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BAV 2132-10



# ZONING HARDSHIP VARIANCE APPLICATION

Wake County

JUL 20 2010

File #  
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Rec'd By

Submit required documentation to:  
Wake County Planning, Development and Inspections  
PO Box 550 Wake County Office Building  
Raleigh, NC 27602-0550 336 Fayetteville Street, Downtown Raleigh  
Contact (919) 856-6335 for additional information.

Zoning Ordinance Regulation(s) Proposed to be Varied (cite each section(s) and identify requirement from which the variance(s) is (are) being requested; quantify variance – i.e. if this is a variance to allow an encroachment into a setback, give depth of encroachment and total square feet of area proposed to encroach into setback:

Requested variance from UDC 5-11-1, Minimum Required Setback (Side)  
(R-80W) of 20ft. Desired encroachment of 4.65 linear feet, or  
approximately 130.7 Square feet (Per attached Site Plan).

### Property

Parcel Identification Number: <sup>103</sup> 1810131648

Address: 15712 Wickershire Ct. Raleigh, NC 27614

Location: North side of Wickershire Court, at/between  
(north, east, south, west) (street)

Wickershire Court and Croix Pl.  
(street) (street)

Total site area in square feet and acres: 40001 Sq Ft square feet 0.918 Ac acres

Zoning District(s) and Overlay Districts (if any) and land area within each: R-80W

List Conditions of any Conditional Use Zoning Districts: \_\_\_\_\_

Present land use(s): Residential

How is this proposed use a public necessity?

Necessary for the preservation and enjoyment of substantial property rights and substantial justice done, both for the landowner and the public at large.

What is impact on surrounding neighborhood and adjacent properties?

Improvement of community via a more visually appealing structure yielding a more positive community impression. No negative impacts exist.

### Property Owner

Name: Brawner, William M and Anna H

Address: 15712 Wickershire Ct.

City: Raleigh State: NC Zip Code: 27614

E-mail Address: mattbrawner1@hotmail.com Fax: \_\_\_\_\_

Telephone Number: (919) 341-1929

**Applicant** (person to whom all correspondence will be sent)

Name: Brawner, William M (MATT)

Address: 15712 Wickershire Ct.

City: Raleigh State: NC Zip Code: 27614

E-mail Address: mattbrawner1@hotmail.com

Fax: \_\_\_\_\_

Telephone Number: (919) 341-1929

Relationship to Owner: Owner

**Extent of Proposed Variance** (Describe the extent to which the regulation is proposed to be varied.)

Proposed variance modification of attached structure setback

from 20 Ft to 15.35 Ft to allow the encroachment of 4.65

linear feet (or approximately 130.7 Square feet).

Note: Modification should consider the detached structure

(garage) changing to an attached structure as the proposed variance is

required to attach the garage to the existing residence and meet zoning

requirements.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

All property owners must sign this application unless one or more individuals are specifically authorized to act as an agent on behalf of the collective interest of some or all of the owners (provide a copy of such authorization).

The undersigned property owner(s) hereby authorize the filing of this application (and any subsequent revisions thereto). The filing of this application authorizes the Wake County staff to enter upon the site to conduct relevant site inspections as deemed necessary to process the application.

Signature: *W Matt Brawner* Date: 11 JULIO

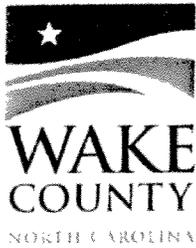
Signature: *Anna H. Brauner* Date: 7.11.10

Signature: N/A Date: N/A

The undersigned applicant hereby certifies that, to the best of his or her knowledge and belief, all information supplied with this application is true and accurate.

Signature: *W Matt Brawner* Date: 11 JULIO

Notes: All documents and maps submitted as required become the property of Wake County. The Wake County Unified Development Ordinance is on the web at [www.wakegov.com](http://www.wakegov.com).



## ZONING HARDSHIP VARIANCE STATEMENT OF JUSTIFICATION

For each of the required conclusions listed below, attach a statement that explains how any existing conditions, proposed development features, or other relevant facts would allow the Board of Adjustment to reach the required conclusion, and attach any additional documents or materials that provide supporting factual evidence. Listed under each required conclusion are related principles established by case law.

**Important:** You bear the burden of presenting sufficient factual evidence to support findings of fact that allow the Board to reasonably reach each of the required conclusions. If you fail to meet that burden, the Board has no choice but to deny the application.

