

Amy H. Cannon  
County Manager

Tracy Jackson  
Assistant County Manager



Rawls Howard  
Director

David Moon  
Deputy Director

## Board of Adjustment

MINUTES  
November 17, 2022  
6:00 PM

### Members Present

Linda Amos, Vice-Chair  
Robert Davis  
Vickie Mullins

### Absent Members

Gregory Pars-Chair  
Marva Lucas-Moore

### Staff/Others Present

Telly Shinas  
Chris Portman  
Latasha Johnson  
Robert Hasty (Asst County Attorney)

### Alternate Members in Attendance

Gary Silverman-Alt  
Kenneth Turner

Chair Amos called the meeting to order at 6:00 p.m. in Public Hearing Room #3 of the Historic Courthouse.

#### 1. INVOCATION

Kenneth Turner read the invocation.

#### PLEDGE OF ALLEGIANCE

Recited by all.

Vice Chair Amos stated the procedural matters are to turn off all cell phones or to place them on silent. Vice Chair Amos requested to limit time per speaker to 5 minutes. If any Board member wishes to speak, please ask to be recognized by the Chair.

#### 2. ROLL CALL

Mr. Shinas called the roll. Mr. Shinas made note of the absence of Mrs. Marva Lucas-Moore and Chair Gregory Parks. Mr. Shinas stated we do have a quorum.

#### SWEAR IN OF STAFF

Chair Amos swore in staff Christopher Portman and Telly Shinas.

#### 3. ADJUSTMENTS TO THE AGENDA

There were none.

#### 4. APPROVAL OF THE October 20, 2022, MINUTES

**Mr. Kenneth Turner made a motion to approve the minutes from the October 20, 2022, meeting as written, seconded by Mr. Robert Davis.**

#### 5. ABSTENTIONS BY BOARD MEMBERS/BOARD MEMBER DISCLOSURES (SITE VISITS AND/OR PERSONAL AFFILIATIONS)

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There were none.

### 6. PUBLIC HEARING DEFERRALS/WITHDRAWALS

There were none.

### 7. POLICY STATEMENT REGARDING APPEAL PROCESS:

Mr. Shinas read the policy statement.

### 8. PUBLIC HEARING(S)

Chair Amos read:

**BOA-2022-0027:** Consideration of a Special Use Permit to allow a communication tower in an A1 Agricultural District on 0.23 +/- acres of a 30.58 +/- acres parcel, located at 2155 Smith Road, Submitted by Nicholas Steinhaus (applicant) on behalf of Faith Baptist Church of Fayetteville (owners)

#### TELLY SHINAS

Madam Chair, Chris Portman, Planner, from our staff will be presenting this case.

#### CHRIS PORTMAN

My name is Chris Portman, I'm one of the planners within the Current Division. Before we start, I'm sure you have seen we have an updated Exhibit 'H' which is the condition sheet from the staff report. We're going to put that on the record. On account of the modifications for change in wording regarding conditions 1,3,7,10. We numbered the conditions under advisories and other relevant conditions. The condition regarding no onsite water or sewer was removed as well. As you can tell from this presentation PowerPoint, the tower is located in the southwestern portion of the County, just outside Hope Mills. The property owner requests the BOA to grant a special use permit for a communication tower proposed up to 199ft in height at a location illustrated on exhibit A of your staff report. Agent Nicholas Steinhaus, on behalf of Faith Baptist Church, they are proposing special use for the facility on 30.58 total acres, the collocation. The facility will be contained within .23 of that 30-acre parcel. Per section 927 and 403 of the county code, that a tower within an A1 requires a special use permit. A special use permit may be issued to authorize development or land uses in a particular zoning district upon presentation of competent material and substantial evidence establishing compliance with one or more general standards requiring best judgment and discretion be exercised as well as compliance with specific standards. Burden of proof is placed on the applicant. This quasi-judicial proceeding, findings of facts and prior to the granting of any special use, the Board of Adjustment may stipulate conditions and restrictions as agreed upon by the applicant reasonable and appropriate. Per section 1606 C in granting the special use permit, the board shall find that A) the use will not materially endanger the public health or safety if located according to the plan submitted and recommended. B) the use meets all required conditions and specifications. C) the use will maintain or enhance the value of adjoining or abutting properties, or that the use is public necessity. D) the location and character of the use has developed according to the plan as submitted and recommended. Will be harmony with the area in which is to be located and is in general, conforming with the Cumberland County's most recent comprehensive land use plan. These are all under exhibit I of the staff report and the applicant or their attorney is here to speak on the behalf of this. Regarding the land use plan, as you can see, there is single family residential surrounding the property, vacant land, a manufactured home. Some of the neighborhoods that is west to this is the Upland and Helen Tyson subdivision as well as Morning Glory directly south. As you can see, they are surrounded by A1, R6A, R20, and RR zonings. There are hydric soils located on the property in the north corner or the north section. No water or sewer is available to the property. This does fall within the south-central land use plan, but it does not make comment to cell towers. The Cumberland County Comprehensive states the following: Policy 10.11 the placement of communications and other towers in Cumberland County shall be monitored through the use of special use permitting process. The design and location shall continue to be regulated as necessary. This is the site plan submitted before the staff. As you can tell, there is this circle right here is the fall down radius per section 927. The fall

