

BA V-2129-10



ZONING HARDSHIP VARIANCE APPLICATION

Wake County

File #
Fee
Amt Paid
Check #
Rec'd Date
Rec'd By

JUN 25 2010

Submit required documentation to:
Wake County Planning, Development and Inspections
PO Box 550 Wake County Office Building
Raleigh, NC 27602-0550 336 Fayetteville Street Mall, 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:

Swift Creek Land Management Plan sets impervious area in non-critical area at 12%. My current total lot area is 41,064 square feet. The current impervious area is 6,918 sq. ft. which is equivalent to 16.9%. The variance request is to increase the impervious total to 8,526 sq. ft. representing an impervious area of 20.8%; a 3.9% increase over the existing impervious area. This variance would allow a more reasonable use of my taxed property.

Property

Parcel Identification Number: 0791.03 – 33 – 4271

Address: 2517 Whippetree Drive

Location: east side of Whippetree Drive, at/between
(north, east, south, west) (street)

Charland Ct. and Breakspear Ct.
(street) (street)

Total site area in square feet and acres: 41,064 square feet .943 acres

Zoning District(s) and Overlay Districts (if any) and land area within each: Swift Creek Township

List Conditions of any Conditional Use Zoning Districts: SCLMP, non-critical area, new suburban

Present land use(s): Residential, single family

How is this proposed use a public necessity? Provides owner with reasonable use of taxed property

What is impact on surrounding neighborhood and adjacent properties? None

There is no impact to surrounding neighborhood and/or adjacent properties. None

Property Owner

Name: James Cummings

Address: 2517 Whippetree Drive

City: Raleigh State: NC Zip Code: 27603

E-mail Address: jcummings33@nc.rr.com Fax: _____

Telephone Number: (919) 779-2543

Applicant (person to whom all correspondence will be sent)

Name: James Cummings

Address: 2517 Whippletree Drive

City: Raleigh State: NC Zip Code: 27603

E-mail Address: jcummings33@nc.rr.com Fax: _____

Telephone Number: (919) 779-2543 Relationship to Owner: Same

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

Current regulation sets a 12% impervious surface area limit on my property. This variance would raise that limit to 20.8%

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: James P Cummings Date: 6-25-2010

Signature: James P Cummings Date: 06-25-2010

Signature: _____ Date: _____

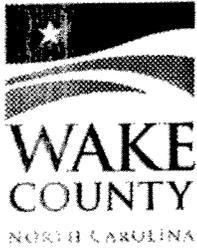
The undersigned applicant hereby certifies that, to the best of his or her knowledge and belief, all information supplied with this application is true and accurate.

Signature: _____ Date: _____

Project Tracking Form
Zoning Hardship Variance

Initial Submittal Deadline:	06/25/10
DRS Meeting Date:	08/12/10
DRS Comments Finalized & Distributed:	08/27/10
Revised Application Submittal Date:	09/28/10
Board of Adjustment Meeting	11/09/10

BA V 2129-10 (PIN# 0791.03 33 4271) a zoning hardship variance request to allow an additional 8.8% over the allowable 12% impervious surface limit (3.9 % over the existing impervious on site). The property is zoned R-40W (Residential 40 Watershed) and is located on the east side of Whippletree Drive between Charland and Breakspear Court(s) and is within the Greenbrook Farms Subdivision. The parcel is .943 acres and is located within the New Suburban Non-Critical Area of Swift Creek as per the Swift Creek Land Management Plan.



ZONING HARDSHIP VARIANCE STATEMENT OF JUSTIFICATION

Submit required documentation to:

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

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. **Strict compliance does not allow reasonable use of the property. Limiting my property usage to 12% while surrounding municipalities allow 70% usage places an unfair hardship that prevents reasonable use of my property.**
 - 1a. Strict compliance with the regulation provides the property owner no reasonable use of the property.
Current regulation does not allow reasonable use of the property. Currently, I can not place any impervious surface on 88% of my taxed property. This is unreasonable.
 - 1b. The hardship results from application of the regulation to the property.
The hardship is a direct result of the application of the regulation.
 - 1c. The hardship is one that affects the property directly.
The hardship affects the property directly by limiting reasonable of said property.
 - 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.
The SCLMP was established to protect the watershed. Since its implementation, municipalities have set their impervious limits very high to allow development. To my knowledge the county has not followed suit. There is no openness about the limitations when property is being purchased. If I had been made aware of this restriction back in 1999 I would have not purchased the property.
 - 1e. The hardship is peculiar to the property.
The hardship is specific to my property on which I pay the taxes.
2. The variance would be in harmony with the general purpose and intent of the Zoning Ordinance and preserve its spirit.
The general purpose of the ordinance is to protect the watershed while allowing reasonable use of taxed property. The requested variance would be in harmony with the ordinance.
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.**

