

**TOWN OF ERWIN
PLANNING BOARD/BOARD OF ADJUSTMENTS
MONDAY, JUNE 17 2024 AT 7:00 PM
ERWIN MUNICIPAL BUILDING BOARD ROOM**

AGENDA

1. **MEETING CALLED TO ORDER**
 - A. Invocation
 - B. Pledge of Allegiance

2. **CONSENT AGENDA**
 - A. Planning Board Minutes from Regular Meeting on May 20, 2024 (**Page 2**)

3. **OLD BUSINESS**
 - A. Updates

4. **NEW BUSINESS**
 - A. Restaurants B-2 (**Page 5**)
 - B. Outdoor Dining (**Page 6**)
 - C. Street Access Amendment (**Page 9**)

5. **ADJOURNMENT**

6. **BOARD OF ADJUSTMENTS**

7. **CONSENT AGENDA**
 - A. Board of Adjustments Minutes from Regular Meeting on May 20, 2024 (**Page 11**)

8. **PUBLIC HEARING**
 - A. BOA-2021-002 (**Page 14**)

9. **ADJOURNMENT**

PLANNING BOARD
MEETING MINUTES
MONDAY, MAY 20 2024
ERWIN, NORTH CAROLINA

The Town of Erwin Planning Board held its regular meeting in the Erwin Municipal Building Board Room 110 West F Street, Erwin NC on Monday, May 20th, 2024 at 7:00 PM.

Board members present were Chairperson Joshua Schmeiding, In-Town Board Members Grace Watts, Jim Hartman, and Out-of-Town Board Members Nicholas Skatell and Howard Godwin.

Board members absent were: Vice-Chairperson Ronald Beasley, In-Town Board Member Rebecca Kelly, In-Town Board Member Kathryn Moore, and In-Town Alternate Vanessa Lech.

Town Manager Snow Bowden, Deputy Clerk Katelan Blount, and Town Planner Dylan Eure were present.

Chairperson Joshua Schmeiding called the meeting to order at 7:00 PM.

Board Member Grace Watts gave the invocation.

Board Member Nicholas Skatell led the Pledge of Allegiance.

CONSENT ITEMS

Board Member Howard Godwin made a motion to approve the minutes of April 15, 2024, and was seconded by Jim Hartman. **The Board voted unanimously.**

OLD BUSINESS

Town Planner Dylan Eure informed the Board of Commissioners that the ADU Text Amendment was denied by the Board of Commissioners.

The Penalty Text Amendment was approved by the Board of Commissioners and is now officially an Ordinance in the Town of Erwin.

The Open House for the Overlay District was conducted May 20th. It went well and there were no issues.

NEW BUSINESS

OUTDOOR STORAGE AMENDMENT

Town Planner Dylan Eure presented the Outdoor Storage Facilities Amendment. This included some updates that the Board of Commissioners had requested, including language allowing some storage of items such as seasonal mulch.

Chairperson Joshua Schmeiding asked to confirm that this would not affect Lowe's or Miller's.

MINUTES CONTINUED FROM MAY 20, 2024

Town Planner Dylan Eure confirmed that Mr. Schmeiding was correct.

Chairperson Nicholas Skatell made a motion to approve the Outdoor Storage Amendment, which was seconded by Commissioner Jim Hartman. **Motion unanimously approved.**

ZT-2021-002 Update

Town Planner Dylan Eure stated that there were two parcels on this previous rezoning that should have been included but were missed. This would ensure that these parcels are also rezoned appropriately. Both are currently zoned as R10 and B2, and this would rezone both properties to B2 in alignment with their current use. Town Planner Dylan Eure confirmed with the Harnett County Tax Office to not be causing any negative valuations on the taxes.

Board Member Nicholas Skatell made a motion in the affirmative, seconded by Jim Hartman, and unanimously approved by the Board, that the impact to the adjacent property owners and the surrounding community is reasonable, and the benefits of the rezoning outweigh any potential inconvenience or harm to the community.

- Reasoning: The rezoning is compatible with the surrounding community and would not cause any inconvenience to those within the area.

Board Member Howard Godwin made a motion in the affirmative, seconded by Nicholas Skatell, and unanimously approved by the Board that the requested zoning district is compatible with the existing Land Use Classification.

- Reasoning: According to Erwin's current Land Use Plan done in 2023 the property is assigned to be zoned as a suburban area.

Board Member Nicholas Skatell made a motion in the affirmative, seconded by Jim Hartman, and unanimously approved by the Board that the proposal does enhance or maintain the public health, safety, and general welfare.

- Reasoning: The rezoning would correct zoning nonconformities and ensure that clear uses are defined for the parcels.

Board Member Jim Hartman made a motion in the affirmative, seconded by Howard Godwin, and unanimously approved by the Board that the request is for a small-scale rezoning and should be evaluated for reasonableness.

- Reasoning: This rezoning request includes two parcels that are right next to each other.

Board Member Jim Hartman made a motion in the affirmative, seconded by Howard Godwin, and unanimously approved by the Board that there is a convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.

- Reasoning: Parcels are currently split-zoned and by rezoning would ensure that their current uses are permitted.

Board Member Howard Godwin made a motion in the affirmative, seconded by Jim Hartman, and unanimously approved by the Board that there is a convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change.