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radius has to be at least the height of the tower. The height of the tower is in total 195ft with a four-foot-tall lightning rod, as we show on the next slide from the eastern property line. It is located 205ft away from it. From the very northern point it is 1,530ft, from the west it is 560ft, and from Smith Road it is a total of 616ft. It is located 505ft from the church itself. Here is the tower. It is showing four collocation antennas. It is, like I said before, 195ft tall with a four-foot tower or a lightning rod, making it 199ft total. And this is from elevation. This is the subject property. This is the church that is located on there. This is looking east down Smith Road, directly across the street, west looking down Smith Road and the subject property again. The BOA is to make an action request based off the findings of fact as supported by the Special Use Permit Site Plan, exhibit D, and the Special Use Condition sheet, Exhibit H. Any motion to approve the special use includes approval of the Special Use Permit conditions as well as the site plan. This concludes staff presentation and the attorney, and I believe a real estate person is here to speak on behalf of the applicant.

### JOSH ROTENSTREICH

Good evening, members of the Board.

### CHAIR AMOS

I will have to swear you in.

### JOSH ROTENSTREICH

I'm happy to be sworn in. I'm an attorney, I'm not sure I'm supposed to be.

### ROBERT HASTY

We don't need to swear the attorneys in, they're not really testifying. He may present as a witness.

### LATASHA JOHNSON

State your name and address for the record.

### JOSH ROTENSTREICH

Josh Rotenstreich 101 S. Elm St. Greensboro, Guilford County, NC. Good evening members of the Board. I am here on behalf of Cellco Business with Verizon wireless. Prior to my presentation, I would like to submit our entire application into evidence. And I do have copies for each member of the board to be passed out if that's okay with the board members.

### GARY SILVERMAN

Are you the attorney representing the applicant or representing Verizon?

### JOSH ROTENSTREICH

I'm here on behalf of the applicant, which is Cellco Business as Verizon. It's all one in the same. Members of the Board as previously indicated by staff we are here to request a special use permit for the construction of a 199-foot monopole telecommunications tower, which is a 195-foot tower before the lightening rod. This tower will serve purposes to create telecommunication services for the County of Cumberland and allow for three additional equipments to be added to this tower once constructed, including Verizon Wireless, who will be the main provider added to this. It's currently going to be based on the lease that we have obtained. Constructed at Faith Baptist Church of Fayetteville, which is located on Smith Road and currently zoned as A1 as staff indicted. There are four requirements that I'm required to present to this board and that the board is to consider when deciding whether or not to permit a special use permit. I'm going to go through those individually and then come back to some more specifics with regard to the tower. The first requirement this board is asked to look into is that the use will not materially endanger the public health or safety if located according to the plan submitted and proposed. We would suggest to the board that the proposed tower will not materially endanger the public health or safety if located. And we say this due to the fact that this structure will be

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existing in a fairly wooded area away from any high residential area nearby and more importantly, it will comply with all FCC and all FAA regulations, which again is in the application that I have provided. I'm happy to point out specifics with regards to the evidence that's in the record. The second requirement is that we meet all specifications listed out in section 927 of this county's ordinance. I'm going to come back to that because there are quite a few of those requirements in that section and we'll spend most of our time in the presentation on those. The fourth element of what I'm required to show is that the use will maintain or enhance the value of adjoining or budding properties. In this particular case, the tower will maintain the value of adjoining or abutting properties and will not be at all injurious to any of the surrounding properties. In the application that is before you, and I don't believe yours is tabbed. That about halfway through is the real estate impact report prepared by David Smith for the North Carolina Licensed Real Estate Appraiser, who has testified in this case, and in the application, that there will be no injurious activities done to the properties around, and in fact, that these cell phone towers create additional services such as emergency services, data services and cell phone services, which can help enhance the surrounding communities.

### GARY SILVERMAN

Is that in the packet?

