

## IREDELL COUNTY ZONING BOARD OF ADJUSTMENT

The Iredell County Zoning Board of Adjustment met at a regularly scheduled meeting on Thursday, April 15, 2021 at 6:00 p.m. in the Commissioners Meeting Room of the Iredell County Government Center (Old Courthouse) at 200 S. Center Street in Statesville, NC.

### MEMBERS PRESENT

Roy West, Chairman  
Bob Dellinger, Vice-Chair  
Bill Brater  
David Aman  
Tim Johnson  
John Allen  
Don West

### STAFF PRESENT

Rebecca Harper  
Rich Hoffman  
Cindy Nicholson

*Chairman West called the meeting to order.*

**Minutes:** Mr. Aman made a motion to approve the minutes from the February 18, 2021 meeting. Mr. Johnson seconded motion and all were in favor.

**Chairman West declared the public hearing open.** He then swore/affirmed those wishing to speak concerning the following cases.

Ms. Harper presented the following cases:

### **BOA CASE NO. 210415-1 Gary Miller (Owner), Richard Lovette, (Applicant)**

#### **EXPLANATION OF THE REQUEST**

The applicant is requesting relief of 14.29 feet from the 35-foot front setback per Section 2.7 of the Iredell County Land Development Code to allow a proposed new home to be located 20.71 feet from the front property line.

#### **OWNER/APPLICANT**

**Owner:** Gary Miller  
603 Mazeppa Rd.  
Mooresville, NC 28115

**Applicant:** Richard Lovette  
6615 Fairway Point Dr.  
Charlotte, NC 28269

#### **PROPERTY INFORMATION**

**LOCATION:** 165 Hogan Lane in Mooresville, NC; more specifically identified as PIN# 4627752601.

**DIRECTIONS:** Highway 150 west, left on Paradise Peninsula Road, left on Greenbay Road, right on Hogan Lane, near the end on the left.

**SURROUNDING LAND USE:** This property is surrounded by residential uses and Lake Norman.

**SIZE:** The property is .616 acres.

**EXISTING LAND USE:** The property currently has an accessory structure on it.

**ZONING:** The property is currently zoned RR (Resort Residential).



## FINDINGS OF FACT

1. The request is for relief of 14.29 feet from the 35-foot front setback per Section 2.7 of the Iredell County Land Development Code to allow a proposed new home to be located 20.71 feet from the front property line.
2. The property is .616 acres located at 165 Hogan Lane in Mooresville, NC; more specifically identified as PIN# 4627752601.
3. The property is currently zoned RR (Resort Residential).
4. The application was filed on 3/3/21.
5. The adjoining property owners were notified on 3/22/21.
6. The property was posted on 3/22/21.

## STAFF COMMENTS

The property is located near the end of a cul de sac. The building envelope is narrow on this lot. The proposed home has been located closer to the road rather than the lake to keep it out of the buffer.

## EXHIBITS

Staff Exhibit 1.	Variance Application
Staff Exhibit 2.	Survey
Staff Exhibit 3.	Section 2.7
Staff Exhibit 4.	Adjoining Owners and Zoning Map
Staff Exhibit 5.	2018 Aerial Map

### QUESTIONS FROM BOARD TO STAFF

Chairman West commented that the Board has been receiving quite a few of these recently where the lots were laid out when the lake was built, pre-zoning ordinances.

Ms. Harper said yes, in the late 1960's there was no minimum lot size or setbacks. In this particular case, the overall acreage meets the lot size, or is very close. There are actually some of those old Crescent lots that are as small as .25 or .17, therefore, there are some lots that are a lot smaller in our jurisdiction than this one tonight.

Chairman West said looking at this particular lot and the setbacks in place now, it is very limited as to what can be done.

Mr. Aman asked if it would make sense to make a referral to the Planning Board to evaluate the rationale of the setbacks in some of these situations due to receiving a lot of these types of cases now. When these applications come through, it is referenced that their neighbors have gotten variances prior, and he feels it needs to be addressed by the Planning Board.

Ms. Harper said there is a provision in the code, that if all the houses on a street were built really close, they could line-up with the other houses. Although, this case is not like that.

Chairman West said it appears that the majority of the houses on this road, violate the county ordinance.

Ms. Harper pointed out different homes on the street that have had variances in the past, etc.

Mr. Johnson clarified the state went back to a 30' setback, that at one point was a 50' setback. Is that how the county code ended up at 50' setback?

Ms. Harper said the county code went to a 50' setback in 1998, and wasn't sure that the state had gone to a 50' buffer at that point. The watershed buffer was still 30'.

Mr. Johnson said he knew Lincoln County has gone back to 30'.

Ms. Harper said to the best of her knowledge, she has heard nothing about the state going away from the 50' buffer. The last time she spoke with them was related to a 50' buffer at a particular property.

Chairman West clarified the state/Duke Power is 50', and the county is 35'.

Ms. Harper said Iredell County has two. The 35' setback from the property line, and also a 50' buffer from the 760-line. Wherever that 760 contour is, you have a 50'. Whichever line comes in the furthest is the one you have to comply with. There has been no discussion in the department to change that.

Chairman West said there have been many variances back to the old 35' setback.

Ms. Harper said there have been a few where there have been some lots similar to this one. There has also been a couple times where there was a deck they were adding on, or replacing a deck before our code was updated. At one time, the code wouldn't let you replace a deck. If it was removed, it was gone. Now, they are allowed to replace it exactly like it was prior, not going up or out to make it bigger in any fashion. There have been some allowances made over the years to try to minimize the impact on the buffer. In this particular case, they are looking at some trees they do not want to cut down.

Mr. Aman said in preparing a building site, removing trees is customary, and a reasonable procedure.

Mr. Allen said within a certain boundary line, will Duke Power allow them to cut the trees without replacing them.

Ms. Harper said the state has a Riparian Buffer. Duke Energy deals with the lake, they do not care what is on land. They deal with piers and what happens on the lake. The state has a Riparian Buffer that applies in some places, not all, that you can't cut trees within 30' unless there is some type of damage to them. Ms. Harper said she is not sure if that would apply on this lot or not.

