

NEW HANOVER COUNTY

DEPARTMENT OF PLANNING & LAND USE
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 Wilmington, North Carolina
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RECEIVED

SEP - 3 2019

NEW HANOVER COUNTY
 PLANNING & ZONING



VARIANCE Application

Applicant/Agent Information		Property Owner(s) If different than Applicant/Agent
Name Joshua Mihaly	Owner Name Chase & Dylan Mihaly LLC	
Company Mihaly Land Design PLLC	Owner Name 2	
Address 330 Military Cutoff, Suite A-3	Address 7500 Anaca Point Road	
City, State, Zip Wilmington, NC 28411	City, State, Zip Wilmington, NC	
Phone 910-392-4355	Phone 910-392-4355	
Email Josh@mihalyland.net	Email josh@mihalyland.net	
Subject Property Information		
Address/Location 7031 Market Street, Wilmington, NC		
Parcel Identification Number(s) R-04400-02-015-000		
Total Parcel(s) Acreage .34 Acres, 14,810 sf		
Existing Zoning and Use(s) R-15, Vacant		
Application Tracking Information (Staff Only)		
Case Number ZBA-942	Date/Time received: 9/3/19 11:43 am	Received by: KV

PROPOSED VARIANCE NARRATIVE

Subject Zoning Regulation, Chapter and Section: 60-3, 62.1-4 (K)

In the below space, please provide a narrative of the application. (Additional pages may be attached to the application if necessary)

The subject property is located at 7031 Market Street. The property is currently vacant and is R-15 as shown in the most recent zoning map for New Hanover County. The property is bound by B2 Commercial zoning and use to the south of the property and a R-15 Residential use to the North of the property. To the south side of the property is a Duke power line easement which extends approximately 15' over the side property line as shown on the recent survey. There are several large Live Oak Trees that range from 24" DBH - 38" DBH. These trees are in well over 100 years old. My intentions for the property is to construct a 2000-sf, 2-story office building on the property. The overall height of the proposed building will be 23' high measured to the mean roof-line. In order to prepare a properly executed site plan and petition to the county planning board and commissioners I am requesting a side setback variance as well as a buffer variance from the Board of Adjustments. I have no intentions of harming any of the trees on the site and in order to do this a variance is required. I feel like I can still meet the intent of the setback and the buffer to the adjacent property to the north with the dimensions requested by implementing a planted buffer and 6' fence.

CRITERIA REQUIRED FOR APPROVAL OF A VARIANCE

The Zoning Board of Adjustment may grant a variance if it finds that strict application of the ordinance results in an unnecessary hardship for the applicant, and if the variance is consistent with the spirit, purpose, and intent of the ordinance. The applicant must explain, with reference to attached plans (where applicable), how the proposed use meets these required findings (please use additional pages if necessary).

- Unnecessary hardship would result from strict application of the ordinance.** *It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.*
The ordinance requires a side setback multiplier of 2.75 X the roof height. If the building is 23' high then the side setback on the north property line would be 63.25' and the corresponding buffer would be 31.6'. The strict application of the ordinance would create a situation that would make the lot unusable as a commercial use without impacting the existing trees. The existing zoning of this lot and the adjacent property is outdated compared to the future land use plans and longer term projections of the portion of Market Street Corridor.

2. **The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardship resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or general public, may not be the basis for granting a variance.**

The location of the Duke power easement on the south side of the property combined with the Large Live Oak trees create a design hardship for the property. The existing trees are over 150 years old and I have no intentions of impacting the trees on the property. I acquired the property because of the trees and my ability to develop a site plan that saves them appropriately.

3. **The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.**

The Duke easement is an existing easement that will remain for many years to come. The trees have been on the site for over 150 years. I feel that there is a great opportunity to create a site plan for a small office that is consistent with the land use plan, fits into the neighborhood and preserves the unique character of the lot by saving all the live oak trees.

4. **The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.**

The subject property has been deemed as Urban Mixed Mixed Use in the County Land Use Plan. The county identifies these types of properties along Market Street as areas of transition from residential to commercial. One could assume the adjacent properties to the north will one-day also become a commercial use. The proposed variances will not effect the safety of the adjacent property in any way. I am proposing a 6' high fence and associated buffer planting that will screen the adjacent property to the north. The building height is only 23' high. The lower building height combined with the proposed fencing and buffer plantings will achieve the spirit and purpose of the ordinance.

