



---

Rouss City Hall  
15 North Cameron Street  
Winchester, Virginia 22601  
[www.winchesterva.gov](http://www.winchesterva.gov)

Telephone: (540) 667-1815  
FAX: (540) 722-3618  
TDD: (540) 722-0782

**BOARD OF ZONING APPEALS  
AGENDA  
DATE - 4:00 P.M.  
Council Chambers - Rouss City Hall**

**1. POINTS OF ORDER**

- A. Roll Call
- B. Approval of Minutes June 8, 2016
- C. Reading of Correspondence

**2. PUBLIC HEARINGS**

**3. NEW BUSINESS**

**BZA-16-400** Request of Buettner Tire Distributors LLC for a variance to the Winchester Zoning Ordinance, Section 18-22-1, pertaining to new above-ground electrical service at 1908 South Loudoun Street (*Map Number 252-01- -18A - > <01*) zoned Commercial Industrial (CM-1) District. The request is to authorize a variance to the underground burial requirement for a new utility service.

**4. OLD BUSINESS**

**BZA-16-106** Request of Carl S. Hales for variances of the Winchester Zoning Ordinance, Sections 10-5-1 and 10-6-2 pertaining to front and rear setbacks at 1328-1470 Commerce Street (*Map Number 233-01- -11*) zoned Commercial Industrial (CM-1) District. The applicant is seeking these variances to allow for re-use of several non-conforming structures on the parcel.

**5. ADJOURN**

**BOARD OF ZONING APPEALS  
MINUTES**

The Board of Zoning Appeals held its regularly scheduled meeting on Wednesday, June 8, 2016, at 4:00p.m. in Council Chambers, Rouss City Hall, 15 North Cameron Street, Winchester, Virginia.

**POINTS OF ORDER:**

**PRESENT:** Chairman Pifer, Vice Chairman Crawford, Mr. Lewis, Ms. Marchant, Ms. Anderson (alt.)

**ABSENT:** Mr. Whitacre

**STAFF:** Aaron Grisdale, Erick Moore, Carolyn Barrett

**VISITORS:** Matt Peponis, Josh Teague, Jill Sutherly

**CONSENT AGENDA:**

Approval of Minutes of March 9 and April 13, 2016:

Chairman Pifer called for corrections or additions to the minutes. Ms. Marchant made a motion to approve the minutes as corrected. Mr. Lewis seconded the motion. Chairman Pifer called for a vote. Voice vote was taken and the motion passed 5-0.

**READING OF CORRESPONDENCE:**

None.

**PUBLIC HEARINGS:**

None.

**NEW BUSINESS:**

**BZA-16-323** Request of NB 333 W. Cork Street LLC for variances of the Winchester Zoning Ordinance, Sections 15-7-1 and 15-8-1 pertaining to building height and minimum corner side yard at 333 West Cork Street (Map Number 192-01-C-16 - > <01) zoned Health Services (HS) District. The request is to allow for the construction of an outdoor patio contiguous with the fifth floor of the existing structure.

Mr. Grisdale reviewed the staff report and state code requirements for the patio enclosure on the fifth floor. Staff believes the applicant is consistent with the variance requirements.

Ms. Anderson asked if the enclosure was going over top of the old ambulance entrance. Other board members said it was.

**Chairman Pifer opened the public hearing**

Josh Teague, Senior Vice President of Healthcare Development Partners, a nationwide real estate firm that specializes in healthcare property development and renovations, approached the board. He introduced two employees of Greenfield Assisted Living who would be addressing the board later. The property was purchased about two years ago with the intent to partner with Valley Health and bring in assisted living memory care. He presented additional information that was not covered in the staff report and reviewed the memory care facility and patio.

Chairman Pifer asked where the roofline stopped and was it flat. Mr. Teague said it was a flat roof. The enclosure is designed for security purposes. Memory care patients have been known to climb walls and fences.

Vice Chairman Crawford asked which guest would be appropriate to address the staff opinion that the west side site would be more appropriate. Mr. Teague said looking at the floor plan, there were two issues. One, operationally, it would reduce the amount of resident rooms that could be built. Second, it would also be extremely expensive to create that amount of structure. There would be significant impact to the lower floors as well. Mr. Peponis said an outdoor barrier is required by the Department of Social Services. Residents have to be given easy access to an outdoor space. He also spoke about the reasons for the requirement. There are many things they will be doing that are not found in other communities.

Ms. Anderson asked if the facility would be open to Medicare patients. Mr. Peponis said in the state of Virginia, there is no Medicare funding for assisted living. There is an auxiliary grant program which is one of the worst programs in the country. They have been working to change that program over the years. It will require a change to the law for them to be able to accept Medicare patients. Greenfield sets aside specific funds for patients who have been with them for some time, the company will make up the difference in the cost of their care on a case by case basis.

Ms. Marchant asked if the other floors were assisted living as well and would they be using the outdoor space. Mr. Peponis said no, the other patients were cognitively aware of danger. The fifth floor unit is a secure unit. The patients have to have supervision. Mr. Lewis asked what the expected project completion was and Mr. Peponis said about a year.

**Chairman Pifer closed the public hearing**

Vice Chairman Crawford said it was kind of confusing since it was not actually a side yard setback; it was a balcony of sorts. It's not like someone is asking if their new side porch can jut out further than their neighbors. It's contained within the footprint of the building. The applicant makes a strong argument for why it can't be on the west side.

Ms. Marchant asked if anyone in the neighborhood had any issues or correspondence. Mr. Grisdale said there had been no correspondence. There were some calls after the public hearing signs and letters went out. Each one, after hearing what was being proposed, did not have any issues.

Vice Chairman Crawford noted there was a parking lot and one business across the street from the property. Mr. Grisdale said the possible approval motion had a condition where the approval was tied to the patio enclosure as generally depicted with some minor adjustments.

Chairman Pifer asked if they were just going to build a wall, not an enclosure, did it still qualify as an enclosure needing the variance. Mr. Griddale said, yes, it would still be contiguous with the main building.

Chairman Pifer asked what the dimensions of the patio enclosure were. Mr. Griddale noted that it would be about 65 feet tall. The proposed wall would be eight feet tall. Chairman Pifer asked the applicant why they chose a 12 foot wall as opposed to 10 or 8 foot wall. Mr. Teague said it was for security reasons. There was some discussion about landscaping around the patio and the type of latticework around the enclosure.