Mr. Johnson said for his clarification, this is a layout with the house set back close to the trees they are trying to save, and asking to move the house forward in order to save the trees?

Ms. Harper said yes, that is her understanding.

Mr. Aman asked if the Board did not grant this variance, would there be an issue with the septic system if they stayed within the envelope?

Ms. Harper said that is something that the applicant could answer.

Chairman West asked if the trees are actually affecting the location of the house?

Ms. Harper said that is what is driving the location of the house, is the larger trees on the lot.

Mr. Johnson said whether the house is forward or backwards, there is nearly no chance in those trees living. He feels that should not govern what the Board is doing on this request. He tries to save trees as much as possible, but these are really tight on this lot.

Chairman West explained the Board does not grant variances on convenience. It appears a tree is a convenience.

Mr. Allen said not if it is required to stay by the state.

Ms. Harper said these particular trees are not within the 30' Riparian Buffer if it applies to this lot. She doesn't think they are that far back. Otherwise, they can meet the 50' setback, and push the house back.

Chairman West asked if there were any further questions for staff.

There were no further questions for staff.

At this time, Chairman West asked for those wanting to speak in favor of the request to come forward.

### **THOSE SPEAKING FOR THE REQUEST**

Mr. Drew Lovette, current owner of 165 Hogan Lane, gave Ms. Harper the septic plan to pass out to the Board, which was designed by Gary McNeely, Athanas Soils, and states is well known in this area. Mr. Lovette said the Board has touched on everything they are trying to achieve with this variance.

Mr. Lovette said due to limited space they have from road frontage to lake frontage, going from a 30' buffer to a 50' buffer limited the envelope that can be built on. Another issue with the two trees, since submitting the application, he has had a certified arborist from Tree Tech come and evaluate. There are twelve trees along the entire shoreline within the 30' environmental setback, that need to be taken down, based on damage or other issues. By the time those trees come down for damage, and they build on the lot, there will not be many mature trees left on the lot. Mr. Lovette said the trees are no longer a driving factor. It comes down to septic and 30' versus 50'. The trees would be an added benefit to have mature growth on the property.

Mr. Lovette said if they are granted the 15' variance towards the roadway, they could push the house up towards that and utilize the very narrow spot at the top. The certified arborist looked at the two trees and recommended the 15' offset off the trees. Mr. Lovette said that doesn't need to go too much into the decision.

Mr. Lovette said it mostly comes down to a two-bedroom existing septic system, which he pointed out the approximate location on the overhead presentation.

Mr. Aman asked if the septic system would be usable regardless of the location of the house?

Mr. Lovette said it is a two-bedroom system that they will be tapping into to utilize. They are hoping to get a four-bedroom, but if they even get a three-bedroom, they are looking at a 15' push of the building envelope and go to the top of the screen. The septic system tank on-site is for a two-bedroom, and the added lines will be closer towards the 25' line that is shown.

Mr. Aman asked if the existing septic system would be usable regardless of where ultimately the house is located? It is not impacted in this variance request?

Mr. Lovette said it is not going to be disturbed, just tapping into it with some upgrades.

Mr. Aman asked Mr. Lovette if he agreed that removing trees is a reasonable process of building?

Mr. Lovette said what came with the approval from Environmental to remove those twelve trees on the shoreline, was the fact that they would have to replant twelve new trees of no significant maturity. After taking down these trees the certified arborist recommended, they will have four mature trees left on the septic field side, which is from the house to bottom of property.

Mr. Lovette said the septic and the 50' buffer versus 30' buffer he feels are the main reasons for the request due to not having much of a building envelope to work with. He feels the trees are not of greatest concern.

Mr. Aman asked Mr. Lovette if his home plan could be completed within the building envelope given?

Mr. Lovette said not the house plan they have currently.

Mr. Aman said he noticed the house plans were drawn to have a variance, which was quite an assumption.

Mr. Lovette said on the survey with the house drawn in, it is showing the house is touching the buffer or the front setback on all four corners. That is the reason they are requesting the variance in order to gain some more usable space.

Mr. Johnson clarified in order to get the septic in, this is more about moving up rather than forward.

Mr. Lovette said yes to allow them to utilize the very narrow space.

Mr. Aman said he understood Mr. Lovette say earlier the septic could be used regardless of the location, but not now.

Mr. Lovette said it could be used as a two-bedroom system.

Mr. Aman said if it would fit in the building envelope, then that would be what he would be limited to.

Mr. Lovette said that is why they are requesting a variance to have a larger home. In all honesty yes, there is a plan that could fit for this, and does see the Boards point.

Mr. Johnson said he doesn't disagree that Mr. Lovette probably needs a variance, and asking is not unreasonable, but possibly asking for more than is needed.

Mr. Lovette agreed that is fair and the full 15' variance is coming into play because of the trees. Mr. Lovette questioned if there was actually a 12' variance with this scenario.

Mr. Johnson said the Board's challenge is they can only approve what they have a site plan for. Therefore, if the Board approves what is being presented, that is what has to be done. Mr. Johnson feels the house could go upward somewhat and would need a whole lot less variance, and be significantly more conforming.

At this time, several Board members, the applicant, Ms. Harper, and the applicant's builder all had back and forth conversations concerning adjustments possible that could potentially require less of a variance.

Ms. Harper at this time stated the applicant had the option to postpone and come back next month with more detail that would require less of a variance, therefore, not having to reapply and wait a year.

Mr. Lovette at this time, submitted a certified letter from his neighbor to the North, Mr. Jack Sell, into record in favor of this request if they are able to pull the house back further, it would not prohibit his view from part of the lake. Also, the front of Mr. Lovette's proposed house, would be in line with the neighbor's house.

Mr. Aman said he feels Mr. Lovette is going for the max possible variance, but how much does he actually need.

Mr. Lovette said the 15' variance is minimum for the trees. He agreed there would be a feasible house that could be built on the property with a 12' variance.

Mr. Aman noted the Board is willing to work with Mr. Lovette, but not to the extreme.

Mr. Lovette ask if he postpones and came back with a better option, how soon would it come before the Board.

Ms. Harper said the next available agenda for May if Mr. Lovette gets his information submitted back to staff.