MINUTES CONTINUED FROM MAY 20, 2024

(When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved.)

- Reasoning: Both parcels are designated under the Erwin 2023 Land Use Plan to be either residential or mixed use.

Board Member Kathryn Moore joined the meeting at 7:06p.m.

Board Member Nicholas Skatell made a motion in the affirmative, seconded by Jim Hartman, and unanimously approved by the Board that there is a convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.

- Reasoning: The rezonings would not alter the character of the neighborhood in any way. Rezoning would ensure clarity for owners and not take away rights that they currently have to their land.

Board Member Howard Godwin made a motion in the affirmative, seconded by Jim Hartman, and unanimously approved by the Board that the proposed change is in accord with the Land Development Plan and sound planning principles.

- Reasoning: Both parcels that are included are designed to be mixed in the 2023 Erwin Land Use Plan for the purposes of residential and commercial.

Board Member Nicholas Skatell made a motion that the requested rezoning from being split-zoned is compatible with all of the Town of Erwin's regulatory documents. According to Erwin's 2023 Land Use Plan and Erwin's Code of Ordinances, the uses defined within the RD zoning classification would best serve the above-stated parcel. It is recommended that this rezoning request be Approved and was seconded by Jim Hartman. **The Board voted unanimously.**

ADJOURNMENT

Board Member Jim Hartman made a motion to adjourn the meeting at 7:10 PM and was seconded by Grace Watts. **Motion unanimously approved.**

Minutes recorded and typed by

Katelan Blount, Deputy Clerk

Joshua Schmeiding

Chairperson

Katelan Blount

Deputy Clerk

Erwin Planning Board

REQUEST FOR CONSIDERATION

To: Erwin's Planning Board Members
From: Dylan Eure, Town Planner
Date: June 16, 2024
Subject: Restaurants B-2

The Town of Erwin Staff wishes to amend Chapter 36 Article X Section 36-272 for the purpose of adding restaurants both drive through and traditional to clarify that both are permitted within the district. Within the said section are the permitted uses for Erwin's Highway B-2 Business District. The language reads as follows:

Proposes permitted uses to be added to B-2:

(12) Restaurants; drive-through and traditional sit-down establishments without drive-throughs.

Statement of Consistency

The proposed text amendment is compatible with all of the Town of Erwin's regulatory documents. According to Erwin's 2023 Land Use Plan and Erwin's Code of Ordinances, the proposed text amendment would best address issues of the lack of pedestrian walkways within new major subdivisions. It is recommended that this text amendment be **Approved**.



TOWN OF ERWIN

P.O. Box 459 • Erwin, NC 28339
Ph: 910-897-5140 • Fax: 910-897-5543
www.erwin-nc.org

Mayor
Randy L. Baker
Mayor Pro Tem
Ricky W. Blackmon
Commissioners
Alvester L. McKoy
Timothy D. Marbell
Charles L. Byrd
David L. Nelson
William R. Turnage

6/17/2024

Outdoor Dining Memorandum

Facts

Outdoor dining also known as patio dining occurs when an establishment expands their services to include areas outside of the principal locations into spaces such as the sidewalk and/or other areas along the owner's property. The potential area which is proposed to allow for outdoor dining is Erwin's Central Business District which is along East H St, Denim Dr, and West F St.(see attached zoning image) The existing sidewalk along East H St. measures approximately 9 feet 10 inches. The ADA or American with Disabilities Act requires that sidewalks be a minimum of 36 inches or 3ft in order for wheel chairs to be able to navigate the sidewalk. This said this leaves approximately 82 inches or 6 feet 8 inches of remaining sidewalk that may be used for outdoor dining. Being said, this could not pertain to alcohol consumption nor the sale of alcohol along areas belonging to the Town of Erwin as Chapter 22 Article 1 Section 22-2 states "it shall be unlawful for any person to consume or sell beer, unfortified wine, whiskey or alcoholic beverages of any kind on any property owned or occupied by the town". It is also important to note that Chapter 36 within Article XV Section 36-433 states that "*fence prohibited in rights-of-way*. No fence shall be erected or maintained within or on any state or town right-of-way".

Benchmarking

Angier- No regulations/language relating to outdoor dining, does not have a permitting process. May be a use of existing business but not regulated.

Coats- No regulations/language relating to outdoor dining, does not have a permitting process.

Lillington- Permitted. Requires screening/buffering between the outdoor dining area and along with an encroachment permit from NCDOT if along a state-maintained ROW.

Dunn- No regulations, /language relating to outdoor dining, May be a use of existing business but not regulated.

Possible Regulation

Definition-

Outdoor/Patio Dining- Any outdoor arrangement of tables, chairs, benches, stools, or other furnishings primarily intended for use while eating and drinking by the customers of the restaurant with which the furnishings are associated.

Regulation-

Permitted Accessory use within Central Business

1. When outdoor dining is provided, small posts and rails shall be installed along the edge of the sidewalk to prevent unsafe conditions and enhance beautification.
2. All outdoor/patio dining areas must be designated to be ADA compliant and located on paved, brick, or other form of hardscape surface.
3. Encroachments into a public Right-Of-Way shall be approved by the maintainer of the public street (Town or NCDOT).
4. Under no circumstance shall outdoor/patio dining take place in areas designated for parking.