*Vice Chairman Crawford moved that the Board of Zoning Appeals approve variances of the Winchester Zoning Ordinance Sections 15-7-1 and 15-8-1 pertaining to building height and minimum corner side yard at 333 West Cork Street (Map Number 192-01-C-16 - > <01) zoned Health Services (HS) District, with the following conditions:*

- a. The variances are granted for a corner side yard setback of 10'-5 5/8" and an allowable building height of 65 feet.*
- b. Building permits for the proposed site improvements must be obtained within two (2) years of the date of this decision. Failure to do so will cause the variances for this property to expire.*
- c. The variances are approved for the patio enclosure as generally depicted in the application materials.*
- d. The variances are approved solely for the use of the outdoor space as part of an assisted living facility.*

*The variance is approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:*

- 1) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*
- 3) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

*Ms. Anderson seconded the motion. Roll call vote was taken and the motion passed 4-1.*

*Vice Chairman Crawford – yes*

*Ms. Anderson – yes*

*Mr. Lewis – yes*

*Ms. Marchant – yes*

*Chairman Pifer - no*

**OLD BUSINESS:**

None.

**ADJOURN:**

With no further business before the Board, the meeting was adjourned at 4:40pm.

DRAFT



CASE #: 16-400

FEE AM'T: \$75.00

DATE PAID: \_\_\_\_\_

Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601  
540-667-1815  
TDD 540-722-0782

**APPLICATION FOR BOARD OF ZONING APPEALS**

Please print or type all information

540-667-3211 <sup>cell</sup> 540 974-2271  
Telephone

WWWTDI.VA.CNTELOS.NET  
E-mail address

Buettner Tree Distributors LLC  
Applicant

1908 S LOUDOUN ST.  
Street Address

Winchester Virginia 22601  
City State Zip

Jeffrey Brook Buettner  
OWNER'S SIGNATURE (use reverse to list additional owners)

JEFFREY BROOK BUETTNER  
Owner Name (as appears in Land Records)

540 974 2271  
Telephone

331 NORTH BRADDOCK ST.  
Street Address

WWWTDI.VA.CNTELOS.NET  
E-mail address

Winchester Virginia 22601  
City State Zip

REQUEST TYPE CODE - Please mark type of request and complete information

KEY: V = Variance; AM = Administrative Modification; I = Interpretation

REQUEST TYPE	ORDINANCE SECTION	PERTAINING TO:
<input checked="" type="checkbox"/> Variance	<u>18-22-1</u>	<u>TO Place a Pole on our Property AT the rear of 50 A 400AMP Single Phase w/it can be DRUM about 58 feet across ABRAMS Creek to attach to the rear of our Building by SVEC.</u>

APPLICATION FEE: \$500 for 1st code section; \$100 for each additional code section - \$575.00

Public hearing sign deposit fee: \$50

PROPERTY LOCATION 1908 SOUTH LOUDOUN ST. Zoning CM-1

Current Street Address(es)

Tax Map Identification - (sections, blocks, lots) 252-01-18A

**REQUIRED MATERIALS LIST**

- 1 copy of application (this form completed)
- 10 copies of letter explaining request and grounds for request
- 10 Copies of plans/or drawings and surveys
- Fee (check made payable to the Treasurer, City of Winchester)
- List of adjacent property owners (public hearing items only). List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. If provided by staff, there is a \$25 fee.
- Disclosure of Real Parties in Interest (list all equitable owners)
- Public Hearing Sign Deposit Fee - \$50 (refundable upon return of sign)

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. Only complete applications, which include the above materials, will be accepted.

I/we hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing (if applicable) and that all delinquent real estate taxes have been paid per Section 23-9.

APPLICANT'S SIGNATURE Jeffrey Brook Buettner DATE 22 June 2016

[Signature] (rev. 6/2012)

To whom it may concern:

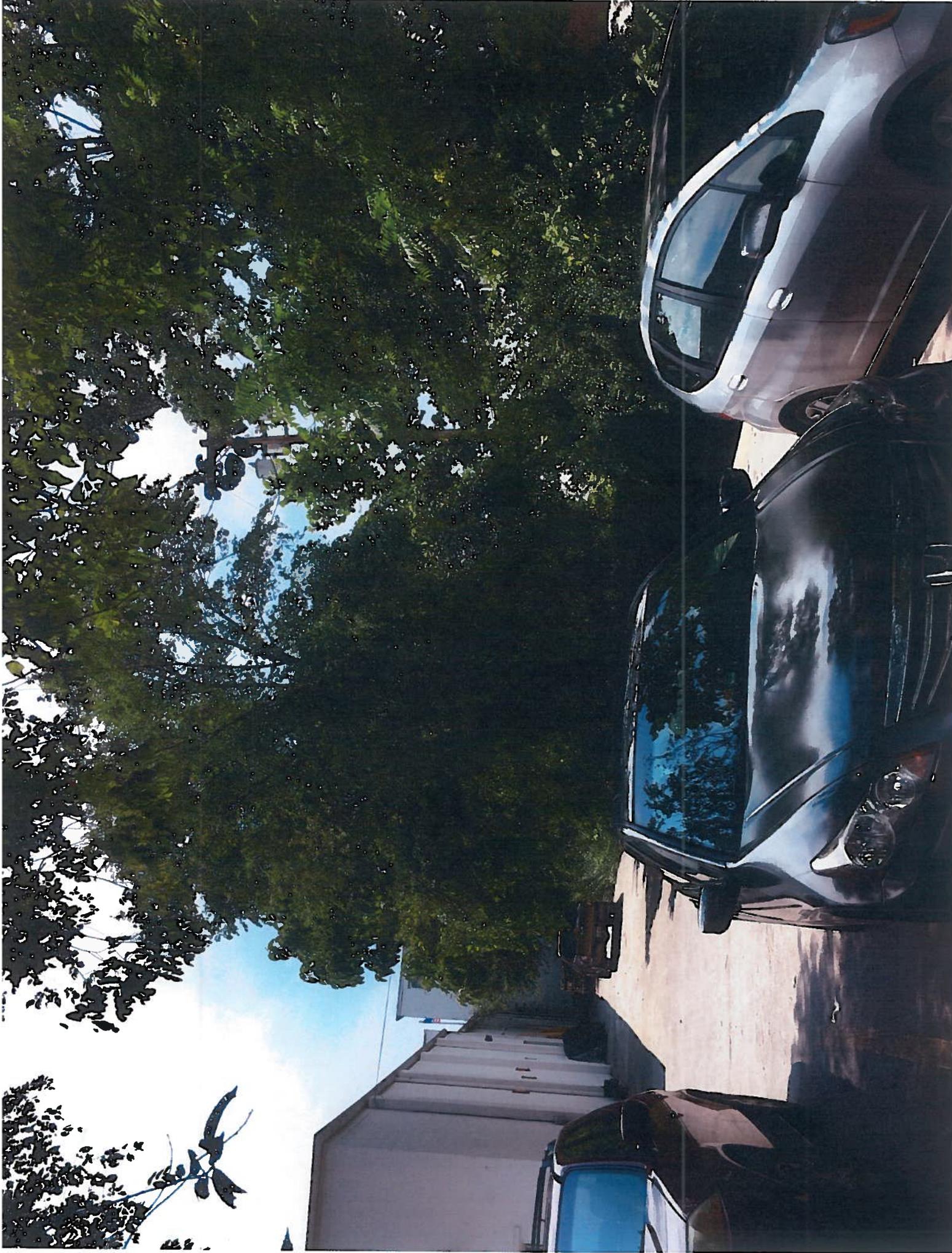
I am applying for a variance to allow an overhead electrical service to be installed at the rear of 1908 S Loudoun St. The SVEC service is currently across Abrams creek from the subject property. Please see pictures. Since the service needs to cross the creek underground utilities would be impossible. This would be a new 400 amp electrical service. There is currently an overhead cable line running to the building. The existing pole that the line would run off of is well screened from both Featherbed and Loudoun as it sits behind an existing strip center.

