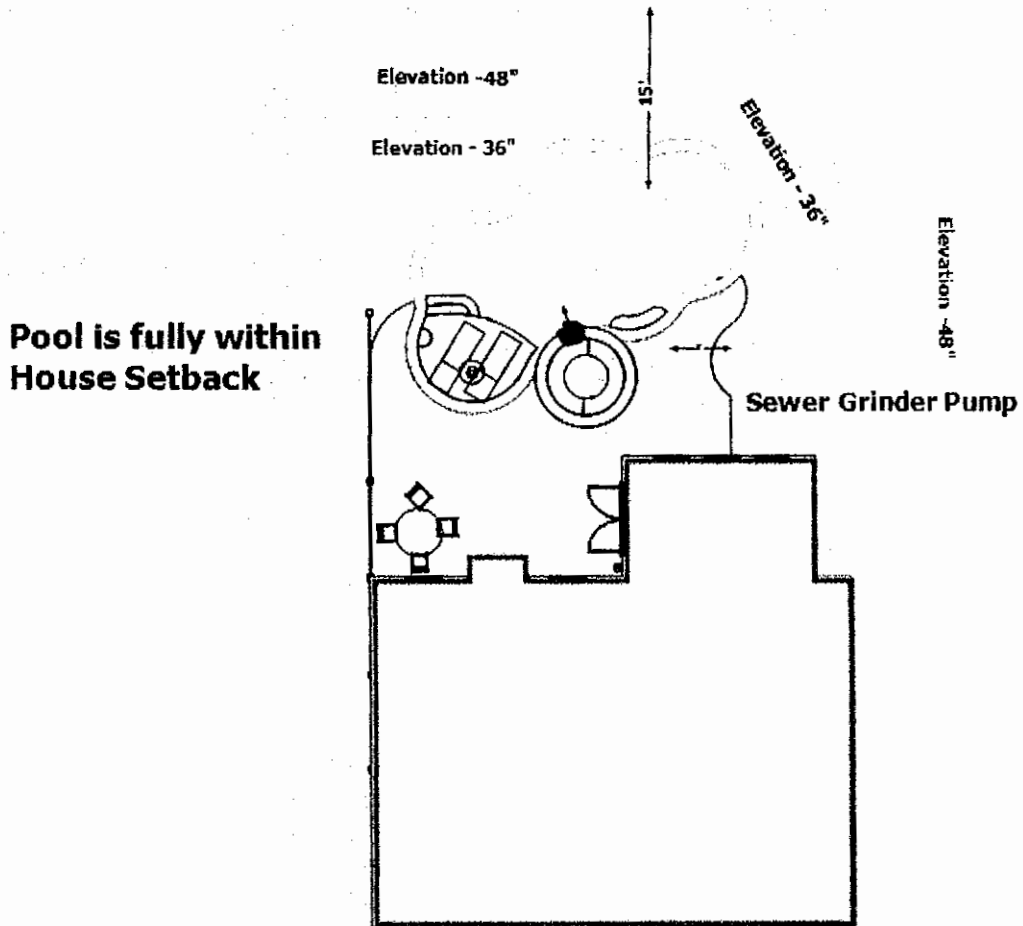
Ordinance 2.13-7(B) Swimming Pools - located a minimum of fifteen (15) feet from any property line.

Our property is located on a small lot (0.235 acres) with a steep slope in the back and right side yards. The septic system location limits where the pool can be built. The right side slope of the lot is too drastic to put a pool towards the right rear side of the yard. We have looked at different shapes of pools as well. The Oasis shape as shown on the attached survey is the best fit for the size and shape of our yard along with the location of the septic system. Our plan meets all regulations except for this ordinance.