Recommendation

After consideration of all of available facts, it is the opinion of the Town Planner of Erwin that this be continued to be evaluated for reasonableness and to offer amendments to the areas of conflicting ordinances in order to be properly enacted. These amendments would include to establish a social district in which alcohol sale and consumption or allowing them to be permitted, along with allowing fences within the public right of way that contain an encroachment agreement with either Erwin or NCDOT.





Regards,

Dylan Eure
Town Planner

Erwin Planning Board

REQUEST FOR CONSIDERATION

To: Erwin's Planning Board Members
From: Dylan Eure, Town Planner
Date: June 16, 2024
Subject: Street Access Amendment

The Town of Erwin Staff wishes to amend Chapter 30 Article 3 Section 30-77 for the purpose of requiring developers of major subdivisions to install ADA-compliant sidewalks within major subdivisions. Within the said section are the regulations for major subdivisions. The language reads as follows:

Sec. 30-77. - Sketch plan for major subdivisions.

(a) *Number of copies and contents.* Prior to the preliminary plat submission, the subdivider shall submit to the subdivision administrator, two copies of a sketch plan of the proposed subdivision containing the following information:

- (1) A sketch vicinity map showing the location of the subdivision in relation to neighboring tracts, subdivisions, roads and waterways;
- (2) The boundaries of the tract and the portion of the tract to be subdivided;
- (3) The total acreage to be subdivided;
- (4) The existing and proposed uses of the land within the subdivision and the existing uses of land adjoining it;
- (5) The proposed street layout with approximate pavement and right-of-way width, lot layout and size of lots;
- (6) The name, address and telephone number of the owner;
- (7) The name, if any, of the proposed subdivision;
- (8) Streets and lots of adjacent developed or plated properties;
- (9) The zoning classification of the tract and of adjacent properties;
- (10) A statement from the county health department that a copy of the sketch plan has been submitted to them, if a septic tank system or other on-site water or wastewater systems are to be used in the subdivision.

Item to be added

(11) ADA-compliant sidewalk along at least one side of the entirety of each street created by the subdivision or existing road.

Statement of Consistency

The proposed text amendment is compatible with all of the Town of Erwin's regulatory documents. According to Erwin's 2023 Land Use Plan and Erwin's Code of Ordinances, the proposed text amendment would best address issues of the lack of pedestrian walkways within new major subdivisions. It is recommended that this text amendment be **Approved**.

BOARD OF ADJUSTMENTS
MEETING MINUTES
MONDAY, MAY 20 2024
ERWIN, NORTH CAROLINA

The Town of Erwin Board of Adjustments held its regular meeting in the Erwin Municipal Building Board Room 110 West F Street, Erwin NC on Monday, May 20th, at 7:10 PM.

Board members present were Chairperson Joshua Schmeiding, In-Town Board Members Grace Watts, Jim Hartman, and Kathryn Moore, and Out-of-Town Board Members Nicholas Skatell and Howard Godwin.

Board members absent were: Vice-Chairperson Ronald Beasley, In-Town Board Member Rebecca Kelly, and In-Town Alternate Vanessa Lech.

Town Manager Snow Bowden, Deputy Clerk Katelan Blount, and Town Planner Dylan Eure were present. Chairperson Joshua Schmeiding called the meeting to order at 7:10 PM.

CONSENT ITEMS

Board Member Howard Godwin made a motion to approve the minutes of November 20, 2023, and was seconded by Jim Hartman. **The Board voted unanimously.**

PUBLIC HEARING

BOA-2024-001

Town Planner Dylan Eure informed the Board that the Town of Erwin received a request for a variance of 3ft for the side set back of the accessory building and 6 ft for the rear of the accessory building from Mr. Trey Skandier who resided within the municipality at 65 Big J Street. Mr. Skandier was requesting a variance of 3 feet for the side set back of an accessory building, and 6 feet for the rear set back of an accessory building. This is due to a septic drain field preventing Mr. Skandier from placing any permanent structure on any other portion of his backyard. Therefore, it is in the view of the Planner for the Town of Erwin that the variance be approved for a 3ft and 6ft side/rear variance.

Applicant, Trey Skandier, of 65 Big J Street, came forward and was sworn in by Deputy Clerk Katelan Blount.

Mr. Skandier stated that his backyard is pretty limited on space, and that the septic field comes right up to where the edge of that building would be, and that he would need to move it back a little bit towards the neighbors property in order to fit it within the guidelines.

Board Member Grace Watts asked Mr. Skandier to show the property boundary he is referencing on the screen. He proceeded to show the Board the boundary he was speaking about.

Board Member Jim Hartman asked if there was a fence around Mr. Skandier's property.

Mr. Skandier responded that he does have a fence, yes.

The Board asked no further questions.

Chairperson Joshua Schmeiding asked if anyone else would like to come forward and speak against the request.

No one came forward.

Board Member Jim Hartman made a motion in the affirmative that there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district. The reasoning was that the drainage field takes up the majority of the backyard.

This motion was seconded by Nicholas Skatell and the Board voted unanimously in the affirmative.

Board Member Howard Godwin made a motion in the affirmative that granting the variance requested will not confer upon the applicant any special privileges denied to other residents of the district in which the property is located. The reasoning was that the application is seeking a variance due to a drainage field being in his back yard.