The current tenant is moving out of the building because of a lack of climate control. There are no HVAC units servicing this space. The current system does not have the capacity to add the amps needed. A new tenant has been identified but will only occupy the space if HVAC is added. The current zoning allows the use.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read 'Jeff Buettner', with a long horizontal line extending to the right.

Jeff Buettner













**WINCHESTER BOARD OF ZONING APPEALS  
STAFF REPORT AND RECOMMENDATION**

**ISSUE/BACKGROUND**

Case: BZA-16-400

Applicant: Buettner Tire Distributors LLC

Location: 1908 South Loudoun Street

Zoning: Commercial Industrial District (CM-1)

Future Land Use: Commercial/Industrial.

Legal Notice: The request for variance was advertised in the *Winchester Star* on June 29, 2016, and July 6, 2016. The property was required to be posted with a public hearing sign and notices were mailed to property owners within 300' of the subject property.

Applicant's Request: Request of Buettner Tire Distributors LLC for a variance to the Winchester Zoning Ordinance, Section 18-22-1, pertaining to new above-ground electrical service at 1908 South Loudoun Street (*Map Number 252-01- -18A*) zoned Commercial Industrial (CM-1) district. The request is to authorize a variance to the underground burial requirement for a new utility service.

**BACKGROUND**

The subject property is located on the east side of South Loudoun Street and is zoned Commercial Industrial (CM-1) district. The property is also encumbered by the Floodplain Overlay district with a portion of the property located within the Floodway and additional areas located within the 100-year floodplain. This is due to the proximity of Abrams Creek running through the property. Properties on all sides are similarly zoned, and consist of predominantly commercial uses.



Vicinity Zoning Map with Floodplain Overlay

The applicant is proposing to add a new 400 amp service to the rear of the building as part of planned mechanical systems upgrades to the building. In the applicant's letter he states that the service will need to come from the north side of the building and the topographical limitations of the Abrams Creek will limit the ability to bury the electrical service.

The Zoning Ordinance requires in Section 18-22 that all new or upgrades of electrical service must be buried underground:

**SECTION 18-22. UNDERGROUND INSTALLATION OF WIRE AND CABLE UTILITIES.**  
(9/12/89, Case TA-89-03, Ord. No. 024-89)

18-22-1 For any new projects, or for any remodeling or renovation of an existing project which requires an increase in service capacity, distribution lines for electrical,

telephone, cable television and any other services requiring wires or cables shall be installed underground. The Administrator may waive, after petition by the property owner, this requirement for residential work when the administrator determines that such waiver is warranted because there are few if any utility poles on the project side of the street and a waiver will prevent the installation of additional utility poles. Such petition shall be made in the form prescribed by the Administrator and accompanied by the fee as per Article 23 of this Ordinance. (9/12/89, Case TA-89-03, Ord. No. 024-89; 12-13-94, TA-94-11, Ord. No. 002-95)

The Zoning Administrator can consider relief of this requirement only in limited situations for residential work. Since this proposed work is nonresidential, any deviation from this standard can only be considered by the BZA.

There are two existing poles where service is provided adjacent to the structure; however, Shenandoah Valley Electric Cooperative has noted that these two poles are maxed out with equipment and the new service cannot come from either of these two poles. A new pole will need to be placed to the north of the creek to extend service to the structure. In the applicant's submission materials, it is described that due to the proximity of Abrams Creek the electrical service cannot be installed underground.

#### **STAFF ANALYSIS & CONCLUSION**

There are several evaluation criteria that the Board must use to evaluate a variance request to determine if it may be granted.

The Zoning Ordinance requires that with variance requests, the burden of proof shall be on the applicant to prove by a preponderance of the evidence that his application meets the standard for a variance.

A variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition related to the property or improvements thereon at the time of the effective date of the ordinance. The request must satisfy all of the following:

- A. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;

- B. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- C. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
- D. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,
- E. The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.

If the Board believes that the request does not satisfy each of the above considerations, then a variance cannot be issued.

Criterion	Staff Analysis
The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance	Staff believes the proposal is consistent with the first part of this criterion. As for the second part of the consideration (hardship not created by the applicant), there is insufficient information in the applicant's materials to justify the infeasibility of burying the new service. Staff has asked the applicant to clarify this issue at the public hearing.
The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area	Staff believes the proposal is consistent with this criterion.
The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance	Staff believes the proposal is consistent with this criterion. This is a unique topographic situation due to where SVEC needs to install a pole to extend service being adjacent to Abrams Creek.
The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property	Staff believes the proposal is consistent with this criterion.
The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application	Staff believes the proposal is consistent with this criterion.

As a result of the above considerations, staff does believe that all five of the above required considerations have been met.

*Note:* Staff has not received any letters of support or opposition for this application.

#### **POSSIBLE MOTION(S)**

##### *[Approve the variances]*

**MOVE**, that the Board of Zoning Appeals **approve** a variance to the Winchester Zoning Ordinance, Section 18-22-1, pertaining to new above-ground electrical service at 1908 South Loudoun Street (*Map Number 252-01- -18A*) zoned Commercial Industrial (CM-1) district, with the following conditions:

- a. The variance is granted only for the proposed new electrical service, any subsequent new services or upgrades of service will be required to go underground.
- b. Building permits for the proposed site improvements must be obtained within two (2) years of the date of this decision. Failure to do so will cause the variance for this property to expire.

*The variance is approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:*

- 1) *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*
- 3) *The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) *The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

##### *[Deny the variances]*

**MOVE**, that the Board of Zoning Appeals **deny** a variance to the Winchester Zoning Ordinance, Section 18-22-1, pertaining to new above-ground electrical service at 1908 South Loudoun Street (*Map Number 252-01- -18A*) zoned Commercial Industrial (CM-1) district, for the following reasons:

a. (*List any reasons*)

Prepared by:

A handwritten signature in black ink, appearing to read "Aaron M. Grisdale". The signature is fluid and cursive, with the first name being the most prominent.

