



DATE: June 22nd, 2021

CASE #: V-02-21

ACCELA #: CN-VAR-2021-00002

DESCRIPTION: Variance Request: 308 Concord Parkway N, Concord, NC 28027 to gain relief from the 150' setback from residentially use parcel (rear of property) for any building housing animals, existing kennels are 85'2" from the rear property line

APPLICANT/OWNERS: Concord Parkway Animal Hospital

LOCATION: 308 Concord Parkway N, Concord, NC 28027

PIN#: 5620-05-5851/5620-05-5930

AREA: 0.701/.276 = .977 acres

ZONING: General Commercial (C-2)

PREPARED BY: Maria Brown, CZO--Planner

Background

The subject property is located at 308 Concord Parkway N. The 0.977 acres property is zoned C-2 (General Commercial).

Request

The applicant is proposing a variance to gain relief from the 150' setback from residentially used parcel (rear of property) for any building housing animals, existing kennels are 85'2" from the rear property line.

Detailed Description

The animal hospital has been existing in this location since 1984. An expansion is needed in order to update the facility with a larger waiting room, exam rooms and support services.

A variance is being requested from Section 8.3.4.B.2.B (Concord Development Ordinance). Provision states any building housing animals shall be located a minimum of 150' from any residentially zoned or developed property. This ordinance section was formerly Section 5.5. in the

City of Concord UDO, which was adopted on November 1, 2000. The property became nonconforming relative to this setback with the adoption of the UDO.

Background information regarding Case V-02-21 is as follows (based on application review):

- The subject property is currently commercial.
- The subject property is located at 308 Concord Parkway N, Concord, NC 28027.
- The property is zoned C-2 (General Commercial).
- The applicant is requesting a variance to gain relief from the 150' setback from residentially used parcel (rear of property) for any building housing animals, but not extend closer than 85'2" from the rear property line and adjoining residential property.

Exhibits

- A) Application
- B) Maps (Subject Property, Zoning, Land Use)
- C) Diagram
- D) Section 8.3.3.B.2.B.

Potential Board's Conclusions of Law (based on staff's findings of fact):

1. Unnecessary hardship would result from the 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 150' line would limit a facility holding animals to approximately a 34' deep building.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
 - Concord Parkway Animal Hospital existed prior to the supplemental regulation of the 150'. This site is unique in the fact that it faces a major thoroughfare road with a side street beside it into an established residential area. There have not been any past issues between Concord Parkway Animal Hospital and adjacent property owners.
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.
 - Concord Parkway Animal Hospital is an established animal hospital and has been in business at this location since 1984, before the adoption of the ordinance section in November of 2000.
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.

- There is no plan to increase or create any new rooms that house animals. The expansion does not extend any further than the current buildings do into the 150' line. Additional landscape buffering will be provided.



(Please type or print)

Note: A variance is not a right. It may be granted to an applicant, only if the applicant establishes compliance with the hardship criteria established in NCGS § 160A-388(d).

Applicant Name, Address, Telephone number: Concord Parkway Animal Hospital
C/O Carlos Moore Architect PA, 222 Church St NE, Concord NC 28025
704-788-8333

Owner Name, Address, Telephone number: Dr Stewart Roberts
308 Concord Parkway N, Concord NC 28027
704-786-1135

Project Location/Address:
308 Concord Parkway N, Concord NC 28027

P.I.N.: 5620-05-5851 / 5620-05-5930

Area of Subject Property (acres or square feet):
.701 / .276 ac = .977 ac

Lot Width: see survey Lot Depth: _____

Current Zoning Classification: C-2

Existing Land Use: Animal Hospital

Description of Use Requested:
Relief from the 150' setback from residentially used parcel (rear of property)

Variance Request

I, Carlos Moore Architect PA, hereby petition the Board of Adjustment for a variance from the literal provisions of the City of Concord Development Ordinance because under the interpretation given to me by the Zoning Administrator, I am prohibited from using the parcel of land described in this application, in the manner that I have proposed. I request a variance from the following provisions of this Ordinance:
Section 8.3.4.B.2.B - Any building housing animals shall be located a minimum of 150' from any residentially zoned or developed property.

So that the above-mentioned property can be used in a manner described herein:
The animal hospital has been existing in this location since 1984. An expansion is needed in order to update the facility with a larger waiting room, exam rooms, and support services.