### JOSH ROTENSTREICH

Yes, sir. The one that's handed out is not tabbed, it's the impact analysis. It's about three quarters of the way through the end and it's before the pictures. I'm happy to come around and show you. The front page looks like this. The fourth element to approve a special use permit, is that we show that the location and character of the use, if developed according to the plan, will be in harmony with the area in which is to be located in general conformity with Cumberland County's most recent land use plan. In this particular case, as I previously stated, this is a fairly heavily wooded area away from any heavy residential development. We believe that it'll be well, I'll address this more specifically in a moment, but it'll be well camouflaged as best as you can for a cellphone tower and not disrupt any of the type of land development that's already in this area. Going back to the second requirement, which is our requirement to apply with section 927. Nine twenty-seven of the local ordinances specifically weighs out certain requirements that we are required to meet to construct the telecommunication tower. I'm going to go through the main points of this because there are quite a few and some of them are a bit redundant, but the important thing to note here is that this is a 199-foot monopole tower. There will be no guide wires or anything that is other than the pole itself. The pole itself is structurally designed to have a fall radius at the height of the tower in the unlikely event of tower failure. However, it has been rated, and this will be also in your packet about midway through there's a structure layer that has been rated to withstand winds that can exceed 123mph and have as much as an inch and a half of ice on the tower and can exceed winds at 30 mph or any type of risk of failure. The tower is also designed to fall on itself rather than fall over like a tree may. It has weak points or weaker points I should say, in the tower structure to where instead of falling at the base, it would be in the middle, where it effectively has zero fall radius. In addition to the tower in the lease land that the tower, the compound the tower will sit on will be enclosed by a 10-foot, barbed wire fence, which is required also by statute. The tower will be galvanized steel and gray in nature, and we'll do as best as we can do to come up within the surrounding trees areas. As you all probably seen in various locations, there are these tree towers, we call them mono-pine towers. In my opinion don't look any more like a tree than a regular cellphone tower does, but because of the location of this tower in the heavily wooded area it'll be virtually as camouflaged as can be given what it is. As previously stated, we have complied with all federal, state, and local laws with regard to the requirements of this request, including FCC and FAA requirements. This tower will not be lighted, as it is not required to be by the FAA. Section J of the section 927 requires the tower not to exceed 450ft, which we are well below. As previously stated, one of the requirements is that it will not substantially be injurious to surrounding lands, which again we've addressed with regards to the real estate impact report. Finally, one of the last things that we're required to show, kind of getting to the crux of the point, the mono pole tower is of the minimally invasive and freestanding tower. Like I previously said, it's got a nice gray steel and tends to blend more harmoniously with the environment. There will be no other aspects to the tower itself other than the pole. It does have egress as required by the ordinance with the ability to be accessed by the maintenance crew who works on it. I believe it's once a month to just confirm that everything is as it needs to be, and

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the chain link fence will remain locked when not being maintained. Other than that, members of the board, we do believe that we have substantially complied with the ordinance as written, and I'm going to answer any questions that you may have and do have. Our expert from Chase any questions with regard to the facts that need to be presented. One last thing I would say is that in the middle of the package there is a propagation map with regards to the current area and cell phone service. It's the colorful map that looks like this. This first page demonstrates the current cell phone area that exists as it is. The second page shows the additional coverage space that would be created if the cell phone tower is erected. These cell phone towers serve for two main purposes. Not only are they used to create service where there is no service, but also what's called capacity offload, meaning that one cell phone tower can be overworked by users in the area. And when you have a tower in a nearby area, it offloads users from the one tower, which then allows both towers to flourish more effectively and efficiently. So, this tower does create much needed service coverage for this area, which will allow access to emergency services, data plans, as well as regular cell phone use. Now, I'm happy to answer any questions that the board may have.

### CHAIR AMOS

Do we have anyone that wants to ask any questions?

### VICKIE MULLINS

What's the range? What is the range?

### JOSH ROTENSTREICH

Generally, this is about two miles. I think, again, based on the height, which is what we're here to request, as well as other variables with regard to the land itself, two miles is generally the range that we see with these towers.

### VICKIE MULLINS

Is Verizon going to be the only service on this tower?

### JOSH ROTENSTREICH

This tower is able to collocate up to three additional providers. Verizon is the one that's constructing the tower to be on it, but certainly AT&T, T-Mobile and other providers are, once erected, will not be able to come in here and ask for a tower because of an inability to collocate because that tower will be there.

### VICKIE MULLINS

Thank you.

### CHAIR AMOS

Any more questions?

### KENNETH TURNER

I have a question just for planning and zoning. What are your thoughts on this?

### CHRIS PORTMAN

I'm not for sure we can really be biased against anything like this. We can't really approve or deny project in this aspect. It's just more based upon the board's approval or denial on this. It's how they view it. We did review this with Section 927, and they did seem to comply with all the requirements there. And as you can see through our condition sheet, they have provided feedback on that, said they are willing to comply with all of those and even exceed those if needed. So, like I said we really can't approve or deny this. It's for you guys' judgement.

### KENNETH TURNER

I just wanted to know what you guys thought of that. It appears to me that they've done everything that they need to do

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to move forward with this. Unless I've missed something in reviewing the packets over the last couple of days.

CHRIS PORTMAN

And like he said, with collocations regarding those, you can have up to, they're shown four on their site plan. So, if this gets approved, then they just go through building permits for new collocations. They won't have to go back to this process.

KENNETH TURNER

What is to the immediate right of where that tower will be, the shortest distance to the property line? Looks like just a vacant parcel.

CHRIS PORTMAN

To the right?

KENNETH TURNER

To the right, yes.

CHRIS PORTMAN

In this general area here?

KENNETH TURNER

Is it just a vacant property?

CHRIS PORTMAN

I believe this long parcel right here is vacant, but it seems to be a home right here though.