Aaron M. Grisdale, CZA  
Director of Zoning and Inspections



CASE #: 16-106  
 FEE AM'T: 675.00  
 DATE PAID: \_\_\_\_\_

Rouss City Hall  
 15 North Cameron Street  
 Winchester, VA 22601  
 540-667-1815  
 TDD 540-722-0782

**APPLICATION FOR BOARD OF ZONING APPEALS**

Please print or type all information

CARL S. HALES  
Applicant

(540) 664-1796  
Telephone

241 PROVIDENCE LANE  
Street Address

CARLH@MIRIS.COM  
E-mail address

BLUEMONT VA 20135  
City State Zip

Carl S. Hales  
OWNER'S SIGNATURE (use reverse to list additional owners)

CARL S. HALES  
Owner Name (as appears in Land Records)

(540) 664-1796  
Telephone

241 PROVIDENCE LANE  
Street Address

CARLH@MIRIS.COM  
E-mail address

BLUEMONT VA 20135  
City State Zip

REQUEST TYPE CODE - Please mark type of request and complete information  
 KEY: V = Variance; AM = Administrative Modification; I = Interpretation

REQUEST TYPE	ORDINANCE SECTION	PERTAINING TO:
<u>V</u>	<u>10-5-1</u>	<u>Front Setback</u>
<u>V</u>	<u>10-6-2</u>	<u>Rear Setback</u>

APPLICATION FEE: \$500 for 1st code section; \$100 for each additional code section  
 Public hearing sign deposit fee: \$50

PROPERTY LOCATION  
 Current Street Address(es) 1328-1470 COMMERCE ST. Zoning CM1  
 Tax Map Identification - (sections, blocks, lots) 233-01--11

REQUIRED MATERIALS LIST

\$675.00

- 1 copy of application (this form completed)
- 10 copies of letter explaining request and grounds for request
- 10 Copies of plans/or drawings, and surveys
- Fee (check made payable to the Treasurer, City of Winchester)
- \_\_\_ List of adjacent property owners (public hearing items only). List must provide name and mailing address as appears in Land Records for owners of all properties within 300 feet of any portion of the subject site. If provided by staff, there is a \$25 fee.
- NA Disclosure of Real Parties in Interest (list all equitable owners)
- \_\_\_ Public Hearing Sign Deposit Fee - \$50 (refundable upon return of sign)

All public hearing materials must be submitted at one time by 5:00 PM on the deadline date for the next regular meeting in order to be placed on the agenda. Only complete applications, which include the above materials, will be accepted.

I/we hereby certify that the above information is complete and correct and that public notification will be properly posted on the site not later than 14 days before the public hearing (if applicable) and that all delinquent real estate taxes have been paid per Section 23-9.

APPLICANT'S SIGNATURE Carl S. Hales DATE 2-19-16



Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601

Telephone: (540) 667-1815  
FAX: (540) 722-3618  
TDD: (540) 722-0782  
Website: [www.winchesterva.gov](http://www.winchesterva.gov)

February 14, 2014

Carl S. Hales  
241 Providence Lane  
Bluemont, VA 20135

Dear Mr. Hales:

On Wednesday, February 12, 2014, the Board of Zoning Appeals acted on the following request:

**BZA-14-048** Request of Carl S. Hales for a variance pertaining to front setback requirements pursuant to Section 10-5-1 of the Winchester Zoning Ordinance, for the property located at 1328-1470 Commerce Street (*Map Number 233-01-11 - > <01*), zoned Commercial Industrial (CM1) District. The applicant is seeking this variance to modify previous use restrictions on

On a roll call vote of 5-0, the Board approved BZA-14-048 with the following conditions:

- a. Submittal of a complete site plan application and fee to the Planning director within six (6) months of the date of Board approval;
- b. Implementation of all required site improvements within 12 months of site plan approval;
- c. All inoperable vehicles legally stored on the property and associated with a permitted automotive repair use shall be screened by a 6-foot opaque fence or other material(s) as approved by the Planning Director; and
- d. Failure to implement the aforementioned improvements shall cause this variance to become null and void.

The decision of the Board may be appealed to the Circuit Court within 30 days of the Board's decision. Please do not hesitate to contact me should you have any questions at 667-1815, ext. 1492.

Sincerely yours,

Aaron M. Grisdale, CZA  
Director of Zoning and Inspections

*"To provide a safe, vibrant, sustainable community while striving to constantly improve the quality of life for our citizens and economic partners."*



## CITY OF WINCHESTER, VIRGINIA

Rouss City Hall  
15 North Cameron Street  
Winchester, VA 22601  
540-667-1815

June 17, 1998

Ronald V. Shickle  
J.A.R.K. Investments, Inc.  
326 Dogwood Road  
Winchester, VA 22602

Dear Mr. Shickle:

On Wednesday, June 10, 1998 the Board of Zoning Appeals acted on the following request:

**BZA-98-05** - Request of J.A.R.K. Investments, Inc. for a Variance from the Winchester Zoning Ordinance Section 10-5-1 pertaining to setback at 1328, 1336 and 1400 Commerce Street (Section 233, Double Circle 1, Lots 10 & 11 and Section 233, Double Circle 4, Block C, Lot 8) zoned Commercial Industrial, CM-1 District.

The Board unanimously approved the variance request for **Building H** as shown on the drawing dated May 26, 1998 for the following uses: 10-1-5 Building supplies and service with storage under cover; 10-1-13b Carpenter or cabinet shop, 10-1-13c Contractors' equipment storage yards or plants, or rental equipment commonly used by contractors, 10-1-13j Retail lumber yard, including only incidental mill work, 10-1-13k Upholstery shop; 10-1-25 Repair services or businesses, including repair of bicycles, guns, radios, television sets, electrical appliances, locks and other home appliances, shoes, toys, typewriters, watches, and clocks; 10-1-31 Outdoor storage of materials and supplies and display of merchandise for sale or rent incidental to the conduct of any permitted uses on the lot as provided for in Section 18-20 of this Ordinance.(10-17-95, Case TA-95-04, Ord. No. 053-95); 10-1-35 Wholesale businesses, storage buildings, and warehousing. The variance is only for the existing buildings and not for any new structures, additions, or replacement structures. No additional openings are to be installed in the building walls facing Commerce Street. Off-street parking required by any change of use shall be provided.