# Wooded Area

## No Homes to be built





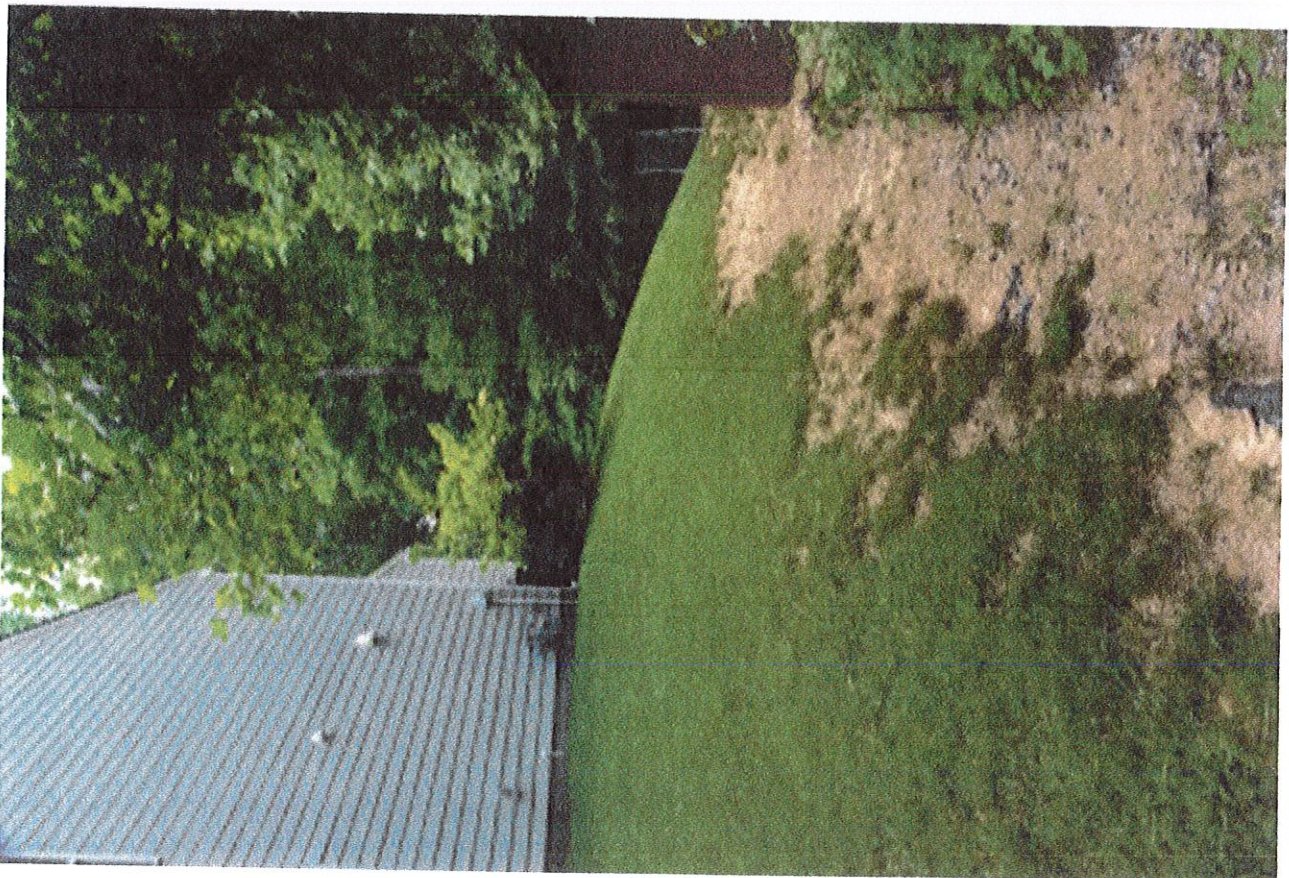
An aerial photograph of a residential neighborhood. The houses are arranged in a grid-like pattern. A prominent road or driveway runs diagonally from the top left towards the center right. In the lower center, a house is marked with the address '1092 Callonwood'. A large area in the upper right is marked with 'No build area'. There are also some other faint handwritten markings, possibly '7:7', in the upper right quadrant.

