



## VARIANCE APPLICATION

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

FY2005 Case #:	<u>06-027</u>
Date Filed:	<u>2-6-06</u>
Meeting Date:	_____
Received By:	_____
Office Use Only	

Variance requested on property located at: 4632 Staffordshire Lane

Property Zoned: MX-1 (Rezoning Petition #2000-18C)

Tax Parcel #: 051-21-803

Property Owner: D. R. Horton Inc.

Date Existing Structure Erected: October 4, 2005

### TO THE CHARLOTTE ZONING BOARD OF ADJUSTMENT:

I Paul Schwartz, hereby petition the Board of  
(name)

Adjustment for a VARIANCE from the literal provisions of the Charlotte 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):

As per Mecklenburg County Zoning, property zoned MX-1 (rezoning petition #2000-18C) must adhere to a ten foot front setback and a twenty foot front load garage setback. If the planned garage space is not converted to living space, the house as constructed violates the twenty foot front load garage setback. The house will have no garage unless a variance is granted.

### Describe the VARIANCE being requested on the above referenced property:

Allow the existing garage space to remain and encroach ten feet onto the twenty foot front load garage setback requirement in MX-1 (rezoning petition #2000-18C).

**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 the property owner/applicant 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.)

If the owner of the property complies with the provisions of the ordinance, the only way to construct a house with a garage is to tear down the existing structure and rebuild it ten feet from its present location.

- (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.)

The hardship of which the applicant complains results from the existing structure being ten feet over front load garage setback as per map book 37 page 781 in the Mecklenburg County Register of Deeds. In order for the house to have a garage, the existing house will have to be demolished and reconstructed ten feet from its present location. The applicant will have no reasonable return on the property.

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

The engineering plans were completed prior to ordinance taking effect. The house is over the front load garage setback due to confusion on plans. The house layout was staked out without regard to the limitations of the twenty foot front load garage setback requirement.

(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.)

If the variance is denied, then measures will be taken to move the proposed driveway to the side of the house to allow two parking spaces without obstructing access to sidewalk per ordinance. However, this will mean it is the only single family home in the tract without a garage, thereby detracting from the character of the neighborhood.

(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.)

By granting the variance, the house will still have twelve feet of driveway so that cars may be parked without obstructing the walkway.

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

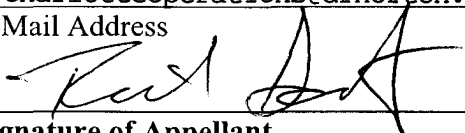
D. R. Horton Inc.  
Printed Name of Appellant

1100 N. Tryon Street, Suite 100  
Mailing Address

Charlotte, NC 28203  
City, State, Zip

(704) 377-2006      (704) 377-1687  
Telephone Number      Fax Number

charlotteoperations@drhorton.com  
E-Mail Address

  
Signature of Appellant

Stantec Consulting Services Inc.  
Printed Name of Representative (if any)

2127 Ayrsley Town Blvd., Ste. 300  
Mailing Address

Charlotte, NC 28273  
City, State, Zip

(704) 329-0900      (704) 329-0905  
Telephone Number      Fax Number

E-Mail Address

Represented By (Signature)

**IF THE APPELLANT IS NOT THE OWNER OF THE PROPERTY FOR WHICH THE APPEAL IS BEING REQUESTED, indicate the owner's name and address:**

Property Owner (If different from Appellant)

Address

City, State & Zip

**TYPE OR PRINT below 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 from the property, for which a variance is being requested. (Property ownership information is available at:**

<http://meckcama.co.mecklenburg.nc.us/relookup/> or  
<http://mcmf.co.mecklenburg.nc.us:3007/cics/txre/txre00i>

**ADJACENT PROPERTY OWNERS:**

- |     |  |                         |
|-----|--|-------------------------|
| 1.  | D. R. Horton Inc.<br>4636 Staffordshire Lane<br>Lot 1                        | Tax Parcel # 051-21-802 |
| 2.  | D. R. Horton Inc.<br>4628 Staffordshire Lane<br>Lot 3                        | Tax Parcel # 051-21-804 |
| 3.  | KBONE Inc.<br>13706 Traherne Ct.<br>Lot 4                                    | Tax Parcel # 051-21-805 |
| 4.  | Inc. Coventry Neighborhood Assoc.<br>Common Open Space<br>COS-5 MB 37 PG 781 | Tax Parcel # 051-21-980 |
| 5.  |  | Tax Parcel #            |
| 6.  |  | Tax Parcel #            |
| 7.  |  | Tax Parcel #            |
| 8.  |  | Tax Parcel #            |
| 9.  |  | Tax Parcel #            |
| 10. |  | Tax Parcel #            |

These persons, including the Appellant and the representative, will be notified in writing of the time and place of the hearing. (Attach additional sheet if necessary).

