



CASE NO. 06-00A
MEETING DATE 1-31-06

APPLICATION FOR A VARIANCE

APPLICATION MUST BE FILED IN PERSON, CAN NOT BE ACCEPTED BY MAIL

Variance requested on property located at: 7648 Buckland Rd.
Property Zoned: R-5 Zoning Map #: _____ Tax Parcel #: 113-302-25
Property Owner: PHILIP M. CAREY
Date Existing Structure Erected: 1940?

TO THE MECKLENBURG COUNTY ZONING BOARD OF ADJUSTMENT:

I PHILIP M. CAREY, hereby petition the Board of Adjustment for a VARIANCE from the literal provisions of the Mecklenburg County Zoning Ordinance because, under the interpretation given to me by the Zoning Administrator, I am prohibited from using the parcel of land described above in a manner shown by the Plot Plan attached to this form. I request a variance from the following provisions of the Zoning Ordinance (cite Section numbers and Code requirements):

50 FOOT SETBACK FROM THE SHORE OF LAKE WYLIE
10.708 (1) (a)

Describe the VARIANCE being requested on the above referenced property:

PLACE NEW HOUSE IN SAME ^{APPROXIMATE} LOCATION AS EXISTING
STRUCTURE IN THE 50-FOOT SETBACK ZONE,
REQUESTING A 35-FOOT ENCROACHMENT INTO 50-FOOT SETBACK.

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE:

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board is required to reach three conclusions as a prerequisite to the issuance of a variance: (a) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance, (b) that the variance is in harmony with the general purposes and intent of the Ordinance and preserves its spirit, and (c) that in the granting of the variance, the public safety and welfare have been assured and substantial justice has been done. In the following spaces, indicate the facts and the argument you plan to render, in order to convince the Board, to properly determine that each of these three (3) CONCLUSIONS are applicable to this structure and site.

(a) THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS IN THE WAY OF CARRYING OUT THE STRICT LETTER OF THE ORDINANCE. The courts have developed three rules to determine whether, in a particular situation, "practical difficulties or unnecessary hardships" exist. State facts and arguments in support of each of the following:

- (1) **If he complies with the provisions of the Ordinance, the property owner can secure no reasonable return from, or make no reasonable use of, his property.** (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

NA

MEETING DATE _____

- (2) The hardship of which the Applicant complains results from unique circumstances related to the Applicant's land. (Note: Hardships common to an entire neighborhood, resulting from overly restrictive zoning regulations, should be referred to the Charlotte-Mecklenburg Planning Commission. Also, unique personal or family hardships are irrelevant since a variance, if granted, runs with the life of the land.)

NA

- (3) The hardship is not the result of the Applicant's own actions.

LARGE TREES ~~AN~~ QUESTION ARE VERY OLD.

- (b) THE VARIANCE IS IN HARMONY WITH THE GENERAL PURPOSE AND INTENT OF THE ORDINANCE AND PRESERVES ITS SPIRIT. (State facts and arguments to show that the requested variance represents the least possible deviation from the letter of the Ordinance to allow a 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.)

THE PURPOSE OF THE SETBACK IS TO PROTECT THE WATERSHED.

CHANGING LOCATION OF THE HOUSE SITE REQUIRES CUTTING 3 RED OAK TREES (CIRCUMFERENCE 5', 6', & 7') 2 AMERICAN BEECH TREES (CIRCUMFERENCE

- (c) THE GRANTING OF THE VARIANCE SECURES THE PUBLIC SAFETY AND WELFARE AND DOES SUBSTANTIAL JUSTICE. (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.)

OF EACH MORE THAN 3 FEET) AND ONE HICKORY (CIRCUMFERENCE 2 1/2 FEET) ABOUT 75' FROM WATER

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

Philip M. Carey
Signature of Applicant

PHILIP M. CAREY
Typed or Printed Name of Applicant

1423 LILAC RD
COMPLETE ADDRESS

CHARLOTTE, NC. 28209
City, State, Zip Code

11/21/05
Date

704-377-1775
Telephone Number

Represented By: (signature)