Neither the public safety nor welfare would be affected by this variance.

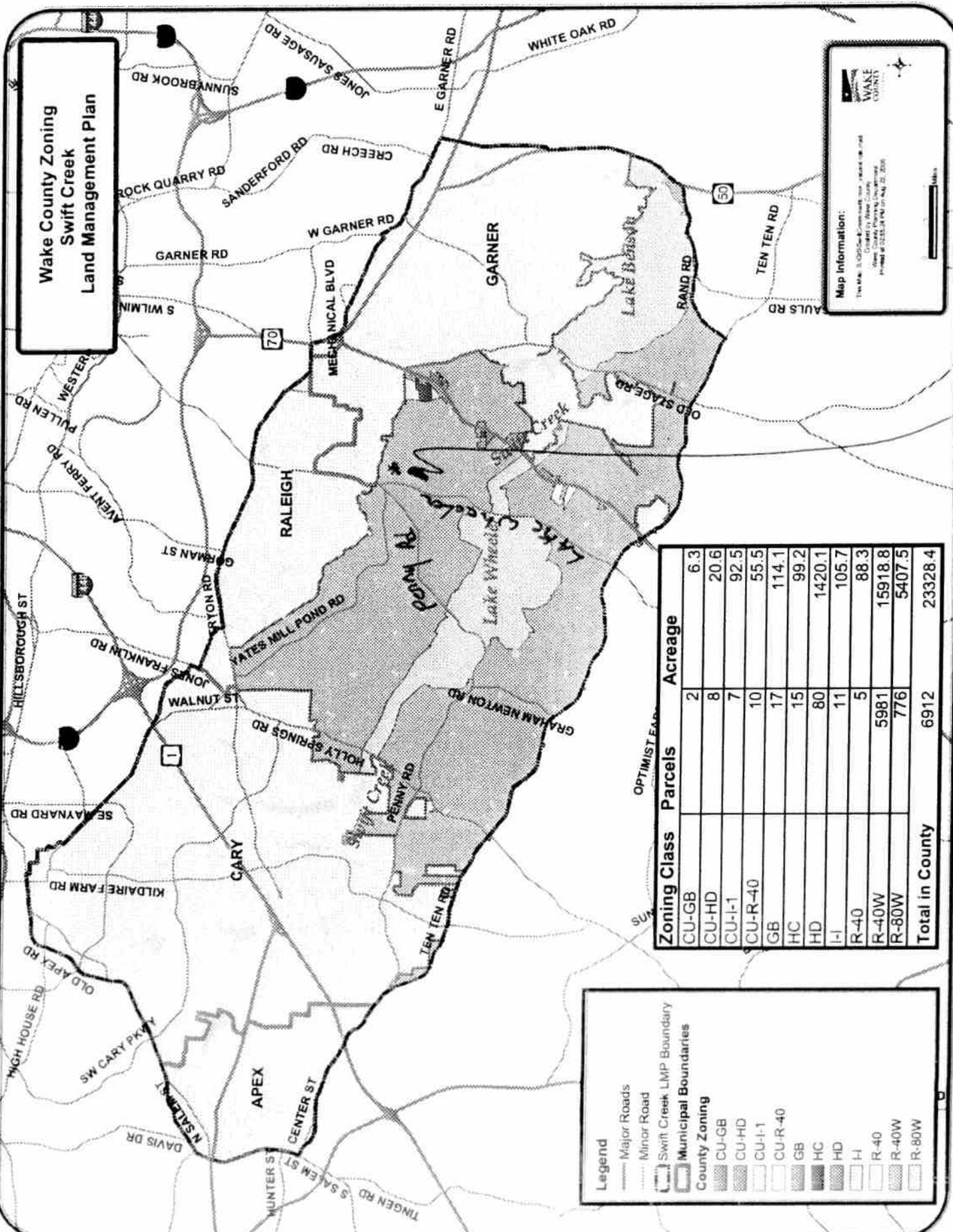
3a. The granting of the variance will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use, and will not be materially detrimental to the public welfare or injurious to property or improvement in such neighborhood.
Granting this variance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

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

The variance would provide reasonable use of taxed property.