This motion was seconded by Jim Hartman and the Board voted unanimously in the affirmative.

Board Member Jim Hartman made a motion in the affirmative that a literal interpretation of the provisions of this ordinance will deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located. The reasoning was that by enforcing the dimensional requirements in consideration of the drainage field, the applicant would not be able to place an accessory building on the property.

The motion was seconded by Kathryn Moore and the Board voted unanimously in the affirmative.

Board Member Nick Skatell made a motion that the requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare. The reasoning was that the accessory building will only be a detached garage, located on the rear of the property, and will not cause any burdens to the general public.

This motion was seconded by Jim Hartman, and the Board voted unanimously in the affirmative.

Board Member Jim Hartman made a motion in the affirmative that the special circumstances are not the result of the actions of the applicant. The reasoning was that the length of the drainage field takes up the majority of the property.

The motion was seconded by Howard Godwin, and the Board voted unanimously in the affirmative.

Board Member Nicholas Skatell made a motion in the affirmative that the variance requested is the minimum variance that will make possible the legal use of the land, buildings, or structures. The reasoning was that the applicant's variance request is what would allow the applicant to place the shed and nothing else.

The motion was seconded by Howard Godwin, and the Board voted unanimously in the affirmative.

ADJOURNMENT

Board Member Howard Godwin made a motion to adjourn the meeting at 7:18 PM and was seconded by Him Hartman. **Motion unanimously approved.**

Minutes recorded and typed by

Katelan Blount, Deputy Clerk

Joshua Schmeiding

Chairperson

Katelan Blount

Deputy Clerk



TOWN OF ERWIN

P.O. Box 459 • Erwin, NC 28339
Ph: 910-897-5140 • Fax: 910-897-5543
www.erwin-nc.org

Mayor
Randy L. Baker
Mayor Pro Tem
Ricky W. Blackmon
Commissioners
Alvester L. McKoy
Timothy D. Marbell
Charles L. Byrd
David L. Nelson
William R. Turnage

6/17/2024

BOA-2024-002 **Memorandum**

Variance Description

Family Building Company II LLC has submitted a variance request of in the amount of 2,523sqft for the size of the parcel and 25.10ft for the width/frontage of the parcel for the purpose of building a single family home located on 3rd St. The parcel is .174 of an acre and was created by a subdivision that took place in 1930 prior to Erwin's incorporation as a Town. The parcel has a total of 7,477 square feet and a frontage/width of 49.90. The requirement for R-10 zoning classification is 10,000 square feet and a width/frontage of 75. Due to the fact that this lot does not meet dimensional standards and is a true hardship it is the staff's recordation that the variance be approved.

Property Description

The parcel is .174 of an acre and was created by a subdivision that took place in 1930 prior to Erwin's incorporation as a Town. The parcel has a total of 7,477 square feet and a frontage/width of 49.90. The requirement for R-10 zoning classification is 10,000 square feet and a width/frontage of 75. There is currently no builds on the proposed site and does not contain wetlands, watersheds and is not within a flood zone. This parcel is located off 3rd St. which is within our corporate limits. The surrounding land uses are R-6 to the East, R-10 to the West, and B-2 to the North heading towards US 421 and South along Denim Dr.

Applicable Regulations

Sec. 36-418. - Substandard lot of record.

“Where the owner of a lot, at the time of the adoption of this article, or the owner's successor in title thereto does not own sufficient land to enable them to conform to the dimensional requirements of this article, such lot may be used as a building site in the district in which it is located; provided, that the lot width and lot area are not more than 20 percent below the minimum specified in this article. In any case where the lot area and lot width are more than 20 percent below the minimum specified in this article or other dimensional requirements cannot

be met, the board of adjustment may approve, as a special exception, such dimensions as shall conform as closely as possible to the required dimensions.”

Sec. 36-147. - Dimensional requirements for R-10.

“ (a) The following regulations shall govern all permitted and conditional uses in this district:
 (1)Minimum lot area: 10,000 square feet (0.229 acres).
 (2)Minimum lot width: 75 feet.”

Regards,

Dylan Eure
Town Planner



Variance Application (February 2011)

Name of Applicant	Family Building Company II LLC	Property Owner	Family Building Company II LLC
Mailing Address	1016 Mockingbird Dr	Mailing Address	1016 Mockingbird Dr
City, State, Zip	Raleigh NC 27615	City, State, Zip	Raleigh NC 27615
Telephone	919.995.5927	Telephone	919.995.5927
Email	permitting@familybuildingco.com	Email	permitting@familybuildingco.com

Address of Subject Property	~204 3rd St, Erwin NC
Parcel Identification Number(s) (PIN) of Subject Property	1507-13-6445

Variance Description: On a separately attached document, please state the particular zoning regulation for which the variance is being requested. Also state the requested variance (For instance, in the case of a setback variance request: If the required side yard setback is 12' and the applicant can only meet a 10' setback; then the applicant will be requesting a 2' variance from the 12' setback requirement.). Please attach a site plan with all appropriate dimensional notations needed to demonstrate the variance request if applicable.

Findings of Fact: The following are the findings of fact associated with a variance request. Applicant is to note that all of the following findings must be found in the affirmative in order for the requested variance to be granted. The applicant is requested to review each of these findings and answer the same to the best ability of the applicant. Responses to each of these findings may be attached to this application on a separate document.