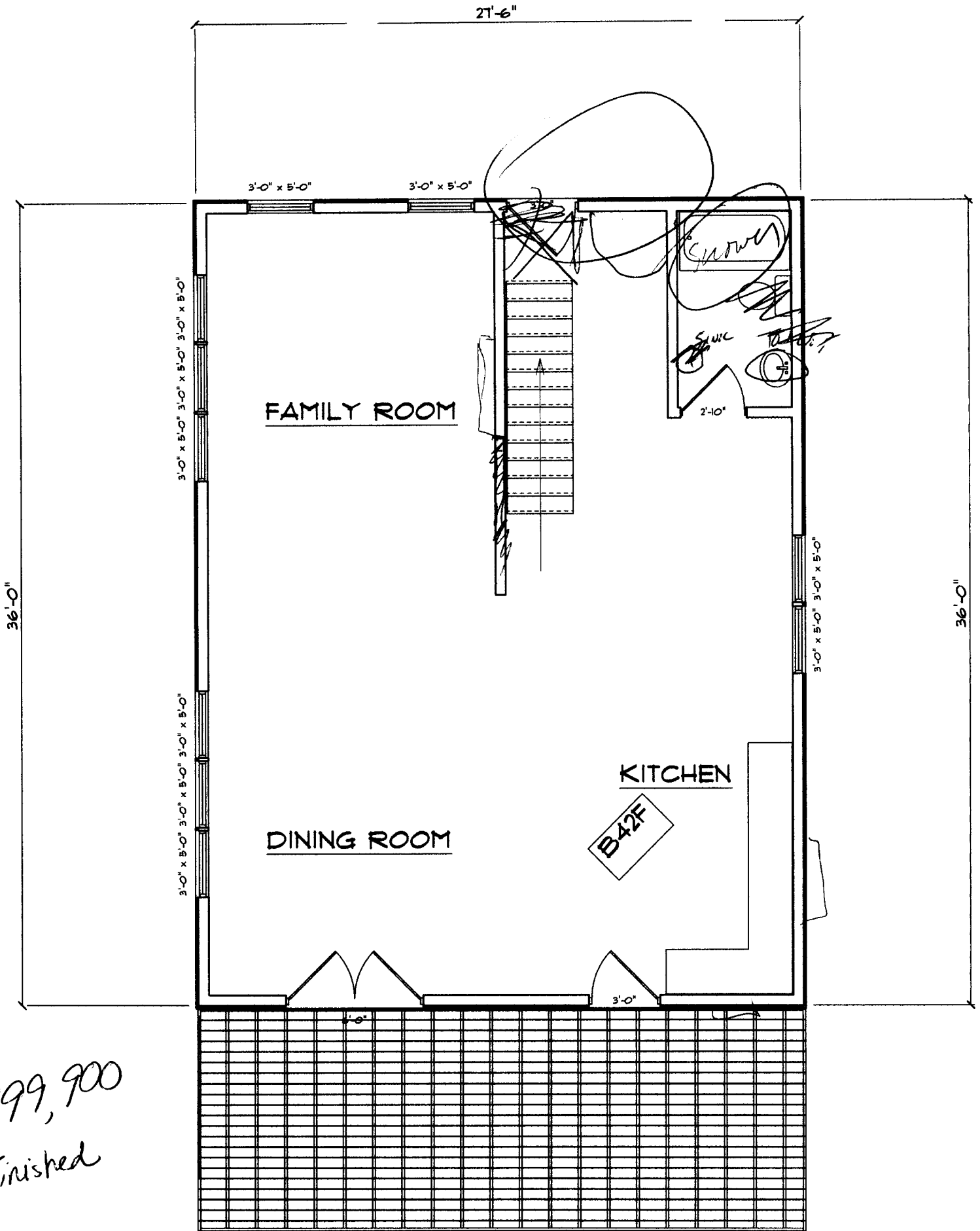
Typed or Printed Name of Above

COMPLETE ADDRESS

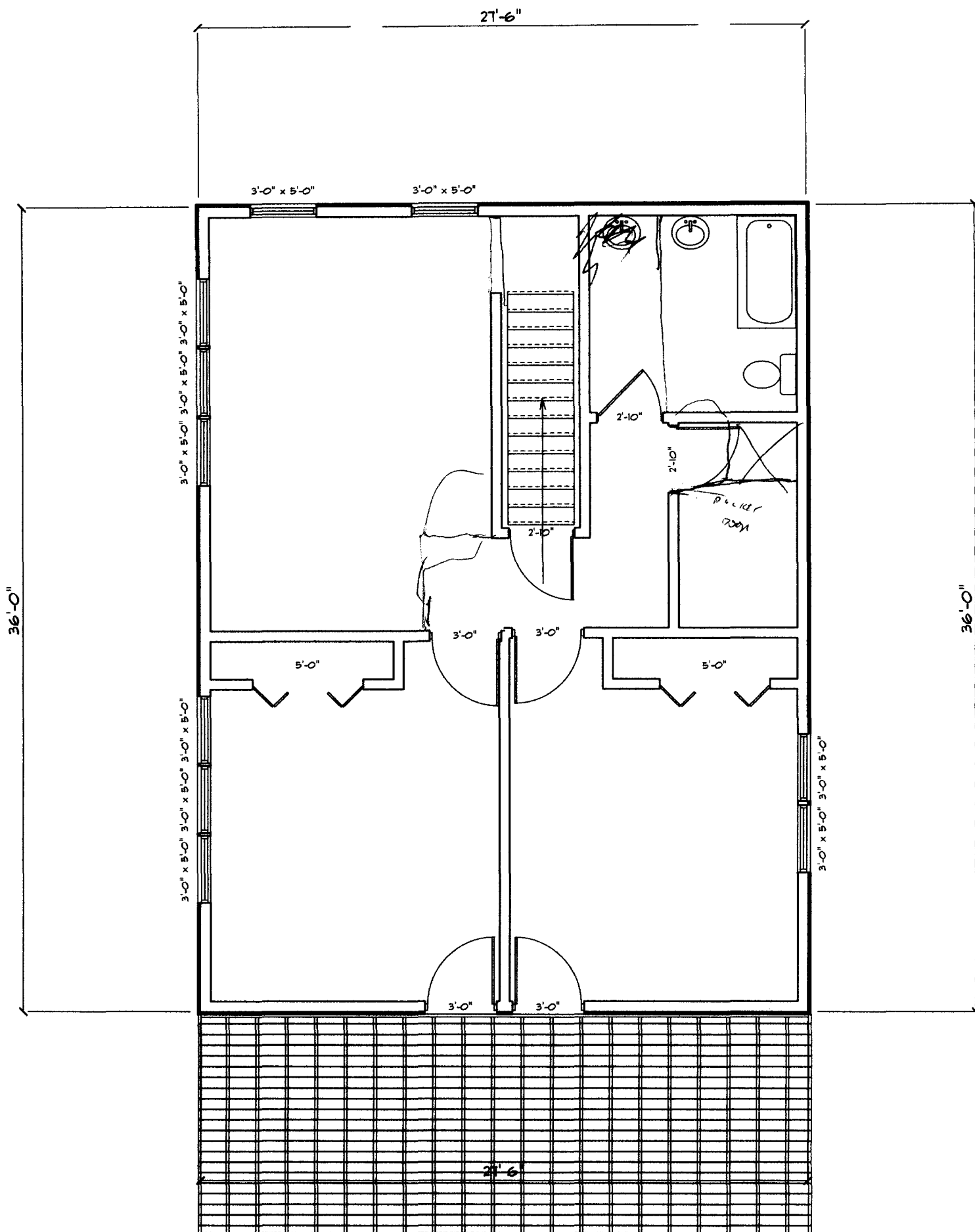
City, State, Zip Code

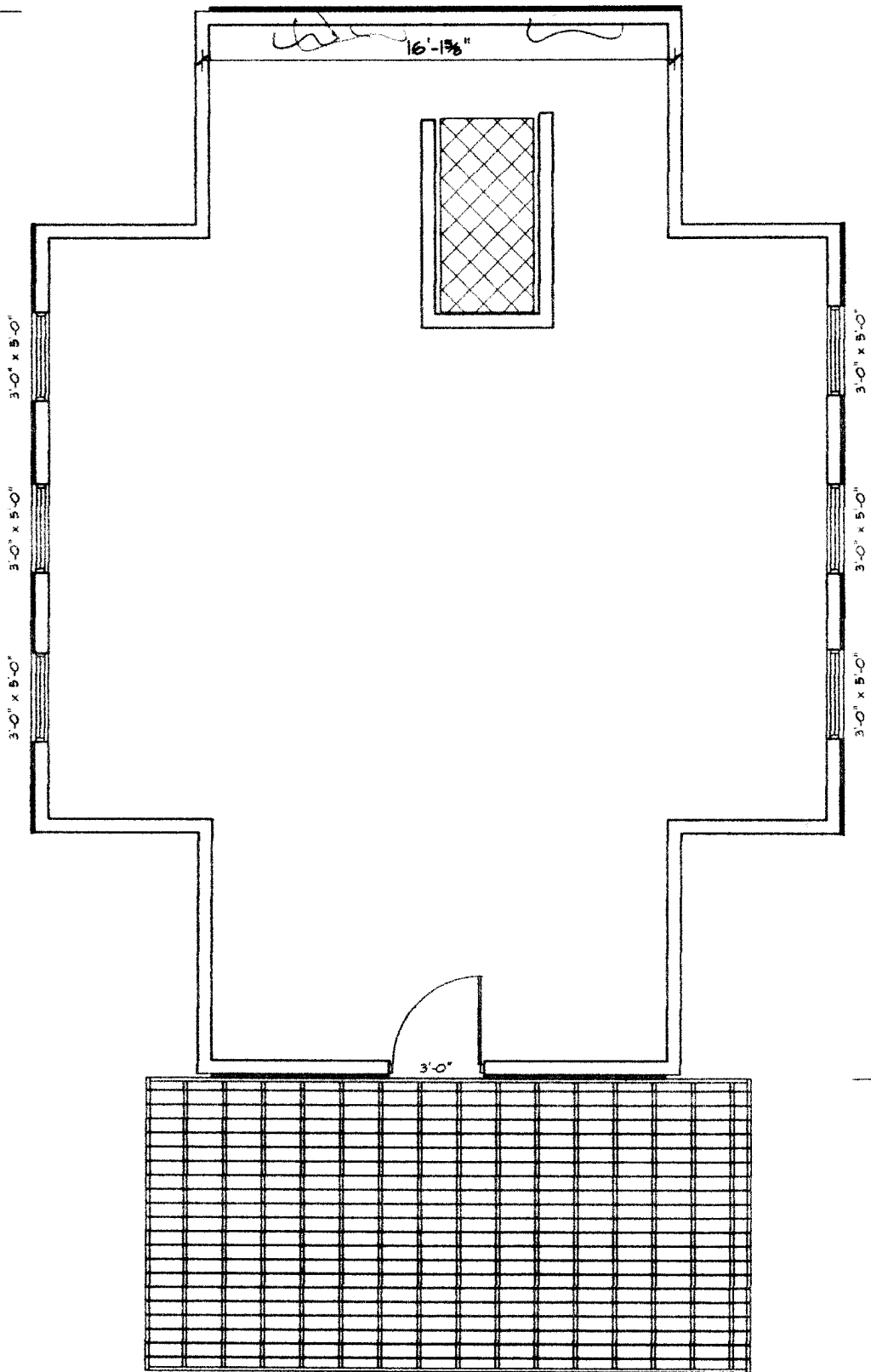