KENNETH TURNER

So, this will be well over the 199 ft requirement?

CHRIS PORTMAN

Yes.

ROBERT DAVIS

Do we have any other speakers? Is anyone against it?

JOSH ROTENSTREICH

I do have Mr. Holt with me. I wasn't going to introduce him unless the board needed me to.

GARY SILVERMAN

I do have one question.

JOSH ROTENSTREICH

Yes sir?

GARY SILVERMAN

Let me get to that part here, the letter from the engineer. This is the letter from the engineer, correct?

JOSH ROTENSTREICH

Correct.

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GARY SILVERMAN

It says here for the design for a basic wind speed of 123 mph without ice and 30 mph which is a big difference with 1.5 inches of ice on the tower. I assume maybe the engineer did an assessment of the probability of getting one and a half inches of ice because then he's saying the tower can only withstand 30 mph wind in that case.

JOSH ROTENSTREICH

Yes sir, I'm a bit confused.

GARY SILVERMAN

Is there an assessment of the probability of weather conditions getting up to one and a half inches of ice?

JOSH ROTENSTREICH

I don't have anything on that here in the record. I can tell you that this affidavit is what we've seen across the board in this, and it's standard. I'm not sure what the probability of a tower accumulating an inch and a half of ice would be. Nor do I know the instructional engineer to give that information. But I do think that.

GARY SILVERMAN

It's probably rare.

JOSH ROTENSTREICH

And I will say that the towers are designed to fall on itself. So, in the unlikely event that you do have an inch and a half of ice and 30 mph wind, it doesn't fall flat over. So, we do meet all the requirements for the fall radius.

ROBERT HASTY

Chair just for the record, if you will accept into evidence the application packet that was presented by Mr. Rotenstreich.

LATASHA JOHNSON

Madame Chair, may I address the board?

CHAIR AMOS

Sure.

LATASHA JOHNSON

Mr. Silverman, when you speak will you please pull the microphone closer to you

GARY SILVERMAN

Sure.

LATASHA JOHNSON

Thank you. This is being recorded.

CHAIR AMOS

Do we have any other speakers? Are you finished?

TELLY SHINAS

Madame Chair are you ready to open for public comment.

CHAIR AMOS

Yes.

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LATASHA JOHNSON

Mr. Jeremy Holt

JEREMY HOLT

I'm with Verizon, I'm good.

LATASHA JOHNSON

We have no more speakers.

CHAIR AMOS

No other speakers? Ok, thank you.

KENNETH TURNER

I'd like to make a motion to approve the variance request for the Verizon tower on Smith Rd.

ROBERT HASTY

Special Use.

KENNETH TURNER

Special Use, excuse me.

TELLY SHINAS

Madame Chair, she has to close the public hearing.

ROBERT HASTY

Yes, I need you to close the public hearing.

CHAIR AMOS

The public hearing is now closed.

KENNETH TURNER

I'd like to make a motion to approve the variance request for the cellphone tower that will be constructed by Verizon on Smith Rd.

ROBERT HASTY

Special use.

KENNETH TURNER

Special use permit.

ROBERT HASTY

Exhibit I, which was provided, addresses the four facts. If you agree with it, you will incorporate that into the motion.

KENNETH TURNER

I agree with all four of them and would like to incorporate those four findings of facts into the motion please.

ROBERT DAVIS

I second the motion.





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Chair Amos

We have a motion on the floor that has been seconded. All in favor, Aye/any Nays. It Carries.

**Mr. Kenneth Turner made a motion to approve special use permit BOA-0027-22, seconded by Mr. Robert Davis. The motion was passed unanimously.**

IN FAVOR	
AMOS	YES
TURNER	YES
DAVIS	YES
MULLINS	YES
SILVERMAN	YES

TELLY SHINAS

Madame Chair we can move to the second item on the agenda. Chris Portman, Planner will be presenting that case as well.

Chair Amos read:

**BOA-2022-0030:** Variance from Section 1002, Incidental Uses, Paragraph E., Accessory Structures, requesting garage setback at 15 feet instead of required minimum of 35 feet, for 0.60 +/- acres located at 3863 Wilkersham Way; Submitted by Michael & Cheryl Canders (property owner(s))