No build area

1092  
Callonwood



Right  
side  
Yard  
w/slope  
Front  
View



Right  
side  
yard



Right  
side  
property  
line  
view of  
Back  
Yard



Right  
corner  
property  
line  
view of  
Back  
Yard





Back  
yard  
from  
Back  
property  
line

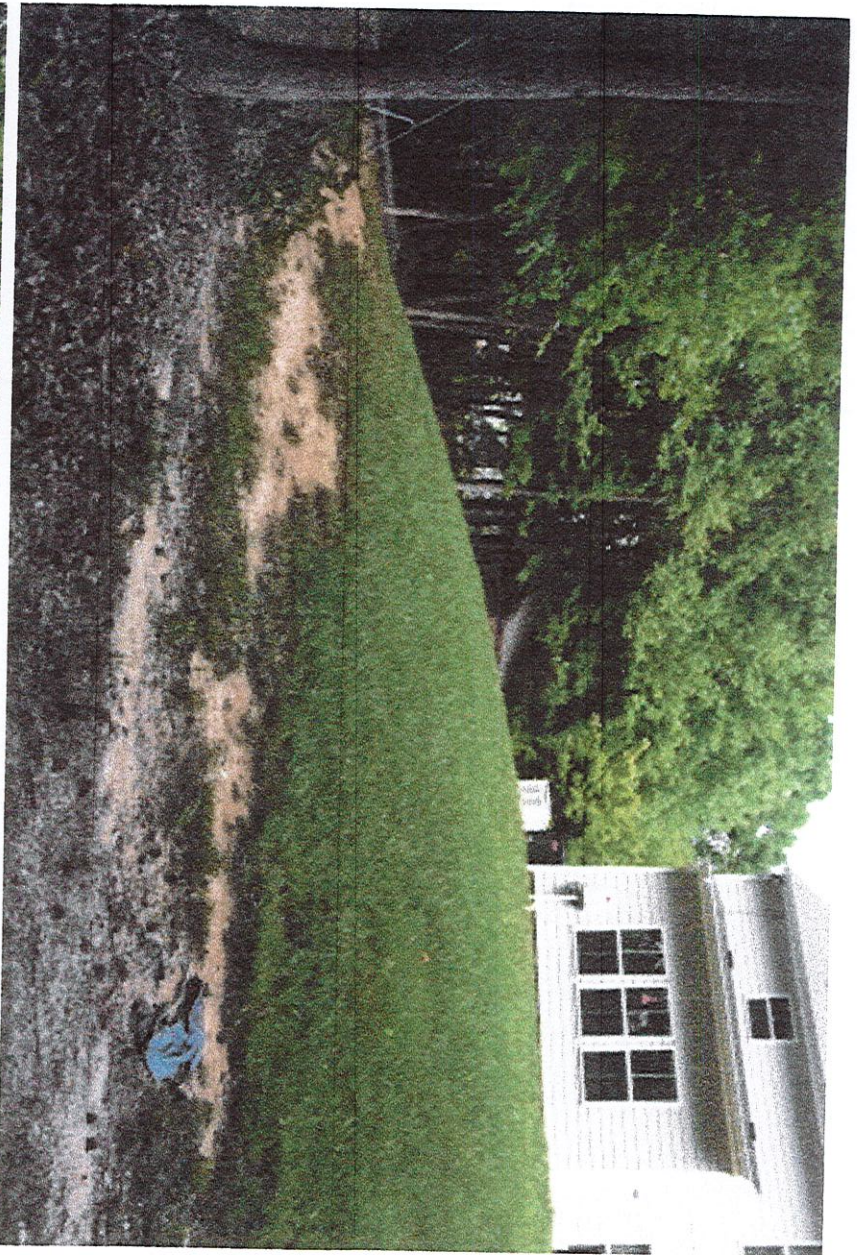


Back  
yard  
from  
left  
corner  
property  
line





Back  
yard  
from  
left  
corner  
Back  
property  
line





From  
left  
corner  
to  
Right  
corner  
view



Back  
porch  
view  
towards  
Right  
W view  
of  
septic





Right  
corner  
of  