Date

Telephone Number

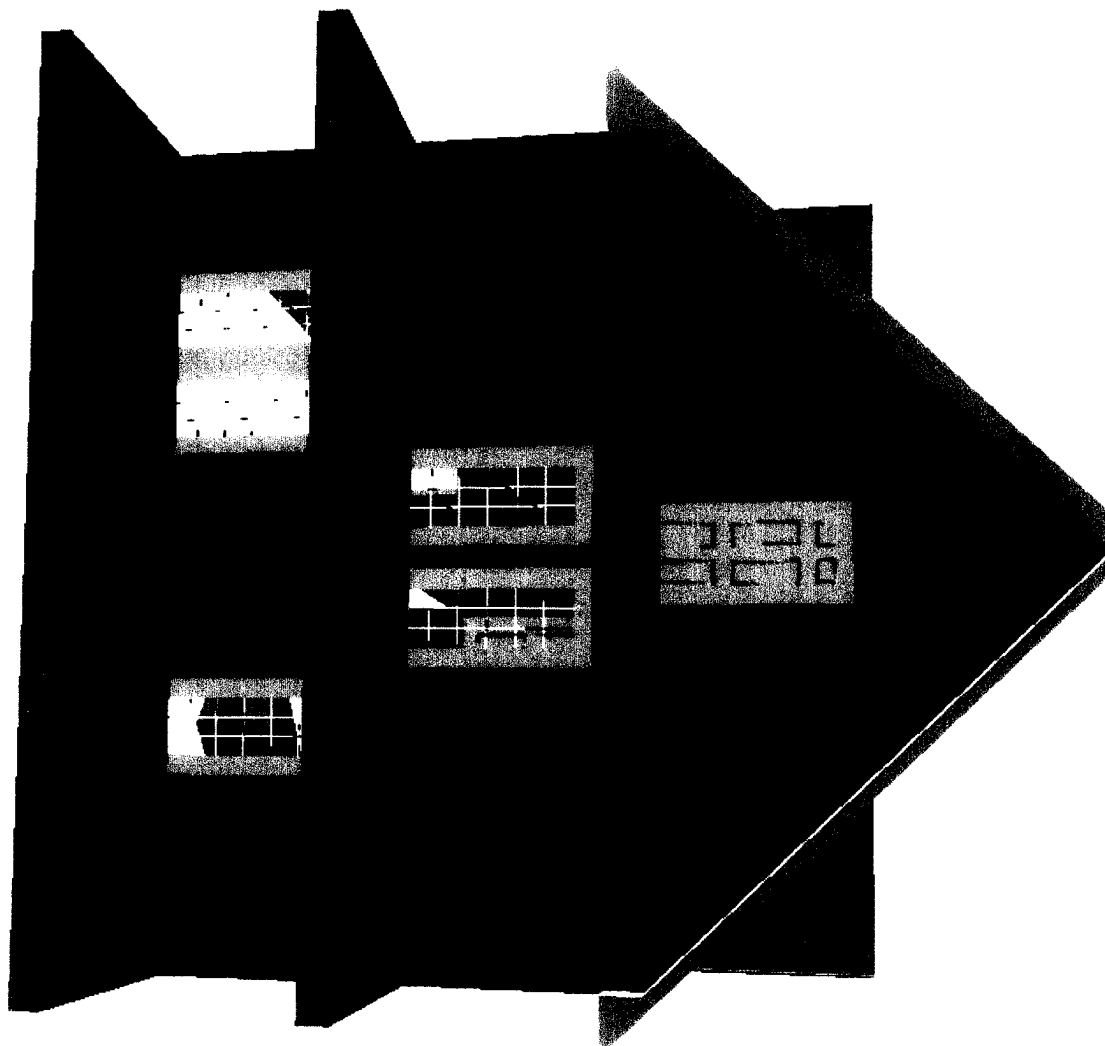


\$199,900
Finished

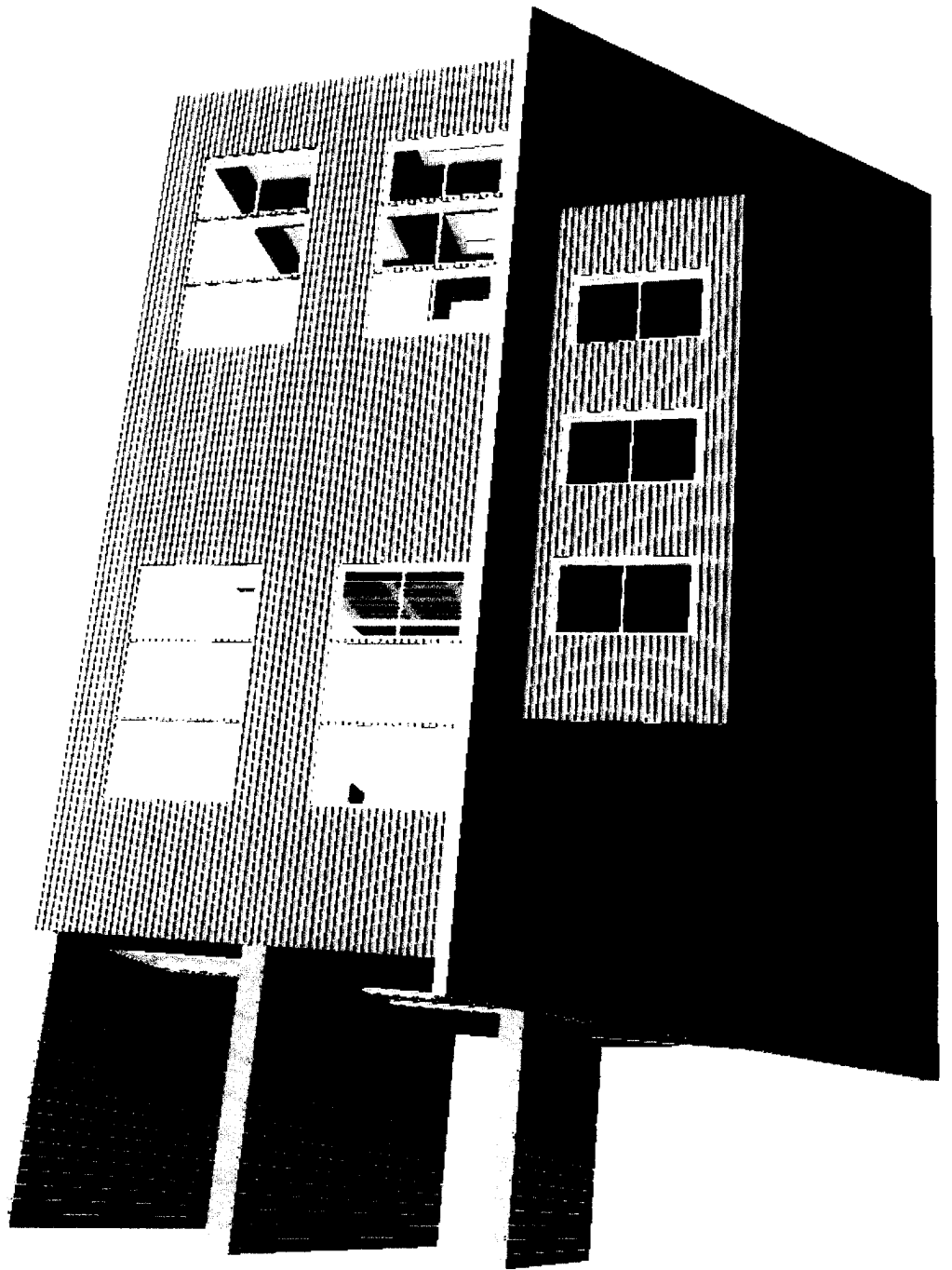




FRONT



SIDE



IF THE APPLICANT IS NOT THE OWNER OF THE PROPERTY, indicate the owner's name and address, along with a notarized letter signifying approval **TO REQUEST A VARIANCE** on his property.