**Wake County Zoning
Swift Creek
Land Management Plan**

Map Information:
 This Map is LEGAL. It was prepared by the Planning Department, Wake County Planning Department, Raleigh, NC. Printed on 02/25/04 at 10:00 AM on Aug. 20, 2004.



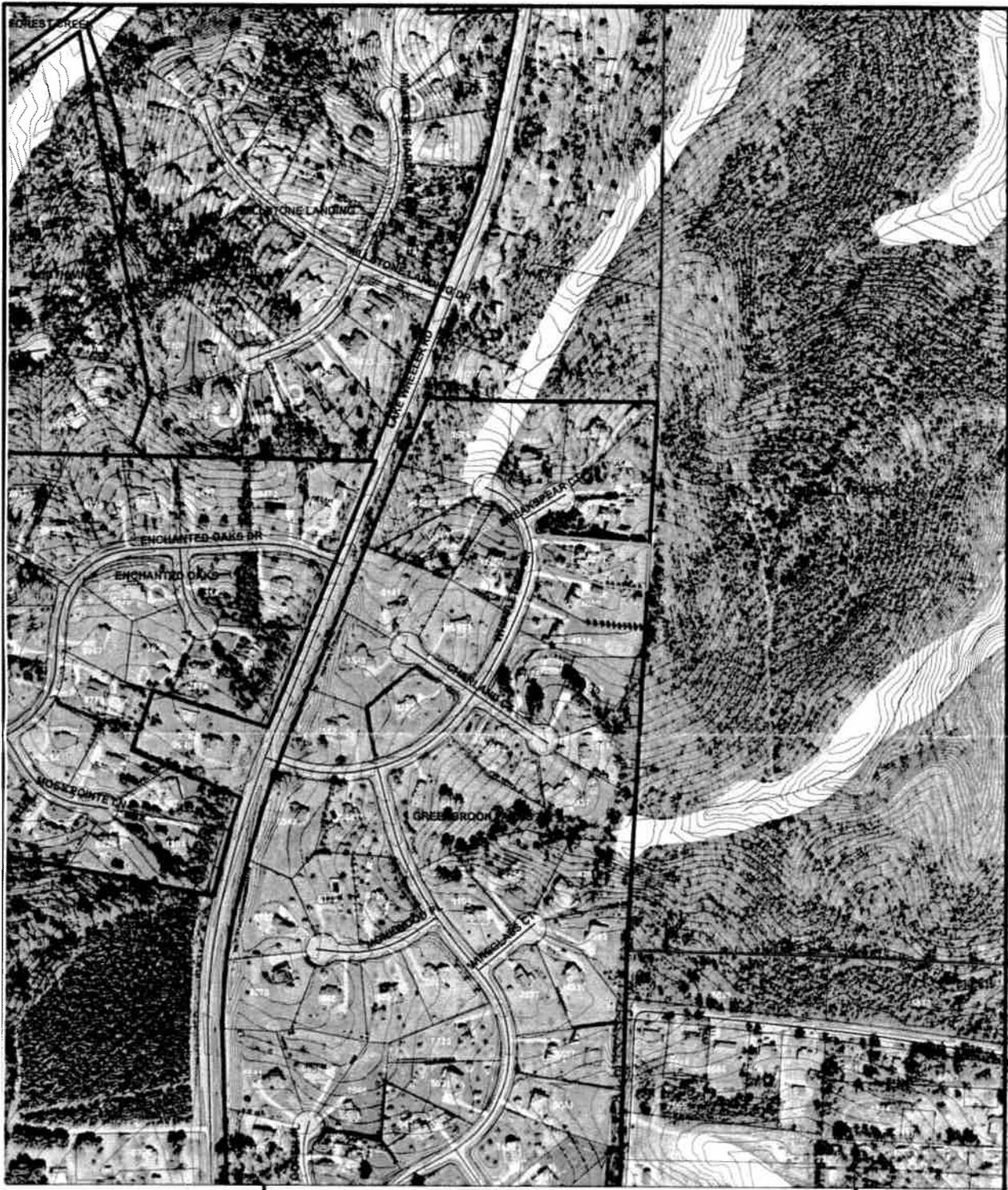
Zoning Class	Parcels	Acreage
CU-GB	2	6.3
CU-HD	8	20.6
CU-I-1	7	92.5
CU-R-40	10	55.5
GB	17	114.1
HC	15	99.2
HD	80	1420.1
I-1	11	105.7
R-40	5	88.3
R-40W	5981	15918.8
R-80W	776	5407.5
Total in County	6912	23328.4