House  
w/ scenic  
View



Left  
side  
Back  
yard  
w/ scenic  
View





left  
side  
view  
towards  
street  
Between  
two  
houses



Back  
patio  
view  
into  
woods



**From:** [Weatherly McGowan](#)  
**To:** [Max Hsiang](#)  
**Subject:** 1092 Callonwood Drive Variance Application  
**Date:** Tuesday, June 7, 2022 8:47:28 PM

You don't often get email from weathmcg@gmail.com. [Learn why this is important](#)

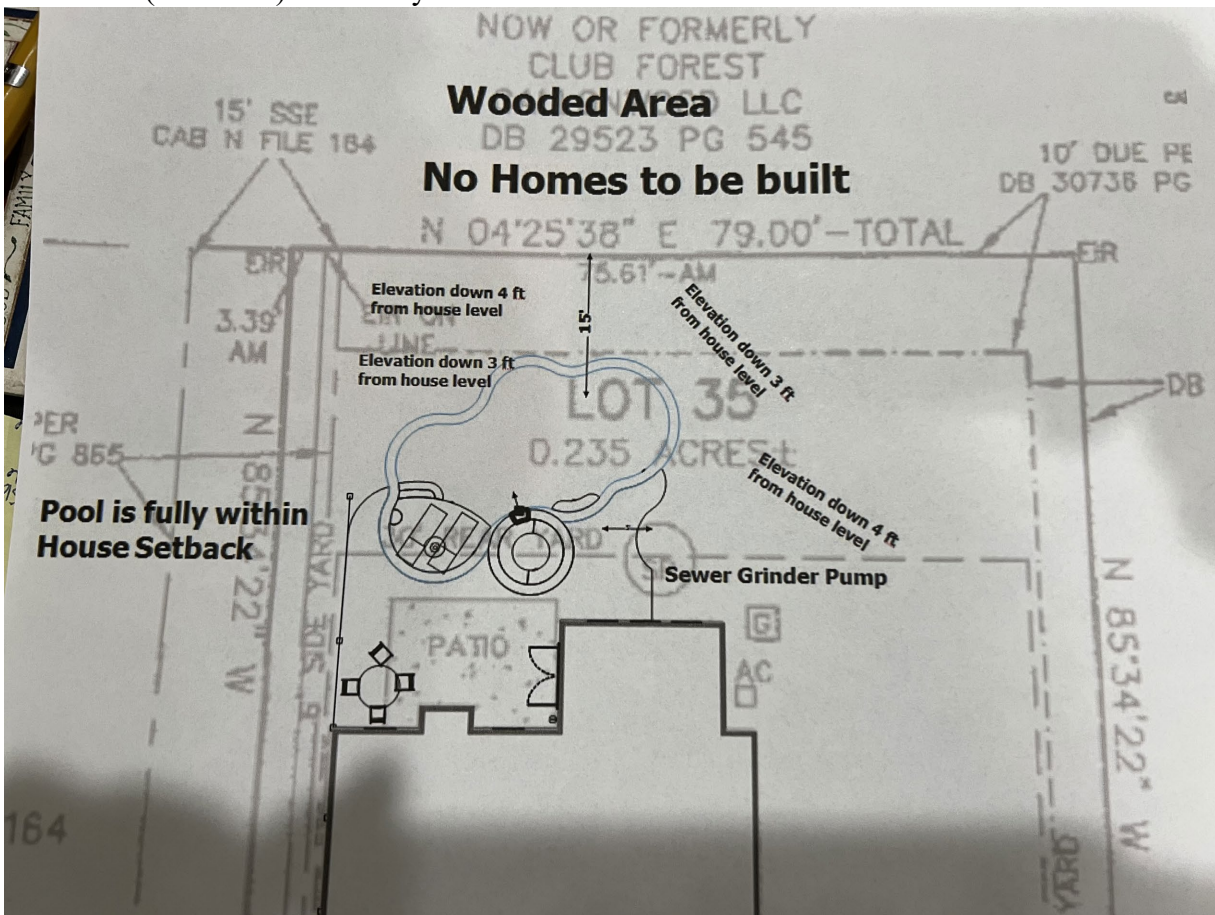
Max,

Thank you so much for your help and patience with us as we try to navigate the process of building a pool.