The Board found that strict application of the Ordinance would produce undue hardship, such hardship is not shared generally by other properties in the same zoning district and the same vicinity, authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

The Board unanimously approved the variance request for **Building F** as shown on the drawing dated May 26, 1998 for the following uses: 10-1-5 Building supplies and service with storage under cover; 10-1-13b Carpenter or cabinet shop, 10-1-13c Contractors' equipment storage yards or plants, or rental equipment commonly used by contractors, 10-1-13j Retail lumber yard, including only incidental mill work, 10-1-13k Upholstery shop; 10-1-25 Repair services or businesses, including repair of bicycles, guns, radios, television sets, electrical appliances, locks and other home appliances, shoes, toys, typewriters, watches, and clocks; 10-1-31 Outdoor storage of materials and supplies and display of merchandise for sale or rent incidental to the conduct of any permitted uses on the lot as provided for in Section 18-20 of this Ordinance.(10-17-95, Case TA-95-04, Ord. No. 053-95); 10-1-35 Wholesale businesses, storage buildings, and warehousing. The variance is only for the

existing buildings and not for any new structures, additions, or replacement structures. No additional openings are to be installed in the building walls facing Commerce Street. Off-street parking required by any change of use shall be provided.

The Board found that strict application of the Ordinance would produce undue hardship, such hardship is not shared generally by other properties in the same zoning district and the same vicinity, authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

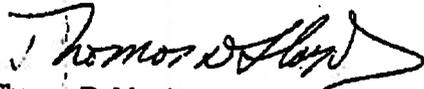
The Board unanimously approved the variance request for Building A as shown on the drawing dated May 26, 1998 for the following uses: 10-1-5 Building supplies and service with storage under cover (basement only); 10-1-8 Contractors' establishments, offices and display rooms. (10-17-95, Case TA-95-04, Ord. No. 053-95); 10-1-12 Government offices; 10-1-13b Carpenter or cabinet shop; 10-1-13e Machinery sales and service. 10-1-13k Upholstery shop. 10-1-18 Office, business and professional; 10-1-22 Printing shops; 10-1-25 Repair services, or businesses, including repair of bicycles, guns, radios, television sets, electrical appliances, locks and other home appliances, shoes, toys, typewriters, watches, and clocks; 10-1-31 Outdoor storage of materials and supplies and display of merchandise for sale or rent incidental to the conduct of any permitted uses on the lot as provided for in Section 18-20 of this Ordinance. (10-17-95, Case TA-95-04, Ord. No. 053-95); 10-1-35 Wholesale businesses, storage buildings, and warehousing (basement only); 10-1-39 Commercial Records Center (4-12-94, Case TA-94-03, Ord. No. 011-94).

The variance is only for the existing buildings and not for any new structures, additions, or replacement structures. No additional openings are to be installed in the building walls facing Commerce Street. Off-street parking required by any change of use shall be provided.

The Board found that strict application of the Ordinance would produce undue hardship, such hardship is not shared generally by other properties in the same zoning district and the same vicinity, authorization of such variance will not be of substantial detriment to adjacent property and that the character of the district will not be changed by the granting of the variance.

The Board unanimously limited building mounted signs on buildings A, F and H to one square foot per linear foot not to exceed 50 square feet total on each building.

Sincerely yours,



Thomas D. Lloyd  
Zoning Administrator

February 16, 2016

Board of Zoning Appeals  
Winchester, Virginia

Re: Case # 1600008525

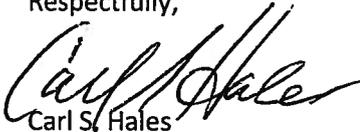
On Feb 12, 2014 BZA approved my request for variance in case # 14-048 with the provisions that a complete site plan application be submitted to the Planning Director within (6) months and implementation be completed within 12 months of approval date of said site plan.

The site plan was approved and parts of same have been completed. Remaining to be completed are: marking of parking spaces; installation of dumpster ( I wish to amend location of same) and screening for some of the inoperable automobiles.

I have attached copies of my original request for variance and I request the variance granted to be extended through June 30, 2016.

I apologize for my failure to have complied in a timely manner with the actions required by your previous approval of my variance request.

Respectfully,

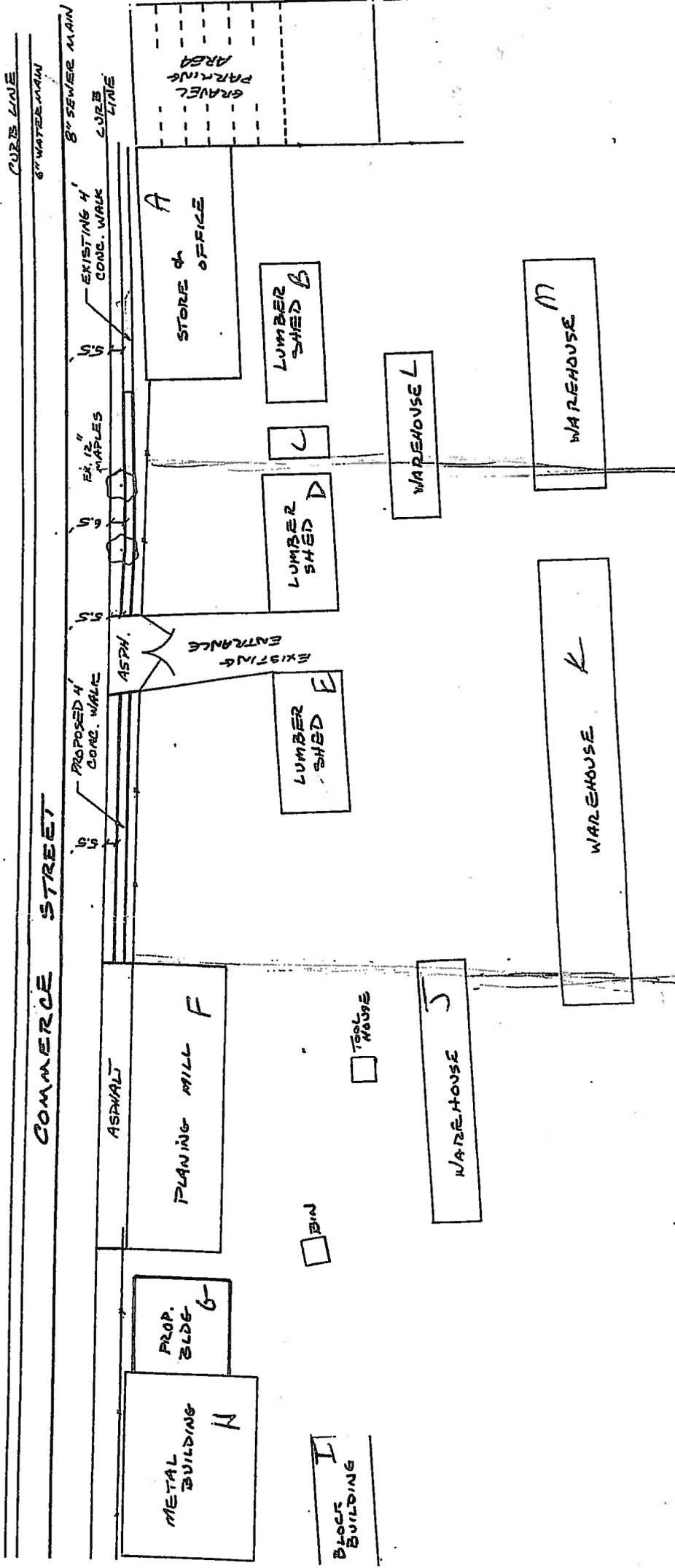


Carl S. Hales

241 Providence Lane,  
Bluemont, Virginia 20135

TRACK

OVERALL BUILDING LAYOUT  
1" = 50'



CURB LINE  
6" WATER MAIN

COMMERCE STREET

8" SEWER MAIN  
CURB LINE

EXISTING 4' CONC. WALK

EXIST'G TRAPLES

PROPOSED 4' CONC. WALK

ASPH.