Property Owner NA
(If different from Applicant)

Address _____

City, State & Zip _____

TYPE OR PRINT the **COMPLETE** names, tax parcel numbers, mailing addresses and zip codes for the owners of the adjacent properties, including the properties directly across the street:

ADJACENT PROPERTY OWNERS:

- | | | |
|----|--|--|
| 1. | <u>HOWARD LEWIS</u>
<u>1432 PLEASANT PLAINS Rd</u>
<u>MATTHEWS, N.C. 28105</u> | Tax Parcel # <u>113-30-226</u>
<u>PLAT BK 18, PAGE 49, LOT 23</u> |
| 2. | <u>JACK SMITH</u>
<u>7645 BUCKLAND Rd</u>
<u>CHARLOTTE N.C. 28208</u> | Tax Parcel # <u>113-30-224</u>
<u>PLAT BK 18, PAGE 49, LOT 21</u> |
| 3. | _____ | Tax Parcel # _____ |
| 4. | _____ | Tax Parcel # _____ |
| 5. | _____ | Tax Parcel # _____ |
| 6. | _____ | Tax Parcel # _____ |
| 7. | _____ | Tax Parcel # _____ |
| 8. | _____ | Tax Parcel # _____ |
| 9. | _____ | Tax Parcel # _____ |

(Attach additional sheet if necessary).

These persons, including the Applicant and the representative, will be notified in writing of the date, time, and place of the hearing.

Summary of request for variance by Philip M. Carey

This request concerns my intention to replace an existing cabin (about 34 feet by 20 feet) on a heavily-wooded lot (9/10 acre) on the tip of a point on Lake Wylie. This lot has about 500 feet of shoreline, ^{1/2} on the main channel, and tapers sharply. This variance request is to put a new house (28 by 46 feet) in the same spot as the existing 65-year-old cabin. This cabin is located on the tapered portion of the lot, and is closer to the surrounding lake than the 50-foot setback required by present regulation.

If this variance is granted, placing the new house in the present location will require removal of TWO significant trees:

**1 large red oak (trunk circumference 5 feet), and
1 small red oak (trunk circumference 2 1/2 feet).**

If this variance is denied, building as regulation requires will entail removal of ~~SEVEN~~ SIX significant trees, all 50 to 75 feet from the lake

(all trunk circumferences measured 5 feet from the ground):

**3 red oaks,
trunk circumference 7 feet,
trunk circumference 6 feet, 2 inches
trunk circumference 5 feet**

**2 American beeches,
trunk circumference 3 feet, 9 inches
trunk circumference 3 feet, 3 inches**

**1 hickory,
trunk circumference 2 feet, 3 inches.**

I request this variance in order to use land that is already cleared by the existing cabin, in the spirit of preserving the land as little-changed and as natural as possible, consistent with the goal of regulation.


Philip M. Carey

27'-6"

3'-0" x 5'-0"

3'-0" x 5'-0"

FAMILY ROOM

3'-0" x 5'-0" 3'-0" x 5'-0" 3'-0" x 5'-0" 3'-0" x 5'-0"

3'-0" x 5'-0" 3'-0" x 5'-0" 3'-0" x 5'-0" 3'-0" x 5'-0"

DINING ROOM

KITCHEN

B42F

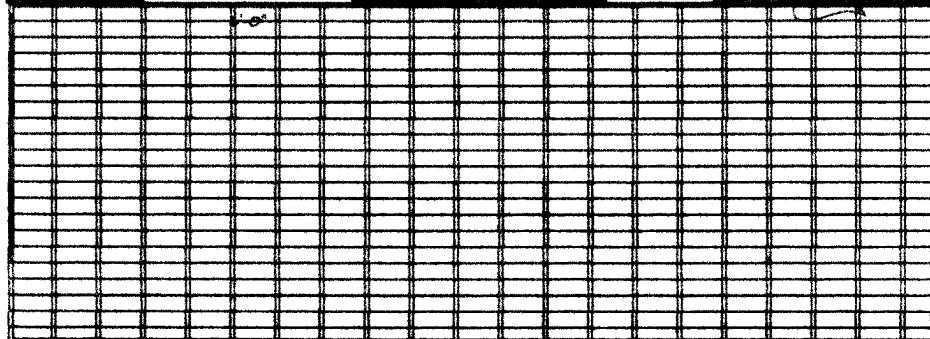
2'-10"

3'-0" x 5'-0" 3'-0" x 5'-0"

36'-0"

36'-0"

\$199,900
Finished



21'-6"

36'-0"

36'-0"

3'-0" x 8'-0"

3'-0" x 8'-0"

3'-0" x 8'-0" 3'-0" x 8'-0" 3'-0" x 8'-0" 3'-0" x 8'-0"

3'-0" x 8'-0" 3'-0" x 8'-0" 3'-0" x 8'-0" 3'-0" x 8'-0"

3'-0" x 8'-0" 3'-0" x 8'-0"

FAMILY ROOM

DINING ROOM

KITCHEN

B42F

Shower

Sink

2'-10"

3'-0"

\$199,900
Finished

27'-6"

3'-0" x 5'-0"

3'-0" x 5'-0"