CHRIS PORTMAN

My name is Chris Portman, in BOA 2-22-0030 and his property is located in the western portion of the county just outside of Fayetteville city limits. Applicant Michael and Cheryl Canders are requesting a variance from section 1104 County Zoning Ordinance to allow a 1200 square foot detached garage to encroach the minimum rear setback line between 20 lineal feet and a residential lot assigned an RR rural residential zoning district. The subject line is currently occupied by a 2,393 square foot home and storage shed located at 3863 Wilkersham Rd. The site plan for the residential lot appears in exhibit B attached to the staff report and shows a proposed location for the new garage. The second site plan submitted with the applicant's septic tank permit application appearing in exhibit C of the staff report shows the location of proposed garage as well as the septic tank and drainage field. The garage has not yet been constructed. The BOA responsibility has the authority to take final action on the variance applications making a decision to approve, deny or approve with conditions. Motions must be based on the four findings, variance criteria and based on the findings of fact presented at the hearing. The four findings of facts include unnecessary hardship would result in a strict application of regulation. It should not be necessary to demonstrate that in the absence of the variance, no reasonable use can be made of the property. The second one, the hardship results from the conditions that are peculiar to the property, such as location, size, topography. Hardships resulting from personal circumstances as well as hardships resulting from conditions that are common to the neighborhood, or the general public may not be the bias for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under Federal Fair Housing Act for a person with a disability. The third is the hardship did not result from the actions taken by the applicant or the property owner. The act of purchasing the property with knowledge and circumstances exist that may justify the granting of variance shall not be regarded as self-created hardship. And the fourth and final is the request of variance is consistent with the spirit, purpose and attempt of the regulations such as public safety is secured and substantial justice achieved. As you can tell, single family residential surrounds the property. This is located within the Wendmere Subdivision. This is the plan submitted to office. As you can see in the southeastern portion of the property, there is the proposed garage with a rear setback of 15ft and the side setback of 15ft as well. This is the septic tank permit site plan that was submitted to environmental health. It includes the graphic depiction as shown in the exhibit I of your staff report that illustrates the locations of the existing septic system that is in that of the proposed garage. Based on the graphic and exhibit I staff evaluation indicates that sufficient space occurs within the rear yard to

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locate the proposed garage inside the buildable envelope. Thus, location occurs where the proposed garage can place a location in the rear yard that complies with the minimum rear yard setback of 35ft. Per environmental health, you have to be away 5ft from all lateral fields within a septic tank .

### KENNETH TURNER

Can I ask a question? Did you just say that planning and zoning has identified the buildable area regardless of our decision tonight?

### CHAIR AMOS

No, no, no.

### KENNETH TURNER

Well, that's why I'm asking.

### CHRISTOPHER PORTMAN

No, per this slide and the RR zoning setback standards. Their front yard setback is 30ft, their side yard is 15ft and their rear yard is 35ft. So, where they're proposing their garage now is 15ft from the rear property line. In other words, they're asking for a 20ft reduction.

### KENNETH TURNER

The question that I have was you mentioned the buildable envelope, so would you go over that again for me please?

### CHRISTOPHER PORTMAN

The placement of the proposed garage now, is outside of the buildable envelope from what this lot is containing. So, if this was to come in for a final plat showing building envelopes, this will be outside of that envelope because it's encroaching their setback for the rear yard.

### KENNETH TURNER

Right, is there any information on the impact? I think the idea is it's going to impact the septic area.

### CHRISTOPHER PORTMAN

The septic area is on the western side of the property line. That is where the drain field and the tank is located. From the picture here, it might be kind of hard to see.

### KENNETH TURNER

So, that's what at the left side at the top?

### CHAIR AMOS

Let him finish, and then one person at a time speaks.

### KENNETH TURNER

You've answered my question.

### CHRISTOPHER PORTMAN

Ok.

### KENNETH TURNER

You don't know what the soils are, on the property line, do you?

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### CHRISTOPHER PORTMAN

I believe I'll get to that in my slides. As you can tell, this is the existing uses for the subject property for the home in this center. They're trees surrounding the back portion of the property line and I believe there's a privacy fence surrounding it. This is the zoning. City limits is the unshaded portions, but it is all rounded by RR zoning. Here is your soils map. They are on private water. I believe it is, Aqua America is their water company. So, it's not showing because it is a private water company. There is no sewer which is calling for the septic tank, but no hydric or hydric inclusion soils are present on the property. This is the subject property facing towards the home. This is the east view down Wilkesham Way. This is the set of findings that is going to be based off of their criteria that they will present. And it's also located in Exhibit J of the applicant's response exhibit I, sorry. This is a north view looking across the street from the subject property. And this is looking east. This picture here is a zoomed in portion on the site plan. When I go back to it, you will see this existing shed and the proposed garage is going to be located behind that shed. The BOA is to make an action to either approve, deny or approve with conditions based on the findings of fact that support the four variance criteria. This concludes my presentation, and the applicants are here to answer any questions and to address the findings.

### CHAIR AMOS

Ok, we have a question.

### GARY SILVERMAN

Is the septic tank shown on this diagram?

### CHRISTOPHER PORTMAN

It is not. It is on the Exhibit C site plan.

### CHAIR AMOS

Did you guys determine that the proposed garage can go someplace else on the property where you would meet the building envelope?

### CHRISTOPHER PORTMAN

So, when we were looking at the building envelope, as mentioned before, this would be placed in the center of the yard just to meet setback standards. And I believe that is why the applicant is here. But I'm going to let them speak on behalf of that for that reason and that's why they are proposing it where they are proposing it. With the reduction of the rear yard.

### CHAIR AMOS

Would the applicant come up and like to speak. I'll have to swear you in.

### LATASHA JOHNSON

State your name and address for the record.