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district.
- b. Granting the variance the requested will not confer upon the applicant any special privileges denied to other residents of the district in which the property is located.
- c. A literal interpretation of the provisions of this ordinance will deprive the applicant of rights commonly enjoyed by other residence of the district in which the property is located.
- d. The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
- e. The special circumstances are not the result of the actions of the applicant.
- f. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.

Owner/Applicant Must Read and Sign

The undersigned property owner, or duly authorized agent/representative thereof certifies that this application and the forgoing answers, statements, and other information herewith submitted are in all respects true and correct to the best of their knowledge and belief. The undersigning party understands that any incorrect information submitted may result in the revocation of this application. The undersigning party authorizes the Town of Erwin to review this request and conduct a site inspection to ensure compliance to this application as approved.

Matthew Szalecki, Managing Member
Print Name

DocuSigned by:
Matthew Szalecki
Signature of Owner or Representative

5/1/2024
Date



Variance Application Information

**Part 9
Chapter 4
Article 10**

Board of Adjustments

§ 9-4101.2 Powers and duties.

The Board of Adjustment shall have the following powers and duties:

To authorize upon appeal in specific cases variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in undue hardship, so that the spirit of this ordinance shall be observed and substantial justice done.

A charge shall be made to the appellant according to town policy in order to cover administrative and advertising costs (Subsection (d)).

A public hearing shall be held at which all of the following conditions must be found to exist:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district.
- b. Granting the variance the requested will not confer upon the applicant any special privileges denied to other residents of the district in which the property is located.
- c. A literal interpretation of the provisions of this ordinance will deprive the applicant of rights commonly enjoyed by other residence of the district in which the property is located.
- d. The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
- e. The special circumstances are not the result of the actions of the applicant.
- f. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.

In considering all proposed variances from this ordinance the Board shall, before making any finding in a specified case, first determine that the proposed variance will not constitute any change in the zone shown on the zoning map and will not impair an adequate supply of light and

air to adjacent property, or materially increase the public danger of fire and safety, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, morals, and general welfare.

No permitted use of land in other districts shall be considered grounds for the issuance of a variance. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any expressly or by implication prohibited by the terms of this ordinance in said district.

In granting a variance the Board may attach thereto such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable in furtherance of the purposes of this ordinance. Violation of such conditions and safeguards when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance.



Variance Request

For: PIN # 1507-13-6445

#TBD Third St, Erwin NC

Variance Description:

A variance of 2,533 square feet from the minimum lot size and a variance of 25.10 feet from the minimum lot width is being requested. This parcel resides in Erwin R-10 Zoning; per Article VII - Section 36-147 - Dimensional Requirements of the Erwin Code of Ordinances, the minimum lot area permitted is 10,000 square feet and the minimum lot width is 75 feet.

The lot for Parcel # 1507-13-6445 was originally created in 1924 in Plat Book 3, Page 35, as Lots #55 and #56 in the subdivision, each being 25 foot wide lots. Lots 55 and 56 have existed together as a single parcel since 1930 (Deed book 235, Page 480). The parcel is 7,477 square feet and 49.90' wide.

Per Article XV, Section 36-418 - Substandard lot of record, this parcel is considered a substandard lot of record. It is short on lot area by ~25% and short on lot width by ~33%. As each of these conditions is more than a 20% deviation below the minimum standard, we are required to request a special exception from the Board of Adjusters to be permitted to build on this lot.

No other variances are necessary in order to build on this lot, and it can be developed with a conforming use (single-family residential home) with conforming setbacks and impervious surface coverage.



Findings of Fact:

- a. *There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district.*

This property is a smaller size than is permitted under current R-10 zoning because it was created by a subdivision in 1924 down to 25 foot wide lots, when such subdivision was permitted and common in our area. Throughout the neighborhood between 1st Street and 4th Street, there are no single 25 foot wide lots remaining, but there are a variety of lots that are mostly 50 feet, 75 feet, or 100 feet wide. This parcel was combined from two lots in 1930. Most of this subdivision is in R-6 Zoning - it begins across the street. Only one side of 3rd Street and one side of 4th Street is in R-10 zoning, and most lots in this zoning district are significantly larger and conforming with the current code.

- b. *Granting the variance requested will not confer upon the applicant any special privileges denied to other residents of the district in which the property is located.*

This request does not include any special privileges denied to other residents. In fact, this request grants us a privilege that has previously been afforded to other residents in this district. In the same subdivision and in the same R-10 zoning district, the following parcels are the same size as our parcel or smaller and have homes constructed upon them:

106, 108, 110, 112 3rd St
105, 107, 201 4th St

- c. *A literal interpretation of the provisions of this ordinance will deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.*

See above comment. It is common for lots of this size in this zoning district to have homes built on them. Many of these homes were built prior to the most current version of the Erwin Code of Ordinances being released. This subdivision was created and approved with the intent of creating building lots for residential homes. Most of the owners of the parcels in this subdivision have already built homes on their properties.

d. The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.

The requested variance will permit us to build a single family home on the parcel, which is in harmony with the purpose and intent of the ordinance and the R-10 zoning district. It will not be injurious to the neighborhood as this use is in alignment with the use of the surrounding parcels and the entirety of the neighborhood.

e. The special circumstances are not the result of the actions of the applicant.