Factors Relevant to the Issuance of a Variance

The Board of Adjustment has limited discretion in deciding whether to grant a variance. In order to determine whether a variance is warranted in a particular case, the applicant must present the facts addressing four (4) criteria. Providing evidence supporting these conclusions is the responsibility of the applicant. Below, indicate facts to convince the Board of Adjustment that these criteria are met:

1. Unnecessary hardship would result from the 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:
See diagram attached. The 150' line would limit all development to approx
a 34' deep building.

2. The hardship results from conditions that are peculiar to the property, such as the location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
CPAH existed, we believe, prior to the supplemental regulation of the 150'
rule. This site is unique in the fact that it faces a major thoroughfare road with
a side street beside it into an established residential area. We do not believe
that there have been any issues between CPAH and adjacent property owners.

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.
CPAH is a well established animal hospital and has been in business at this
location since 1984, well before the creation of the ordinance section.

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.
We do not plan to increase or create any new rooms that house animals.

The expansion does not extend any further than the current buildings do into the 150' line. We plan to provide additional landscape buffering.

The Board of Adjustment is not empowered to grant a variance without an affirmative finding of fact on all four (4) criteria above. Each finding of fact shall be supported by substantial evidence in the record of proceedings before the Board.

Under the State Enabling Act, the Board is required to take the evidence presented by the applicant and reach three (3) conclusions before it issues a variance. Below, indicate facts supporting these conclusions:

1. That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the Ordinance:

The building expansion cannot be completed as well as any modifications.

The 150' line bisects the current building.

2. That the variance is in harmony with the general purposes and intent of the Ordinance and preserves its spirit:

The expansion is limited to the front of the parcel away from the residential area and additional plantings will be provided for visual screening.

3. That in granting the variance, the public safety and welfare have been assured and substantial justice has been done:

CPAH is currently still doing curbside service. With the expansion they can achieve a more spacious waiting room / reception area for adequate spacing between animals and people, larger exam rooms, and expand the support services area. The expansion also creates a safer traffic flow.

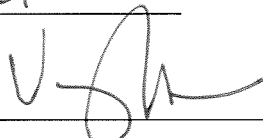
The Board may also impose reasonable conditions upon the granting of any variance to insure that the public health, safety, and general welfare shall be protected and substantial justice has been done.

**Calls or conversations with Board members prior to the meeting cannot be considered in the final decision and may result in the Board Member's recusal due to a conflict of interest. If adjacent property owners are to testify on behalf of the applicant, they must be present. Petitions and written consent may be accepted by the Board, but they cannot be used as a basis for the decision.

Certification

I hereby acknowledge and say that the information contained herein and herewith is true and that this application shall not be scheduled for official consideration until all of the required contents are submitted in proper form to the City of Concord Planning & Neighborhood Development Department.

Date: 04.22.2021

Applicant Signature: 

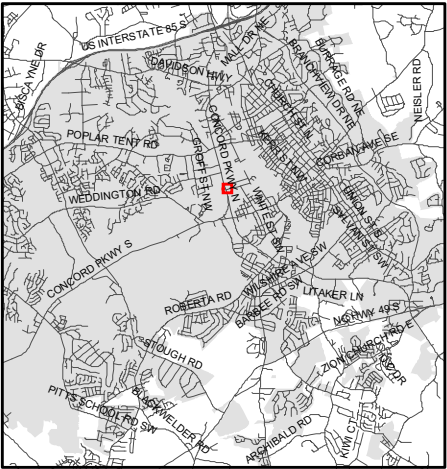
VIRGINIA MOORE
CARLOS MOORE ARCHITECT PA
FOR CONCORD PKWY ANIMAL HOSPITAL.

V-02-21

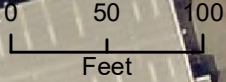
Variance Application

Concord Parkway
Animal Hospital

308 Concord Pkwy N
PINs: 5620-05-5851 & 5620-05-5930



- Subject Properties
- Addresses
- Parcels



Source: City of Concord
Planning Department

Disclaimer

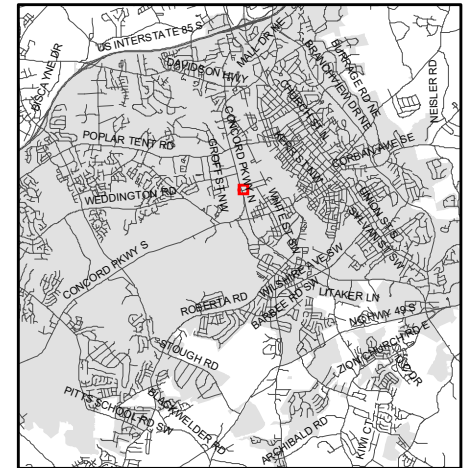
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**V-02-21
Land Use Plan**