### CHERYL CANDERS

Cheryl Canders, 3863 Wilersham Way Fayetteville, NC 28306.

### CHAIR AMOS

Raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth so help you God?

### CHERYL CANDERS

Yes.

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CHAIR AMOS

Thank you. I'll have to swear him in.

CHERYL CANDERS

Do we need to swear in at the same time?

CHAIR AMOS

No, you can go ahead and speak first.

MICHAEL CANDERS

She might cover it all.

ROBERT HASTY

Sometimes its better to just get them sworn in.

CHAIR AMOS

You want to go ahead Mr. Canders.

LATASHA JOHNSON

State your name and address for the record.

MICHAEL CANDERS

Michael Canders 3863 Wilkersham Way.

CHAIR AMOS

Raise your right hand. Do you swear to tell the truth, the whole truth and nothing but the truth so help you God?

MICHAEL CANDERS

Yes ma'am.

CHAIR AMOS

Thank you.

CHERYL CANDERS

Members of the Board we're really coming to ask for a variance, as it shows in the graphic that's on the screen now. If we were to set the property, the proposed garage at the 35ft setback, it would put the garage in the center of the yard. So, the access into our backyard would be very limited for anything. If there needed to be a repair to the septic, if they needed to get any items into the yard, anything that would need to come in because of the way the current garage is set. The shed that is in front of the proposed garage will be going away. So that will not actually be there. It will be going away at that point. We will be moving the shed in that's on the right-hand side in front of the proposed garage. The left-hand shed will still remain. So, it would give us about 15ft from the deck to the corner of the property to be able to access our yard. That's the main reason that we're asking for the variance to be able to set the property, the proposed garage property back further from the back. It also puts it in our septic repair area. It doesn't impede on the actual septic lines, but the septic repair area is listed as that whole main section from our deck about three quarters of the way over to that small shed.

VICKIE MULLINS

Can I ask a question.

Amy H. Cannon  
County Manager

Tracy Jackson  
Assistant County Manager



Rawls Howard  
Director

David Moon  
Deputy Director

CHAIR AMOS

Sure.

VICKIE MULLINS

I have one question. I understand the whole loss of property. Is there a reason it has to be a 40 by 30 garage?

CHERYL CANDERS

So, we have a lot of things, unfortunately. We have coming up on a third driver and being able to house safely the property for our son's car. We are trying to be able to maintain and keep out of the main property line for the neighborhood for the HOA. And ensuring that things just are safely stored. Our garage now is not in, for our vehicles to be able to be parked in it's not in a. It's in a weird angle. To be able to pull into our garage is in a weird angle. So, to be able to safely secure our vehicles and safely secure our property. We need the space.

VICKIE MULLINS

You said you were under a Homeowners' Association?

CHERYL CANDERS

We don't have a required homeowners association, but they have a request that the property there can be no vehicles, excessive vehicles in the driveway. And just maintaining the look for the Homeowner's Association to ensure that there's not excessive amount of property in the driveway. It's not a required Homeowner's Association.

VICKIE MULLINS

So, it's not a required one?

CHERYL CANDERS

It's not a required we're just trying to appease the community in the neighborhood in terms of making sure that our property is secured along with keeping-

KENNETH TURNER

Do you have restrictive convenance?

CHERYL CANDERS

No.

CHAIR AMOS

What size garage would put them in compliance?

CHRISTOPHER PORTMAN

Anything under 700 sq ft can be within a rear yard setback. I mean, if it's smaller than 700 sq ft they are already talking about the existing garage just shortening it 20ft. They would just have to meet the setbacks for the RR. So, the 35 rear would make that work. So, either moving it forward or just making the garage smaller.

ROBERT DAVIS

I don't have my glass with me today. Now between the proposed shed and the patio, is there a number on that line?

CHERYL CANDERS

It is 32 feet.

Amy H. Cannon  
County Manager

Tracy Jackson  
Assistant County Manager



Rawls Howard  
Director

David Moon  
Deputy Director

## Board of Adjustment

ROBERT DAVIS

It's 30ft?

CHERYL CANDERS

Thirty-two feet.

ROBERT DAVIS

I don't have my glass with me today. Now between the proposed shed and the patio, is there a number on that line? So in other words if you took the proposed shed in the diagram that showing that's 15ft.

CHERYL CANDERS

Correct.

ROBERT DAVIS

If you pushed it forward 20ft where it would meet the 35, then we cut down a distance between the shed and the patio to?

CHERYL CANDERS

Twelve feet.

ROBERT DAVIS

How many feet?

CHERYL CANDERS

Twelve feet.

ROBERT DAVIS

So therefore, you're saying if it's 12ft there, if you put it there. If you had to come into the yard for someone to maintain the septic tank back there, it wouldn't be able to get in between that without running across your patio to get to the septic tank?

CHERYL CANDERS

In order to get to the septic tank, correct.

ROBERT DAVIS

You have to go through the patio and stuff like that.

