

TOWN OF SEVEN DEVILS
BOARD OF ADJUSTMENT MEETING
Tuesday, October 26, 2021
5:30pm

- 1) Call to Order
 - 2) Roll Call/Quorum 4 BOA minimum
 - 3) Adopt Agenda Motion
 - 4) Old Business
 - A. Approve Minutes Motion
 - (i) Board of Adjustment – Public Hearing - June 21, 2021
 - (ii) Board of Adjustment – Meeting – June 22, 2021
 - 5) New Business
 - A. Application for Variance – Michael Zavislak – 178 Woodwinds Circle
 - (i) Open Evidentiary Hearing Motion
 - (ii) Hearing Notifications - Clerk
 - (iii) Opening Statement – Chair
 - (iv) Determination of Witnesses
 - a) Parties with Standing
 - b) Expert Witness
 - c) General Witness
 - (v) Witness Oath – Clerk
 - (vi) Disclosures
 - (vii) Presentations – Debbie Powers, Town Manager/Zoning Administrator
 - a) Findings of Fact
 - b) Timeline of Communications
 - (viii) Presentation of Application/Testimony/Argument – Michael Zavislak
 - (ix) Other Parties with Standing/Testimony/Argument
 - (x) Other Witness Testimony
 - (xi) Discussion/Board Deliberations on Variance Request
 - (xii) Decision – Approval, Approval with Conditions or Denial
 - (xiii) Close Evidentiary Hearing Motion
 - B. BOA Applications/Recommendation to Town Council Motion
 - 6) Adjourn Motion
-

<https://global.gotomeeting.com/join/163693237>

You can also dial in using your phone.

(For supported devices, tap a one-touch number below to join instantly.)

United States: +1 (224) 501-3412

- One-touch: <tel:+12245013412,,163693237#>

Access Code: 163-693-237

Town of Seven Devils

Board of Adjustment

Public Hearing – Clevon Woods LLC – Special Use Permit Application

Monday – June 21, 2021 1:00pm

The Seven Devils Board of Adjustment held a Public Hearing on Monday, June 21, 2021, with the format of this Public Hearing being dual Electronic – GoTo Meeting #685942517 and In-Person at Town Hall. Attendance In-Person included Chair Bob Bridges, Frank Sell, Bobbye Hurlbrink & Faye Brock. Alternate John Wells attended remotely with visible video display and observed. Member Jack Byrnes and Alternate Bert Valery were absent. A quorum was met. The minutes were recorded by Town Manager, Debbie Powers.

Applicant: Charlie Clement, Managing Partner of Clevon Woods Associates, LLC

CALL TO ORDER

Chair Bridges called the Public Hearing to order at 1:00pm.

ROLL CALL

Board of Adjustment members Faye Brock, Bob Bridges, Bobbye Hurlbrink, & Frank Sell stated their name and announced their presence for Roll Call.

OPEN PUBLIC HEARING

Member Sell made a motion to open the Public Hearing; Member Brock seconded the motion. All members agreed.

PUBLIC HEARING NOTIFICATION

Town Manager Debbie Powers reported the methods used for notification of the Public Hearing. These include letters to “those with standing”, signage at Town Hall & Aldridge Road lot, and publication in the Watauga Democrat on Wednesday, June 9, 2021.

Documents for verification included in the agenda packet.

PUBLIC HEARING INTRODUCTION

Prior to the Public Comment, Chair Bridges stated the following Public Hearing Introduction Statement.

“I’d like to make a statement as to the purpose of this Public Hearing, to outline what it is, and what it isn’t.”

This hearing is to give the public an opportunity to speak regarding the particular case to be decided. Anyone can attend. It is not to give the public an opportunity to present additional evidence that should be presented at the evidentiary hearing regarding this case, or to cross examine or question any party to this case.

This Board is required to make its decision solely on the testimony and evidence presented at the evidentiary hearing, where “parties with standing” - and others who would incur “special damages” as a result of the Board’s decision - present evidence and testimony. “Special damages” are those distinct from damages to the public at large. Any “party with standing” who wishes to present evidence here must be sworn in. I will request, however, that such sworn testimony be presented at the continuation of the formal evidentiary hearing scheduled for tomorrow at 5:30 pm in this same room.

Anyone who wishes to speak in person at this hearing must sign in prior to speaking. A sign-up sheet is available at the podium. Those wishing to speak virtually must identify themselves, and we will add those names to the sign-up sheet. If comfortable, please remove masks while speaking for purposes of accurate transcription of your comments, which will be made part of the public record regarding this case.

Each person will be given a maximum time limit of 3 minutes to speak for public comment. The Manager will keep the time. I ask each speaker to restrict their comments to the case being decided. Any person who interrupts, disturbs, or obstructs this hearing will be asked to leave.

At the conclusion of this Public Hearing today, the public will be given a “public comment period” of 24 hours to email their comments regarding this case.

The email address is publiccomments@sevendevils.net

PUBLIC COMMENTS

Andy Hill, 164 Depot: Representing the Watauga River Keepers; has concerns about the placement of the Wastewater Treatment Plant in the floodway, as designed. After reviewing the documents, placement is too close to the river. Urge Board to be good neighbors and good stewards of the environment. Concerns of river discharge levels; the Watauga River is a vital economic resource & drinking water. Not just one bad project, but a collection of all will contribute to the death of the Watauga River. River Keepers perform weekly testing along river for e coli bacteria; This board is responsible for protecting your neighbor.

Ken Townsend, 393 Aldridge Road: Family owns 2 homes on 7 acres on the other side of the river; wind blows from the NW and the scent will be present at my front door. This WWTP will infringe on my rights; there will be discharges into the river; you folks have responsibility to protect our rights; the plant should be located on the 18 acres across Highway 105.

Wayne Catoe, 461 Aldridge Road: Concerns started when this property was annexed into Town limits; the people making these decisions are not affected because they do not live here. Will the discharge be tested on a regular basis? Will the plant be manned? If polluting, will it stop? Or will their hands just be slapped? Unless you live in the community, you have no skin in the game, no impact on your lives.

Andy Hill, 164 Depot: All WWTPs start out with good intentions, but fail at some point, is never 100% dependable. Most are operating beyond capacity and are poorly maintained; must consider 20-30-40 years in the future for development, and plan for the worst.

George Warren, 201 Roseway Bay: Lives in community across the street behind the gas station; speaking for the Property Owners Association who are completely opposed to the WWTP; concerns about the river; this is a bad idea; concerns about closeness to homes.

CHAIR called for any additional Public Comments; hearing none, he reminded that emailed comments will be accepted until 1:30 pm on Tuesday, June 22, 2021.

ADJOURN

Member Brock made a motion to adjourn the Public Hearing; Member Sell seconded the motion. All members agreed. The Public Hearing adjourned at 1:16 pm.

Robert D. Bridges, Chairperson

Debbie Powers, Town Manager

**Town of Seven Devils
Board of Adjustment Meeting
Tuesday - June 22, 2021
5:30pm**

The Seven Devils Board of Adjustment met on Tuesday, June 22, 2021, and the format of the meeting was dual format via Electronic – Go To Meeting #464544581 and In-Person at Town Hall.

In-Person attendance included Regular members: Bob Bridges, Faye Brock, Jack Byrnes, Barbara Hurlbrink & Frank Sell. A quorum was met.

Alternate John Wells attended remotely with visible video display and observed. Alternate Bert Valery was absent.

Staff attendance included:

Debbie Powers, Town Manager/Zoning Administrator

David Poore, Town Engineer

Rob Angle, Town Attorney

The minutes were recorded by Town Manager Debbie Powers.

Also in attendance was Charles Clements – Applicant, Clevon Woods Associates, LLC.

1) CALL TO ORDER

Chair Bridges called the meeting to order at 5:30pm.

2) ROLL CALL

Board of Adjustment members Frank Sell, Faye Brock, Bob Bridges, Barbara Hurlbrink, Jack Byrnes, and Alternate John Wells stated their name and announced their presence for Roll Call. A quorum was met.

3) ADOPT AGENDA

Member Brock made a motion to adopt the agenda; Member Sell seconded the motion. All members agreed.

4) OLD BUSINESS

A. APPROVAL OF MINUTES

(i) Board of Adjustment – Public Hearing - May 24, 2021

Member Sell made a motion to approve and adopt the minutes; Member Brock seconded the motion. All members agreed.

(ii) Board of Adjustment – Meeting – May 25, 2021

Member Sell made a motion to approve and adopt the minutes; Member Brock seconded the motion. All members agreed.