APPLICATION REQUIREMENTS

Staff will use the following checklist to determine the completeness of your application. Please verify all of the listed items are included and confirm by initialing under "Applicant Initial". Staff will not process an application for further review until it is determined to be complete.



Required Information	Applicant Initial	Staff Initial
1 Complete Variance application	jwm	EV
2 Application fee - \$400	jwm	EV
3 Site plan or sketch illustrating requested variance	jwm	EV
4 1 hard copy of ALL documents	jwm	EV

ACKNOWLEDGEMENT AND SIGNATURES

By my signature below, I understand and accept all of the conditions, limitations and obligations of the variance application for which I am applying. I understand that I have the burden of proving why this application meets the require findings necessary for granting a variance. I certify that this application is complete and that all information presented in this application is accurate to the best of my knowledge, information, and belief.

I also appoint the applicant/agent as listed on this application to represent me and make decisions on my behalf regarding this application during the review process. The applicant/agent is hereby authorized on my behalf to:

1. Submit an application including all required supplemental information and materials;
2. Appear at public hearings to give representation and commitments; and
3. Act on my behalf without limitations with regard to any and all things directly or indirectly connected with or arising out of this application.

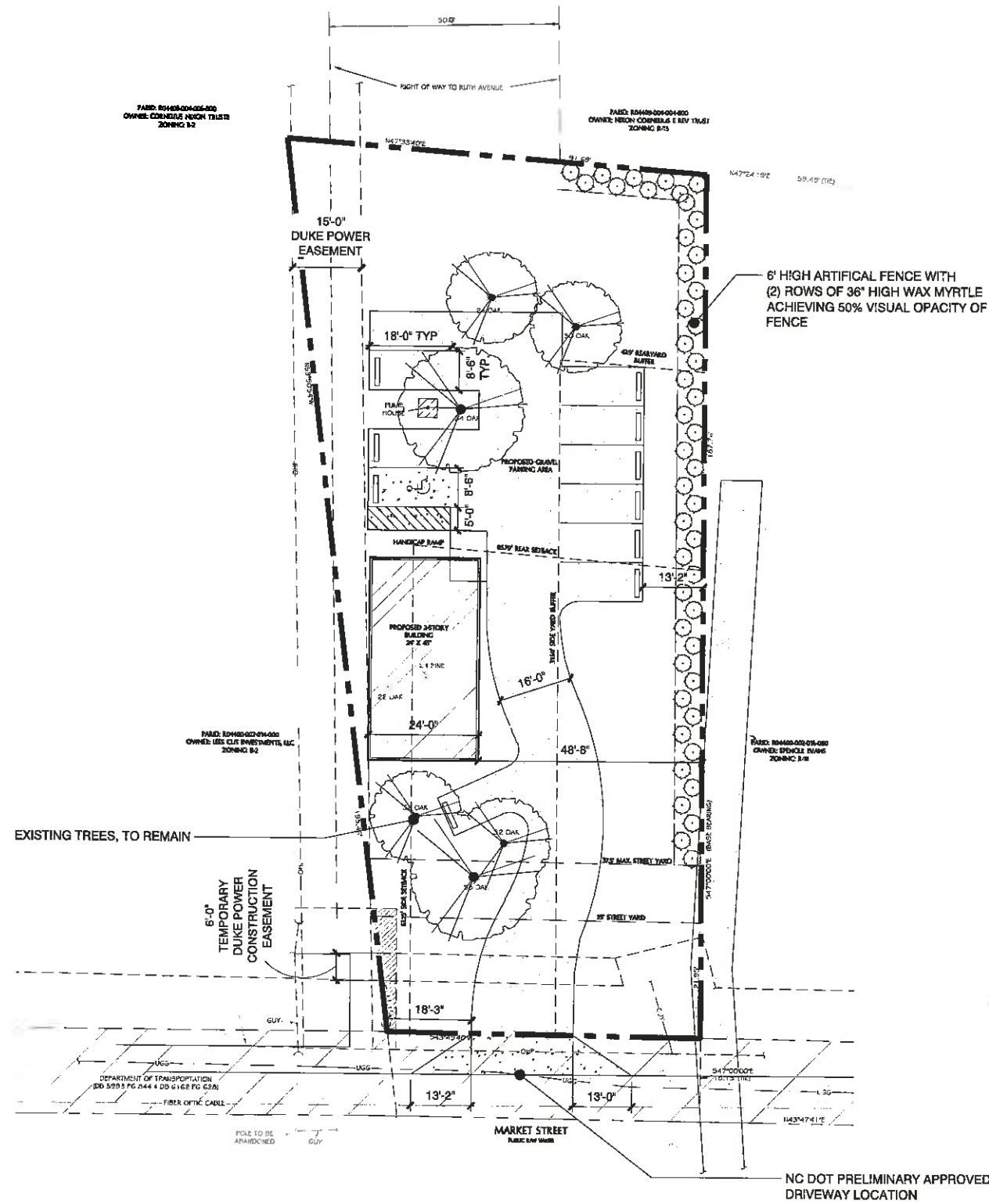
 _____ Signature of Property Owner(s)	Joshua Mihaly _____ Print Name(s)
 _____ Signature of Applicant/Agent	Joshua Mihaly _____ Print Name(s)