Legend

- Major Roads
- Minor Road
- Swift Creek LMP Boundary
- Municipal Boundaries
- County Zoning
- CU-GB
- CU-HD
- CU-I-1
- CU-R-40
- GB
- HC
- HD
- I-1
- R-40
- R-40W
- R-80W

x Location of property

1/11/04



Wake County
 Geographic Information Services
 (919) 856-6370
<http://www.wakegov.com>

This document is a graphic representation only,
 created from the best available sources.
 Wake County assumes no responsibility for any errors
 or misuse of this document.

1 inch = 300 feet

JAMES & JANE CUMMINGS
2519 Whippletree Dr
Raleigh, NC 27603
EXISTING CONDITIONS MAP

DATE: 6/23/2010 10:57 AM



P.I.N # 0791 03-33-4271

SURVEY FOR

JAMES P. CUMMINGS

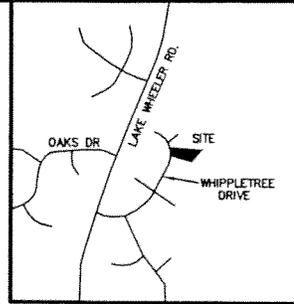
LOT 29, GREENBROOK FARMS SUBDIVISION
 2517 WHIPPLETREE DRIVE
 PIN # 0791.03-33-4271
 D.B. 8460, PG. 2482
 B.M. 1989, PG. 1069
 SWIFT CREEK TOWNSHIP
 WAKE COUNTY, NORTH CAROLINA

MAY 25, 2010

REVISED JUNE 3, 2010



SCALE 1"=50'