B. Clevon Woods Associates, LLC Application for Special Use Permit for WWTP

(A) Move Evidentiary Hearing out of Recess – Motion made by Member Byrnes, seconded by Member Brock; All Members agreed.

(B) Additional Disclosures – Chair Bridges remarked that he had been emailed a copy of the Sweeting Affidavit; hard copies are provided to the Members. No additional disclosures. No Party with Standing objected to any Board member participating in the Evidentiary Hearing.

(C) – Determination of Witnesses – two additional email public comments were received in the assigned 24-hour period immediately after the Public Hearing. These emails are accepted.
Comment from the Chair: “During the Evidentiary Hearing one month ago, the Applicant submitted a sworn affidavit from Chad Vincent, a licensed real estate broker, to provide an “Expert Opinion” that the proposed use (meaning the WWTP) would have no detrimental effect of the adjoining Probst land, but would, if anything, increase the value of the Probst land; and that the proposed use will not seriously interfere with existing uses of adjacent properties (Probst and VestPockets); and that the proposed use will not substantially injure the value of adjoining or abutting property. The Chair disqualified the sworn opinion as “Expert” due to the omission of sufficient data and methods of analysis substantiating the opinion given. Mr. Clement disagreed with this action. I should have, at that time, had the Members of this Board vote on whether the Vincent opinion should be introduced into the record as “Expert”. I apologize to Mr. Clement and this Board for my oversight and would like to correct that omission now. It is my position that for an opinion to be considered “Expert”, such opinion must be supported by sufficient data and reliable methods. According to the Quasi-Judicial Handbook, even if an individual is qualified as an expert, he still must substantiate the expert opinion provided through sufficient data and reliable methods. An example is given that an appraiser needs to show the analysis used to establish the expert opinion about impacts to property values (page 41). Unsubstantiated opinions from real estate brokers would be no different than unsubstantiated opinions from qualified appraisers. While Vincent’s background would qualify him as an Expert, his unsupported opinion should not be introduced into the record as “Expert”. The same disqualification would occur if the situation was reversed...an unsubstantiated opinion from an equally qualified real estate broker stating that the proposed use would have a detrimental impact on adjoining property values should be disqualified for the same reason. From the Handbook, page 84: “Board cannot base a finding about property value impacts on opinion testimony unless it is offered by a qualified expert witness who has conducted a formal study of the potential impacts. Mr. Clement, I would like to give you an opportunity for rebuttal comments.” Mr. Clement stated that he takes no issue with this statement. Chair Bridges asked the Board to vote: “Should the Vincent opinion regarding the impact on adjoining land values be considered as “Expert” – Yes, it should be introduced into evidence as Expert Opinion, or no, it should not be introduced into evidence as Expert Opinion.” The Board then voted as follows: Member Sell-NO, Member Brock-NO, Chair Bridges-NO, Member Hurlbrink-NO, Member Byrnes-NO. Evidence is thus dismissed.

(D) – Witness Oath – no additional witnesses.

(E) – Witness Testimony – Mr. Charlie Clement – addressed the emailed comments received on this date. Submitted two affidavits – one from Mr. Tatum (a Party with Standing by virtue of his recent purchase of the abutting Probst property), owner of Grandfather Winery, who support this application:

second one from Mr. Sweeting, real estate appraiser. Mr. Clement pointed out paragraph 6, which points out that he (Sweeting) personally inspected the property. The UDO – Article 14 states that the burden of proof is on the applicant. Section F addresses the adjacent and abutting properties and the possibility of damage or injury to the owners. Chair stated that he would accept both affidavits into this case due to the fact that one is from a Party with Standing (Tatum) and that Sweeting’s background qualified him as an “Expert”, that he inspected the subject property, and had previously been qualified as an “Expert Witness” by the NC Superior Court. Chair did state, however, that the Board members would decide how much weight to place on the Sweeting testimony in its deliberations; Chair asked if the Members of the Board had any objections to the inclusion of the “Expert Opinions”; there were none. Chair asked the Board for any additional questions of Mr. Clement. Member Hurlbrink asked about the age of the tanks; Mr. Clement stated that the tanks sitting upon the property were previously used & purchased by Aqua, Inc. Mr. Clement said that the tanks are 25 years old but will be inspected by the State of NC. Member Hurlbrink asked who performs the periodic operational testing; Town Engineer responded that the State and the operator will test at least monthly, possibly on a weekly basis. Chair responded that it was his understanding that daily tests would be performed, and monthly reports go to the State. Member Brock asked about Acts of God & who would respond to the emergency. Mr. Clement stated that the operator would respond. Mr. Clement stated that the Town would not be involved in the daily or monthly monitoring or operations of the WWTP; this responsibility would lie on the operator or the State to inspect & test. Member Hurlbrink asked about the odor or stench that was mentioned in one of the Public Hearing emails; Mr. Clement responded that the Civil Engineer had addressed this issue by enclosing the plant in a building. Chair Bridges asked about the fencing plan, as there was a discrepancy between previous testimony and the Application; Mr. Clement responded that the application states that the fence will surround the building. Chair Bridges asked for any additional questions; there being none, Mr. Clement made a closing statement, which included the history of the permitting process starting back in the 1980’s. This project has been 40 years in the making. The State approved the permit & had to re-work the permit in 2017. Any permitting objections should go to the State. In this economic climate, it is time to move forward with plans. The old Carlton Gallery will be turned into a restaurant, the Speedway gas station will be able to cease pumping their tank & hook up to the WWTP. Grandfather Winery will be able to expand their business, and the 18-acre parcel owned by Clevon Woods Associates, LLC on Hwy 105 will be able to be developed. Burden of proof is on the applicant and sworn testimony has been provided. The six points in UDO Article 14 – Section 3 (f) were addressed. Chair thanked Mr. Clement for his comments. Chair asked for any additional testimony before closing the Evidentiary Hearing; there were none.

(F) – Close Evidentiary Hearing - a motion was made by Member Byrnes and seconded by Member Brock to close the evidentiary hearing. All Members approved.

(G) – Board of Adjustment Deliberations – Chair Bridges opened the Deliberations segment, explaining that this is a public discussion. Findings are:

- All required notices have been sent by the Town of Seven Devils to the related parties.
- The Application submitted by Clevon Woods Associates, LLC was complete with required documentation and fees.

- The Applicant submitted sworn affidavits from adjoining property owners (and others) attesting to their knowledge of the use of subject property as a Wastewater Treatment Plant (WWTP) and their acceptance of the use of the property for that purpose.
- The Applicant has been awarded a Permit as a Public Utility to discharge wastewater into the Watauga River by the State of NC, Department of Environmental Quality, Division of Water Resources, subject to effluent limitations, monitoring requirements, and other conditions. Said Permit is current at this time.
- Testimony from the Applicant's Expert Witness indicated that the proposed construction and operation of the WWTP will result in organic odors and mechanical noise, which will be abated by the enclosure planned to house the WWTP, an enclosure not required by State authorities. This opinion was supported by the Town's witness.
- Construction, Operation, and Reporting of the WWTP will be controlled by the State of NC. The Town of Seven Devils has no direct authority over the permitted operations of a WWTP. Any building housing the WWTP will be required to meet all the regulations outlined in the Unified Development Ordinance for the Town of Seven Devils.
- The Applicant specifically addressed the six requirements outlined in the UDO, necessary for a Special Use Permit to be issued.

The Board had no further additional findings to consider. Chair Bridges asked for deliberation comments from the Board:

Member Brock stated that the Expert Witness stated that surrounding property values would not be affected, she felt "property values would go down, based on her experience as a realtor."