Chairman West clarified the Board can't adjust the request presented. Mr. Lovette would have to request to postpone and re-present the more updated plan that was not given to staff at time of application, which would be at the next available meeting.

Ms. Harper said yes. Mr. Lovette would not pay a new fee, not notify adjoining owners again, he would just request postponement and come back at the next available meeting with new information to present.

Mr. Lovette said he chooses to postpone/continue this meeting at the next available date to come back with his updated/additional information to present before the Board for a vote.

Mr. Johnson made a motion to continue this request until next month for additional information. Mr. Allen seconded said motion, all were in favor.

**VOTE: 7-0**

Chairman West at this time closed the public hearing.

Ms. Harper presented the following case:

**BOA CASE NO. 210415-2 Parkertown Holdings LLC (Owners), Vanessa Harris, Waters Edge Realty (Applicant)**

**EXPLANATION OF THE REQUEST**

The applicant is requesting a Special Use Permit per Chapter 3, R66 of the Iredell County Land Development Code in order to operate an event center.

**OWNER/APPLICANT**

**Owners:** Parkertown Holdings LLC  
2443 N 73rd Ct  
Elmwood Park, IL 60707

**Applicant:** Vanessa Harris  
Waters Edge Realty  
6477 NC-150 B  
Sherrills Ford, NC 28673

**PROPERTY INFORMATION**

**LOCATION:** The property is located on Rankinhill Road in Mooresville, NC; more specifically identified as PIN# 4649724251.

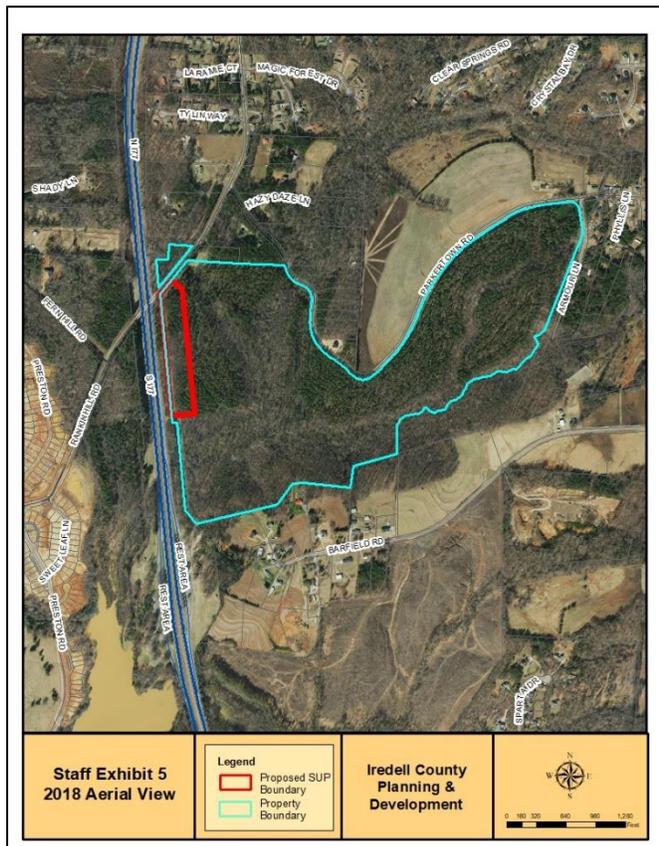
**DIRECTIONS:** Hwy 115 south, right on Rankinhill Road, on left just before the bridge over I-77.

**SURROUNDING LAND USE:** This property is surrounded by residential and farm uses and I-77.

**SIZE:** The property is 10 acres.

**EXISTING LAND USE:** The property currently vacant.

**ZONING:** The property is currently zoned RA (Residential Agricultural) and HB (Highway Business).



## FINDINGS OF FACT

1. The request is for a Special Use Permit per Chapter 3, R66 of the Iredell County Land Development Code in order to operate an event center.
2. The property is 10 acres located on Rankinhill Road in Mooresville, NC; more specifically identified as PIN# 4649724251.
3. The property is currently zoned RA (Residential Agricultural) and HB (Highway Business).
4. The application was filed on 3/3/21.
5. The adjoining property owners were notified on 3/22/21.
6. The property was posted on 3/22/21.

## STAFF COMMENTS

The information provided has been reviewed and meets the requirements in Chapter 3, R66 and the site plan requirements. The required setbacks from property lines have been shown and it meets the minimum acreage requirement.

## EXHIBITS

Staff Exhibit 1.	Special Use Application
Staff Exhibit 2.	Site Plan
Staff Exhibit 3.	Chapter 3, R66
Staff Exhibit 4.	Zoning Map
Staff Exhibit 5.	2018 Aerial Map

## QUESTIONS FROM BOARD TO STAFF

Chairman West asked Ms. Harper to verify if Mr. Berkowitz, Appraiser for the project, which signed in to speak about this request, is for or against this request. Chairman West said it was checked between the lines on the sign-in sheet.

Mr. Berkowitz said, due to his scope of work, he guesses he is for the request.

Chairman West stated Mr. Berkowitz is currently doing some appraisals for him, and asked would that qualify him to recuse himself from this case?

Vice-Chairman Dellinger said he did not see where it would.

Mr. Aman asked Chairman West if he felt he could make a reasonable and unbiased decision in this case?

Chairman West said it is up to the Board to decide whether or not he should recuse himself, and then up to him to accept the Board's decision. Chairman West said he is asking what the Board's feelings are due to Mr. Berkowitz appraising a piece of property for him. Chairman West said he is telling the Board it would not affect his decision about the case.

Mr. Allen said when he had this situation happen prior in another case, the county attorney that was present, asked if it would taint his decision making, and he said no, it wouldn't. Therefore, he did not recuse himself. Mr. Allen said Chairman West will have to decide the same.

Chairman West then asked if anyone on the Board feels like he should recuse himself from the case.

Mr. Allen said it would need to be Chairman West's statement whether or not it would taint his decision.

Chairman West said it would not affect his decision.

Mr. Aman said he appreciated Chairman West divulging that information.

Mr. Allen then said if Chairman West feels it would not taint his decision making, then he would make a Motion that Chairman West does not need to recuse himself. All were in favor.

