



Variance Case 02-10-V

Stuart Smith is requesting a variance of Article 4.7.2 (A) and (B) of the Summerfield Development Ordinance which requires a direct access to a publicly maintained street or other public right-of-way legally dedicated. The property is located at 5416 - 5498 Ashbey Ln, in Bruce Township: Guilford County Tax Map #0145778.

Mr. Smith has acquired property at the end of Ashbey Lane and has proposed to develop the property for one home. Ashbey Lane was constructed by the development known as Pleasant Ridge Run, yet the pavement (and State maintenance) ends 107 feet before the end of the dedicated right-of-way. The State will not extend maintenance to the end of the right-of-way unless the road is constructed to State standards (ie. Two lanes, paved). Granting this variance would permit Mr. Smith to build a home and obtain access with less than a State standard roadway (State maintenance will not be extended).

Attached: 1. Completed variance forms.
2. Aerial of the subject property and adjacent properties.
3. Notice to abutting property owners.
4. Email conversations with applicant/agent and Lane Hall, State Department of Transportation.

According to the applicant, he wants to build a home. Ashbey Lane was constructed many years ago, but did not extend the pavement to the end of the right-of-way. Normal practice would be to require the developer to stub the pavement to the end of the right-of-way for future connection and potential development. The State will not extend the pavement, especially for only one home. The request is to extend a proposed driveway through State right-of-way to access property.

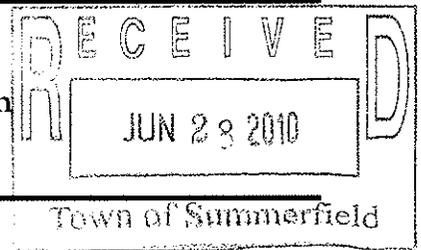
The Town of Summerfield Development Ordinance requires that access to a public street is a requirement for every lot (4.7.2(A)). 4.7.2(B) states that "the terminus of a dead-end street does not provide access to a publically maintained street unless that terminus is a circular turnaround or other turnaround approved and constructed in conformance with Article V." The proposed access would not qualify since the pavement ends with a turnaround.

Section 9-4.8(D) specifies the process involved for granting a variance. A hardship appears to exist in that the property owner is denied access to the property because the developer of the subdivision did not continue the pavement to the edge of the property. The Board of Adjustment first considers the findings of fact. If those findings lead to the approval of a variance, they should consider that minimum variance that would make a reasonable use of the land, without jeopardizing the general purpose and intents of the Development Ordinance.



Town Of Summerfield
Development Bulletin

Variance
Application



Case Number 02-10-V

To the Summerfield Board of Adjustment:

I, Stuart Smith, hereby petition the Board of Adjustment for a VARIANCE from the literal provisions of the Development Ordinance because, under the interpretation given to me by the Enforcement Officer, I am prohibited from using the parcel of land described in the attached form (Application Cover Sheet) in a manner shown by the plot plan attached to that form. I request a variance from the following provisions of the ordinance (cite section numbers):

so that the property can be used in a manner indicated by the plot plan attached to the Application Cover Sheet or, if the plot plan does not adequately reveal the nature of the variance, as more fully described herein:

To be allowed to construct my personal driveway from the end of Ashbey Lane. Please refer to attachment as Exhibit A

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 before it may issue a variance: (1) that there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the ordinance; (2) that the variance is in harmony with the general purposes and intent of the ordinance and preserves its spirit; and (3) that in granting the variance, the public safety and welfare have been assured and substantial justice has been done. In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these three required conclusions.

1. THERE ARE PRACTICAL DIFFICULTIES OR UNNECESSARY HARDSHIPS THAT WOULD RESULT FROM CARRYING OUT THE STRICT LETTER OF THE ORDINANCE. The courts have developed four 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:

a. If the applicant complies with the provisions of the ordinance, he/she can make no reasonable use of his/her property. (It is not sufficient that failure to grant the variance simply makes the property less valuable.)

We can not afford to construct a turnaround, therefore, making the property inaccessible.

b. The hardship of which the applicant complains results from unique circumstances related to the applicant's property. (Note: Hardships suffered by the applicant in common with his/her neighbors do not justify a variance. Also, unique personal or family hardships are irrelevant, since a variance, if granted, runs with the property. The hardship results from the nature of the property, i.e. lot conditions.)

The construction of the DOT approved road and turnaround would prove to be too costly.

- c. The hardship results from the application of the ordinance to the property.

The hardship is due to the fact that Ashbey Lake was not extended to the property line.

- d. The hardship is not the result of the applicant's own actions.

The hardship is a result of the original developer not extending the road. The terrain is also a hardship.

2. 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 variance requested represents the least possible deviation from the letter of the ordinance that will 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.)

A single access drive is all that would be necessary to preserve the quiet dead-end street of the neighborhood.

3. THE GRANTING OF THE VARIANCE ASSURES 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.)

A single access drive poses no change to public safety. Substantial justice would be served by allowing the property owners to construct a drive rather than a turnaround.

Exhibit A



Guilford County, NC

Map Scale
1 inch = 282 feet

Disclaimer:
While every effort is made to keep information provided over the internet accurate and up-to-date, Guilford County does not certify the authenticity or accuracy of such information. No warranties, express or implied, are provided for the records and/or mapping data herein, or for their use or interpretation by the User.