The special circumstances are a result of a change in the zoning rules applied to this parcel between its 1930 creation and the present day. We have not created any new special circumstances for this property.

f. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.

The requested variance is the absolute minimum variance necessary to grant permission to make use of the lot.



BOARD OF ADJUSTMENTS VARIANCE REQUEST STAFF REPORT

Case: BOA-2024-002

Dylan Eure, Town Planner

deure@erwin-nc.org

Phone: (910) 591-4201 Fax: (910) 897-5543

Board of Adjustments Meeting Date: 6/17/2024

Requesting a dimensional variance in the amount of 2,523sqft for the size of the parcel and 25.10ft for the width/frontage of the parcel for the purpose of building a single family home located on 3rd St.

Applicant Information

Owner of Record:

Name: Family Building Company II LLC

Address: HC Tax Pin: 1507-13-6445

City/State/Zip: Erwin, NC 28339

Applicant:

Name: Family Building Company II LLC

Address: HC Tax Pin: 1507-13-6445

City/State/Zip: Erwin, NC 28339

Property Description

Harnett County Tax PIN: 1507-13-6445

Acres: .172 of an acre

Zoning District: R-10

Vicinity Map

- See Attached Document

Physical Characteristics

Site Description: The parcel is .174 of an acre and was created by a subdivision that took place in 1930 prior to Erwin's incorporation as a Town. The parcel has a total of 7,477 square feet and a frontage/width of 49.90. The requirement for R-10 zoning classification is 10,000 square feet and a width/frontage of 75. There is currently no builds on the proposed site and does not contain wetlands, watersheds and is not within a flood zone.

Surrounding Land Uses: This parcel is located off 3rd St. which is within our corporate limits. The surrounding land uses are R-6 to the East, R-10 to the West, and B-2 to the North heading towards US 421 and South along Denim Dr.

Services Available

- HRW for water and septic
- Duke for electricity / power
- Brightspeed for telephone

Findings of Fact

Family Building Company II LLC has submitted a variance request of in the amount of 2,523sqft for the size of the parcel and 25.10ft for the width/frontage of the parcel for the purpose of building a single family home located on 3rd St. The parcel is .174 of an acre and was created by a subdivision that took place in 1930 prior to Erwin's incorporation as a Town. The parcel has a total of 7,477 square feet and a frontage/width of 49.90. The requirement for R-10 zoning classification is 10,000 square feet and a width/frontage of 75. Due to the fact that this lot does not meet dimensional standards and is a true hardship it is the staff's recordation that the variance be approved.