EXISTING ENTRANCE

STORE & OFFICE A

LUMBER SHED B

LUMBER SHED D

LUMBER SHED E

PLANING MILL F

PROP. SLAB G

METAL BUILDING N

WAREHOUSE L

WAREHOUSE K

WAREHOUSE M

BIN

TOOL HOUSE

BLOCK BUILDING I

PARKING GRAVEL



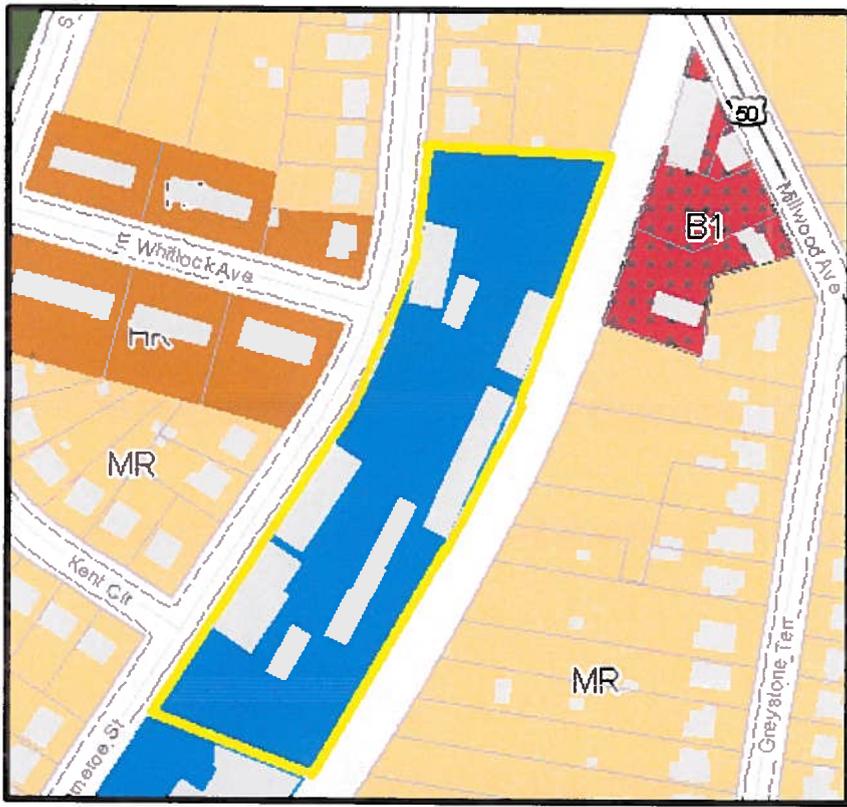
**WINCHESTER BOARD OF ZONING APPEALS  
STAFF REPORT AND RECOMMENDATION**

**ISSUE/BACKGROUND**

Case:	BZA-16-106
Applicant:	Carl S. Hales, property owner
Location:	1328-1470 Commerce Street
Zoning:	Commercial Industrial (CM-1) District
Future Land Use:	Commercial-Industrial Uses.
Legal Notice:	The request for variance was advertised in the <i>Winchester Star</i> on March 30, 2016, and April 6, 2016. The property was required to be posted with a public hearing sign and notices were mailed to property owners within 300' of the subject property.
Applicant's Request:	Request of Carl S. Hales for variances of the Winchester Zoning Ordinance, Sections 10-5-1 and 10-6-2 pertaining to front and rear setbacks at 1328-1470 Commerce Street ( <i>Map Number 233-01- -11</i> ) zoned Commercial Industrial (CM-1) District. The applicant is seeking these variances to allow for re-use of several nonconforming structures on the parcel.

**BACKGROUND**

The subject property is located on east side of Commerce Street and is zoned Commercial Industrial (CM-1) district. The property is bounded on the southwest and north by Medium Density Residential (MR) district, on the west by High Density Residential (HR) district, on the south by CM-1, and on the east by the CSX railroad. Properties on the east of the CSX railroad include conditionally zoned Central Business (B-1) and Medium Density Residential districts.



Vicinity Zoning & Aerial Map (Highlighted in yellow)

The subject property has been the question of previous Board of Zoning Appeals actions. Up until 1998, the property had been used by Rosenberger Lumber/Building Supply. In 1998, the property was sold and a new owner desired to change the use of the property. In a June 1998 decision, the Board of Zoning Appeals granted variances for the front yard setback for several buildings fronting on Commerce Street. The applicant at the time did not know the full scope of the uses that would be proposed, as a result a compromise was reached to grant the variances, but to limit the prospective uses of the buildings. Since this 1998 approval, the property ownership has once again changed hands and is now owned by the current applicant before the BZA.

In 2014, City Zoning & Inspections staff observed that several new and different uses were established at the property in violation of the previous BZA approval and use limitations. The current property owner filed a variance request to amend the use restrictions imposed in the 1998 variance approvals. Specifically, the applicant requested that *Service Stations* (light auto repair) and *Contractor's Establishments* be authorized in buildings "F" and "G/H." The Board approved the request and as part of the decision, several conditions were imposed with the approval. These conditions included the following:

- a) Submittal of a complete site plan application and fee to the Planning Director within 6 months of the date of Board approval.
- b) Implementation of all required site improvements within 12 months of site plan approval.
- c) All inoperable vehicles legally stored on the property and associated with a permitted automotive repair use shall be screened by a 6-foot opaque fence or other material(s) as approved by the Planning Director.
- d) Failure to implement the aforementioned improvements shall cause this variance to become null and void.

Following the Board's decision, a site plan application was filed with the Planning department and was subsequently approved. This approval occurred on November 21, 2014, which would have required all site improvements to be completed no later than November 2015, consistent with condition "b" listed above. Furthermore, all inoperable vehicles on the property do not meet the screening requirements provided in condition "c" above. As a result of noncompliance with the Board's conditions, the variances approved have become null and void.

The property owner has filed a subsequent application to the Board to re-establish the variances at the property.