**1. Practical difficulties or unnecessary hardships would result from carrying out the strict letter of the regulation.**

**a. 1a. Strict compliance with the regulation provides the property owner no reasonable use of the property.**

Ex.: It is not sufficient that the regulation would make use of the property less profitable or marketable.

Compliance with the regulation prevents reasonable use of the property because:

- i. Without an attached and lockable connection between the garage and the residence a reasonable level of security cannot be maintained.
- ii. The existing garage containing a partially finished living space above cannot be completed and used as intended (built by prior owner).

**b. 1b. The hardship results from application of the regulation to the property.**

Ex.: A hardship resulting from a characteristic of the property not affected by the regulation, or from application of a deed restriction, is not a relevant hardship.

Compliance with the regulation creates the following hardships:

- i. Security moving between the residence and the garage is not optimal.
- ii. Existing partially finished room over the garage cannot be completed to meet the intended use.
- iii. Preventing an existing covered porch area connecting the existing garage and the residence from being converted into living space. This conversion would be greater than 37 Ft from the side property line and not change the existing footprint of the home or garage.
- iv. Preventing the existing garage, containing a partially finished living area above, from being completed. Garage was built by the prior homeowner.

**c. 1c. The hardship is one that affects the property directly.**

Ex.: The regulation's hindrance to providing a benefit to neighboring properties or to the public is not a relevant hardship.

This hardship only affects this property, those living on it, and any guests visiting the property.

**d. 1d. The hardship is not the result of the property owner's own actions - that is, special circumstances or conditions causing the hardship exist through no fault of the property owner.**

Ex.: The hardship may not be one the property owner inflicted on himself (e.g., been due to the owner's violation of the regulation) or could have avoided.

This hardship is the result of the prior homeowner having the garage constructed 4.65 Ft too close to the side property line (garage was constructed in the late 1980's/ early 1990's). The current homeowner could not have avoided his issue and is not at fault.

**e. 1e. The hardship is peculiar to the property.**

Ex.: The hardship must be due to conditions specific to the property, and not to conditions that are neighborhood-wide or widespread throughout the jurisdiction.

The hardship due to an existing, unattached structure that is prevented from being attached to the residence do to zoning requirements, and prevents improvements to provide adequate security and usage, is a unique condition to this property.

**2. The variance would be in harmony with the general purpose and intent of the Zoning Ordinance and preserve its spirit.**

Ex.: A variance may not permit the expansion or extension of a nonconforming use or feature (which the Zoning Ordinance intends to be made conforming or abandoned), and may not permit a land use or basic development intensity not already permitted (varying basic use and intensity regulations that define zoning districts may be done only through the rezoning or text amendment processes). The extent of a variance must be limited to the minimum necessary to alleviate the hardship.

Granting a 4.65 ft variance to the side property line offset for an attached structure is in harmony with the general purpose and intent of the Zoning Ordinance because:

- a. It is not the intent of the Zoning Ordinance to prevent homeowners from improving the security of their residence when it doesn't adversely affect others.
- b. It is not the intent of the Zoning Ordinance to prevent compliantly built structures of the early 1990's from being completed to serve their intended purpose (unfinished living area above garage).
- c. It is not the intent of the Zoning Ordinance to prevent the compliant improvement of a dwelling when that improvement in no way changes the dwellings' footprint and doesn't adversely affect others.

**3. In the granting of the variance, the public safety and welfare would be assured and substantial justice done, both for the landowner and the public at large.**

**a. 3a. The granting of the variance will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be materially detrimental to the public welfare or injurious to property or improvement in such neighborhood.**

Ex.: A variance may not permit development that would be dangerous to neighbors, change the essential character of the neighborhood, or create additional difficulties re traffic, fire, water supply, sewerage, flooding, etc..

Not only will the granting of this variance not adversely affect the health or safety of the residents/visitors to this home, it will improve their safety by improving the security of the residence.