**ATTACH A PHYSICAL SURVEY OR DRAW A SITE PLAN, TO SCALE, DESCRIBING THE PROPERTY AND VARIANCE REQUEST. PROVIDE ALL APPROPRIATE DIMENSIONS; LOCATE ALL EXISTING AND PROPOSED BUILDINGS/STRUCTURES, AND PROVIDE THEIR DISTANCE TO THE PROPERTY LINES, RIGHTS-OF-WAY, ETC.**

A large, empty rectangular box with a thin black border, intended for a physical survey or site plan. It occupies the majority of the page below the instructions.



D.R. Horton Inc. here by grants Stantec Consulting Inc. permission to appear before the board to present the application for a garage setback variance on Lot 2 of the Coventry 2 Subdivision, Ph 1 Map 1.

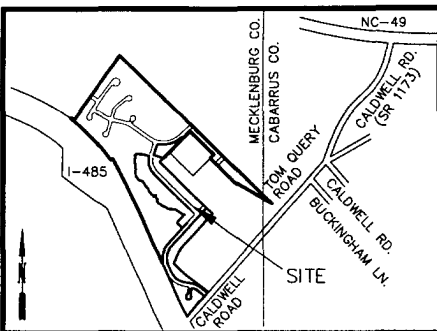
A large, stylized handwritten signature in black ink, appearing to read 'Richard Schwartz', is written over a horizontal line.

Richard Schwartz  
D.R. Horton Inc.  
1100 South Tryon Street, Suite 100  
Charlotte, N.C. 28203

Subscribed and sworn to before the undersigned, a Notary Public for the County  
of Union, state of North Carolina, in said \_\_\_\_\_  
this 18th day of January, 2006

A handwritten signature in black ink, appearing to read 'J. R. [unclear]', is written over a horizontal line.  
Notary Public