Chair Bridges gave his opinion, stating that he "gives no weight to the Vincent and Sweeting Expert Opinion submissions relating to the negative impact on property values in the neighborhood as a result of the proposed construction of a Wastewater Treatment Plant, due to the complete omission of any data, surveys, formal study, or method of analysis to substantiate Expert Opinion. There is nothing for me to evaluate, other than just the opinion given. The Applicant has, however, submitted a sworn affidavit from abutting property owners, Vestpocket Investments, and Tatums (both Parties with Standing), stating that they acknowledge the intended use of the property, and that the proposed use would not create an impediment to the use and enjoyment of their property. The remaining Party with Standing, Blue Ridge Conservancy, provided no sworn testimony as to the case under consideration. Special Use Permits for a WWTP have previously been approved, and subsequently expired, by the respective Boards of Adjustments from Watauga County and the Town of Seven Devils, but on an abutting lot that is considered to be environmentally inferior to the current proposed tract. While prior decisions do not set binding precedents, and each individual case must stand on its own merits, similar facts should generally produce similar results. If this Board should reach a different conclusion than the previous decisions by Watauga County and the Town of Seven Devils, we owe it to the Applicant to explain why we reached a different conclusion. My original three concerns were 1) Discharge into the Watauga River, 2) Curb Appeal of the Project, and 3) Odors. The Town of Seven Devils has no control over the effluent discharged into the Watauga River – that is under the total control of the State of NC. The WWTP will be housed in a metal building, which is not a requirement for WWTPs, surrounded by a wooden fence on all sides, and properly landscaped. The building should abate odors and mechanical noises. As a landowner within the

Town of Seven Devils, the WWTP must comply with all Town Ordinances relating to hazards to the general health, safety, and welfare of the community. There was no opposition, with supporting evidence, presented in the Evidentiary Hearing which show that the Standards required to issue a Special Use Permit will not be met in this case. This Board has one duty to fulfill on this case – to determine if there is sufficient evidence to show that the Application for a WWTP will comply with the standards required for a Special Use Permit as outlined in the Town of Seven Devils UDO.” Chair asked for any additional comments before moving into a vote. Attorney Rob Angle stated that as a Real Estate Attorney, it is his opinion that it would be difficult to quantify more appraisal data than what was presented in the Evidentiary Hearing. Chair Bridges stated that he would have expected to see evidence of researched studies performed in collecting data on property values before and after the installation of a WWTP in similar situations, or at least evidence of appraisals conducted before and after by any “Expert Witness”. Town Attorney said he agreed with this in a residential setting, but not in a commercial setting, and feels that the Affidavit submitted by a Commercial Appraiser is more than sufficient. Chair disagreed and stated that each Board member will weigh all valid Evidence and make an individually informed decision.

(H) - Voting:

Chair Bridges recapped the six Standards that must be met; the Board of Adjustment shall issue a Special Use Permit, unless it concludes that one or more of the following is true:

1. The Application is incomplete.
2. The proposed use will be located, designed, and/or operated in a way that will endanger the public health, safety, or general welfare.
3. The proposed use will seriously interfere with the existing uses on adjacent properties, with the character of the area, or with the purposed of the zone in which it is proposed.
4. The proposed use will impose an undue burden in any public improvements, facilities, or services available to the area.
5. The proposed use will substantially injure the value of adjoining or abutting properties.
6. The proposed use will not be in general conformity with the Vision Statement, Comprehensive Land Use Plan, or other plans officially adopted by the Town Council.

Chair Bridges stated that if any one of these 6 points are TRUE, to vote NO.

Chair Bridges will entertain a motion to Approve, Approve with Conditions, or Deny the Application as presented. Town Attorney Rob Angle noted that there should be a vote on each of the six points, and then move to a motion to Approve, Approve with Conditions, or Deny. Chair Bridges agreed:

Question #1: The application is incomplete.

Member Frank Sell: NO

Member Faye Brock: NO

Chair Bridges: NO

Member Barbara Hurlbrink: NO

Member Jack Byrnes: NO

Question #2: The Proposed Use will be located, designed, and/or operated in a way that will endanger the public health, safety, or general welfare.

Member Frank Sell: NO

Member Faye Brock: NO

Chair Bridges: NO

Member Barbara Hurlbrink: NO
Member Jack Byrnes: NO

Question #3: The proposed use will seriously interfere with existing uses on adjacent properties, with the character of the area, or with the purpose of the zone in which it is proposed.

Member Frank Sell: NO
Member Faye Brock: NO
Chair Bridges: NO
Member Barbara Hurlbrink: NO
Member Jack Byrnes: NO

Question #4: The proposed use will impose an undue burden on any public improvements, facilities, utilities, or services available to the area.

Member Frank Sell: NO
Member Faye Brock: NO
Chair Bridges: NO
Member Barbara Hurlbrink: NO
Member Jack Byrnes: NO

Question #5: The proposed use will substantially injure the value of adjoining or abutting property.

Member Frank Sell: NO
Member Faye Brock: NO
Chair Bridges: NO
Member Barbara Hurlbrink: NO
Member Jack Byrnes: NO

Question #6: The proposed use will not be in general conformity with the Vision Statement, Comprehensive Land Use Plan or other plan officially adopted by the Town Council.

Member Frank Sell: NO
Member Faye Brock: NO
Chair Bridges: NO
Member Barbara Hurlbrink: NO
Member Jack Byrnes: NO

Motion:

The Board of Adjustment voted to Approve the Special Use Permit for a Wastewater Treatment Plant, as submitted in the Application. Motion was made by Jack Byrnes; seconded by Frank Sell, and all Members approved.

Member Frank Sell: Approve
Member Faye Brock: Approve
Chair Bridges: Approve
Member Barbara Hurlbrink: Approve
Member Jack Byrnes: Approve

Motion Passed with 5 ayes and 0 nays.

(5) – NEW BUSINESS – NONE. Chair Bridges thanked all the Members for all their hard work on this case, and the previous two cases processed in the past four months; Chair noting no further business, asked for a motion to adjourn.

(6) - ADJOURN

Member Brock made a motion to adjourn; Member Hurlbrink seconded the motion. All members agreed. The meeting adjourned at 6:40pm.

Robert D. Bridges, Chairperson

Debbie Powers, Town Manager/
Recording Secretary

DRAFT

Article 17—Figure 2—Application for Variance Page 1

Application for a Variance for Property in the Town of Seven Devils

Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
Phone: (828) 963-5343

To The Town of Seven Devils Board of Adjustment:

I, Michael Zavislak, hereby petition the Board of Adjustment for a Variance from the literal provisions of the Seven Devils Unified Development Ordinance because, under the interpretation given to me by the Zoning Administrator, I am prohibited from using the parcel of land in a manner shown by the Scaled Site Plan attached to this application. I request a variance from the following provisions of the Unified Development Ordinance: Article 7, Section 2. Setbacks

I request the variance so that the aforementioned property can be used in a manner indicated by the Scale Site Plan attached to this application or, if the Scaled Site Plan does not adequately reveal the nature of the variance, as more fully described herein (if variance is requested for a limited time only, specify duration of request): Add a shed and an extension to the driveway on the northwestern portion the property.

Scaled site plan is attached along with a stock photo of the shed.

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

A Variance from the regulations of this Ordinance may be granted by the Board of Adjustment if it finds that strict enforcement of the regulations would result in practical difficulties or unnecessary hardships to the applicant for the Variance, and that, by granting the Variance, the intent of this Ordinance, the Vision Statement, and the Comprehensive Land Use Plan will be observed, public safety and welfare secured, and substantial justice done as prescribed by the North Carolina General Statute Article 19-Planning and Regulation of Development. The burden of proving that these conditions exist is on the applicant.

In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to assist the Board of Adjustment in determining their findings:

Article 17—Figure 2—Application for Variance Page 2

1. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance.

Specifically, in reaching their conclusion under this finding, the Board of Adjustment must determine that all of the following are true:

- a. Strict compliance with the regulations allows no reasonable return from, or no reasonable use of, the applicant's property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)
The original driveway of the property does not allow for more than two automobiles to use the residence and the residence lacks storage space for landscaping tools and equipment.

- b. The hardship results from the application of the ordinance. (The Board of Adjustment must limit itself to evidence of hardship resulting from the application of the ordinance to the property involved.) We are currently parking our third vehicle on the side of the house where the proposed driveway extension will be installed. The location of the parked vehicle in an unpaved portion of the yard which gets muddy during rain events. The shed will allow for storage of landscaping tools and equipment which are currently stored in the garage.

- c. The hardship is suffered by the applicant's property rather than personal circumstances. (The hardship must be one that affects the applicant's property directly. The public's hardship is irrelevant. Also, unique personal or family hardships are irrelevant because a variance, if granted runs with the land not with the current landowner's present circumstances.) The addition of the driveway will increase the value of the property while maintaining the natural beauty of the area. The proposed driveway extension and shed are on the side of the residence and barely visible from the roadway.

- d. The hardship is not the result of the applicant's own actions. (The applicant may not show hardship that he inflicted on himself or that the applicant could have avoided.) We purchased the residence on December 29, 2020 and the existing driveway and lack of storage were existing prior to our purchase.