CHERYL CANDERS

Correct. And the side property that we have on the other side in order to come down that, they'd be on our neighbors and the tree line. There's a tree line.

ROBERT DAVIS

And the chance of crushing your deck which they wouldn't want to come in and do. So that would cause one hardship, is trying to get a truck in there that would be able to get to the septic tank. I see what you're saying there if you put it out the way a little bit. But by pushing it back, it gives you 20 something feet to get a truck or somebody there that could work on your septic tank or septic area without anything being moved. And you can get the RV back there so it wouldn't be sitting up front.

Amy H. Cannon  
County Manager

Tracy Jackson  
Assistant County Manager



Rawls Howard  
Director

David Moon  
Deputy Director

CHERYL CANDERS

Correct.

VICKIE MULLINS

I have a question. Where do you pull in at?

CHERYL CANDERS

We pull in on the side.

VICKIE MULLINS

If you're going to put a garage back there, you're going to give up all of this to drive back to here? Are you going to come in off of the, I don't know.

CHERYL CANDERS

So, our driveway comes, the driveway comes straight now. It would go straight into the small shed. So, if you came up our driveway into the new proposed garage, you would be pulling straight from your driveway in or slightly, if you come up our driveway now into the proposed garage, you'll be able to pull straight in. Because this is our driveway. Right now, this is our current garage. So, when you come in to turn into our current garage, would, it would not impede anything there. It would come straight. There's a gate here. It would come straight to the proposed.

GARY SILVERMAN

And where is the current garage again?

CHERYL CANDERS

I'm sorry.

GARY SILVERMAN

The current garage.

CHERYL CANDERS

The current garage is right here at the end of this driveway area.

GARY SILVERMAN

And where's the septic tank?

CHERYL CANDERS

The septic tank, the actual septic lines are in this area. So, our septic comes right off of here and kind of goes into this field. This is the septic repair area that's listed on our map.

GARY SILVERMAN

One more question. What's immediately adjacent on either those property lines?

CHERYL CANDERS

So, there's a home here on the corner. So, there's a home on the corner right here. There's a home on the corner here. Between this property line is a tree line. Then this is bushes and trees here and a privacy fence that leads to a pool house and a pool for the neighbor. And then in the back is another, this is like the corner of a tree line.

CHAIR AMOS

Did you want to speak sir?

Amy H. Cannon  
County Manager

Tracy Jackson  
Assistant County Manager



Rawls Howard  
Director

David Moon  
Deputy Director

MICHAEL CANDERS

I believe she covered it all.

CHAIR AMOS

Ok. All right. Thank you. Would anyone like to make a motion.

CHAIR AMOS

Do we have any other speakers?

LATASHA JOHNSON

We don't have any other speakers.

CHAIR AMOS

The public hearing is closed. Thank you.

GARY SILVERMAN

I make a motion to approve the variance request. I make a motion to approve the variance request based on acceptance of the four criteria in exhibit J of the application.

VICKIE MULLINS

I second it.

CHAIR AMOS

Motion has been made and seconded. All in favor say aye. Nay? Motion carries.

ROBERT HASTY

Do you need to recall the vote? Everyone has to vote.

CHAIR AMOS

We need to recall the vote.

VICKIE MULLINS

I have a question. What are these two buildings?

ROBERT HASTY

Do we need to put an exhibit on the screen?

ROBERT DAVIS

The bottom left looking at me. The other rectangle, is that a pool? Bottom left across from where the proposed garage is.

CHERYL CANDERS

The circle?

ROBERT DAVIS

On the other side of the circle

CHERYL CANDERS

That is a shed. That is a non-permanent shed.



Amy H. Cannon  
County Manager

Tracy Jackson  
Assistant County Manager



Rawls Howard  
Director

David Moon  
Deputy Director

### Board of Adjustment

ROBERT DAVIS

That's a shed?

CHAIR AMOS

And the other is what by the fence? From the 12 ft.

ROBERT DAVIS

That's a shed too. That's a smaller one.

CHERYL CANDERS

The small one that is south of the proposed garage is a shed that will be removed.

CHAIR AMOS

Oh, you're going to remove it.

CHERYL CANDERS

That one will be removed. The one in the left-hand back corner of the property at this point will not be removed but could be.

CHAIR AMOS

All in favor say aye. Any nays?

KENNETH TURNER

Nay.

CHAIR AMOS

Motion carries.

**Mr. Gary Silverman made a motion to approve the variance for BOA-0030-22, seconded by Mrs. Vickie Mullins. Mr. Kenneth Turner opposed the motion. The motion was passed 4/5.**

IN FAVOR	
AMOS	YES
TURNER	NO
DAVIS	YES
MULLINS	YES
SILVERMAN	YES

TELLY SHINAS

Madam Chair, we're going to move on to item 10 for discussions and updates. In here, we have the two items A and B. You have the Boa 2023 meeting deadline for next year's Boa meeting. And we also have the BOA alternative recommendations. We need a vote of approval for the meeting deadline for BOA 2023, item A.