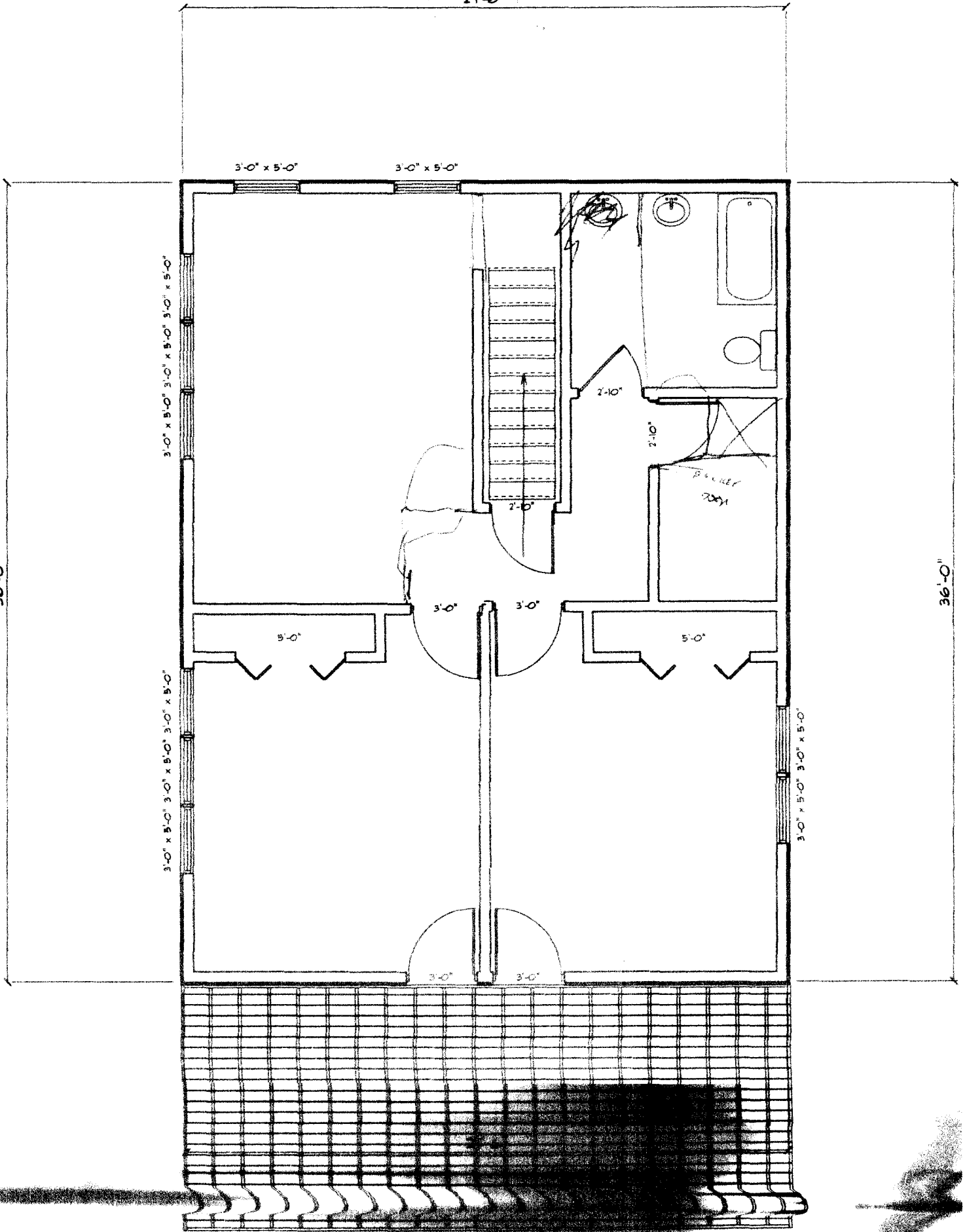
3'-0" x 5'-0" 3'-0" x 5'-0" 3'-0" x 5'-0" 3'-0" x 5'-0"

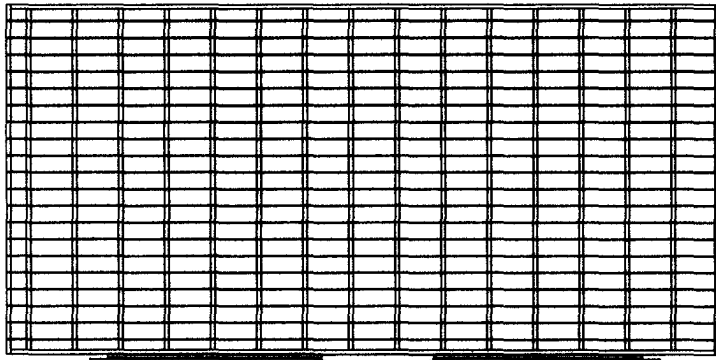
3'-0" x 5'-0" 3'-0" x 5'-0" 3'-0" x 5'-0" 3'-0" x 5'-0"

3'-0" x 5'-0" 3'-0" x 5'-0"

36'-0"

36'-0"





3'-0"

3'-0" x 5'-0"

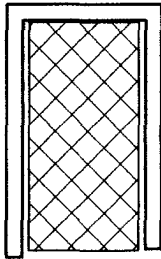
3'-0" x 5'-0"

3'-0" x 5'-0"

3'-0" x 5'-0"

3'-0" x 5'-0"

3'-0" x 5'-0"



16'-1 1/2"

PART 7: LOWER LAKE WYLIE WATERSHED OVERLAY

Section 10.707. Cluster Development.

Cluster Development, as defined in Section 2.201 of the City of Charlotte Zoning Ordinance is permitted in the Critical and Protected Areas in accordance with the following regulations.

1. Subject to all the cluster requirements of the underlying zoning district.
2. Percent (%) Built Upon shall not exceed the allowed percent (%) Built Upon for the watershed area.
3. The remainder of the tract shall remain in a vegetated or natural state as common open space except that non-impervious recreational uses are permitted provided that they are located a minimum of 30 feet from the stream bank. Impervious recreational uses are permitted if they are located outside of any required buffer and do not exceed the allowable percentage built upon for the project.
4. Subject to the buffer area requirements of Section 10.7608.

Section 10.708. Buffer areas required.

Undisturbed vegetative buffers are required along the shoreline of the Lower Lake Wylie measured from the full pond elevation and along each side of all perennial streams measured from the top of bank.

1. Critical Area

In the critical area the minimum buffer areas are as follows:

- | | | | |
|----|---------------------|---|------|
| a. | low density option | - | 50' |
| b. | high density option | - | 100' |

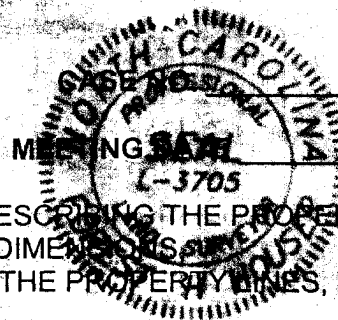
2. Protected Area

In the protected area the minimum buffer areas are as follows:

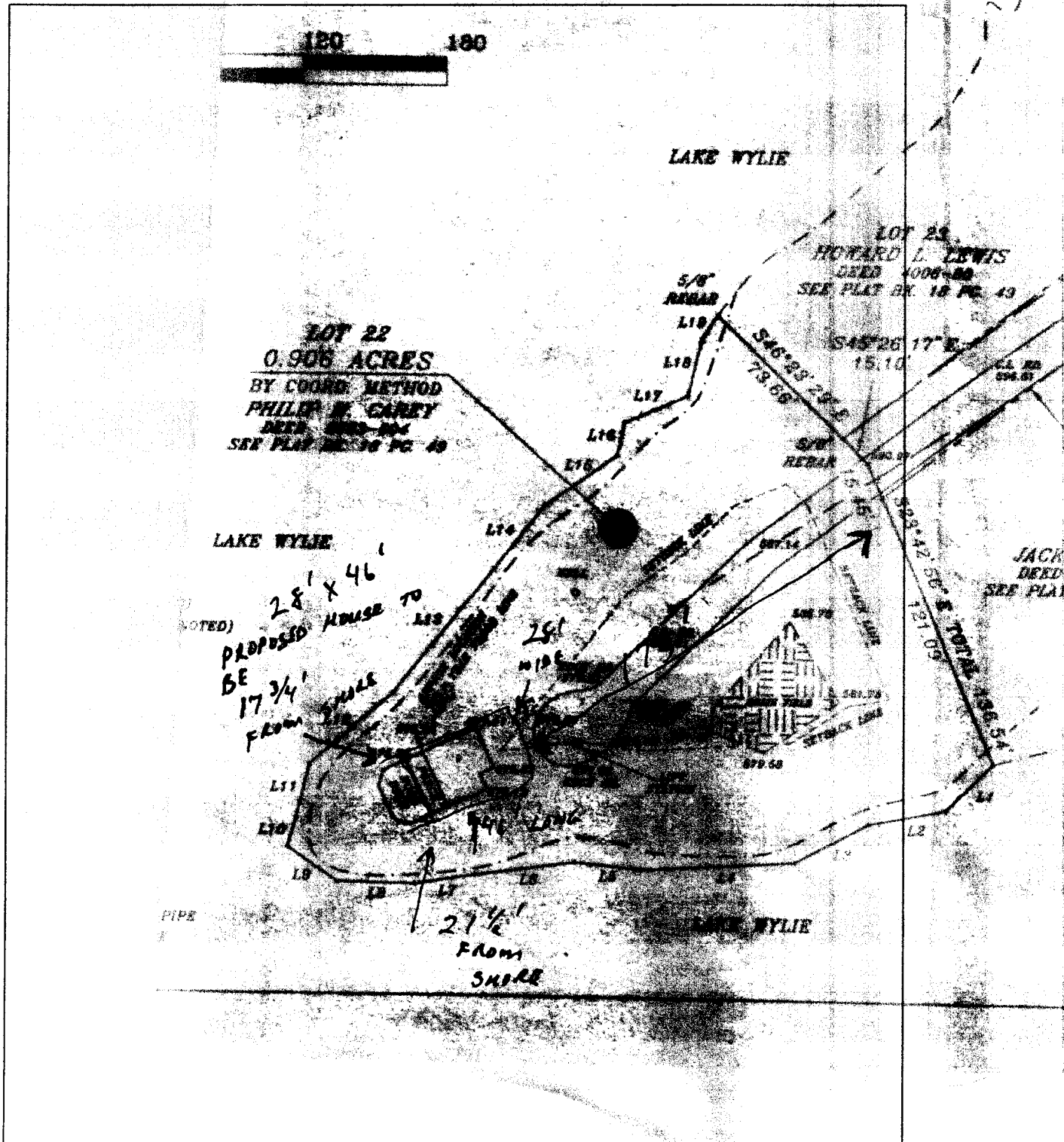
- | | | | |
|----|---------------------|---|------|
| a. | low density option | - | 40' |
| b. | high density option | - | 100' |

PLAT AS SHOWN HEREON

IS PREPARED FROM AN
IN THE 2ND DAY OF



WITHIN THIS BOX, DRAW A SITE PLAN TO SCALE, DESCRIBING THE PROPERTY AND VARIANCE REQUEST. PROVIDE ALL APPROPRIATE DIMENSIONS, BUILDINGS/STRUCTURES AND THEIR DISTANCE TO THE PROPERTY LINES, RIGHT-OF-WAYS, ETC.



PROPERTY MAY BE SUBJECT TO RECORDED
OR UNRECORDED RIGHTS OF WAY OR EASEMENTS
NOT OBSERVED

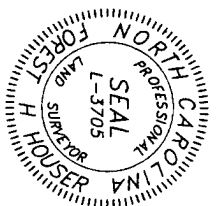
GASTON COUNTY, NORTH CAROLINA

I DO HEREBY CERTIFY THAT THE SURVEY PLAT AS SHOWN HERON
IS IN ALL RESPECTS CORRECT AND WAS PREPARED FROM AN
ACTUAL FIELD SURVEY MADE BY ME ON THE 21ST DAY OF
SEPT 2005