- e. The hardship is peculiar to the applicant's property. (If the hardship results from the conditions that are neighborhood-wide, relief becomes a matter for the Town Council to amend the ordinance.) The driveway extension and shed will be visible from the adjacent homeowner property. The adjacent residence has one window on that side and no decks or exterior outdoor amenities on that side of the residence.

Article 17—Figure 2—Application for Variance Page 3

2. **The variance is in harmony with the general purposes and intent of the Unified Development Ordinance, Vision Statement, and the Comprehensive Land Use Plan, and preserves their spirit.**

State facts and arguments to show that the variance requested represents the least possible deviation from the letter of the ordinance that will allow reasonable use of the land and that the use of the property, if the variance is granted, will not substantially detract from the character of the neighborhood. For installation of the proposed driveway and shed, no trees shall be removed. The proposed driveway will be paved along with the existing paved driveway to be a harmonious larger driveway. The proposed driveway extension will not alter the driveway entrance in the road right of way. The shed will be painted to match the residence.

3. **In the granting of the variance, the public safety and welfare has been assured and substantial justice has been done.**

State facts and arguments to show that, on balance, if the variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.

If the variance is denied, the value of the property will suffer and we will continue parking on the muddy portion of the yard. If we have additional guests that visit us, the proposed driveway can be used for additional parking. Without the proposed driveway extension, our guests will be parking along the roadway adjacent to the public park. There are currently several other residents that use that parking area for overflow parking.

In order for this application to be complete, the applicant must submit the following:

- Two (2) copies of this completed form, typed, or filled out in black ink.
- Two (2) copies of the scaled site plan for the property in question.
- Two (2) copies of any additional information the applicant intends to present at the public hearing.
- List of names and addresses of affected property owners
- Personal or Certified Check for the application fee as specified in the latest Fee Schedule. Application fee shall be paid to the Town of Seven Devils, NC for each application for a Variance in order to cover the necessary administrative costs.
- Names and addresses of owners of property within 100 feet of the property in question (see Figure 17.3).

To be placed on the agenda, completed applications, fees, and all accompanying materials must be presented no less than thirty (30) calendar days before the next scheduled meeting of the Board of Adjustment.

I certify that all of the information presented by me in this application is accurate to the best of my knowledge, information, and belief.

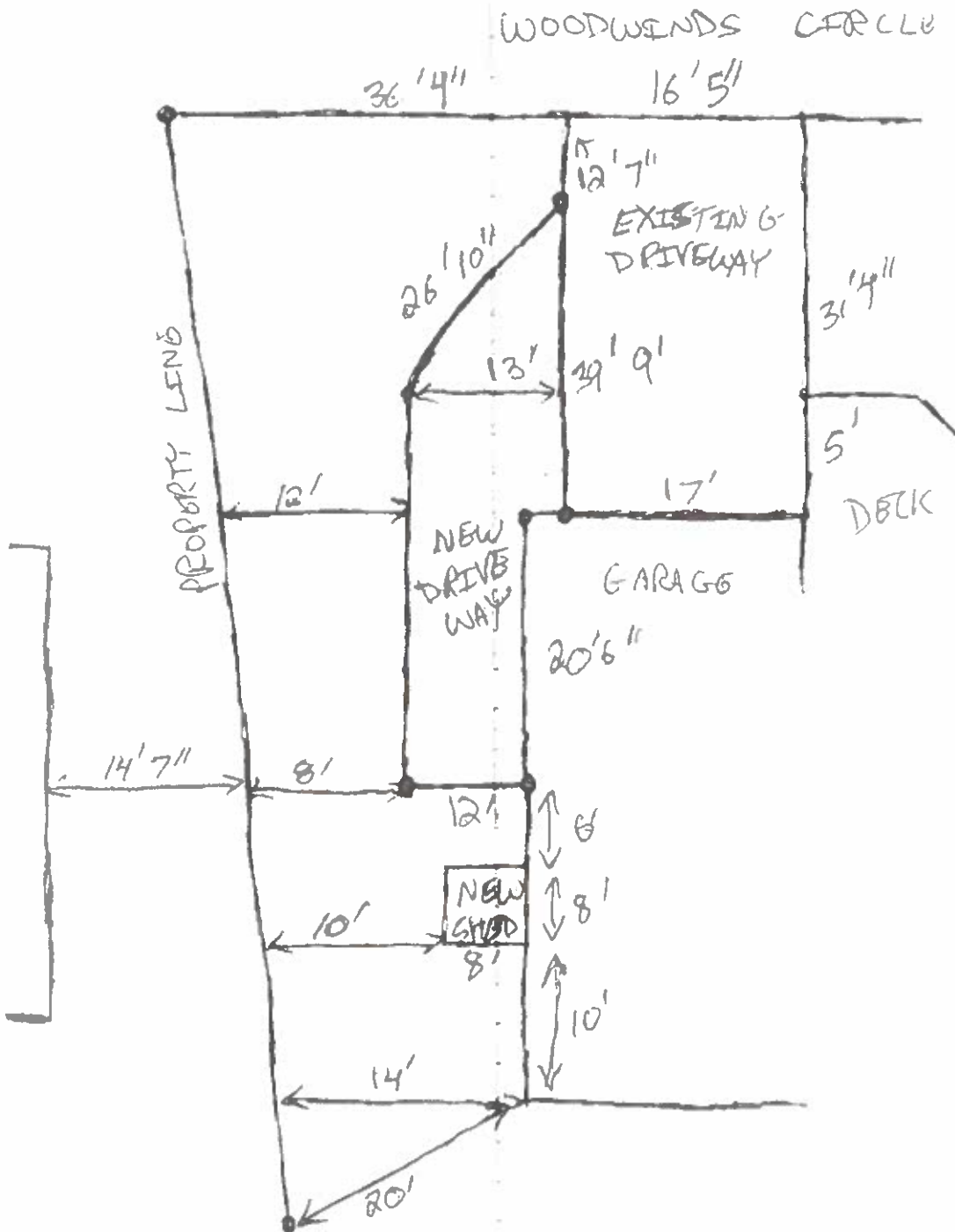

Signature of Applicant

8/23/2021
Date

Amount Paid \$250. Received by: D Powers Date: 8/24/21

ck # 2322

PREPARED BY:	DATE:	CHECKED BY:	DATE:	PROJECT NO:
PROJECT NAME:				SHEET NO OF



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SECURITY INFORMATION

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TOTAL COMMON AREA	
2,000 AC	
0.148 AC	
0.0750 AC	
+ 0.148 AC	
2,470 AC TOTAL	

ROBERT FLETCHER
School of Record Management

1,000 AC	
0.40 AC	
0.250 AC	
<u>0.40 AC</u>	
	TOTAL
1,690 AC	

1-800-368-6868

FILED John T. Parsons
Sergeant at Arms of the Senate
Kathryn J. Bonkett

LE: A REVISION OF WOODWINDS SUBDIVISION

ENT: **WOODWINDS PROPERTY OWNERS ASSOCIATION**

TOWNSHIP	COUNTY	STATE
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OWN OF SEVEN DEVILS	WATAUGA	NORTH
DATE:	SCALE:	
JUNE 15, 2005	1" = 100'	

RALPH E. DAUGHTRY LAND SURVEYING
2043 TYNECASTLE HIGHWAY UNIT 2

INNER ELK, NORTH CAROLINA 28604 PHON

Graph of the probability distribution of the number of successes in 10 trials. The x-axis is labeled "NUMBER OF SUCCESSES" and ranges from 0 to 10. The y-axis is labeled "PROBABILITY" and ranges from 0 to 0.35. The distribution is bell-shaped, centered at 5 successes, with a peak probability of approximately 0.246.

GRAPHIC SCALE - FEET

MAP # D04099

[illegible][illegible]

I, Ralph E. Doughty, Jr., certify that this map was drawn under my supervision from an actual survey made under my supervision (said description recorded in Book , Page) and that the boundaries so surveyed are clearly indicated by colored lines on the original plat. The plat was deposited at the County Clerk's Office on or about the date above stated.

Dated _____ A.D. 19 .

Ralph E. Doughty, Jr.
Surveyor General
of the State of Texas

1. MAURICE L. PALACNETT, JR. CERTIFY THAT THIS
IS A RECOMBINATION SURVEY OF CHROMOSOMES

PHOTOGRAPHS



Gray truck parked in location for new driveway.



Gray truck parked in location for new driveway.



White truck parked in location for new driveway.



White truck parked in location for new driveway.



White truck parked in location for new driveway.



Vehicles parked in driveway.



View of proposed driveway extension.