Please see the attached Statement of Justification and a survey picture with elevations listed. If you need anything else please do not hesitate to contact me. My cell number is (704) 607-2016 or you can respond to this email as well.

Thanks,

Kevin and (Elizabeth) Weatherly McGowan







## VARIANCE APPLICATION

315 Stallings Road  
Stallings, NC 28104  
704-821-8557  
Fax 704-821-6841

### Statement of Justification

Unnecessary hardship would result from the strict application of the ordinance [Expense is NOT a valid hardship]:

Our property is 0.255 acres with a steep sloping back yard and right side yard. There is a septic grinding pump located in the back yard close to the house which limits the location of a pool. The left side of the property only has 6.5 feet from the house to the next houses property line. There are woods lining the back and right sides of the property.

The hardship results from conditions that are peculiar to the property such as location, size, or topography:

Our property is unique in size and topography. The lot is a smaller lot with steep sloping back and right side yards and a septic grinding pump located in the back yard. Past the back property line is woods. There will not be any new construction past our rear property line into the woods.

The hardship did not result from actions taken by the applicant or the property owner:

The house was built on a smaller lot with sloping back and right side yards. There is only 6 1/2 feet on the left side of the property. The setbacks limit the size of our yard where a pool could be built along with the location of the septic pump.

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

The pool location will not interfere with any other property nor will it interfere with any sightlines. Our neighborhood does not have a community pool and will not have one in the future. There have been no changes to the property since we purchased it in 2018. We are not changing the use of the property. This property is a small family home and we will not be renting it out. The pool will be for our family to enjoy.

## Variance Application Statement of Justification

### **Unnecessary hardship would result from the strict application of the ordinance (Expense is NOT a valid hardship):**

Our property is 0.235 acres with a steep sloping backyard and right-side yard. There is a septic grinding pump located in the back yard closer to the house, which limits the location of the pool. The left side of the property only has 6.5 feet from the house to the next houses' property line. There are woods lining the back and right sides of the property.

### **The hardship results from conditions that are peculiar to the property such as location, size or topography:**

Our property is unique in size and topography. The lot is a smaller lot with steep sloping back and right-side yard and a septic grinding pump located in the back yard. Past the back property line is woods. There will not be any new construction past out rear property line into the woods.

### **The hardship did not result from actions taken by the applicant or the property owner:**

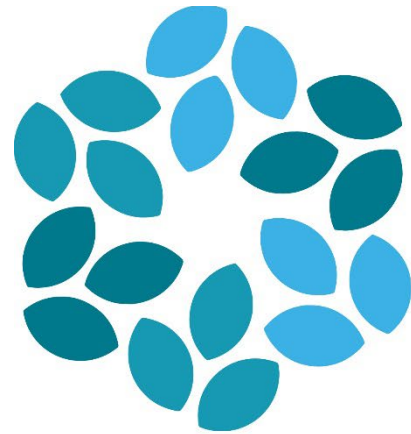
The house was built on a smaller lot with sloping back and right-side yards. There is only 6.5 feet on the left side of the property. The setbacks limit the size of our yard where a pool could be built along with the location of the septic pump.

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

The pool location will not interfere with any other property, nor will it interfere with any sightlines. Our neighborhood does not have a community pool and will not have one in the future. There have been no changes in the property since we purchased it in 2018. We are not

changing the use of the property. This property is a single-family home and will not be renting it out. The pool will be used for our family to enjoy.