Variance Application

**Concord Parkway
Animal Hospital**

308 Concord Pkwy N
PINs: 5620-05-5851 & 5620-05-5930



Source: City of Concord
Planning Department

Disclaimer

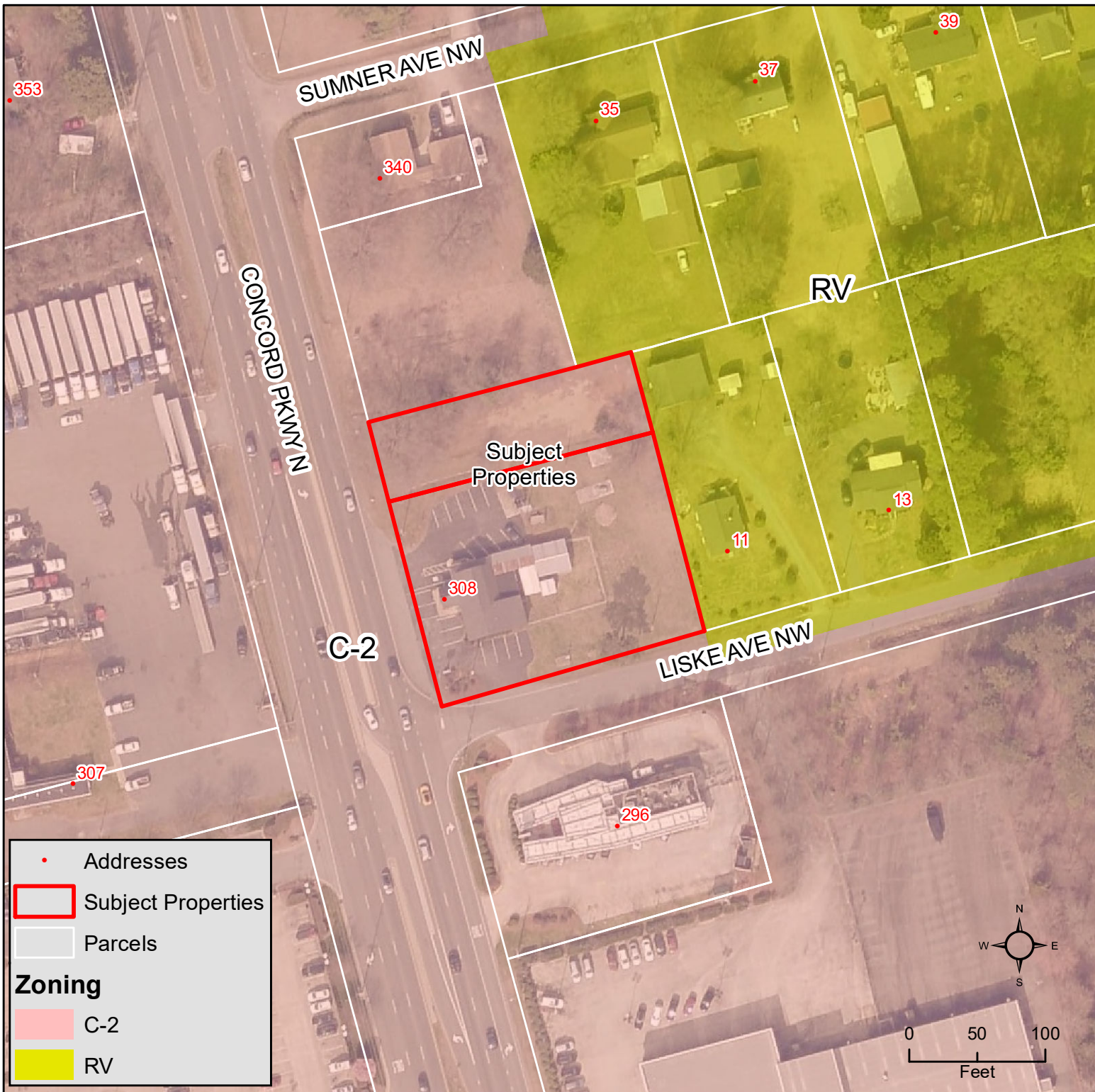
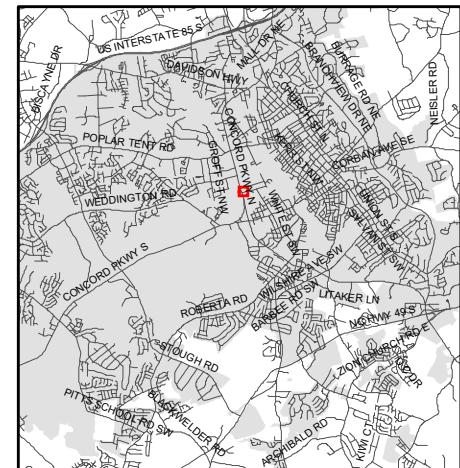
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V-02-21 Zoning Map