\$1,314.00

★★★★★
View CMA

Choose your Lowe's Advantage Card offers

\$219 / Month **\$1,248.30**

Suggested payments with 6 month 0% Save 3% on eligible purchases special financing [Learn More](#)

Heartland 8-ft x 8-ft Hamlin Gable Engineered Wood Storage Shed
Item #441205 Model # R3554

Engineered wood siding is factory primed and ready to paint

Features extra wide 56-in double doors with padlock and 6 ft heavy duty piano hinges

Full on-site installation including flooring and shingles available see your local Lowe's associate for details

1 2



Free Store Pickup
Pickup Estimating Tue, Sep 11, 2024



Delivery
Delivery Location Tue, Sep 11, 2024 Schedule Delivery Date



**Heartland 8-ft x 8-ft Hamlin Gable
Engineered Wood Storage Shed**

\$1,314.00

Add to Cart

Overview

Specifications

Reviews

Questions & Answers

Product Features

MICHAEL D. ZAVISLAK
KAREN ZAVISLAK
5 Sherborne Ct
Columbia, SC 29229-7373



2322

67-770/532 9448

8/23/2021

Date

Pay to the

Order of

TOWN OF SEVEN DOVES

\$ 250.00

Two hundred fifty 00/100

Dollars



GLACIER NATIONAL PARK



Wells Fargo Bank, N.A.
South Carolina
wellsfargo.com

For 178 WOODWINDS CIR

[Signature]

[Redacted address line]



The Town of Seven Devils Board of Adjustment will hold an Evidentiary Hearing
Tuesday, October 26, 2021 at 5:30pm
Town Hall
157 Seven Devils Road, Seven Devils, NC 28604

Persons with standing are invited to discuss the request by Michael Zavislak for a Variance at
178 Woodwinds Circle – Seven Devils, NC

Variance Description: Driveway extension & shed encroaching into setback area.

For more information, please contact:

Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
828-963-5343
www.sevendevils.net

Board of Adjustment meeting – October 26, 2021

1) Variance Applicant- Michael Zavislak – 178 Woodwinds Circle, Seven Devils, NC 28604

2) Owner of property & mailing address, per the Watauga County Tax Records
Zavis Echota, LLC – 5 Sherborne Court, Columbia, SC 29229

3) Abutting properties, Properties within 100 ft, Parties with Standing:

Anthony Jones & Karmen Baretich, 109 Woodwinds Lane, Banner Elk, NC 28604

Rosalyn E. Thorpe, 194 Woodwinds Circle, Seven Devils, NC 28604

Quinn A. Morris, 4104 Fox Pointe Court, Glen Mills, PA 19342

Roy Armand Johnson & Debra Rowe Johnson, 215 W. 6th Street, Newton, NC 28658-3107

Feeser Revocable Family Trust, 9280 E. Silver Oaks Trail, Inverness, FL 34450

Woodwinds POA – Common Area- PO Box 2702, Boone, NC 28607

Email: quinnmorris@gmail.com

Notification letters mailed on Tuesday, October 12, 2021

Signs posted on Monday, October 11, 2021 at Town Hall, 7D Community Center & Subject Property

Town of Seven Devils Board of Adjustment

October 26, 2021

Witness Oath

Do you solemnly swear (or affirm) that the evidence you shall give to the board in this action shall be the truth, the whole truth, and nothing but the truth, so help you God?

Name:

Position:

Address:

[illegible]

Findings of Fact – Zavislak Variance Application – Tuesday, October 26, 2021

- The Town of Seven Devils received a Variance Application from Michael Zavislak on August 23, 2021, delivered to Town Hall on this same date, and was reviewed by Zoning Administrator (ZA) on August 24, 2021.
- The application was complete and accompanied by the \$250 fee and all required documentation.
- The property address is 178 Woodwinds Circle (Lot 4) in Woodwinds 1 subdivision; Parcel ID is 1878-23-4854-000, and is .28 acres. Property was deeded to Zavis Echota LLC, a South Carolina Limited Liability Corporation, on 12/30/2020. Michael Zavislak is the Registered agent for the LLC, with address listed as 5 Sherborne Court, Columbia, SC 29229 and status is "Good Standing" (attachment)
- Town of Seven Devils property taxes are currently paid, with a 0 balance.
- Property is in LDR (Low Density Residential) on Official Zoning Map of Town of Seven Devils. Setback regulations are in the UDO (Unified Development Ordinance) on page 38, Table 7.1 (attached) noting minimum front yard setbacks of 30', and minimum side yard setbacks of 15'. The application, as submitted, encroaches onto the side yard setback for both the proposed paved driveway and the storage shed. Table 6.1 (attached) 'Table of Permitted Accessory Uses' permits Storage sheds (not to exceed 200 square feet) in LDR Zoning areas.
- From page 15 in the UDO – "Under no circumstances is the Zoning Administrator permitted to make changes in this Ordinance or to grant exceptions to the actual meaning of any clause, standard, or regulation contained in this Ordinance."

Debbie Powers, CZO

Zoning Administrator

Business Entities Online

File, Search, and Retrieve Documents Electronically

Zavis Echota, LLC

Corporate Information

Entity Type: Limited Liability Company

Status: Good Standing

Domestic/Foreign: Domestic

Incorporated State: South Carolina

Important Dates

Effective Date: 03/20/2018

Expiration Date: N/A

Term End Date: N/A

Dissolved Date: N/A

Registered Agent

Agent: Michael Zavislak

Address: 5 Sherborne Court
Columbia, South Carolina 29229

Official Documents On File

Filing Type	Filing Date
Notice of Change of Designated Office, Agent or Address of Registered Agent	04/16/2018
Articles of Organization	03/20/2018

Table 7.1 – DENSITY, LOT SIZE, HEIGHT LIMIT, AND SETBACK

Zoning District	LDR	MDR	HDR	SC	RB	GB
Minimum Lot Size	43,560 sq. ft.	14,500 sq. ft.	21,500 sq. ft.	---	5,000 sq. ft.	5,000 sq. ft.
Maximum Density (dwelling units/acre)	1	3	6	3	---	18
Maximum Lot Coverage	25%	35%	50%	---	50%	50%
Maximum Height	35 feet	35 feet	35 feet	35 feet	50 feet	50 feet
Minimum Lot Width	100 feet	100 feet	50 feet	--	50 feet	50 feet
Minimum Lot Depth	---	---	---	--	75 feet	75 feet
Minimum Front Yard Setback ²	30 feet	30 feet	30 feet	*3	30 feet	30 feet
Minimum Side Yard Setback ²	15 feet	15 feet	12 feet	*3	12 feet	10 feet
Minimum Rear Yard Setback	15 feet	15 feet	12 feet	*3	12 feet	12 feet

REQUIREMENTS

1. The minimum lot size of lots with average slopes greater than 40% shall be increased by 150%; the minimum lot size of lots with average slopes between 30% and 39% shall be increased by 100%; the minimum lot size of lots with average slopes between 20% and 29% shall be increased by 50%. The slope of a lot will be calculated in accordance with Article 9, Subdivision regulations.
2. The Front Yard Setback shall be thirty feet from the edge of the road travel surface, but in no case may any structure or component part of the structure protrude into the right-of-way. Lots with dual road frontage shall adhere to Front Yard setback requirements on all road frontages.
3. Structures shall be located no less than 15 feet from another structure and structures shall be located no less than 5 feet from a road or an adjacent residential subdivision.
4. In lieu of the lot size increases noted in 1) above, the minimum lot sizes for lots with slopes greater than 19.99% may be relaxed by 1/3 with approval from the Zoning Administrator. Approval is contingent upon the property owner submitting a "site and pre-construction plan" that has been certified by a qualified engineer addressing and alleviating all concerns associated with building on steep slopes, i.e., stormwater runoff, erosion, structural integrity, and other site improvement location and integrity issues that may be present because of unique situations at the lot, minimizing potential impact upon adjoining and nearby properties.
5. The total height of the exposed upslope foundation wall cannot exceed three (3) feet (block or concrete covered with stucco). The maximum height of the down slope foundation wall (block or concrete covered with

TABLE 6.1 - TABLE OF PERMITTED ACCESSORY USES**KEY: "---" = Not Permitted; "P" = Permitted; "S" = Special Use Permit required**

	LDR	MDR	HDR	SC	RB	GB
Antenna, Satellite Dish (1 meter Maximum)	P	P	P	P	P	P
Storage Shed (Not to exceed 200 sq. ft.)	P	P	P	P	P	P
Swimming Pool	P	P	P	P	P	P
Gazebo, Open Shelter	P	P	P	P	P	P
Garage/Carport	P	P	P	P	P	P
Fountain	P	P	P	P	P	P
Greenhouse (Not to exceed 160 sq. ft.)	S	S	S	S	P	P
Walk-in Food Coolers	---	---	---	---	P	P
Fuel Tanks (In ground)*	P	P	P	P	P	P
Fence	P	P	P	P	P	P

*Side and rear yard setbacks shall be fifteen (15) feet.