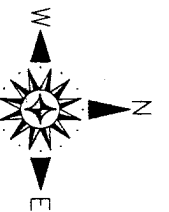
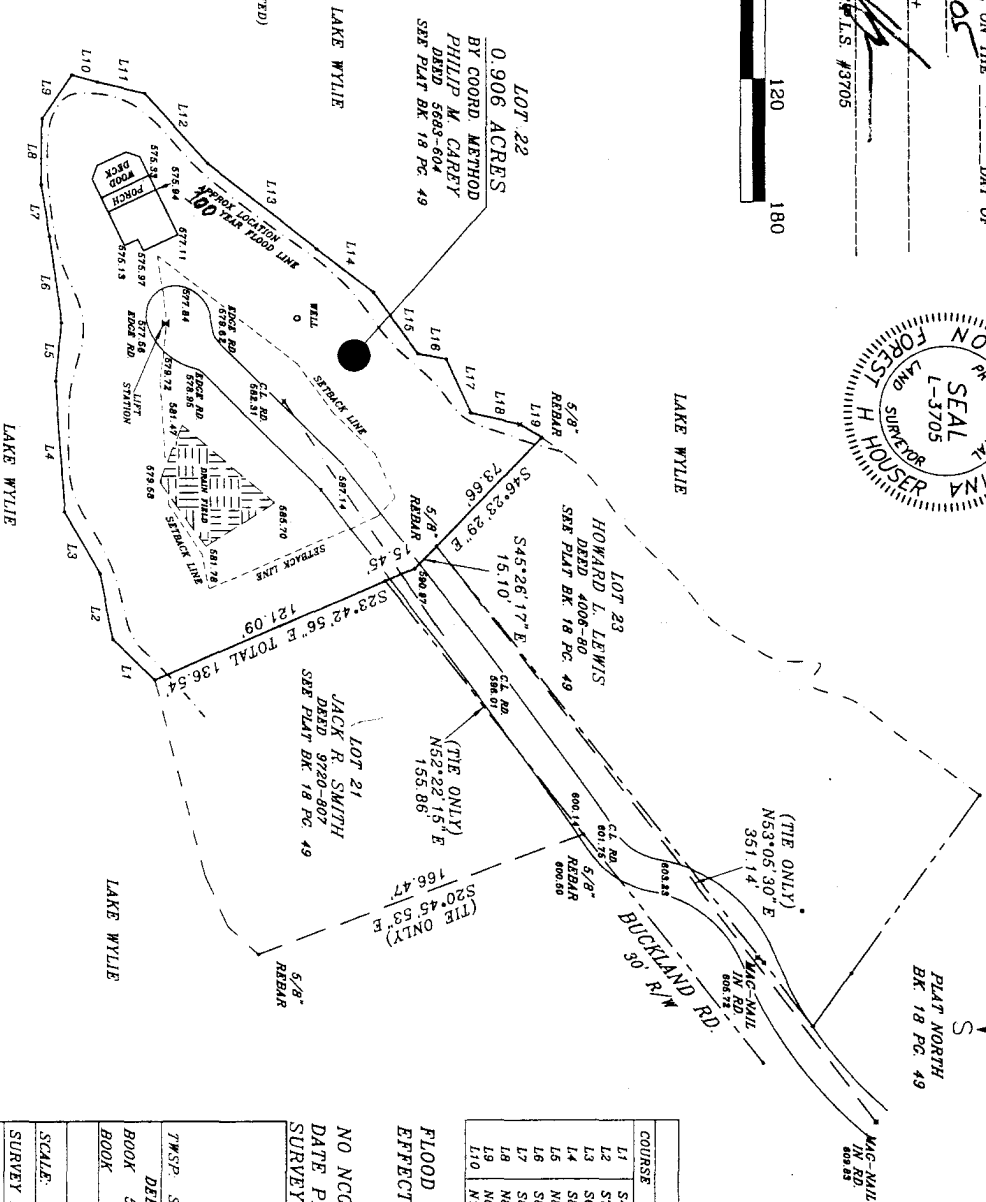
RATIO OF PRECISION IS 1: 10,000 +

SIGNED

FORST H HOUSER N.C. L.S. #3705

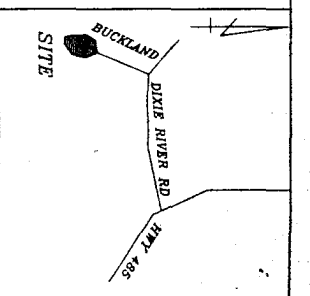


- LEGEND
- = IRON SET (1/2" REBAR)
 - * = IRON FOUND (TYPE NOTED)
 - * = MAG NAIL OR RR SPIKE (NOTED)
 - = AERIAL UTILITIES
 - - - = R/W OR EASEMENT
 - ⊙ = WATER METER
 - ⊗ = UTILITY POLE
 - ⊗ = CALCULATED POINT
 - ⊗ = FIRE HYDRANT
 - ⊗ = TELEPHONE PEDISTAL
 - ⊗ = POWER BOX
 - ⊗ = CABLE TV PEDISTAL
 - NTS = NOT TO SCALE
 - RCP = REINFORCED CONCRETE PIPE
 - CWP = CORRUGATED METAL PIPE



PLAT NORTH
BK. 18 PG. 49

VICINITY MAP
NTS



LINE TABLE BEARINGS & DISTANCES					
COURSE	BEARING	DISTANCE	COURSE	BEARING	DISTANCE
L1	S44°16'00"	27.86'	L11	N13°04'00"E	33.26'
L2	S79°18'00"	33.11'	L12	N45°38'00"E	46.67'
L3	S61°08'00"	34.67'	L13	N39°06'00"E	66.75'
L4	S66°10'00"	64.05'	L14	N37°25'00"E	34.23'
L5	N64°26'00"	28.28'	L15	N53°57'00"E	36.79'
L6	S92°00'00"	42.18'	L16	N11°10'00"E	13.93'
L7	S90°38'00"	26.39'	L17	N65°54'00"E	28.84'
L8	N69°18'00"	32.26'	L18	N13°01'00"E	24.35'
L9	N65°64'00"E	26.68'	L19	N30°48'04"E	12.24'
L10	N16°14'00"E	12.62'			

FLOOD PANEL NO. 37119C0202E
EFFECTIVE DATE: FEB. 4, 2004

NO NCGS MONUMENT WITHIN 2000'
DATE PLAT WAS DRAWN: SEPT. (9)/22/2005
SURVEY OF PROPERTY FOR:

PHILIP M. CAREY
7648 BUCKLAND RD.
CHARLOTTE, N.C. 28208

7WSP. STEEL CREEK MECHANIC CO. NORTH.	1/4A
DEED REFERENCE	PLAT REFERENCE
BOOK 5683 PAGE 604	BOOK 18 PAGE 49
BOOK PAGE	IRON FOUND SETO

PID NO. 11330225

SCALE: 1"=60'	DRAWN BY: BAP	FILE: 905167D
SURVEY BY: FH	DRAWING NO: P1-C	

HOUSER BROS. SURVEYING, PLLC
410 SOUTH ELM ST. CHERRYVILLE, NC (704-445-3370)