VICKIE MULLINS

I'll make a motion that we accept the County Board of Adjustments deadline meeting schedule.

ROBERT DAVIS

Second.

Amy H. Cannon  
County Manager

Tracy Jackson  
Assistant County Manager



Rawls Howard  
Director

David Moon  
Deputy Director

## Board of Adjustment

### CHAIR AMOS

The motion has been made and seconded. All in favor say Aye/Nay? Motion carries.

**Mrs. Vickie Mullins made a motion to accept the BOA meeting deadline schedule, seconded by Mr. Robert Davis. The motion passed unanimously.**

	<b>IN FAVOR</b>
AMOS	YES
TURNER	YES
DAVIS	YES
MULLINS	YES
SILVERMAN	YES

### CHAIR AMOS

The next BOA alternate recommendations. Do we have any recommendations? There's a list on the back. I think we need two positions. Is it two positions?

### VICKIE MULLINS

Three?

### LATASHA JOHNSON

There are three vacant slots, yes. For the alternate position.

### VICKIE MULLINS

For the alternate position only.

### KENNETH TURNER

Did we pick up any?

### VICKIE MULLINS

We tabled it. So, it's already been tabled.

### GARY SILVERMAN

We're supposed to select three out of that list. Is that it?

### CHAIR AMOS

Any recommendations?

### VICKIE MULLINS

We have to choose three, right? Recommend, three.

### TELLY SHINAS

Madam Chair, you can pick one. You can pick two. You can pick three.

### GARY SILVERMAN

They all seem like nice people.

Amy H. Cannon  
County Manager

Tracy Jackson  
Assistant County Manager



Rawls Howard  
Director

David Moon  
Deputy Director

ROBERT DAVIS

Pick them this evening, or do you want to wait?

CHAIR AMOS

We're not going to know any of them.

ROBERT DAVIS

Well, we can push it bac. Wait another month give us a chance to do some research.

KENNETH TURNER

I'd like to look these folks up a little bit to be honest with you.

So, you want to table it?

VICKIE MULLINS

I'm just seeing it.

KENNETH TURNER

I've seen this before, but I've already discounted a couple. So that means that makes me want to check on the others that I haven't discounted.

CHAIR AMOS

What kind of check are you doing?

KENNETH TURNER

Social media, and you can do background checks. You can google somebody's name and come up with all kinds of information.

VICKIE MULLINS

Well, I'll make a motion that we table it to next month to give us time to look this over even more thoroughly.

ROBERT DAVIS

Second that motion.

ROBERT HASTY

Can I just inquire if there are cases for next month?

CHARIS PORTMAN

Yes.

ROBERT HASTY

I wouldn't want to come here just for that.

CHARIS PORTMAN

So far there's one.

CHAIR AMOS

Everybody just make sure you're all here next month. Okay make a motion to table it.

Amy H. Cannon  
County Manager

Tracy Jackson  
Assistant County Manager



Rawls Howard  
Director

David Moon  
Deputy Director

VICKIE MULLINS

I did.

ROBERT DAVIS

I seconded it.

CHAIR AMOS

A motion to table the BOA alternate recommendation is tabled. All in favor say Aye/Nay? Motion carries.

**Mrs. Vickie Mullins made a motion to table the BOA recommendation until the next meeting, seconded by Mr. Robert Davis. The motion passed unanimously.**

	<b>IN FAVOR</b>
AMOS	YES
TURNER	YES
DAVIS	YES
MULLINS	YES
SILVERMAN	YES

ROBERT DAVIS

I have one question. When we made the motion about adopting the minutes, did we carry that motion? Do we have to carry that motion.

CHAIR AMOS

I believe we did.

ROBERT DAVIS

I know it was seconded, I didn't know if we carried it or not.

LATASHA JOHNSON

Let me double check my notes.

ROBERT DAVIS

I just want to make sure.

LATASHA JOHNSON

Ok, I have a motion was made by Mr. Turner and seconded by Mr. Davis.

ROBERT DAVIS

We didn't carry it. We need to carry it right?

CHAIR AMOS

Thank you. What were we talking about, the minutes?

ROBERT DAVIS

We need to carry the motion to adopt the minutes.

Amy H. Cannon  
County Manager

Tracy Jackson  
Assistant County Manager



Rawls Howard  
Director

David Moon  
Deputy Director

## Board of Adjustment

### CHAIR AMOS

A motion to approve the minutes was approved and carried.

### ROBERT HASTY

Just ask for the vote.

### CHAIR AMOS

All in favor of approving the minutes for October 20, say aye. Nay? Motion carries.

**The motion to approve the October 20, 2022, minutes passed unanimously.**

	<b>IN FAVOR</b>
AMOS	YES
TURNER	YES
DAVIS	YES
MULLINS	YES
SILVERMAN	YES

### CHAIR AMOS

Motion to adjourn.

**Meeting adjourned at 6:59 p.m.**

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Linda Amos, Vice - Chairman

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LaTasha Johnson, Sen. Admin Support Spec.