	<u>Minimum Requirement</u>	<u>Provided on Site</u>	<u>Variance Needed</u>
<b>Front Setback</b>			
<b>Building F</b>	35-feet	1-foot	34-feet
<b>Building G/H</b>	35-feet	3-feet	32-feet
<b>Rear Setback</b>			
<b>Building K</b>	25-feet	5-feet	20-feet

While the 1998 variances are still in effect, the modified variances from 2014 have become void due to the failure of the owner to adhere to the BZA's conditions in the 2014 variance approval. As a result, in order to allow for the uses that the owner has permitted to be established at the property, the front yard variances will be to be re-authorized.

In addition to the variances requested specifically for buildings "F" and "G/H" there have been unauthorized changes from warehouse/storage in Building "K" to include auto repair. In order to authorize this, a variance for the rear yard setback must be approved.

In addition to unauthorized changes pursuant to the Zoning Ordinance, many of the changes on site have occurred without the proper permits through the building code.

A summary of staff's understanding of the current uses at the property are the following:

<b>Building Letter</b>	<b>Use Restrictions by BZA-98-05 (Yes/No)</b>	<b>Current Use</b>	<b>BZA Use Violation (Yes/No)</b>	<b>Certificate of Occupancy for current use on file (Yes/No)</b>
K (part)	No	Storage	No	No – not required, no change from previous uses
K (part)	No	Auto Repair/Storage	Yes	No – unauthorized change of use
H/G	Yes	Auto Repair (Including Salvage/Scraping of Vehicles)	Yes	No – unauthorized change of use and violation of BZA conditions
F	Yes	Auto Detailing / Auto Repair	Yes	No – unauthorized change of use and violation of BZA conditions

## **STAFF ANALYSIS & CONCLUSION**

There are several evaluation criteria that the Board must use to evaluate a variance request to determine if it may be granted.

The Zoning Ordinance requires that with variance requests, the burden of proof shall be on the applicant to prove by a preponderance of the evidence that his application meets the standard for a variance.

A variance shall be granted if the evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition related to the property or improvements thereon at the time of the effective date of the ordinance. The request must satisfy all of the following:

- A. The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;
- B. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
- C. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
- D. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,
- E. The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.

If the Board believes that the request does not satisfy each of the above considerations, then a variance cannot be issued.

Overall staff believes that a hardship did exist at the time of the original variance requests in 1998 that allowed for adaptive reuse of the property. However, the continual change of uses at the property to include numerous automobile repair operations and associated inoperable vehicle storage and the requests to make these uses permitted on site do have the appearance of being more of a convenience to the owner than necessary to ensure there is reasonable use of the property.

Criterion	Staff Analysis
The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance	The property was purchased by the current owner after the limitations of the 1998 variances were put into place. Staff believes that requests to add additional uses to the property which were not previously authorized are hardships created by the applicant.
The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area	The previous variances granted in 1998 authorized lesser intensity uses for the buildings closer to the street, which would have less of a direct impact on surrounding property owners. The inclusion of automobile repair operations to the property could negatively impact the adjacent residential uses due to noise, increased traffic, and storage of inoperable vehicles.
The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance	This property does have some unique challenges due to the design and layout of the existing buildings dating from its use as a lumber yard. Several of the buildings are within a few feet of the front property line.
The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property	Staff believes the proposal is consistent with this criterion.
The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application	Staff believes the proposal is consistent with this criterion.

As a result of the above considerations, staff believes the requirements for a variance in this instance have not been met.

If the Board is inclined to support the variance requests, staff recommends that the variances be conditioned to allow for a narrow reuse of the property. Additionally, tight time controls should be implemented to ensure that all required improvements called for on the approved site plan and building code changes are met in a timely manner. Lastly, staff recommends that the variances should expire if the conditions are not met within a specified timeframe or of the property ceases to be used for a period of two years or more.

*Note:* Staff has not received any letters of support or opposition for this application.

**POSSIBLE MOTION(S)**

*[Deny the variances]*

**MOVE**, that the Board of Zoning Appeals **deny** variances of the Winchester Zoning Ordinance, Sections 10-5-1 and 10-6-2 pertaining to front and rear setbacks at 1328-1470 Commerce Street (Map Number 233-01-11) zoned Commercial Industrial (CM-1) District, for the following reasons:

- a. *Any hardship that exists on the property is created by the applicant for the variances. There presently exist several uses which could be legally operated in accordance with BZA-98-05.*
- b. *(List any additional reasons)*

---

*[Approve the variances]*

**MOVE**, that the Board of Zoning Appeals **approve** variances of the Winchester Zoning Ordinance Sections 10-5-1 and 10-6-2 pertaining to front and rear setbacks at 1328-1470 Commerce Street (Map Number 233-01-11) zoned Commercial Industrial (CM-1) District, with the following conditions:

- a. The variance for front yard setback applies to Buildings "F" and "G/H" consistent with the use allowances of BZA-98-05 and also including *Service Station (Section 10-1-29)* and *Contractor's Establishment (Section 10-1-8)* as permitted uses.
- b. The variance for rear yard setback applies to Building "K" and is conditioned on use being either the *Storage buildings and warehousing (Section 10-1-35)* or *Service Station (Section 10-1-29)*.
- c. The variances apply only to the existing buildings and do not include any new structures, additions, or replacement structures.
- d. No additional overhead door openings towards Commerce Street may be created in any building.
- e. All required site improvements must be completed within one (1) year of the date of this decision.
- f. Failure to complete the required site improvements or if the property becomes vacant for two (2) years or more will cause **all** variances for this property to expire.

*The variances are approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:*

- 1) *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*

- 3) *The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) *The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

---

*[Approve in part and deny in part the variances]*

**MOVE**, that the Board of Zoning Appeals **deny** a variance of the Winchester Zoning Ordinance, Sections 10-6-2 pertaining to rear setbacks at 1328-1470 Commerce Street (Map Number 233-01- -11) zoned Commercial Industrial (CM-1) District, for the following reasons:

- a. *Any hardship that exists on the property is created by the applicant for the variance. There presently exist several uses which could be legally operated in accordance with BZA-98-05.*
- b. *(List any additional reasons)*

**AND FURTHER MOVE**, that the Board of Zoning Appeals **approve** a variance of the Winchester Zoning Ordinance Sections 10-5-1 pertaining to front setbacks at 1328-1470 Commerce Street (Map Number 233-01- -11) zoned Commercial Industrial (CM-1) District, with the following conditions:

- a. The variance for front yard setback applies to Buildings "F" and "G/H" consistent with the use allowances of BZA-98-05 and also including *Service Station (Section 10-1-29)* and *Contractor's Establishment (Section 10-1-8)* as permitted uses.
- b. The variance applies only to the existing buildings and do not include any new structures, additions, or replacement structures.
- c. No additional overhead door openings towards Commerce Street may be created in any building.
- d. All required site improvements must be completed within one (1) year of the date of this decision.
- e. Failure to complete the required site improvements or if the property becomes vacant for two (2) years or more will cause **all** variances for this property to expire.