V22.06.01 – 1092 Callonwood Dr



**PLANNING  
& ZONING**  
TOWN of STALLINGS

# Request



The applicants, Kevin and Elizabeth McGowan are requesting a variance at 1092 Callonwood Dr. PID#07144004E to request relief from Article 2.13-7(B) of the Stallings Development Ordinance.

- a. 2.13-7 (B) Swimming Pools - Located a minimum of fifteen (15') feet from any property line



# Current Conditions





# Street View



# History

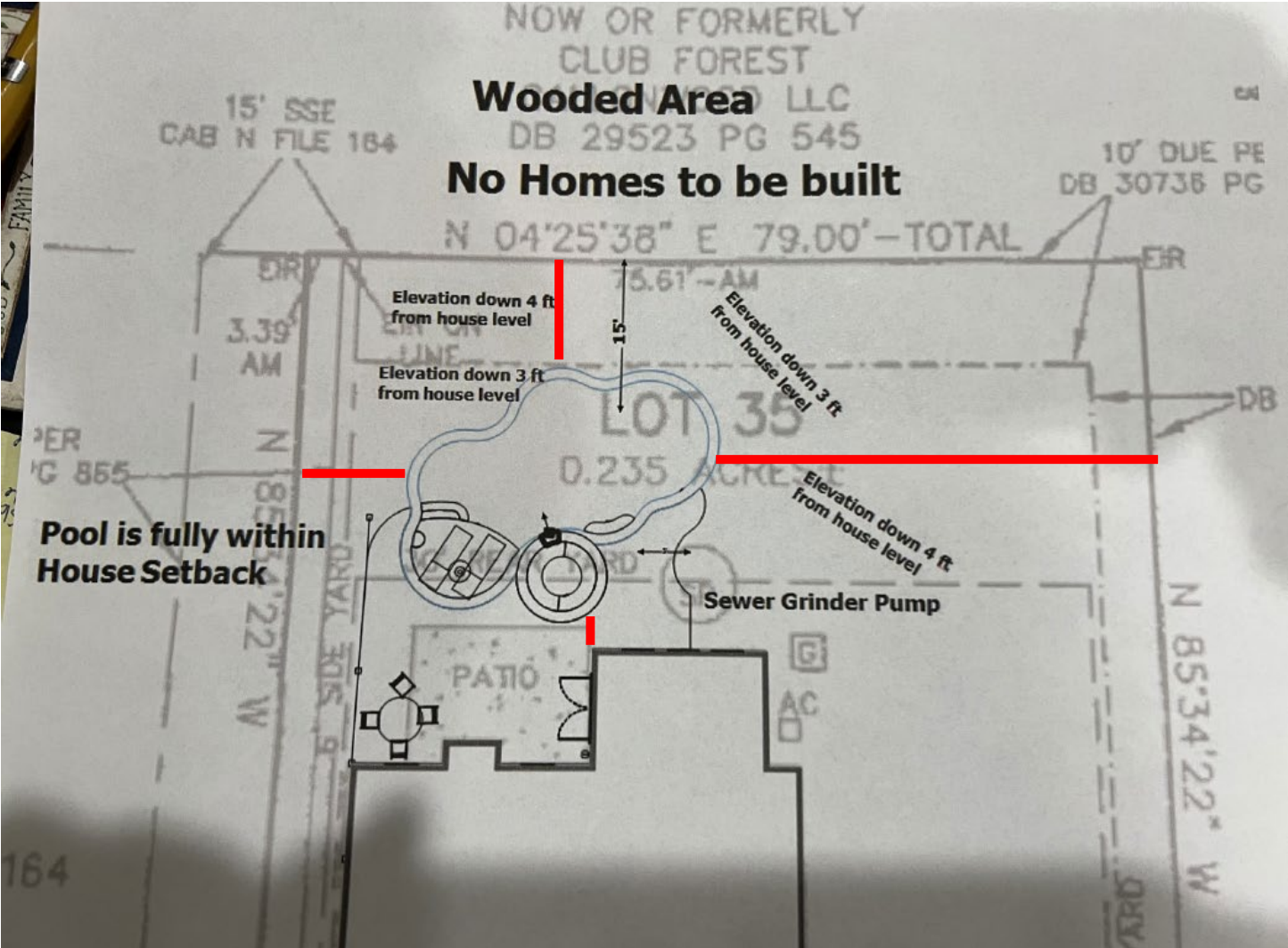


- The home was built as part of the Lismore Subdivision in Charlotte.
- Two houses were built in the Town of Stallings for this neighborhood.
- This home was built in 2016 under the Mixed Residential Zoning before the 2018 Stallings Development Ordinance was adopted.
- The zoning is now Multi-Family Transitional (MFT).
- The prior zoning ordinance required pools to be 20 ft away from any property line; the ordinance adopted in 2018 now says 15 ft from any property line.





# Site Plan



# Requirements of the Ordinance for Pools



**2.13-7 Swimming Pools.** Swimming pools located on any site, including single family residential sites, shall be:

(A.) Located in a side or rear yard only;

**(B.) Located a minimum of fifteen (15') feet from any property line;**

(C.) Completely enclosed by a fence or wall no less than four (4') feet but no more than eight (8') feet, except when a wall is component to the dwelling or accessory structure, in accordance with the provisions of sub-section 2.13-2 Fences and Walls herein. Height shall be measured above grade on the side of the fence or wall which faces away from the swimming pool. This fence or wall shall enclose the pool itself and may include any other additional portions of the lot. Fence design shall not be climbable or of a ladder pattern. Fences shall not be located in a way that allows any permanent structure, equipment, or similar object to be used for climbing. The fence shall not have any gaps, opening, indentations, protrusions, or structural components that allow a young child aged six (6) years or less to crawl under, squeeze through, or climb over the fence or adjacent barrier. All fence or wall openings into the pool area shall be equipped with a gate that opens outward away from the pool and shall be self-closing and have a self-latching device located on the poolside of the gate and be placed so that a young child aged six (6) years or less cannot reach over the top or through any opening or gap and operate the latch.