**b. 3b. The granting of the variance is necessary for the preservation and enjoyment of substantial property rights.**

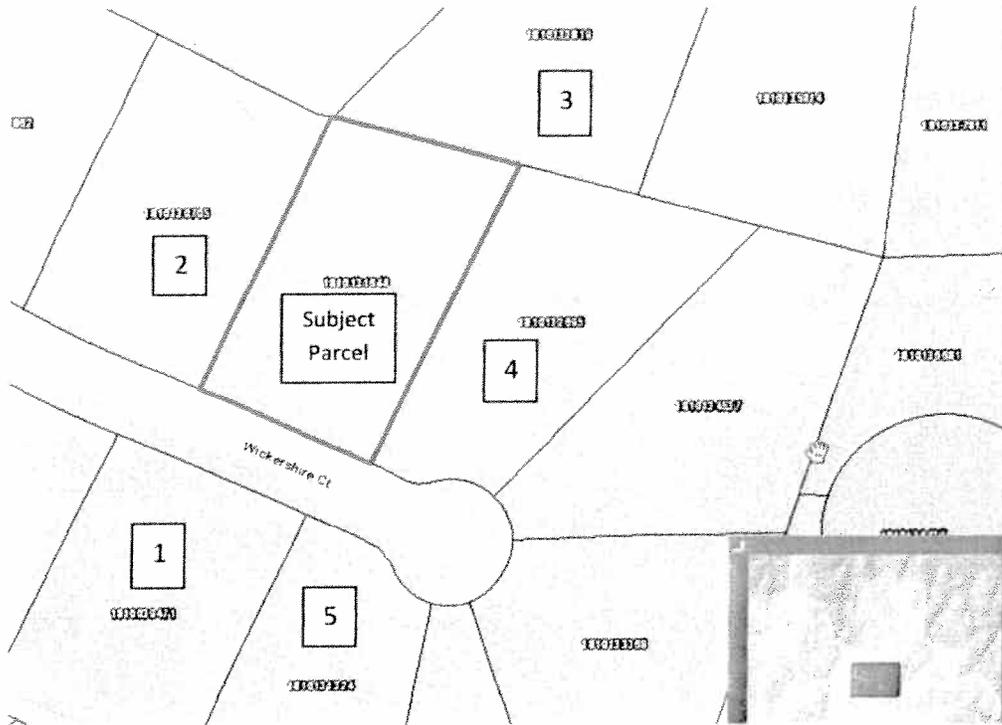
Ex.: The harm to the property owner from denying the variance, however, must outweigh the harm to neighbors and the public interest from granting the variance.

Should this variance not be approved, the harm due to lack of security and inability to complete the unfinished living space over the garage would significantly harm the property owner and guests to the property. The decision to approve the variance will in no way adversely affect neighbors or the public interest as the intended changes of closing in the existing porch and completing the unfinished living space over the garage doesn't change the footprint of the existing structure.

Notes: All documents and maps submitted as required become the property of Wake County.  
The Wake County Unified Development Ordinance is on the web at [www.wakegov.com](http://www.wakegov.com).

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### Adjoining Parcels, Owners, and Addresses (Wake County Zoning Hardship Variance Submittal Checklist Item 7)



Subject parcel: 1810131648

No	Adjoining Parcel Number	Name and Address
1	1810039471	MORROW, ROBERT C & PATRICIA A 15709 WICKERSHIRE CT RALEIGH NC 27614-9688
2	1810130705	CONVERSE, STANLEY P II & KATHRYN P 15716 WICKERSHIRE CT RALEIGH NC 27614-9688
3	1810133819	COUGHLIN, DANIEL O & CHRISTINA 2824 CROIX PL RALEIGH NC 27614-9155
4	1810132695	AMANNA, PHILIP M & JULIE S 15708 WICKERSHIRE CT RALEIGH NC 27614-9688
5	1810131324	BAILEY, SALLIE VIVERETTE 15705 WICKERSHIRE CT RALEIGH NC 27614-968

**Wake County Zoning Variance Request Awareness**

Purpose

The purpose of this document is to convey to the Wake County Board of Adjustment that the owners of all neighboring properties understand and support the decision to grant Anna and I a variance for the improvement of our home (15712 Wickershire Ct. Raleigh, NC 27614).

Project Description

Anna and I would like to close in our existing breezeway between the house and garage, and complete the unfinished living space over the garage. This project does not change the existing footprint of the house or garage.