Variance Application

Concord Parkway Animal Hospital

308 Concord Pkwy N
PINs: 5620-05-5851 & 5620-05-5930

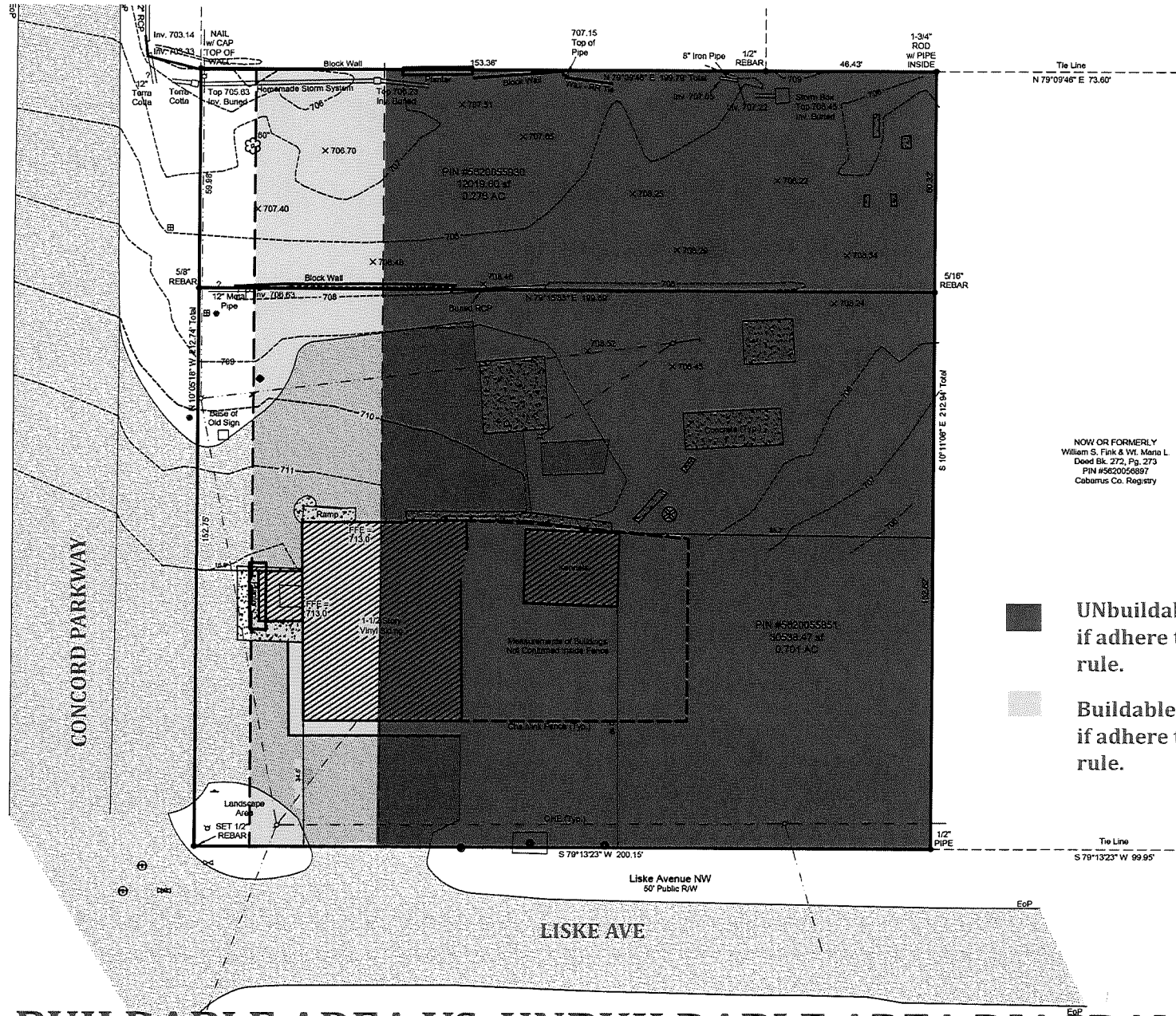


Source: City of Concord
Planning Department


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Concord Parkway - NC Hwy. 29
Variable Public RW