Mr. Brater asked if he was missing something about the tiny houses having sewer/septic tanks.

Ms. Harper said they will have to have well/septic for the tiny houses, unless there is a private provider that would provide a service for them. That does not necessarily have to be shown at this point in the process. They have not gone to Environmental Health to have anything done yet, because they have to have zoning approval first. That is not uncommon for that to not be on the site plan at this stage.

Mr. Brater said the Board would be approving/denying without knowing anything about septic/sewer.

Ms. Harper said that is the process, due to having to have zoning approval first. The septic/well would be next. If they need to remove a couple of the tiny homes in order to install the sewer lines, that would have to happen. After the applicant gets approval from Environmental Health, they would then go to Building Inspections to get a building permit. There are some cases where the applicant gets a private soil scientist to come ahead of time.

Chairman West asked if there were any further questions for Ms. Harper.

There were no further questions for Ms. Harper.

Chairman West asked if the proposed owner would like to come forward and speak on behalf of the request.

## THOSE SPEAKING FOR THE REQUEST

Mr. Michael Coco, 180 Atwater Landing Drive, Mooresville, states this is a project he and his wife have had hopes of doing since he has been involved in the event industry the last fourteen years.

Mr. Coco said they have already done some private well/septic testing on site by Mr. Paul Penninger, and has found good enough soil in the proposed area. It has not been submitted to Environmental Health at this time, waiting for approval of the Special Use Permit at this meeting first.

Mr. Coco said the hope for this project is to primarily host weddings, but will also host some corporate, and other special events. The building will be a modern barn-house structure they feel will fit into the area well. Mr. Coco said he feels it will bring value to the community and be a place where people want to gather. They will also make it available to local law enforcement and fire personnel that may want to use it during the week when they would normally not be quite as busy.

Chairman West asked Mr. Coco what he anticipates the maximum volume of traffic will be.

Mr. Coco said they would like to accommodate up to 200 guests. That number would primarily take place within the facility itself. The tiny homes will only accommodate four people each. There will actually be a phased build plan. The venue itself will be built first, along with two tiny homes. They hope to add other tiny homes within a future build date, which they are hoping within a five-year timeframe.

Chairman West asked would they be able to have enough parking to accommodate that number of people?

Mr. Coco said yes. They meet the minimum requirements per code and for events in general. With weddings, typically you would only have 60% at the most, of attendees that would drive, due to people coming together.

Mr. Don West asked if this area would be fenced or gated in any way?

Mr. Coco said they have not planned to have perimeter fencing other than decorative pieces. He said they are open to that if the Board feels the need.

Mr. Coco stated they are only purchasing the ten acres of which they are requesting the Special Use Permit for. They are surrounded by a Residential Agricultural (RA) plot they are dividing ten acres from. This will not affect any of the other neighbors. Mr. Coco said one of the neighbors is who he is purchasing the land from.

Mr. Don West asked how would they protect the tiny homes when not in use?

Mr. Coco said he and his wife are actually purchasing a 1 ½ acre plot adjacent to this location to eventually build on. They will be keeping an eye on the area. They currently live less than a mile away. Mr. Coco said they will also speak with local law enforcement to see if they will patrol the area.

Mr. Don West said he would appreciate Mr. Coco making an effort to secure it in order to keep issues from occurring.

Mr. Coco said that is obviously something he or no one else would want to happen, and will definitely make sure it will be addressed, whether with private security, or local law enforcement.

Chairman West asked if Mr. Coco has an estimate as to where the nearest residence is to this property? By looking at the aerial, it appears to be a pretty good distance away.

Mr. Coco said it would be North of the property, but does not know the distance amount.

Chairman West asked Mr. Coco if he has a plan of operating hours?

Mr. Coco said all wedding events will be shut down by midnight at the latest, and would obviously comply with any noise ordinances that would take effect prior to that time. There will also be no parties allowed to take place at the tiny homes. Those will strictly be there for sleep and rest. They will not be allowed to take residence there, it will only be used for the special event.

Chairman West asked if this venue will accommodate outdoor and indoor functions?

Mr. Coco said that is correct. The thought process is most of the wedding ceremonies will take place outdoors with the receptions inside the facility. In case of inclement weather, there will be a covered pavilion on the back of the structure.

Mr. Dellinger asked if there would be any lighting that may affect I-77?

Mr. Coco said the lights they plan to have are listed on the site plan, and comply with requirements in the code. He does not anticipate any issues.

Mr. Dellinger stated from the aerial, it looks as though the remainder of the larger tract is mostly woodland, is that correct?

Mr. Coco said yes, that is correct.

Chairman West asked if it would be buffered on all sides by a wooded area?

Mr. Coco said yes, with the exception of the small portion along Rankin Hill Road.

Chairman West asked if there were any further questions for Mr. Coco.

There were no further questions for Mr. Coco.

Chairman West then called Mr. Berkowitz to come forward.

Mr. Aman asked Chairman West if this witness should be tendered as an expert witness, due to no credentials being listed.

Chairman West said Mr. Berkowitz has been before the Board numerous times, and was previously approved as an expert witness.

Mr. Berkowitz, 1100 Sundance Drive, Concord, said he is a Certified General Appraiser in NC and SC. He states he is certified in over forty jurisdictions in NC, as an expert witness in valuation principles.

Mr. Berkowitz said he was asked to look at this property in the incremental difference between what it was before, and what it would be after with a Special Use Permit if granted, to adjacent property values. As noted on the presentation, most of the location will be surrounded by the person who is selling the property to applicant, including the parcel across the street. Another thing that is a considering factor is that it is adjacent to I-77, which would be considered an external factor. As seen, most subdivisions stay away from building near I-77 because no one wants to live next to a major highway. He states there is also zoned commercial property already there, and by any definition of market value, a knowledgeable buyer of any of those adjacent or nearby properties, would know that is a commercial site and could be developed based upon the HB (Highway Business) zoning designation. This use would be much less intense than some of the uses permitted by-right in the HB zoning designation. The 2.6 acres give or take up front, could be developed for other purposes, not to mention the highway that is right there.