Town of Summerfield
Planning Department

NOTICE OF PUBLIC HEARING

The following Public Hearing will be held during the regular monthly meeting of the Summerfield Board of Adjustment on July 22, 2010 at 6:30 PM at

Summerfield Community Center
5404 Centerfield Rd
Summerfield, NC

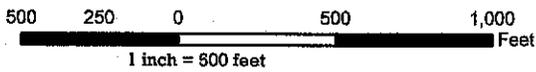
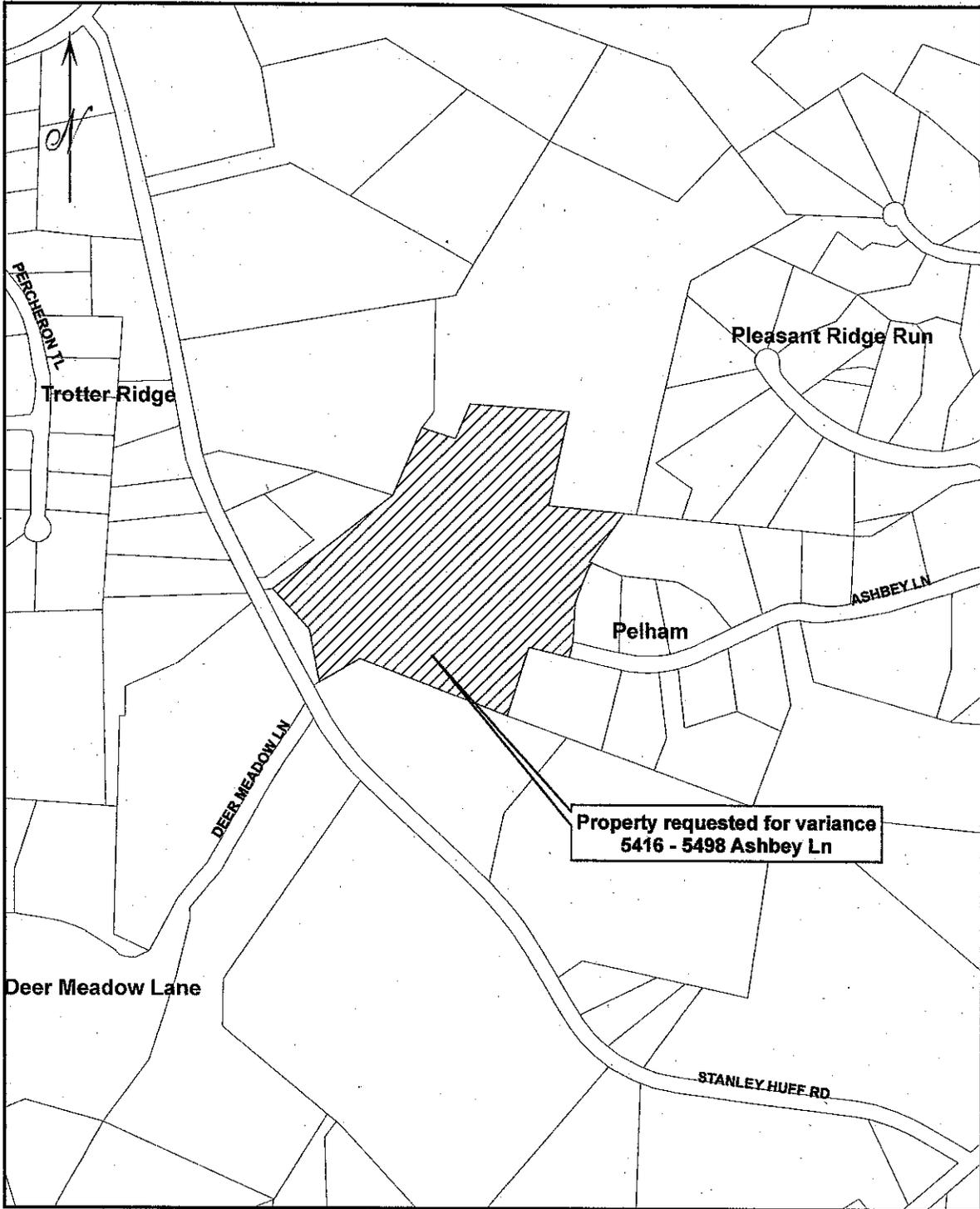
CASE 02-10-V: Scott Smith is requesting a variance of Article 4.7.2 (A) and (B) of the Summerfield Development Ordinance which requires a direct access to a publicly maintained street or other public right-of-way legally dedicated. The property is located at 5416 - 5498 Ashbey Ln, in Bruce Township: Guilford County Tax Map #0145778.

This notice is sent to all owners of property adjacent to the property requested for variance. Please discuss it with other residents who may have an interest in this request. Anyone wishing to be heard on this matter should appear at the public hearing, or arrange to be represented.

If you have any questions, please call the Planning Office at 643-8681.

Christopher S. Anderson, AICP
Town Planner
643-8655
www.summerfieldgov.com

Variance Case #02-10-V



Town of 
Summerfield, NC

Prepared by Town of Summerfield Planning Department. July, 2010.



Town of Summerfield
Planning Department

July 26, 2010

Peter Vanderwerff
598 Bonnyneck Dr
Georgetown, SC 27440

Re: Board of Adjustment Case No. 02-10-V

Dear Mr. Smith:

After carefully considering all evidence at the public hearing held by the Summerfield Board of Adjustment on Thursday, July 22, 2010, and based on the Findings of Fact, the request for a variance of Article 4.7.2 (A) and (B) of the Summerfield Development Ordinance was **approved**. The property can be accessed without the required turnaround.

This property is located at 5416 and 5498 Ashbey Lane, In Bruce Township: Guilford County Tax Map #0145778.

If you have any questions concerning this matter, please contact Town Hall at 643-8681.

Sincerely,

Christopher S. Anderson, AICP
Town Planner

cc: Case No. 02-10-V File
Stuart Smith, 3810 Summit Lakes Dr, Browns Summit, NC 27214
Tom Lowe