NOTE: Form must be signed by the owner(s) of record. If there are multiple property owners a signature is required for each owner of record.

***The land owner or their attorney must be present for the case at the public hearing.**

For Staff Only

Application Comments



SITE DATA

ADDRESS: 7031 MARKET STREET
 PARCEL ID: R04400-002-015-000
 PROPOSED USE: OFFICE
 PROPOSED ZONING: B2
 EXISTING ZONING: R-15
 EXISTING LAND USE: VACANT LOT
 PARCEL AREA: .34 ACRES (14,810 SF)
 CAMA: URBAN MIXED USE
 OWNER: CHASE & DYLAN MIHALY LLC
 NUMBER OF BUILDINGS: 1
 HEIGHT OF BUILDING: 23'-0"

BULK REQUIREMENTS

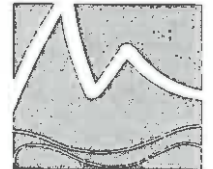
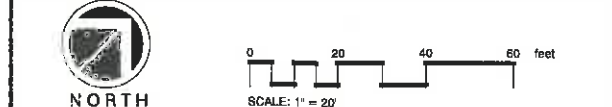
	REQUIRED	PROVIDED
MAX. FAR	40%	7%
MIN. FRONT SETBACK	50'	59'
MIN. REAR SETBACK	85.79'	89'
MIN. INTERIOR SIDE SETBACK		
NORTH SIDE SETBACK (23' x 2.75')	63.25'	48.67' *
SOUTH SIDE SETBACK (0' x 2.75')	0'	0'
MAX. BUILDING HEIGHT	40'	23'
SIDEYARD BUFFER		
NORTH SIDEYARD BUFFER (23' x 2.75') / 2	31.6'	13.17'*
REARYARD BUFFER (23' x 3.73') / 2	42.9'	42.9'

(*) = VARIANCE REQUESTED

OFF-STREET PARKING REQUIREMENTS

	REQUIRED	PROVIDED
OFFICE:		
MIN: 1/400 SF GFA (2,160 SF/400)	5	9
HANDICAP PARKING (1/25 SPOTS):	1	1
TOTAL:	7	10

- SYMBOL LEGEND**
- PROPOSED GRAVEL PARKING AREA
 - PROPOSED CONCRETE PAVING
 - PROPOSED 6' HIGH FENCE
 - EXISTING OVERHEAD POWER LINES
 - EXISTING POWER POLES



MIHALY
 LAND DESIGN
 PLANNING + LANDSCAPE ARCHITECTURE
 330 MILITARY CBTOP RD., SUITE A2
 WILMINGTON, NC 28405 910.392.4355



Revisions

PROJECT
7031 MARKET STREET
 7031 MARKET STREET
 WILMINGTON, NC

RECEIVED

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NEW HANOVER COUNTY
 PLANNING & ZONING

Date: 2019-08-30
 Phase:
 Job Number: 101-610
 Designed by: MLD
 Drawn by: ALM
 Checked by: JWM

Sheet Title:
 SITE PLAN/
 VARIANCE
 APPLICATION

Sheet Number:
L1.0
 of 1 sheets