NOW OR FORMERLY
William S. Fink & Wt. Marie L.
Deed Bk. 272, Pg. 273
PIN #5620056897
Cabarrus Co. Registry

 UNbuildable area if adhere to 150' rule.

 Buildable area if adhere to 150' rule.

BUILDABLE AREA VS. UNBUILDABLE AREA DIAGRAM

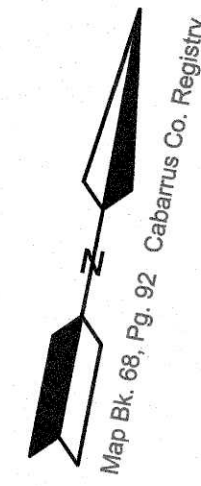
CONCORD PARKWAY ANIMAL HOSPITAL
308 CONCORD PKWY N, CONCORD NC



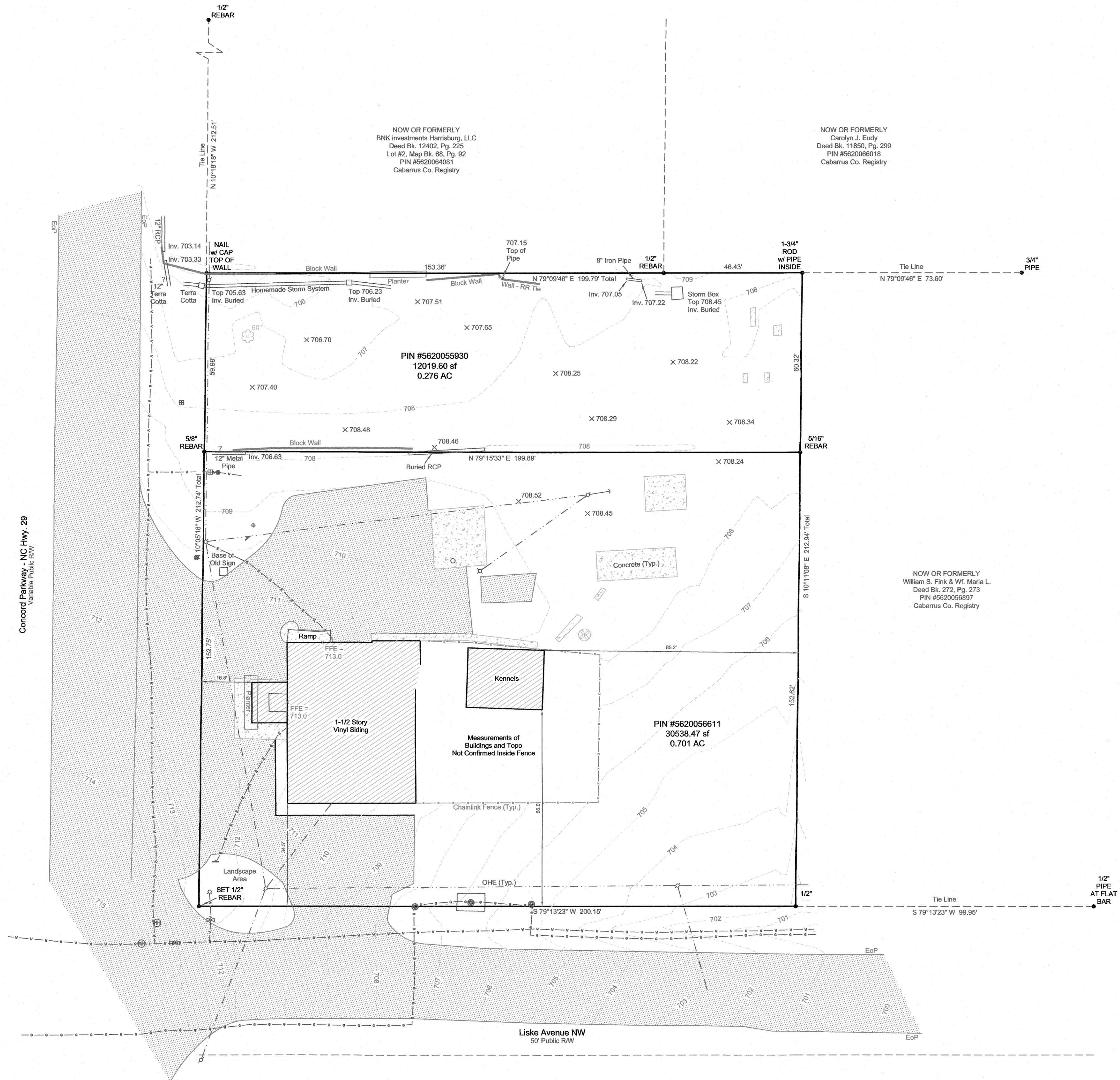
VICINITY MAP
(Not to Scale)