Staff Evaluation

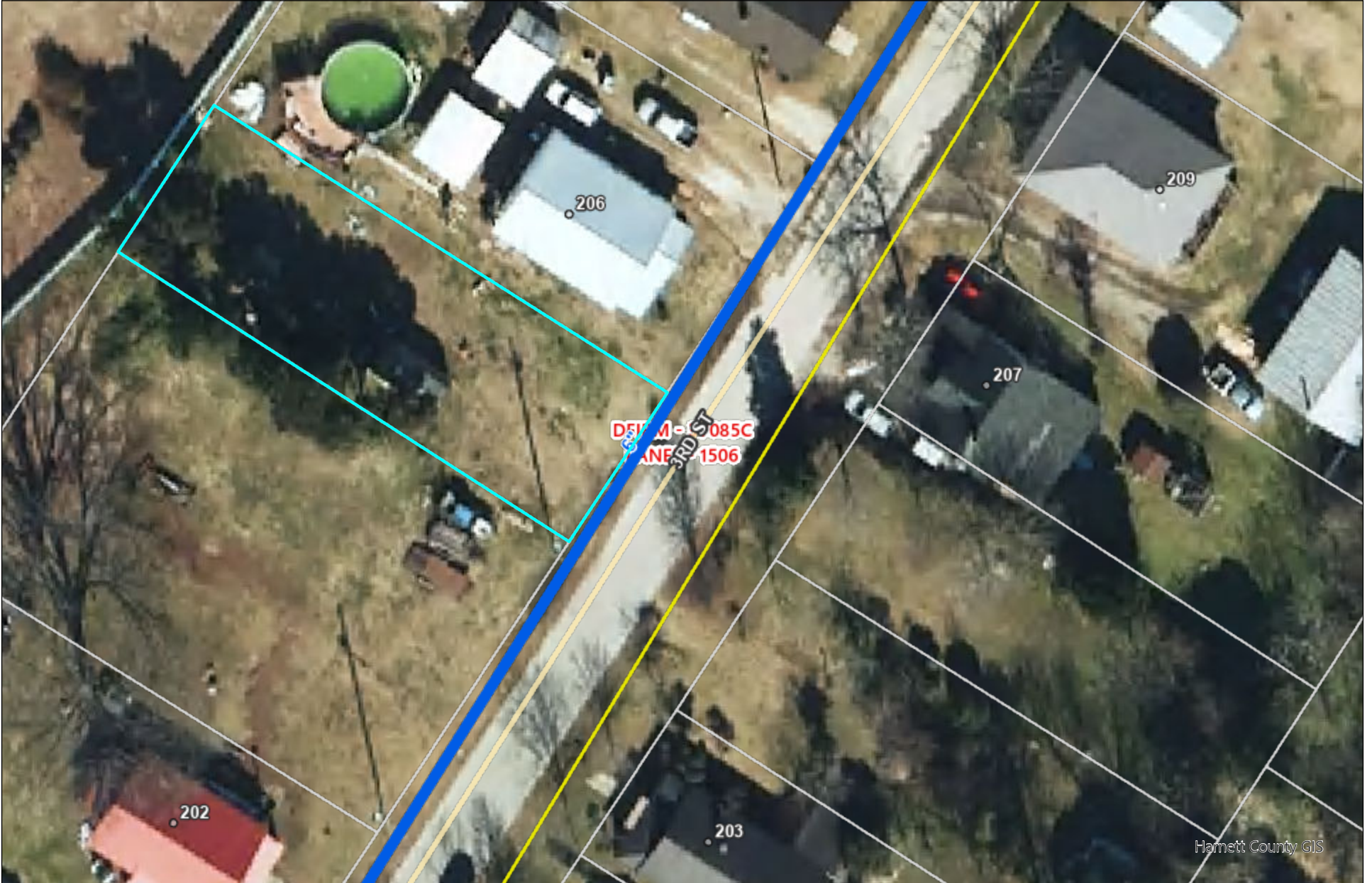
Staff Evaluation

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures in the same district. **Yes**
 - **Reasoning:** The property was created prior to Erwin being incorporated, therefore it did not have to conform to any dimensional requirements at the time it was created.
2. Granting the variance the requested will not confer upon the applicant any special privileges denied to other residents of the district in which the property is located. **Yes**
 - **Reasoning:** The variance is solely for dimensional requirements that are unable to be met due to the way in which the parcel was originally drawn and would be applied to all other parcels of the same nature.
3. A literal interpretation of the provisions of this ordinance will deprive the applicant of rights commonly enjoyed by other residence of the district in which the property is located. **Yes**
 - **Reasoning:** By enforcing the dimensional requirements the property would be unable to be developed.
4. The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare. **Yes**

- **Reasoning:** Section 36-419 states that properties that are unable to meet dimensional requirements must be approved by the Board of Adjustments and there would no reason as of why this development would cause injury to the surrounding neighborhood.
5. The special circumstances are not the result of the actions of the applicant. **Yes**
- **Reasoning:** The property was created prior to Erwin's zoning ordinance in 1930 therefore did not have to be created based on Erwin's dimensional standards.
6. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structures. **Yes**
- **Reasoning:** The applicants request is the minimum that would make it be able to be permitted.

Harnett GIS

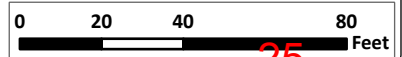
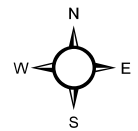
NOT FOR LEGAL USE