Timeline of Communications between the Zavislaks and Zoning Administrator

1. Tuesday, August 10, 2021 – email and sketch from Karen Zavislak regarding proposed driveway and shed addition (attached)
2. Wednesday, August 11, 2021 – Zoning Administrator (ZA) Debbie Powers visits homesite and emails the Zavislaks requesting a survey to identify the property lines. Expressed concerns about setback encroachment and septic drain field location (attached). Offered guidance on Town's Variance Application option.
3. Wednesday, August 11, 2021 – Michael Zavislak emails the plat & offers to measure distances. ZA responds to let her know.
4. Thursday, August 12, 2021 – Michael Zavislak emails a long description of his interpretation of the UDO, disputing ZA's definition of encroaching onto setbacks.
5. Tuesday, August 17, 2021 – ZA responds via email, so there is clear understanding. Urges homeowner to re-work the dimensions of the driveway to comply with setback regulations and reiterated the Variance option. "The original and continuing intention of the UDO is to preserve the quality and privacy of each and every resident's property, and setbacks were established to enhance that privacy factor".
6. Friday, August 20, 2021 @ 4pm – Michael Zavislak comes to Town Hall (see attachment)
7. Monday, August 23, 2021 – Michael emails, requesting Variance fee
8. Monday, August 23, 2021 – ZA responds that the fee is \$250.
9. Thursday, August 26, 2021 – ZA emails that application for Variance was submitted previous day and was reviewed and processed this date.
10. Thursday, August 26, 2021 – Karen Zavislak emails with her thanks.
11. Tuesday, August 31, 2021 – ZA emails Zavislaks to set schedule for Variance Hearing on October 26th, 2021, at 5:30pm.
12. Monday, October 11, 2021 – emailed Zavislaks to inform of signage posted in their yard, and paper notifications sent in the USPS on October 12, 2021.

Debbie Powers, CZO
Zoning Administrator

Debbie Powers

From: karen zavislak <karenzavislak@hotmail.com>
Sent: Tuesday, August 10, 2021 3:01 PM
To: Debbie Powers
Cc: Quinn Morris; Chloe Zavislak
Subject: 178 Woodwinds Circle home improvement

Debbie,

Please find attached the sketch we have drawn to show what we would like to do to our home. Since we are living here full time now, we need to do some improvements to make this home work better for us. Most of these homes were built as second homes or part time homes. So we are trying to make it work better for us as full time residents. Storage and extra space are needed for

We would like to extend the driveway to the side of the garage. We would pave it, and we would pave our existing driveway to match. We currently have 3 vehicles at our home. Our daughter is getting her driving permit so all vehicles belong to this household. We don't want to be another car that has to park on the circle in the park as sometimes there are multiple cars parked there and makes driving through there difficult for other home owners.

The other improvement we would like to add is a shed on the side of our house towards the back of the home. It would be a wooden structure with a concrete slab and it would be painted the same color as our home. The doors would be facing the neighbor, so it would look more part of the home.

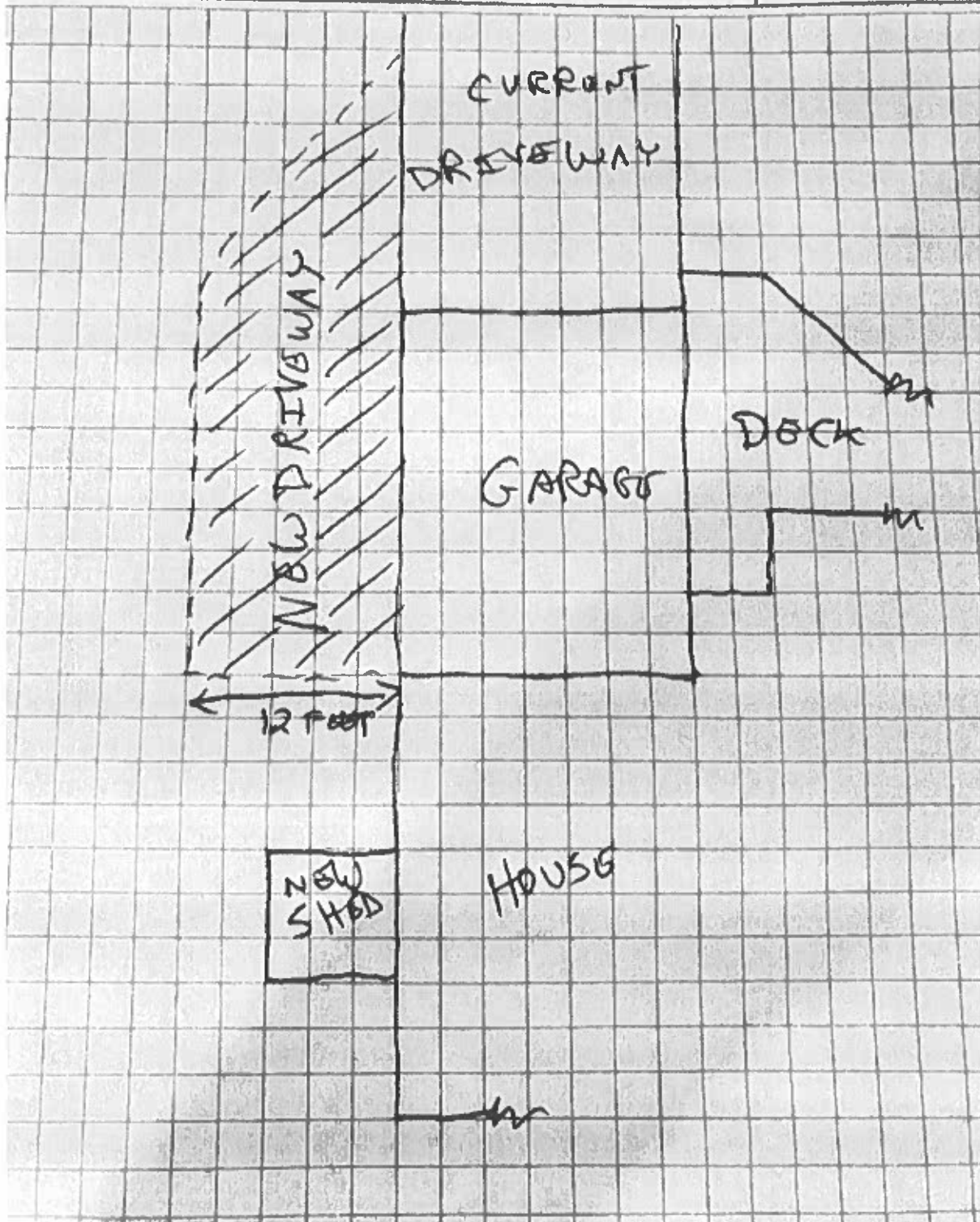
We need more storage. We moved recently and have filled the garage with all of our stuff from moving. And if we could move the stuff from the garage to the shed, it would give us more room in the garage and hopefully we could get 2 cars in there and only have one car on the side driveway. So we could move all cars without issues.

We love living here, and just need a few things to make it the perfect home for us. Thank you! Please contact us or even stop by if you need more information on any of this.

Sincerely,

Karen Zavislak

Get [Outlook for Android](#)



Debbie Powers

From: Michael Zavislak <michaeldzavislak@hotmail.com>
Sent: Thursday, August 12, 2021 8:48 PM
To: Debbie Powers; Karen Zavislak
Subject: Re: 178 Woodwinds Circle home improvement
Attachments: 20210812_095818.jpg

Debbie,

I have reviewed the town ordinance for driveways and structures.

On page 113, Section 5. Driveway construction, I reviewed the requirements for a driveway and our existing driveway meets the requirements as detailed in the town ordinance. Our proposed plan is to extend the driveway to north and alongside our existing residential structure to allow for additional parking. this addition will not alter the driveway access onto the existing right of way. Since we already have driveway attached to the road (a public right of way) and are not altering that portion of the driveway, this ordinance and permit fee does not apply, and the proposed improvements made upon driveway on the interior portion of the lot also do not apply to the proposed driveway addition.