Current



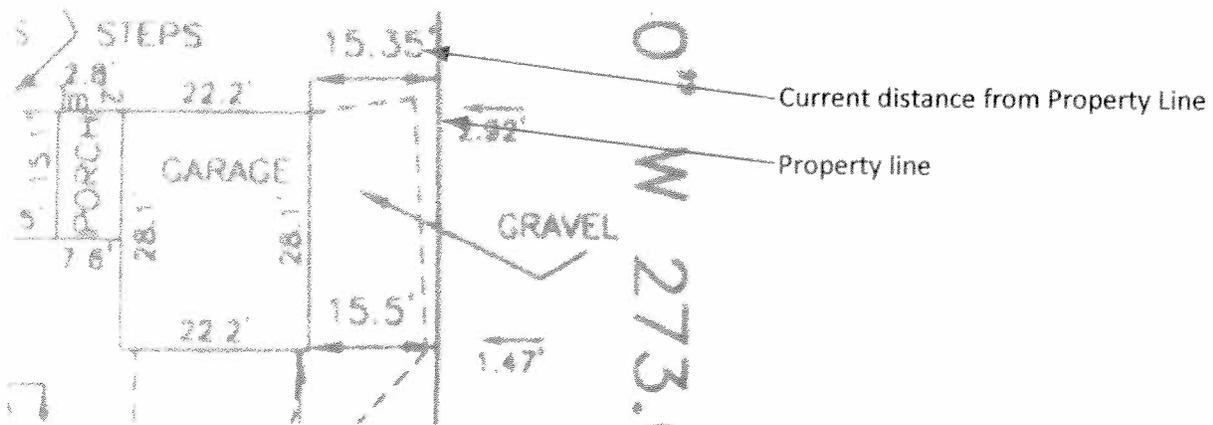
Proposed



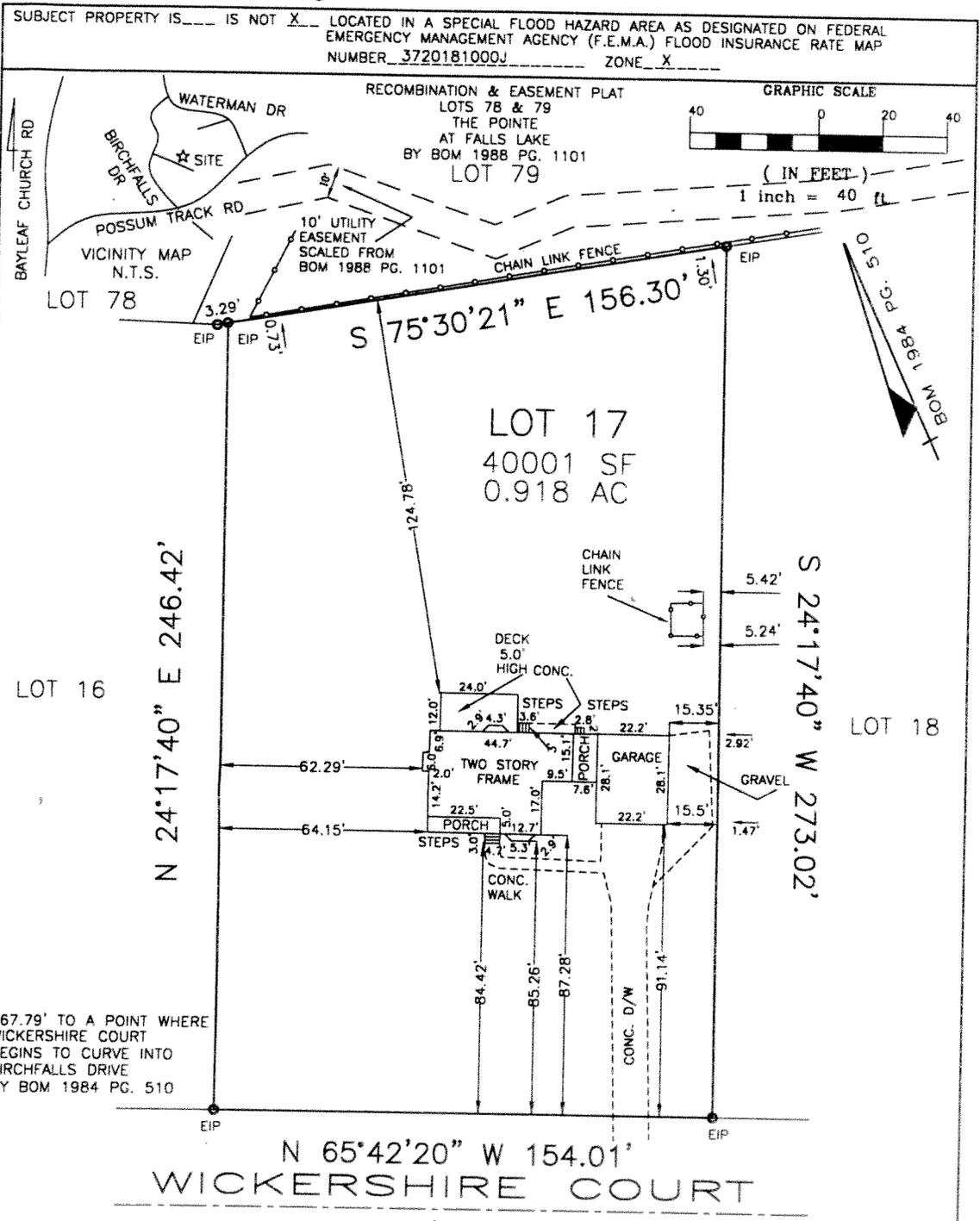
Variance Needed

By attaching the garage and house the garage gets reclassified as 'attached', and the offset required (from the property line) increases to 20 Ft (per Wake County UDC). The garage currently sits 15.35 Ft from the property line, 4.65 Ft too close to get a building permit.

We are requesting a variance to allow our existing garage, soon to be considered 'attached', to be 4.65 Ft closer to the property line than the Wake County UDC setback of 20 Ft.



6b Zoning Variance Site Plan for W.M. Brawner  
 P.I.N.: 1810131648



REVISION OF LOTS 9 & 10 ONLY  
 BIRCHFALLS SUB'D  
 LOT 17 BLOCK

60' R/W  
 FIELD CLOSURE 1:28,734  
 BOM 1984 PG. 510 IS BASED ON NC GRID  
 NOT FOR RECORDING, INFORMATION FOUND  
 THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF A TITLE SEARCH AND IS SUBJECT TO ANY FACTS WHICH MAY BE DISCLOSED BY A FULL AND ACCURATE TITLE SEARCH

LEGEND  
 EIP EXISTING IRON PIPE  
 NI MARKHOLE  
 NIP NEW IRON PIPE  
 PP POWER POLE  
 MON MONUMENT  
 R/W RIGHT OF WAY  
 PK PARKER KALON NAIL  
 C/L CENTER LINE  
 C.B. CATCH BASIN  
 FES FLARED END SECTION

RECORDED IN BOOK OF MAPS 1984 VOL. PAGE 510 WAKE COUNTY, N.C.

I, JOHN Y. PHELPS, JR. HEREBY CERTIFY THAT THIS MAP IS CORRECT AND THAT THE BUILDINGS LIE WHOLLY ON THE LOT AND THAT THERE ARE NO ENCROACHMENTS OF OTHER BUILDINGS ON SAID LOT UNLESS SHOWN OTHERWISE. THIS MAP IS NOT FOR RECORDING.

SEAL  
 L-1319

JOHN Y. PHELPS, JR.  