Harnett County GIS

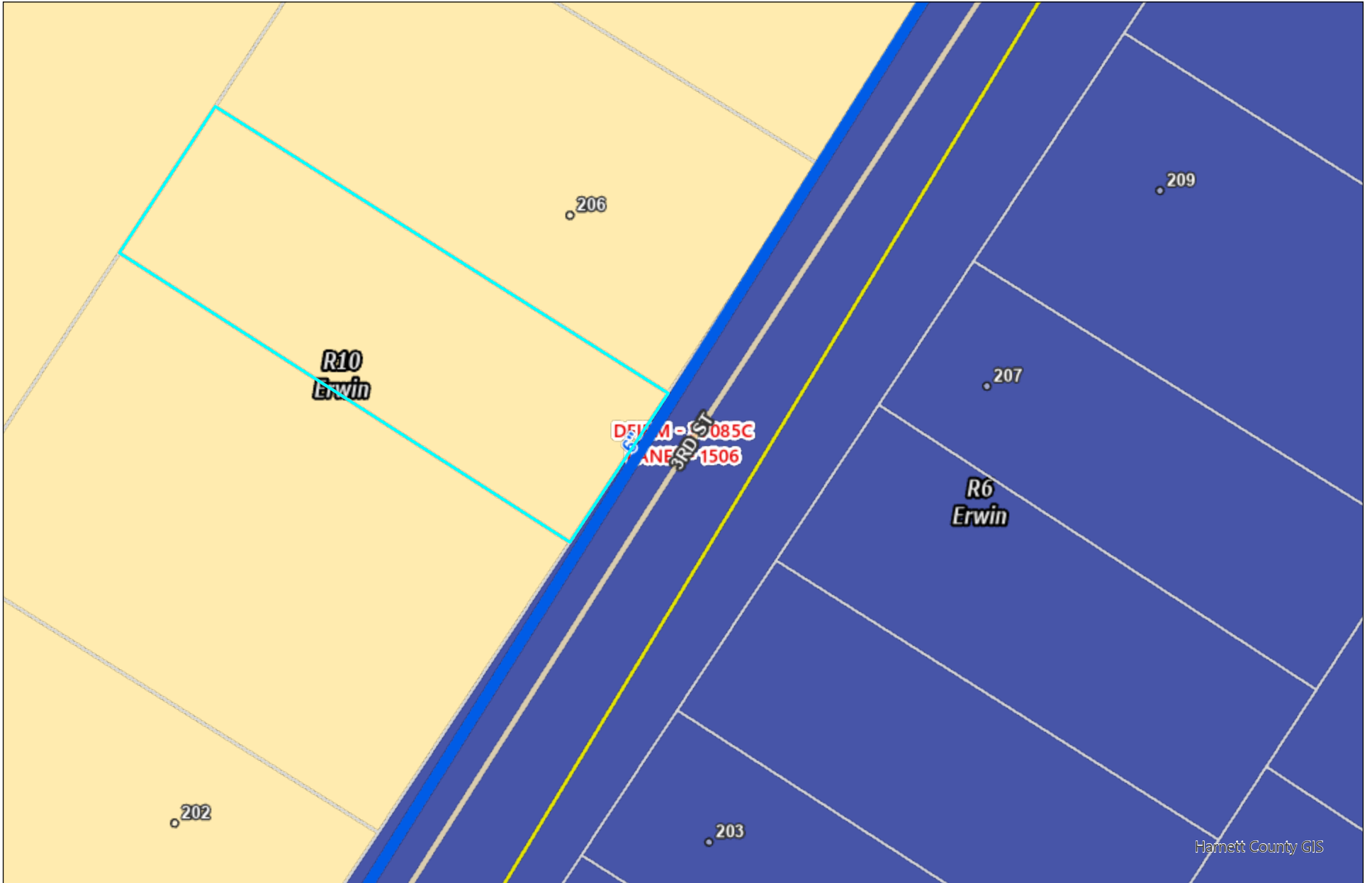
GIS/E-911 Addressing
May 1, 2024

- | | | |
|-----------------|---------------------------|------------------|
| Flood Map Index | County Water Mains 6 - 36 | Road Centerlines |
| County Boundary | Gravity | Parcels |
| City Limits | | Watershed HUC8 |
| Address Numbers | | Watershed HUC12 |



Harnett GIS

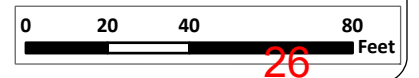
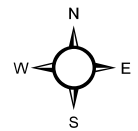
NOT FOR LEGAL USE



Harnett County GIS

- | | | |
|------------------------------|------------------|---|
| Flood Map Index | Gravity | Zoning Districts
R10
R6
ETJ |
| County Boundary | Road Centerlines | |
| City Limits | Parcels | |
| Address Numbers | Watershed HUC8 | |
| County Water Mains
6 - 36 | Watershed HUC12 | |

GIS/E-911 Addressing
May 1, 2024



**TYNDALL FRANKIE E II & TYNDALL
TAMMY**
202 THIRD STREET ERWIN, NC 28339-0000

DAVIS FAYE
209 4TH ST ERWIN, NC 28339

PARRISH SUE BUFFKIN
1469 JOHNSTON CO RD BENSON, NC 27504-0000

QARE LLC
1313 CANE CREEK DR GARNER, NC 27529-2106

RED BRICK INVESTMENT GROUP LLC
4348 NC HIGHWAY 222 E STANTONSBURG, NC
27883

**BLUE RICKY ALTON & BLUE SHAWNA
LEE**
1100 ANGIER RD FUQUAY-VARINA, NC 27526-0000

**BRISTOW TRICIA A & BRISTOW
BROOKS M**
203 3RD ST ERWIN, NC 28339-2425



TOWN OF ERWIN

P.O. Box 459 • Erwin, NC 28339
Phone: 910-897-5140 • Fax: 910-897-5543
www.erwin-nc.org

6/3/2024

Notice of a Public Hearing BOA-2024-002

Mayor
Randy L. Baker
Mayor Pro Tem
Ricky W. Blackmon
Commissioners
Alvester L. McKoy
Timothy D. Marbell
Charles L. Byrd
David L. Nelson
William R. Turnage

The Board of Adjustments of the Town of Erwin will hold a public hearing pursuant to NC General Statute 160D-406 on June 17th, 2024 at 7:00 P.M. at the Erwin Town Hall, 100 West F Street, Erwin, North Carolina to hear public comment on a proposed dimensional variance of 2,523sqft in relation to the size of the parcel and 25.10ft for the width/frontage of the parcel for the purpose of building a single family home.

The requested variance is the following parcel:

- HC Tax Pin: 1507-13-6445 Erwin, NC 28339

A copy of this case is available for review at the Erwin Town Hall. Questions concerning this case can be addressed to the Town Planner Dylan Eure at 910-591-4201 or by email at deure@erwin-nc.org

Regards,

Dylan Eure
Town Planner

NOTICE OF PUBLIC HEARING

The Town of Erwin Board of Adjustments will hold a Public Hearing on the following item pursuant to NC General Statute 160D-406, on Monday, June 17, 2024, at 7:00 P.M. in the Erwin Municipal Building Board Room located at 100 West F Street, Erwin, NC 28339. Questions can be addressed to the Town Planner Dylan Eure at 910-591-4201 or by email at deure@erwin-nc.org.

Case BOA-2024-002: Proposed dimensional variance of 2,523sq. ft in relation to the size of the parcel and 25.10ft for the width/frontage of the parcel for the purpose of building a single family home. It can also be identified by its Harnett County Tax PIN # 1507-13-6445.00.

This case is available for review at the Erwin Town Hall. All persons desiring to be heard either for or against the proposed item set forth above are requested to be present at the above-mentioned time and place.

5/31; 6/7/2024