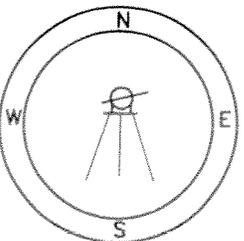
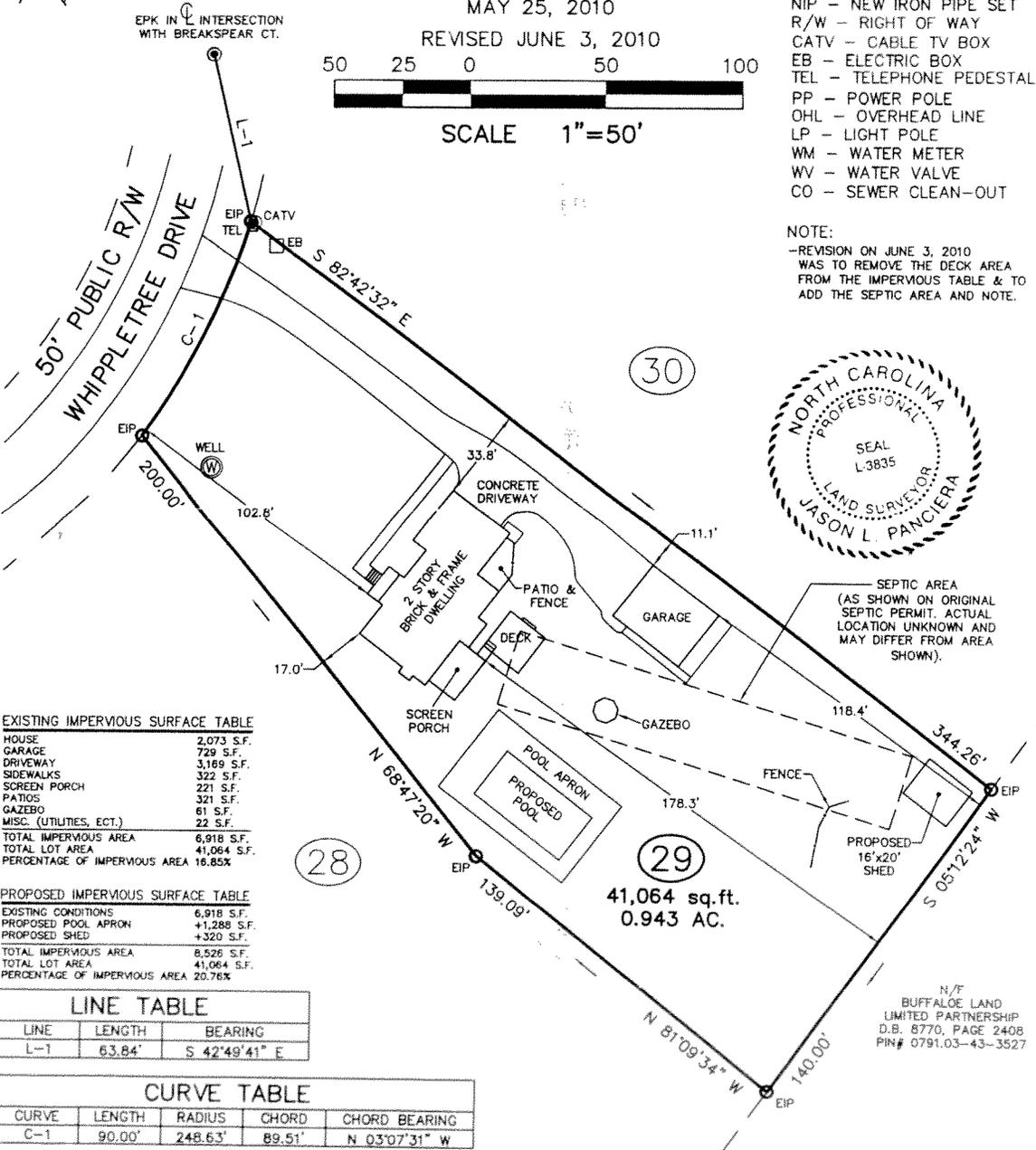


VICINITY MAP

LEGEND:

- EIP - EXISTING IRON PIPE
- EPK - EXISTING PK NAIL
- NIP - NEW IRON PIPE SET
- R/W - RIGHT OF WAY
- CATV - CABLE TV BOX
- EB - ELECTRIC BOX
- TEL - TELEPHONE PEDESTAL
- PP - POWER POLE
- OHL - OVERHEAD LINE
- LP - LIGHT POLE
- WM - WATER METER
- WV - WATER VALVE
- CO - SEWER CLEAN-OUT

NOTE:
 -REVISION ON JUNE 3, 2010
 WAS TO REMOVE THE DECK AREA
 FROM THE IMPERVIOUS TABLE & TO
 ADD THE SEPTIC AREA AND NOTE.



CAWTHORNE, MOSS & PANCIERA, P.C.

Professional Land Surveyors
 239 E. Owen Ave.
 Post Office Box 1253
 Wake Forest, N.C. 27588
 (919)556-3148

I DECLARE THAT THIS SURVEY COMPLIES WITH THE NORTH CAROLINA STANDARDS OF PRACTICE FOR SURVEYING, (SECTION 1600) FOR CLASS A SURVEYS AND THAT THE CALCULATED RATIO OF PRECISION BEFORE ADJUSTMENTS IS 1:10,000+. FURTHERMORE, PROPERTY CORNERS SHOWN ARE PRIMARY CONTROL MONUMENTATION FOR THE RE-ESTABLISHMENT OF PROPERTY CORNERS IN THE ABSENCE OF GRID MONUMENTS AND OTHER SUBDIVISION PROPERTY CORNERS. THIS SURVEY IS NOT TO BE RECORDED WITHOUT THE WRITTEN AUTHORIZATION OF THE SURVEYOR.

[Signature]
 PROFESSIONAL LAND SURVEYOR L-3835

03-10979

ZONING VARIANCE SIK PLAN