Mr. Berkowitz stated in his professional opinion, this incremental increase would not adversely impact the values of adjacent or abutting properties.

Mr. Don West asked Mr. Berkowitz in his opinion, what does he see the value today being, versus what would be the value once it is complete?

Mr. Berkowitz said he does not have an opinion of value, but obviously if you look at the underlying land, this is definitely an improvement that would contribute value. Mr. Coco, being fourteen years in the event planning industry, would not build this for fun. He will build it to make money, and any value in any enterprise, you have to provide a reasonable return to the land and the improvements. By improving this property, it will improve the value.

Mr. Dellinger asked Mr. Berkowitz what title does he consider himself, based on the letter he presented to the Board. Mr. Dellinger said he does not want to put Mr. Berkowitz on the spot or to be nitpicky, but he himself has been an appraiser for commercial and residential, and a realtor for over forty years, and he does not see that Mr. Berkowitz signed it as an appraiser or put his stamp on it.

Mr. Berkowitz said it is more of an appraisal service than an appraisal, because he is not quoting a value. He said he was looking at the incremental, whether it would substantially injure the value of adjacent or abutting properties. Mr. Berkowitz said he can't say because of the external factors, that influence would be nominal. Therefore, it's an appraisal service. He did not add a certification to the paper.

Mr. Dellinger asked if he was not certified by the state?

Mr. Berkowitz said yes, he is certified by the state, but this was asked to do under a very short timeframe to what he was able to do within the timeframe.

Chairman West asked if there were any other questions for Mr. Berkowitz.

There were no other questions for Mr. Berkowitz.

Chairman West at this time called anyone that was neutral regarding the request.

Mr. Timothy Wayne Marshall, 413 Rankin Hill Road, said he and his wife are the closest adjoining property owners to this parcel. He said there is a power-line right-of-way that goes behind his property from Parkertown all the way to Rankin Hill. Mr. Marshall said his road frontage is from Rankin Hill to Parkertown, and Parkertown to the power-line. He said it is his understanding that the home that Mr. Coco is going to build after his venue is finished, would be between the venue and Mr. Marshall, therefore, he would be his closest neighbor other than Tim Taylor that lives across the street.

Mr. Marshall said for his primary occupation, he is an Electrical Engineer and he's also a Commercial Real Estate Broker. He said he can appreciate the valuation that has been done and the opinion that has been stated. He said he is aware of other venues such as what is being proposed. One location is Carrigan Farms and another is down at Langtree. His thoughts are that he can't imagine anyone wanting to get married in an area that is not a place to go to so to speak.

Mr. Marshall said he wants everyone to be successful. Having said that, his concern is if it does not progress the way it is anticipated, he would have to adjust his price point down and the clientele could go up or down. That is where the tiny homes comes in with the possibility of extended stay options. He is not sure how extended stay is defined in code. He would prefer three days rather than a week in his opinion.

Mr. Marshall said he feels the rest of this property will be developed as residential. Currently, you can say the buffer is wooded, but going forward five years from now, that will be a subdivision. Mr. Marshall said right across from I-77, there has been 400 – 500 homes built from DR Horton, and suspects what was planned when Jeff bought the property, is to be developed as residential. He said Duke Energy comes in and plants loblollies and cuts them down and then replants again. He feels the wooded buffering will be gone once the residential building starts, or may be the responsibility of the developer to have separation at that time.

Mr. Marshall said he and his wife bought their property in 1987, moved into their house in 1991 and has been there ever since. They have a vested interest in the area. He had this whole parcel leased for over twenty years from Crescent Land & Timber and knows the property very well. He said he has raised his four children there and said it is a beautiful piece of property, but not sure about being a destination to get married.

Mr. Marshall questions with the tiny homes, would there be security or a full-time employee for the most part of the day from dawn to dusk. He wants the safety of his home, family and others taken care of. He understands worse things can be there, and he wishes nothing but success to Mr. Coco, he just has concerns.

Chairman West explained it is not the purview of this Board to establish how long people could stay in the tiny homes. If the request were to be approved, he always adds a caveat to the owner to please be respectful of the neighbors.

Mr. Marshall said he just wants his opinion as a landowner that has been there over 30 years to be heard. He wants it to be successful, and wishes nothing but the best for Mr. Coco and hopes he can raise a family in the area just as he has.

Chairman West asked if there were any questions for Mr. Marshall.

There were no questions for Mr. Marshall.

Chairman West then called those wishing to speak against the request.

### **THOSE SPEAKING AGAINST THE REQUEST**

Mr. Anthony Dean, 361 Rankin Hill Road, says he would not say he is not entirely against the request. He has concerns regarding the increase in traffic flow down Rankin Hill Road causing danger to pedestrians and people in their yards. Also, if this request is granted, the community would have no say if another business would go in behind if these plans don't pan out.

Mr. Dean said regarding his first concern on traffic, pedestrians are a common sight on Rankin Hill Road. There are frequently walkers of all ages walking for exercise.

Chairman West made the statement to those in attendance, anything regarding NCDOT with traffic and pedestrians is outside of this Board's purview.

Mr. Dean said it was his understanding based on the application, they would have to submit a form that showed it would not cause negative property value or safety issues. He said he was under the assumption it had to be shown in their document they submitted.

Chairman West said there are times when a development is made to have a turning lane, etc. by NCDOT if they see fit by traffic studies.

Mr. Dean states with a 486 parking lot proposal, entering and leaving this location would triple the amount of traffic volume on Rankin Hill Road anytime there was an event there. He feels the way Rankin Hill Road is set up currently, that would be a danger to the community. There would be a possibility that people would leave inebriated, and could possibly cause safety issues.

Mr. Dean then said he would like to speak to the fact that anything could be placed on this property since it is already zoned Highway Business, which there are only two acres currently zoned Highway Business. He feels that would affect potential buyers coming into the area.

Chairman West explained this Board is governed by what the County Commissioners give them to work with, and is an acceptable use to what the property is zoned for. It is up to this Board to follow the rules set before them by the County Commissioners. There has to be good reason/proof to deny a request.