I then reviewed the town ordinance for what constitutes a "Structure" and what constitutes a "Driveway." According to the definition of a Structure, on page 23, a Structure is defined as: *"Anything constructed or erected that requires location on the ground or that is attached to something having a fixed location in the ground, including but not limited to principal and accessory buildings, signs, fences, walls, bridges, monuments, flagpoles, antennas and transmission poles, towers and cables."*

Please note, that driveways are not included in this definition of a structure. On page 18, the definition of a Driveway is defined as:

"A vehicular way, other than a street, ally or easement, that provides vehicular access from a street to or through off-street parking and/or loading areas for (3) or fewer residences."

With those definitions, I reviewed the setback requirements. On Page 36, the Front Yard Setback is 30 feet from the edge of the road travel surface for any structure or component part of the Structure. And the Side Yard Setback is defined as: *"Side yard setback is the distance between side lot lines and the closest wall or projection of a building, including decks, porches and overhangs."* Driveways are not included in this side yard setback definition nor the definition of a structure. Therefore, the setback table, Table 7.1, on page 38 would not be applicable.

I have attached a revised drawing with the proposed dimensions of the driveway addition. We will be sending in a variance request for the shed at a later date. We would still appreciate the town's approval of the driveway and look forward to your response.

Thank you

Michael

From: Debbie Powers <townmanager@sevendeils.net>
Sent: Wednesday, August 11, 2021 4:29 PM
To: Michael Zavislak <michaeldzavislak@hotmail.com>
Subject: RE: 178 Woodwinds Circle home improvement

Great! Hopefully you can find the additional pins on that side & determine the distances from the line to your home. Please let me know!

Debbie Powers
Town Manager
Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
828-963-5343

From: Michael Zavislak <michaeldzavislak@hotmail.com>
Sent: Wednesday, August 11, 2021 4:18 PM
To: Debbie Powers <townmanager@sevendeils.net>; karen zavislak <karenzavislak@hotmail.com>
Cc: Quinn Morris <quinnamorris@gmail.com>
Subject: Re: 178 Woodwinds Circle home improvement

Debbie,
here is the plat from the Register of deeds. i know where the pin is on the corner where the mail box is. i can pull a tape to figure out the lot line and let you know the distance.
thanks
Michael

From: Debbie Powers <townmanager@sevendeils.net>
Sent: Wednesday, August 11, 2021 1:31 PM
To: karen zavislak <karenzavislak@hotmail.com>
Cc: Quinn Morris <quinnamorris@gmail.com>; Chloe Zavislak <michaeldzavislak@hotmail.com>
Subject: RE: 178 Woodwinds Circle home improvement

Hi Karen – we drove by your property today to take a look. Do you have a current survey; did the previous owners convey a survey of the property upon the sale? The only survey we have in our Zoning office is the original subdivision plat from the builder, which does not show any property lines. When we do have not a current survey, we rely on the County GIS maps for guidance.

The reason I ask, is that when I pulled up the County GIS map, it appears that the lot line where you are proposing the driveway extension is already within the setbacks outlined in our Ordinance.
I am attaching a copy of that map; the line I have drawn is 14.4 feet between the edge of your garage and the property line, and the setbacks are 15', so you are already encroaching onto the neighbor's property.
I am attaching Table 7.1 – setbacks – from our Ordinance, and you are located in the LDR zoning district.

Another concern would be the location of your utilities (septic and water lines) – you would need to have those located before any construction would proceed.

There is a Variance process that is available to you if you wanted to proceed to encroach on the neighboring property; the Board of Adjustment would determine your case, and I can help with the administration of that process; it would take about three months, and would include a public hearing.

I know this is a lot of information to absorb; let me know if I can be of further help.

Thank you,

Debbie Powers
Town Manager
Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
828-963-5343

From: karen zavislak <karenzavislak@hotmail.com>
Sent: Tuesday, August 10, 2021 3:01 PM
To: Debbie Powers <townmanager@sevendeils.net>
Cc: Quinn Morris <quinnamorris@gmail.com>; Chloe Zavislak <michaeldzavislak@hotmail.com>
Subject: 178 Woodwinds Circle home improvement

Debbie,

Please find attached the sketch we have drawn to show what we would like to do to our home. Since we are living here full time now, we need to do some improvements to make this home work better for us. Most of these homes were built as second homes or part time homes. So we are trying to make it work better for us as full time residents. Storage and extra space are needed for

GRAPHIC SCALE - FEET

MAP # D04099

ALVIN C. SUGARTY, JR. CLERGY TRUST TRUST
A REDEMPTION SURVEY OF CATHOLIC
WORLD OF LOVE

Debbie Powers

From: Debbie Powers
Sent: Tuesday, August 17, 2021 2:47 PM
To: Michael Zavislak
Cc: karen zavislak; Quinn Morris
Subject: RE: 178 Woodwinds Circle home improvement
Attachments: 178 WW Revised.jpg; 178 WW note.pdf

Michael – Today I have reviewed your email and your revised drawing, and wanted to respond to you via email, so there is clear understanding.

First, I would urge you to determine exactly where your property line is, and secondly, re-work your driveway expansion, specifically, if you reduced the width from 12' down to 8' (allowing more distance from the lot line) and shorten the length of the extension, so that you are within the setbacks, I would be happy to approve your project. As I told Karen on Thursday, I am very willing to work with you on your project, but only within the regulations of the UDO.

The original and continuing intention of the UDO is to preserve the quality and privacy of each and every resident's property, and setbacks were established to enhance that privacy factor. I would guess that if your next door neighbor decided to disregard the setback regulations, and I allowed that same encroachment, you would not be a happy resident.

Of course, you are always welcome to pursue a Variance from the Board of Adjustment. Please let me know if I can help you further.

Regards,

Debbie Powers
Town Manager
Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
828-963-5343

From: Michael Zavislak <michaeldzavislak@hotmail.com>
Sent: Thursday, August 12, 2021 8:48 PM
To: Debbie Powers <townmanager@sevendevis.net>; Karen Zavislak <kzavislak1@gmail.com>
Subject: Re: 178 Woodwinds Circle home improvement

Debbie,

I have reviewed the town ordinance for driveways and structures.

On page 113, Section 5. Driveway construction, I reviewed the requirements for a driveway and our existing driveway meets the requirements as detailed in the town ordinance. Our proposed plan is to extend the driveway to north and alongside our existing residential structure to allow for additional parking. this addition will not alter the driveway access onto the existing right of way. Since we already have driveway attached to the road (a public right of way) and

PREPARED
BY:

DATE:

CHECKED BY:

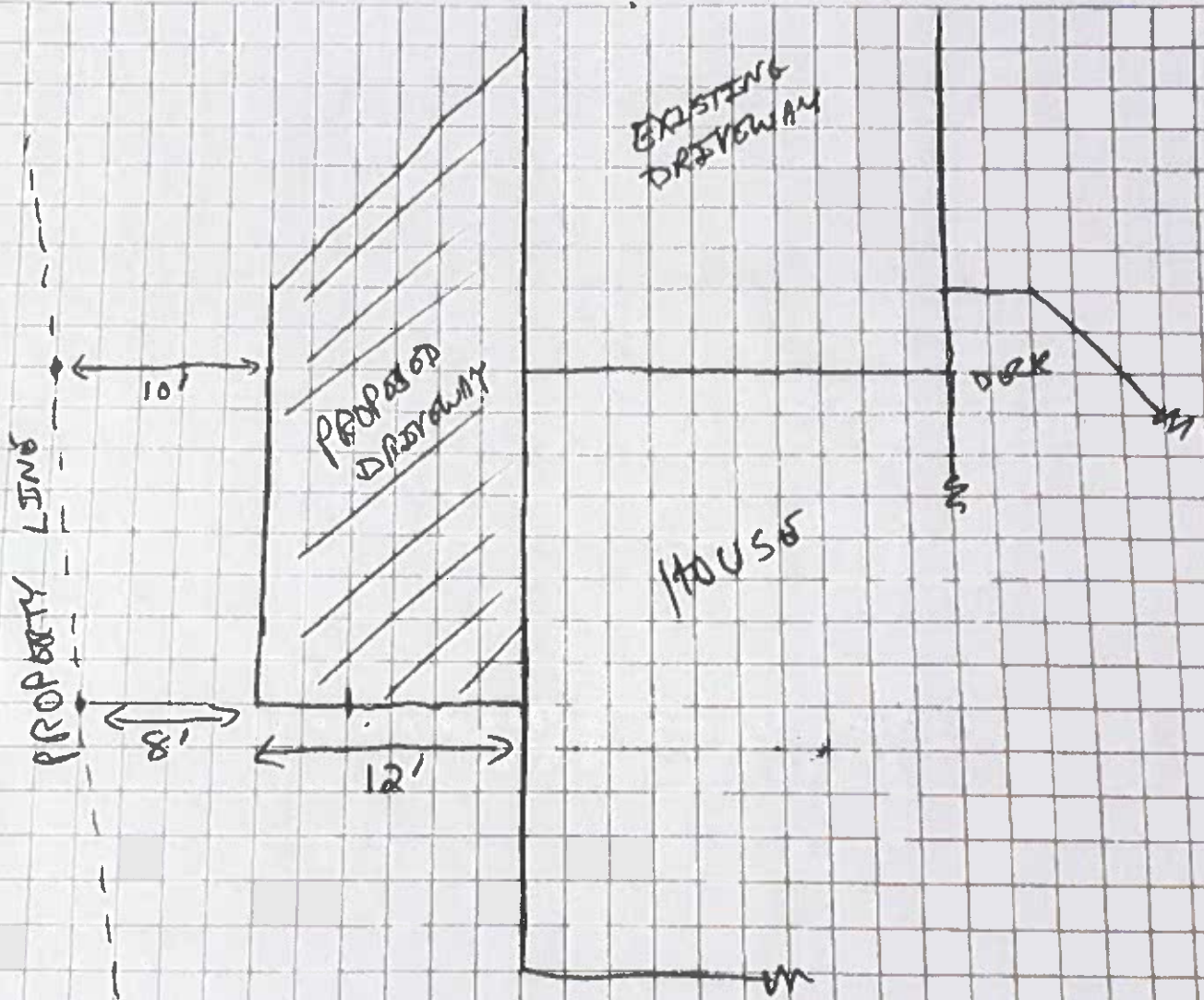
DATE:

PROJECT NO:

PROJECT NAME:

SHEET NO

OF



Friday August 20, 2021 @ 4pm

- Michael comes to Town Hall, no appointment
- Wants to know why I don't call him back; I explained I'd rather discuss his situation via email so there are no misunderstandings, and this leaves a paper trail.
- He stated he wants to pursue a Variance; I explained the process to him. He wanted to know how long this takes.
- He stated my interpretation of the Ordinance is wrong because he "does this" for a living.
- I asked if he read Article 17 of the UDO where it states that the Zoning Administrator makes the determination of the Ordinances. (Below in red)

Article 17. INTERPRETATIONS, APPEALS AND VARIANCES

Section 1. Interpretations

Where there is any uncertainty as to the intent or actual meaning of this Ordinance, or as to the intended location of any zoning district boundary shown on the Zoning Map, the Zoning Administrator shall make an interpretation of said provision or boundary on request of any person.

- He stated that his attorney disagreed with my interpretation, and he told Michael to go ahead & put in the driveway extension, and f*** them.
- He stated he would fill out the Variance application & email it to me. I offered the option of the night drop box since there is a fee and a check required with the Variance application.
- He also wanted to know how fast he could get this done. I explained the timeline, according to the UDO.

Debbie Powers

Town Manager/Zoning Administrator

Debbie Powers

From: Debbie Powers
Sent: Monday, August 23, 2021 9:51 AM
To: 'Michael Zavislak'
Subject: RE: variance permit fees

Good Morning, Michael – the fee for a Variance request is \$250.00 – this can be found in the Budget Ordinance FY22 on page 6 under Planning and Zoning category on our website.
Thank you.

Debbie Powers

Town Manager
Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
828-963-5343

From: Michael Zavislak <michaeldzavislak@hotmail.com>
Sent: Monday, August 23, 2021 8:26 AM
To: Debbie Powers <townmanager@sevendevis.net>
Subject: variance permit fees

Debbie,
can you let me know the fee for the variance request. I could not locate it on your website.
thanks
Michael

Debbie Powers

From: Debbie Powers
Sent: Tuesday, August 31, 2021 5:00 PM
To: karen zavislak; Michael Zavislak
Subject: RE: Variance Application

Dear Zavislaks:

OK, we have a schedule set to hear your case on Tuesday, October 26th, at 5:30 pm at Town Hall before the Board of Adjustment.

If all goes well with our September meetings, we believe that we can hear your case, deliberate, and make a decision at that one meeting, on October 26th, instead of having multiple meetings spread out over several months.

I would encourage you to read the minutes of the October 2017 Board of Adjustment meeting, as this case is very similar to yours:

https://www.sevendevils.net/uploads/media/BOASignedFinalMinutes10_24_2017.pdf

and the decision:

https://www.sevendevils.net/uploads/media/Conclusion_DecisionVarianceBOA10_24_2017.pdf

Note of interest: the applicant in this case, Mr. Bob Bridges, is now the Chair of the Board, so he has been in your shoes, as a requestor of a variance.

I will be in touch as we get closer to the meeting date; meanwhile, if you have any questions, please let me know.

Thank you!

Debbie Powers

Town Manager
Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
828-963-5343

From: karen zavislak <karenzavislak@hotmail.com>
Sent: Thursday, August 26, 2021 9:57 AM
To: Debbie Powers <townmanager@sevendevils.net>; Michael Zavislak <michaeldzavislak@hotmail.com>
Subject: Re: Variance Application

Debbie,

Thank you for keeping us "in the loop". Just let us know if there is anything else you need from us.

Thanks again,

Karen

Get [Outlook for Android](#)

From: Debbie Powers <townmanager@sevendeils.net>
Sent: Thursday, August 26, 2021 9:50:46 AM
To: Michael Zavislak <michaeldzavislak@hotmail.com>
Cc: karen zavislak <karenzavislak@hotmail.com>
Subject: Variance Application

Dear Zavislaks:

I received your Variance Application yesterday & have processed the paperwork this morning.
I will be meeting with the Chair of the Board of Adjustment later today to review your case, and we will begin to set the schedule for the meeting.

We will be checking with all the members to ensure that we have a quorum, as a 4/5 vote is required to approve a Variance.

As soon as we have a schedule, I will let you know. Again, it is my goal to help you with this process, and keep you informed.

Thank you,

Debbie Powers
Town Manager
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Thank you,

Debbie Powers
Town Manager
Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
828-963-5343

Debbie Powers

From: Debbie Powers
Sent: Monday, October 11, 2021 10:57 AM
To: karen zavislak; Michael Zavislak
Cc: Hillary Gropp
Subject: RE: Variance Application

Dear Zavislaks:

We will be installing a sign in your front yard this afternoon, to notify the public of your upcoming Evidentiary Hearing. If my placement does not suit you, please feel free to move it, as long as it can be seen by persons traveling on the road. This is a requirement of the Statutes, as well as the written notices that will be sent out to neighboring properties in the US Mail tomorrow. You will be receiving this notice, as well. If you have any questions, please let me know. Thank you!

Debbie Powers
Town Manager
Town of Seven Devils
157 Seven Devils Road
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828-963-5343

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Thank you,

Debbie Powers

Town Manager
Town of Seven Devils
157 Seven Devils Road
Seven Devils, NC 28604
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Board must make the following 3 findings:

1. There are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance. ALL of the following must be true under this finding:
 - a. The hardship results from the application of the ordinance.
 - b. The hardship is suffered by the applicant's property rather than personal circumstances.
 - c. The hardship is not the result of the applicant's own actions.
 - d. The hardship is peculiar to the applicant's property.
2. The variance is in harmony with the general purpose and intent of the UDO, Vision Statement, and Comprehensive Use Plan, and preserves their spirit.
3. In granting the variance, the public safety and welfare have been assured and substantial justice has been done.

Board of Adjustment: (3-year term)	
Faye Brock	1/1/2022
Jack Byrnes	1/1/2023
Frank Sell	1/1/2023
Bob Bridges	1/1/2024
Barbara Hurlbrink	1/1/2024
John Wells IV – Alternate	1/1/2022
Bert Valery – Alternate Vacant Seat	1/1/2023

Submitted Board/Committee Applications for terms beginning –
January 2022

Board of Adjustment has two (2) expiring terms and one (1) vacant seat
3 year term – Must be property owners or registered voters of the Town – UDO Article 2

Reappointment Applications

Faye Brock
John Wells IV

New Appointment Applications

Stu Ryan – Vacant seat – Term expires 1/1/2023