*The variance is approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:*

- 1) The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*
- 3) The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

Prepared by:



Aaron M. Grisdale, CZA  
Director of Zoning and Inspections

## Staff report addendum – July 8, 2016

The public hearing was opened and closed during the Board meeting on May 11<sup>th</sup>. Therefore no public hearing is required during this meeting. At the May meeting the Board tabled this item until July to allow for the property owner to complete the outstanding site requirements (which were to be completed in the fall of 2015).

Zoning & Inspections staff completed an on-site inspection on July 7, 2016 to check on the status of the outstanding site improvements. During this inspection, it was noted that several of the outstanding site improvements have yet to be completed:

- 1) The curbing and striping for 41 parking spaces is incomplete on the southeast corner of the lot; only partial curbing (landscaping timbers) have been installed.
- 2) Directional arrows in the drive aisles have not been painted.
- 3) The continuous raised curbing along the drive aisles at the entrance and two parking areas has not been completed.
- 4) All of the required landscaping has been installed; however two of the required landscaping trees have died.
- 5) The striping is incomplete in the secondary parking lot with the handicap accessible parking spaces.

As of the date of this staff report, the above site improvements remain outstanding and the property continues to be in conflict with the 2014 BZA decision. As stated in the previous staff report, the variances authorized in the 2014 BZA action have automatically expired and become null and void due to the failure to complete the required conditions associated with that decision.

### BZA Variance Evaluation Criteria:

Criterion	Staff Analysis
The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance	The property was purchased by the current owner after the limitations of the 1998 variances were put into place. Staff believes that requests to add additional uses to the property which were not previously authorized are hardships created by the applicant.
The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area	The previous variances granted in 1998 authorized lesser intensity uses for the buildings closer to the street, which would have less of a direct impact on surrounding property owners. The inclusion of automobile repair operations to the property could negatively impact the adjacent residential uses due to noise, increased traffic, and storage of inoperable vehicles.
The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance	This property does have some unique challenges due to the design and layout of the existing buildings dating from its use as a lumber yard. Several of the buildings are within a few feet of the front property line.
The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property	Staff believes the proposal is consistent with this criterion.

The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application	Staff believes the proposal is consistent with this criterion.
---	--

As a result of the above considerations, staff believes the requirements for a variance in this instance have not been met.

If the Board is inclined to support the variance requests, staff recommends that the variances be conditioned to allow for a narrow reuse of the property. Additionally, tight time controls should be implemented to ensure that all required improvements called for on the approved site plan and building code changes are met in a timely manner. Lastly, staff recommends that the variances should expire if the conditions are not met within a specified timeframe or of the property ceases to be used for a period of two years or more.

*Note:* Staff has not received any letters of support or opposition for this application.

**POSSIBLE MOTION(S)**

*[Deny the variances]*

**MOVE**, that the Board of Zoning Appeals **deny** variances of the Winchester Zoning Ordinance, Sections 10-5-1 and 10-6-2 pertaining to front and rear setbacks at 1328-1470 Commerce Street (Map Number 233-01- -11) zoned Commercial Industrial (CM-1) District, for the following reasons:

- a. *Any hardship that exists on the property is created by the applicant for the variances. There presently exist several uses which could be legally operated in accordance with BZA-98-05.*
- b. *(List any additional reasons)*

*[Approve the variances]*

**MOVE**, that the Board of Zoning Appeals **approve** variances of the Winchester Zoning Ordinance Sections 10-5-1 and 10-6-2 pertaining to front and rear setbacks at 1328-1470 Commerce Street (Map Number 233-01- -11) zoned Commercial Industrial (CM-1) District, with the following conditions:

- a. The variance for front yard setback applies to Buildings "F" and "G/H" consistent with the use allowances of BZA-98-05 and also including *Service Station (Section 10-1-29)* and *Contractor's Establishment (Section 10-1-8)* as permitted uses.
- b. The variance for rear yard setback applies to Building "K" and is conditioned on use being either the *Storage buildings and warehousing (Section 10-1-35)* or *Service Station (Section 10-1-29)*.

- c. The variances apply only to the existing buildings and do not include any new structures, additions, or replacement structures.
- d. No additional overhead door openings towards Commerce Street may be created in any building.
- e. All required site improvements must be completed within one (1) year of the date of this decision.
- f. Failure to complete the required site improvements or if the property becomes vacant for two (2) years or more will cause all variances for this property to expire.

*The variances are approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:*

- 1) *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*
- 3) *The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property; and,*
- 5) *The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

*[Approve in part and deny in part the variances]*

**MOVE**, that the Board of Zoning Appeals **deny** a variance of the Winchester Zoning Ordinance, Sections 10-6-2 pertaining to rear setbacks at 1328-1470 Commerce Street (Map Number 233-01- -11) zoned Commercial Industrial (CM-1) District, for the following reasons:

- a. *Any hardship that exists on the property is created by the applicant for the*

*variance. There presently exist several uses which could be legally operated in accordance with BZA-98-05.*

*b. (List any additional reasons)*

**AND FURTHER MOVE**, that the Board of Zoning Appeals **approve** a variance of the Winchester Zoning Ordinance Sections 10-5-1 pertaining to front setbacks at 1328-1470 Commerce Street (Map Number 233-01- -11) zoned Commercial Industrial (CM-1) District, with the following conditions:

- a. The variance for front yard setback applies to Buildings "F" and "G/H" consistent with the use allowances of BZA-98-05 and also including *Service Station (Section 10-1-29)* and *Contractor's Establishment (Section 10-1-8)* as permitted uses.
- b. The variance applies only to the existing buildings and do not include any new structures, additions, or replacement structures.
- c. No additional overhead door openings towards Commerce Street may be created in any building.
- d. All required site improvements must be completed within one (1) year of the date of this decision.
- e. Failure to complete the required site improvements or if the property becomes vacant for two (2) years or more will cause **all** variances for this property to expire.

*The variance is approved because the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property:*

- 1) *The property interest for which the variance is being requested was acquired in good faith and any hardship was not created by the applicant for the variance;*
- 2) *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;*
- 3) *The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;*
- 4) *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning*

*classification of the property; and,*

- 5) *The relief or remedy sought by the variance application is not available through a special exception process or the process of an administrative modification at the time of the filing of the variance application.*

Prepared by:

A handwritten signature in black ink, appearing to read "Aaron M. Grisdale". The signature is fluid and cursive, with the first name being the most prominent.

Aaron M. Grisdale, CZA  
Director of Zoning and Inspections