**7.1 Permit and/or Approval Required**

(A.) Zoning permits (also known as Zoning Compliance Permit) are issued by the Town of Stallings for all new use (See Table 8.1, Sections 1-3), building and/or development projects

**9.2-2 Detached House Lot Type.**

(4.) Accessory structures, including detached garages, shall be located at least five (5') feet behind the primary structure.

# Statements of Justification



**Unnecessary hardship would result from the strict application of the ordinance (Expense is NOT a valid hardship):**

Response:

Our property is 0.235 acres with a steep sloping backyard and right-side yard. There is a septic grinding pump located in the back yard closer to the house, which limits the location of the pool. The left side of the property only has 6.5 feet from the house to the next houses' property line. There are woods lining the back and right sides of the property.

# Statements of Justification



**The hardship results from conditions that are peculiar to the property such as location, size or topography:**

Response:

Our property is unique in size and topography. The lot is a smaller lot with steep sloping back and right-side yard and a septic grinding pump located in the back yard. Past the back property line is woods. There will not be any new construction past out rear property line into the woods.

# Statements of Justification



**The hardship did not result from actions taken by the applicant or the property owner:**

Response:

The house was built on a smaller lot with sloping back and right-side yards. There is only 6.5 feet on the left side of the property. The setbacks limit the size of our yard where a pool could be built along with the location of the septic pump.

# Statements of Justification



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

Response:

The pool location will not interfere with any other property, nor will it interfere with any sightlines. Our neighborhood does not have a community pool and will not have one in the future. There have been no changes in the property since we purchased it in 2018. We are not changing the use of the property. This property is a single-family home and will not be renting it out. The pool will be used for our family to enjoy.