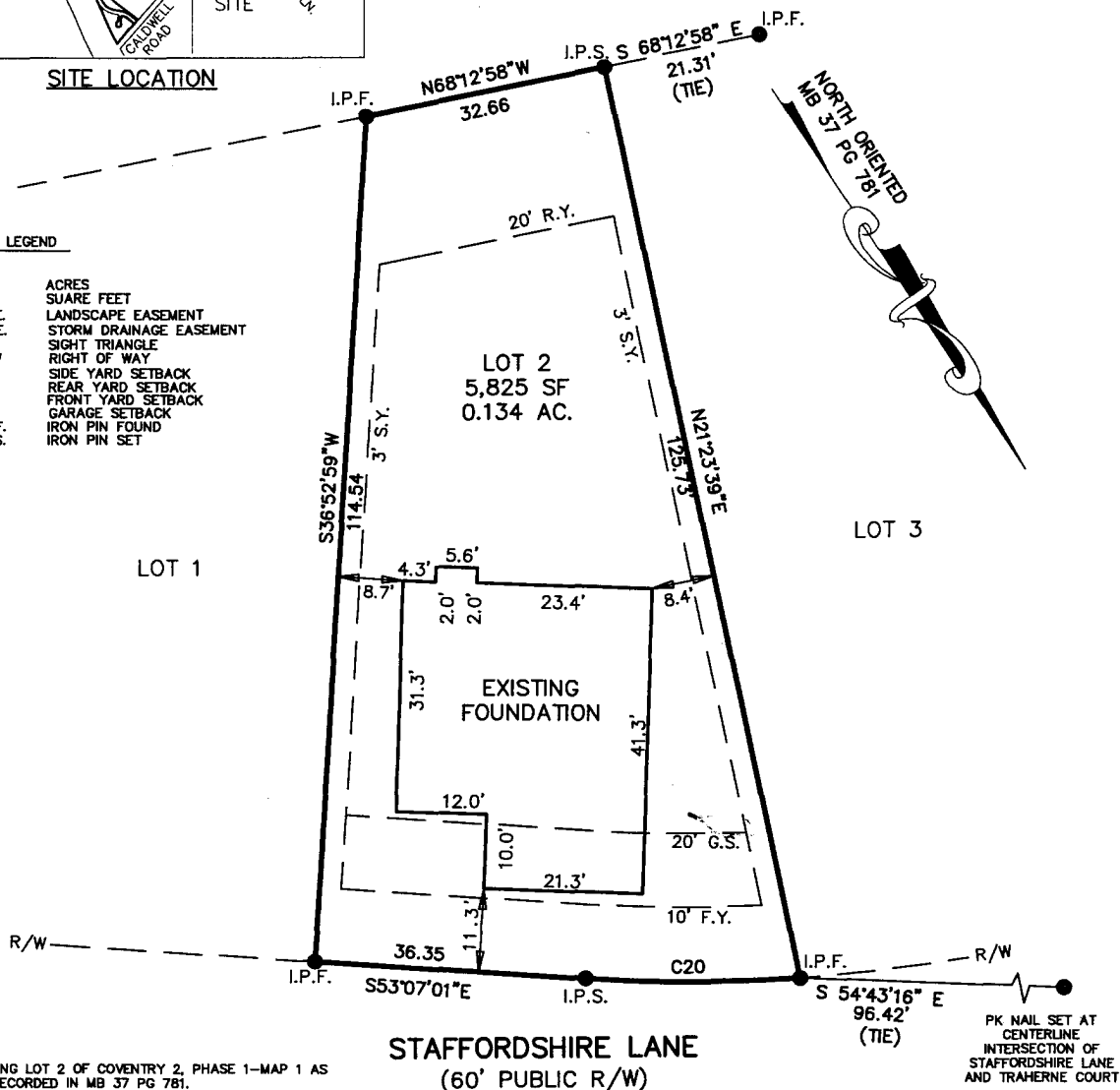
My commission expires: 03/08/2010



SITE LOCATION

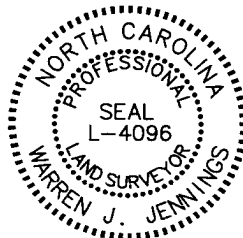
CURVE TABLE				
CURVE	LENGTH	RADIUS	CH BEARING	CH DIST.
C20	28.84'	220.00'	S56°52'18"E	28.81'

- LEGEND**
- AC. ACRES
  - SF SQUARE FEET
  - L.S.E. LANDSCAPE EASEMENT
  - S.D.E. STORM DRAINAGE EASEMENT
  - S.T. SIGHT TRIANGLE
  - R/W RIGHT OF WAY
  - S.Y. SIDE YARD SETBACK
  - R.Y. REAR YARD SETBACK
  - F.Y. FRONT YARD SETBACK
  - G.S. GARAGE SETBACK
  - I.P.F. IRON PIN FOUND
  - I.P.S. IRON PIN SET



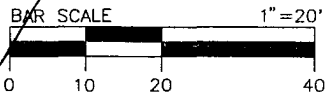
**NOTES**

- 1.) BEING LOT 2 OF COVENTRY 2, PHASE 1-MAP 1 AS RECORDED IN MB 37 PG 781.
- 2.) TITLE SOURCE DB 13426 PG 398, DB 11001 PG 932, AND DB 1624 PG 237.
- 3.) THIS SURVEY BASED ON UNADJUSTED RATIO OF PRECISION OF 1:10,000.
- 4.) DATE OF SURVEY WAS 01-11-06.
- 5.) THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA FEMA FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 3719C0130E WITH AN EFFECTIVE DATE OF 2/04/04.
- 6.) AREAS DETERMINED BY COORDINATE METHOD.
- 7.) ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
- 8.) FOR GRID TIE INFO, SEE MB 37 PG 781. (NO U.S. OR N.C. HORIZONTAL CONTROL MONUMENT FOUND WITHIN 2,000 LF OF SITE.)
- 9.) THIS SURVEY WAS PREPARED WITHOUT BENEFIT OF AN UP TO DATE TITLE COMMITMENT AND MAY BE SUBJECT TO ANY AND ALL EASEMENT(S) OR RIGHT(S) OF WAY OF RECORD.
- 10.) SUBJECT TO RESTRICTIONS AND COVENANTS.
- 11.) BEING GIS# 05121803.



I, WARREN J. JENNINGS, PLS, CERTIFY THAT THIS MAP, DRAWN FROM AN ACTUAL SURVEY CONDUCTED UNDER MY DIRECTION, FROM A DESCRIPTION RECORDED IN MB 37 PG 781, MEETS THE STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA. THIS SURVEY IS NOT INTENDED TO MEET GS 47-30 REQUIREMENTS.

*Warren J. Jennings* 1/18/06  
WARREN J. JENNINGS, PLS L-4096



V:\1703ch\active\170303083\record\drawing\Coventry 2\FOUNDATION-SURVEY\found\_002.dwg  
TAYLOR, JONATHAN M. 1/18/2006 3:57:35 PM

**Client/Project**

D.R. HORTON INC.  
1100 SOUTH TRYON STREET  
CHARLOTTE N.C. 28203  
(704) 337-2006

Lot No.	Dwn. By.	Chkd. By.	MM/DD/YY	Scale
2	JMT	WSB	01.18.06	1"=20'

**Title**

FOUNDATION SURVEY  
LOT 2 COVENTRY 2 PHASE 1 MAP 1  
4632 STAFFORDSHIRE LANE  
CITY OF CHARLOTTE, MECKLENBURG COUNTY, NORTH CAROLINA



**Stantec**

Stantec Consulting Services, Inc.  
2127 Aysley Town Blvd. Suite 300  
Charlotte, NC 28273

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www.stantec.com