 PLS #1319

PROPERTY OF  
 WILLIAM M. BRAWNER

15712 WICKERSHIRE COURT  
 BARTONS CK TWP., WAKE COUNTY, NC

SCALE  
 1" = 40'

DATE  
 07/06/10

1340  
 83192

JOHN Y. PHELPS, JR.  
 PROFESSIONAL LAND SURVEYOR  
 5110 BUR OAK CIRCLE  
 RALEIGH, NORTH CAROLINA, 27612 (919) 787-3858

## Project Tracking Form – Special Use and Variance

Initial Submittal Deadline:	07/27/10
DRS Meeting Date:	09/09/10
DRS Comments Finalized & Distributed:	09/24/10
Revised Application Submittal Date:	10/26/10
Planning Board:	12/14/10 (tentative)

### **Special Use(s)**

BA SU 2131-10 (PIN# 1860.01 25 9639), a revision to a previously approved Special Use for site modifications and the additional use of a private school. The property is zoned R-40W (Residential 40 Watershed) and is located on the north side of Wait Avenue (NC 98) between Averette and Daniel Road(s). The parcel is 17.6 acres and is located within the Non Critical Area of the Little River Water Supply Watershed as per the Wake County Land Use Plan.

### **Hardship Variance(s)**

BA V 2132-10 (PIN# 1810.03 13 1648) , a Zoning Hardship Variance Request to allow the reduction of the required R-80W side yard setback by 4.5'. (Article 5-11, Conventional Development, Wake County Unified Development Ordinance). The property is zoned R-80 W (Residential 80 Watershed) and is located on the north side of Wickershire Ct., between Wickershire Ct. and Croix Place. The site is located in the Critical Area of the Falls Lake Watershed as per the Wake County Land Use Plan