Mr. Dean said he is not here to be negative and not allow the request, but he would suggest a sidewalk to decrease risk to pedestrians. He feels adding risk to pedestrians also reduces home values in the area, which would also prevent them from having the Special Use from his understanding.

Mr. Aman said there is a very fine line between a Special Use Permit and a By-Right Use. A Special Use is another look by this Board before it is approved. If it meets all the requirements of the code, which is what the County Commissioners put in place, the state would also codify this as well. Mr. Aman told Mr. Dean he has the right to call NCDOT and ask their plan if this request is approved dealing with sidewalks, widening the road,

etc., and would be the avenue he should pursue.

Mr. Dean said he came because he feels it will be a negative for pedestrians and wanted to make his statement known in case something did happen, and he did speak out against it.

Mr. Aman said if he has legitimate concerns, he is sure the applicant would be more than happy to listen.

Mr. Don West asked Mr. Dean if he has expressed his opinions and concerns to Mr. Coco?

Mr. Dean said he has not, the only reason he knew about this request is he happen to see the yellow sign posted at the property.

Mr. Don West said he recommends Mr. Dean to get with Mr. Coco if this request is approved, and see if they can work out a resolution of his concerns.

Mr. Dean said yes, he would.

Chairman West then called the next to speak against the request, Mr. Tim Taylor.

Mr. Tim Taylor, 418 Rankin Hill Road, said he is directly across the street from the proposed location. He said his driveway is closest to the proposed complex. Mr. Taylor said he is not opposed to the event center, but is opposed to the on-site lodging with the tiny homes. Subsequently, since he can't have it both ways, he has to be opposed to the whole project.

Mr. Taylor said in many cases, developers do not have a real investment in the community. They are using the police, fire and other assets. He feels his true concerns of the effect on property value and security are the tiny homes. He said weddings or other celebrations usually have alcohol present at these events, which impairs judgement.

Mr. Taylor said he is not privy to Mr. Coco's business plan. He said he has talked with Mr. Coco on the phone and he is very forthcoming and pleasant, and has nothing bad to say about him. Mr. Taylor wondered if Mr. Coco would hire off-duty deputies or police officers. Currently, that is Iredell County Sherriff's office jurisdiction. When they talked last week, Mr. Coco said he plans to rent these tiny homes out during the week to subsidize. That would mean you would not have to be a part of the wedding or event in order to stay in the tiny homes. That could potentially include transients or people that have no real reason to be there. That could potentially bring in problems, and who would handle that? Would the local government be expected to foot the bill for those services.

Mr. Taylor said if it would affect his property value, and his safety and security, that is a problem. He feels he is an expert, since he is currently a Patrol Sargent at a jurisdiction here in Iredell County. He feels there are too many variables regarding these tiny homes. They are wanting to put these in residential areas, where people can rent them. Unlike hotels or motels that are in commercial areas similar to exit 33 with Gateway, Medical Park and Langtree, etc. The applicant is wanting to eventually have twelve tiny homes with four guest in each in a residential community.

Mr. Taylor said he wishes Mr. Coco the best, and does not have any issue with the wedding venue, and is 100% for. He said he does have an issue with the on-site housing

and feels that will be a security issue. Mr. Taylor said he is worried about different folks coming in that have no real investment in the community and bad things happening.

Mr. Allen asked Ms. Harper are services like Air BnB's allowed in Iredell County that people can rent their own personal homes out to people to use?

Ms. Harper said yes.

Mr. Allen said in theory, any of these homes in this neighborhood could be rented out to people that are not the owners of these houses.

Ms. Harper said that is correct.

Chairman West asked if there was anymore discussion from staff or others at this time.

Mr. Coco came back and said he and Ms. Harper were talking, and Ms. Harper said it is not a permitted use to allow the tiny homes to be rented out to someone who is not attending an event. If that is the case, he is fine with that, and can add that as a condition to quell any concerns.

Chairman West said he feels that is a very generous offer.

Mr. Aman asked Ms. Harper to qualify what Mr. Coco just said.

Ms. Harper said in looking at the request, the whole purpose in having the event center is to have facilities for events. It is not appropriate to build a bunch of dwellings on a lot, in a district that does not allow it, in order to rent them out. This is in a Residential Agricultural District (RA), multi-family uses are not allowed. She feels the tiny homes would be a multi-family development.

Chairman West said if that were to happen, the neighbors would have recourse with the county.

Ms. Harper said yes, if that were happening, they would be able to contact Code Enforcement for zoning violations, and it would be discussed with Mr. Coco.

Mr. Johnson asked if it is covered in the code, would it be necessary to add it as a condition?

Ms. Harper said since it is a concern of the citizens, it would be best.

Mr. Dellinger said event centers can be used for other things besides weddings. Many corporations hold meetings in these centers, along with many other things.

Ms. Harper said yes, they could host corporate events, class reunions, birthday parties, etc. Ms. Harper said if something happens and they would leave the facility, this would only be approved for an event center. Someone else cannot come in and put in offices or other uses that are not typically permitted in the RA District. It would be for a Special Use Permit. If someone wanted to come in and turn it into a school or a church, which is permitted in the RA District, that would be fine. They would not be allowed to have other commercial uses.

Chairman West asked Ms. Harper if she had any further comments.

Ms. Harper entered the staff report and PowerPoint into the record.

Mr. Taylor asked Ms. Harper to clarify what she said regarding the tiny homes and they can't be used unless it was by someone from the event. Therefore, Mr. Coco's business plan to sublet those tiny homes during the week to other people, can't happen.

Ms. Harper said yes, and Mr. Coco has also offered that as a condition of the request, so now he won't be able to anyway. Even if the rules were to change at some point, he wouldn't be allowed to, because he has offered it as a condition.

Chairman West closed the public hearing.