LEGEND

- R/W - RIGHT OF WAY
- OHE - OVERHEAD ELECTRIC
- EoP - EDGE OF PAVEMENT
- ⊕ - POWER POLE
- ⊕ - LIGHT POLE
- - GUYWIRE
- ⊕ - WATER METER
- ⊕ - WATER VALVE
- ⊕ - BFA
- ⊕ - WATER MANHOLE
- ⊕ - DROP INLET
- ⊕ - GAS VALVE
- ⊕ - SIGN
- ⊕ - SANITARY SEWER CLEANOUT
- ⊕ - DOG WASTE DISPOSAL
- ⊕ - MAILBOX
- ⊕ - OAK TREE
- ⊕ - CREPE MYRTLE BUSH



Total Area
42558.06 sf
0.977 AC



NOW OR FORMERLY
BNK Investments Harrisburg, LLC
Deed Bk. 12402, Pg. 225
Lot #2, Map Bk. 68, Pg. 92
PIN #5620064081
Cabarrus Co. Registry

NOW OR FORMERLY
Carolyn J. Eady
Deed Bk. 11850, Pg. 299
PIN #5620066018
Cabarrus Co. Registry

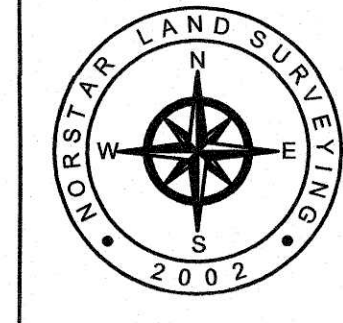
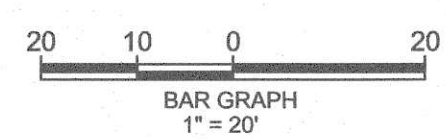
NOW OR FORMERLY
William S. Fink & Wf. Maria L.
Deed Bk. 272, Pg. 273
PIN #5620058897
Cabarrus Co. Registry

I, R. Scott Dyer, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 2467, page 20, etc.); that the boundaries not surveyed are clearly indicated as drawn from information found in Book n/a, page n/a; that the ratio of precision as calculated exceeds 1:10,000; and that this map meets the requirements of The Standards of Practice for Land Surveying in North Carolina (21 NCAC 56.1600). The topography was prepared in accordance with the North Carolina Administrative Code, Chapter 56 (21 NCAC 56.1605 & 1606), to the standards of trigonometric topographic survey (Class C) as described therein. Witness my original signature, registration number and seal this 17th day of April, A.D., 2020.

R. Scott Dyer, PLS #4444



- NOTES:**
- * Deed Reference - Deed Bk. 570, Pg. 590 - Stewart Fred Roberts (PIN #5620055851) dated March 1, 1984 - Recorded in Cabarrus Co. Registry
 - * Deed Reference - Deed Bk. 2467, Pg. 20 - Stewart F. Roberts & Wf. Julie C. (PIN #5620055930) Dated February 11, 1999 - Recorded in Cabarrus Co. Registry
 - * Map Reference - Recombination Plat of #340 Concord Parkway - Dated March 26, 2015 - Map Bk. 68 Pg. 92 - Recorded in Cabarrus Co. Registry - Performed by Hugh E. White, Jr., PLS
 - * 1/2" rebar set at all corners unless otherwise noted.
 - * Property subject to recorded and unrecorded rights of way, easements and agreements as may appear.