### **The Board went over the Special Use Permit check sheet**

1. The Special Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed.

Johnson:	TRUE	Site plan provided
Aman:	TRUE	Based on clarifications given
Allen:	TRUE	Based on plan listed & testimony
Dellinger:	TRUE	Expert witness and plans submitted
D. West:	TRUE	Plan submitted
West:	TRUE	Based on staff comments, meets ordinances
Brater:	TRUE	Witnesses from all sides

**TRUE BY A VOTE OF 7-0**

2. The Special Use meets all required criteria and specifications of the Iredell County Land Development Code.

Johnson:	TRUE	Staff report & site plan
Aman:	TRUE	Based on staff testimony
Allen:	TRUE	Staff presentation meets LDC
Dellinger:	TRUE	Staff report & presentation of request
D. West:	TRUE	Staff report
West:	TRUE	Recognized use in the Land Development Code
Brater:	TRUE	Meets criteria in the LDC per staff testimony

**TRUE BY A VOTE OF 7-0**

3. The Special Use will not substantially injure the value of the adjoining or abutting property or it is a public necessity.

Johnson:	TRUE	Expert testimony by Mr. Berkowitz
Aman:	TRUE	Evaluation & expert testimony by Mr. Berkowitz
Allen:	TRUE	Expert testimony of no negative effects
Dellinger:	TRUE	Nothing presented to the contrary by expert
D. West:	TRUE	Expert testimony by Mr. Berkowitz
West:	TRUE	Compared to placing a regular school there
Brater:	TRUE	Expert witness testified accordingly

**TRUE BY A VOTE OF 7-0**

4. The Special Use will be in harmony with the area in which it is located and will be in general conformity with the plan of development of the county.

Johnson:	TRUE	Site plan provided & other development in area
Aman:	TRUE	Will be in harmony & conformity to LDC
Allen:	TRUE	In conformity based on plan presented
Dellinger	TRUE	Site plan & other information furnished
D. West:	TRUE	Based on site plan proposal
West:	TRUE	In conformity to LDC & no testimony otherwise
Brater:	TRUE	Witnesses didn't establish criteria wasn't met

**TRUE BY A VOTE OF 7-0**

**DECISION:** Mr. Aman made a motion to **APPROVE** the Special Use Permit based on the Findings of Fact and the evidence submitted with the added condition there will be no rental to non-event patrons in the tiny homes. Mr. Johnson seconded said motion. Motion passed by a margin of 7-0.

**VOTE: 7-0**

**BOA CASE NO. 210415-3 Jeffrey & William Mills, William & Holly Mills, John Hart (Owners), Lee Bartlett Abernathy, (Applicant)**

**EXPLANATION OF THE REQUEST**

The applicant is requesting a Special Use Permit per Chapter 3, R67 of the Iredell County Land Development Code in order to operate a source reduction facility.

**OWNER/APPLICANT**

**Owners:** Jeffrey & William Mills  
147 Melody Lane  
Mooresville, NC 28115

**Owners:** William & Holly Mills  
201 Fall Harvest  
Centerville, GA 31028

**Owners:** John Hart  
11890 Hidden Forest Lane  
Davidson, NC 28036

**Applicant:** Lee Bartlett Abernathy  
546 E. Monbo Road  
Statesville, NC 28677

**PROPERTY INFORMATION**

**LOCATION:** The property is located on Mt. Ulla Highway, in Mooresville, NC; more specifically identified as PIN#s 4678072343, 4678070006, 4678075873, 4678074493, 4678073097, 4678063958, and a portion of 4678063958 & 4668979369.

**DIRECTIONS:** Hwy 150 east, left on Mt Ulla Hwy (NC 801), on the left past Mooresville Blvd.

**SURROUNDING LAND USE:** This property is surrounded by residential and industrial uses.

**SIZE:** The property is 24.14 acres.

**EXISTING LAND USE:** The property is currently being used for residential purposes.

**ZONING:** The property is currently zoned RA (Residential Agricultural).



## FINDINGS OF FACT

1. The request is for a Special Use Permit per Chapter 3, R67 of the Iredell County Land Development Code in order to operate a source reduction facility.
2. The property is 24.14 acres located on Mt Ulla Hwy in Mooresville, NC; more specifically identified as PIN#s 4668979369, 4678072343, 4678070006, 4678075873, 4678074493, 4678073097, 4678063958, and a portion of 4678063958.
3. The property is currently zoned RA (Residential Agricultural).
4. The application was filed on 3/3/21.
5. The adjoining property owners were notified on 3/22/21.
6. The property was posted on 3/22/21.

## STAFF COMMENTS

The information provided has been reviewed and meets the requirements in Chapter 3, R67 and the site plan requirements. The required setbacks from property lines and neighboring houses have been shown. Screening has been shown along the property lines that adjoin residentially zoned properties. A dust control plan has been provided.

## EXHIBITS

Staff Exhibit 1.	Special Use Application
Staff Exhibit 2.	Site Plan
Staff Exhibit 3.	Chapter 3, R67
Staff Exhibit 4.	Zoning Map
Staff Exhibit 5.	2018 Aerial Map

### QUESTIONS FROM BOARD TO STAFF

Chairman West asked if there were any questions for staff.

There were no questions for staff.

Chairman West asked Mr. Abernathy (applicant) if he wanted to come forward to speak on behalf of this request.

### THOSE SPEAKING FOR THE REQUEST

Mr. Bart Abernathy, 546 E. Monbo Road, Statesville, states this will be a Waste Reduction Facility where they will recycle materials to turn into topsoil instead of putting in the ground in a hole to burn or where it could possibly catch fire later.

Mr. Abernathy said they want to turn the material into topsoil and sell it back out. The proposed entrance was placed to try to stay away from the residences as much as possible. They will operate the facility back near the industrial area.

Chairman West asked Mr. Abernathy will it be mostly construction debris?

Mr. Abernathy said no, it will all be organics. They will process stumps down with a big wood splitter. There will be an incinerator with a blower, which will add CFM's in order to not produce smoke. It will be regulated by Air Quality Control, which will come out and go over their paperwork and inspect them to make sure what they are doing is clean. Mr. Abernathy said he will also be required to attend school twice a year to read smoke, and tell the opacity of smoke.

Chairman West asked if this takes place under roof?

Mr. Abernathy said that is the hardest part, to get dry dirt. What they will be doing is operating their screening plant, which are electric motors inside a building. Right now at his other facility, they are having to turn dirt repeatedly because of the moisture content. What they are trying to do is once it's processed, they are putting it in the building to process it cleaner and quicker.