NORSTAR LAND SURVEYING, INC.
552-B Newell Street NW
Concord, NC 28025
Ph 704 721 6651
Fax 704 721 6653
Firm Lic. # C-2294

Prepared for: Liles Construction Co., Inc.
0.977 AC - Concord Parkway
Cabarrus County, NC
Township No. 2
BOUNDARY AND TOPOGRAPHICAL SURVEY

DATE	April 15, 2020
SCALE	1" = 20'
NLS NO.	20029
DRAWN BY	S. Kimrey
CHECKED BY	S. Dyer
BY	SHK
REVISION	Add Additional Topo
DATE	05/10/21
SHEET	1 OF 1

8.3.4 PUBLIC AND CIVIC USES

A. Child Care Center

1. APPLICABILITY

The provisions of this Section apply to any:

- A. Child Care Center.
- B. Family Day Care Homes. Day care homes are also Home Occupations (see Accessory Uses)

2. PERMIT APPLICATION

The following shall be submitted with the application for a Zoning Clearance Permit or Certificate of Compliance:

- A. Evidence that the N.C. Department of Transportation has issued driveway permits for the facility (may submit copies).
- B. Such centers shall be enclosed with a fence, with a minimum height of four (4) feet.
- C. The following shall be submitted upon receipt from the N.C. State Licensing Board:
- D. A copy of the N.C. State letter of approval for religious childcare facilities, or
- E. A copy of the N.C. State temporary license (issued for the first six months of operation) and permanent license issued to all childcare facilities, excluding religious childcare facilities.
- F. A letter from the applicant indicating the number of residents that will be cared for and how many staff will be employed.

3. ACCESS AND LOADING/UNLOADING

- A. This provision of this § 8.3.4 shall not apply to Family Day Care Homes.
- B. Adequate access to and from the site, as well as adequate off-street space must be provided for the pickup and discharge of children. Standards for access and off-street parking/loading are set forth in Article 10.3.
- C. The use shall front a street classified as a collector or a thoroughfare.

B. Animal Shelter, Boarding, Clinic/Hospital Uses

1. APPLICABILITY

The provisions of this Section shall apply to any use that includes the commercial boarding or storage of live animals, including but not limited to veterinarian hospitals and kennels. Animal boarding/storage uses shall be permitted as set forth in the Use Table subject to the criteria below.

2. CRITERIA

- A. Facilities for the boarding of all dogs and other household pets shall conform to the following:
- B. Any building housing animals shall be located a minimum of

- 150 feet from any residentially zoned or developed property.
- C. Animal wastes shall not be stored any closer than fifty (50) feet from any property line or surface waters.
 - D. Areas used for grazing, exercising or training of said animals shall be securely fenced to prevent the animals from straying, or a suitable restraint shall be provided to prevent straying.
 - E. Any kennel which is not wholly enclosed within a building shall be enclosed by a security fence at least six (6) feet in height.

C. Cemetery

1. APPLICABILITY

The provisions of this Section apply to any Cemeteries or crematories as allowed by Table 8.1.8 and subject to the provisions below.

2. CRITERIA

- A. Pursuant to NCGS § 90-210.43, any crematories may be established in commercial or industrial zoned district so long as it is adjacent to a funeral establishment.
- B. Minimum setback for all structures, excluding gatehouses, abutting residentially zoned property is (50) feet from any side or rear property line, (25) twenty-five feet if abutting commercially zoned property, and a minimum of (25) twenty-five feet from any right-of-way. Gatehouses shall be excluded from any minimum building setback.
- C. Minimum setback for any grave or burial plot is fifty (50) feet from any exterior property line, except that any grave or burial plot shall be allowed within three (3) feet of a property line of an abutting parcel that contains an existing cemetery.
- D. Buffering and Landscaping shall be regulated in accordance with Article 11.

D. Limousine/Chauffeur Service/Taxi Company

1. VEHICLE STORAGE

- A. Automobiles stored on such premises shall be at least fifty (50) feet from any residential district boundary and at least ten (10) feet from any property line. No automobile shall be stored or stand outside of such paved area.
- B. When located within one hundred and fifty (150) feet of a residential zone boundary line, such vehicles shall be stored within an enclosed building or in an area screened on all sides by a opaque wall or fence, or compact evergreens screen not less than six (6) feet in height.
- C. No service or repair of such vehicles shall be conducted on the premises.
- D. The entrance and exits, driveway aisles, parking and storage