Chairman West asked with doing this inside, does it mute any noise pollution that might be created?

Mr. Abernathy said currently, he is operating at his house processing everything, and he really doesn't hear anything. They have articulating equipment running and excavators with rakes. Mr. Abernathy said from any distance at all, you really don't hear the motors. He said, sometimes you might hear a backup alarm. Operating inside, yes, should cut back on any noise.

Chairman West said he drives by this area several times a day and has never heard any noise.

Mr. Abernathy said you never hear any noise, never see any mud on the road, see any dust, or see any smoke.

Mr. Brater said he lives in the area and didn't know he was even there.

Mr. Abernathy said his friends that come to his house don't even know it's there unless he takes them up to show them.

Mr. Allen asked if the incinerator is used to generate electricity at all?

Mr. Abernathy said the technology is there. The problem with that is trying to get enough government grant money to afford to do it. The electricity you produce, is a small comparison to what you can actually sell it back to Duke Power for.

Mr. Allen asked if the material he is burning is cheaper to dispose of it that way than to grind it and sell it back as mulch?

Mr. Abernathy said absolutely. He has actually been to the City of Charlotte, and they want to come see what he is doing because it is taking them three years to make a product that they are making in a couple of days.

Mr. Aman asked if he is currently crushing stone?

Mr. Abernathy said no. At his current location, he has been collecting concrete in order to put some gravel roads in, and hasn't collected enough concrete in three years to crush. Crushing concrete is very expensive. They are not crushing anything, so there are no wearable parts. He is no-where near the ability to crush concrete.

Mr. Aman said that would be a fairly noisy process he assumes.

Mr. Abernathy said when you actually get a concrete crusher, most of the process is done by an excavator with a jaw on it, with most of the crushing taking place before going to a crushing plant.

Chairman West asked Ms. Harper if crushing concrete is an acceptable use under this permit?

Ms. Harper said yes.

Chairman West asked if anyone else has questions for Mr. Abernathy.

There were no more questions for Mr. Abernathy.

Chairman West then asked Mr. Munday to come forward that signed-up to speak in favor of the request.

Mr. Donald Munday, 125 E. Plaza Drive, Mooresville, said he is the engineer that drew up the plans for Mr. Abernathy, and was present in case there were any questions.

There were no questions for Mr. Munday.

Chairman West then called those signed in as neutral to come forward to speak.

Mr. Nic Kirkland, Kirkland Appraisals, 9408 N. Field Court, states he is here to address two parts of the Special Use Permit; harmony of use & potential impact to adjoining property values.

Mr. Kirkland said they have looked at what Ms. Harper provided, with information regarding what is allowed, and compared with sawmill and LCID uses. They are very similar, other than the fact that they will not have long-term storage of anything. They will just take the material and sell it, and moving it off. Effectively, noise or any emissions would be very similar over the long run. The only real difference is the life expectancy, which has never been a concern from the appraisal point of view.

Mr. Kirkland said in looking at the proposal, sawmill and LCID uses are commonly found in rural areas, with mostly residential and agricultural adjoining uses. It does adjoin a large industrial tract. However, for most of the adjoining uses by parcel count, is residential.

Mr. Kirkland said it is his professional opinion that the proposed use will be a harmonious use in its location. They have also utilized matched pair analysis for LCID and sawmill uses, and show no significant impact to the adjoining property values. Again, comparing this to LCID and sawmill uses, and consider this to be a very similar use, and conclude that matched pair data indicates no significant impact for this proposed use.

Chairman West asked if there were any questions for Mr. Kirkland.

There were no questions for Mr. Kirkland.

Chairman West called the last person signed up to speak as neutral, Ms. Michelle McGuire.

Ms. McGuire states she has decided not to speak, she was just wondering what the request was about, and her questions have been answered.

Ms. Harper submitted the staff report and PowerPoint presentation into record.

Chairman West closed the public hearing.

**The Board went over the Special Use Permit check sheet**

1. The Special Use will not materially endanger the public health or safety if located where proposed and developed according to the plan as proposed.

Johnson:	TRUE	Testimony & site plan provided
Aman:	TRUE	Testimony there will be no hazardous materials
Allen:	TRUE	Based on plan presented
Dellinger:	TRUE	Expert testimony & plan submitted with dust control
D. West:	TRUE	Expert testimony & plan submitted
West:	TRUE	Applicant has current facility already near his home
Brater:	TRUE	Based on plan submitted & staff recommendation

**TRUE BY A VOTE OF 7-0**

2. The Special Use meets all required criteria and specifications of the Iredell County Land Development Code.

Johnson:	TRUE	Site plan provided & staff report
Aman:	TRUE	Based on staff testimony
Allen:	TRUE	Staff testimony & plan presented
Dellinger:	TRUE	Staff report that it meets present LDC
D. West:	TRUE	Plan presented
West:	TRUE	Recognized use in the Land Development Code
Brater:	TRUE	Staff findings & testimony

**TRUE BY A VOTE OF 7-0**

3. The Special Use will not substantially injure the value of the adjoining or abutting property or it is a public necessity.

Johnson:	TRUE	Expert testimony by Mr. Kirkland
Aman:	TRUE	Expert testimony by Mr. Kirkland & comps given
Allen:	TRUE	Expert testimony by Kirkland Appraisals
Dellinger:	TRUE	No substantial evidence presented otherwise
D. West:	TRUE	Expert testimony & never knew current place existed
West:	TRUE	Expert testimony by Mr. Kirkland
Brater:	TRUE	Expert testimony

**TRUE BY A VOTE OF 7-0**

4. The Special Use will be in harmony with the area in which it is located and will be in general conformity with the plan of development of the county.

Johnson:	TRUE	Expert testimony & staff report
Aman:	TRUE	Will be in harmony and conformity to LDC
Allen:	TRUE	In conformity & harmony of the LDC
Dellinger	TRUE	Information included & conformity to LDC
D. West:	TRUE	Near an industrial park
West:	TRUE	Expert testimony in conformity of LDC
Brater:	TRUE	Plan itself & testimony of being in conformity

**TRUE BY A VOTE OF 7-0**

**DECISION:** Mr. Dellinger made a motion to **APPROVE** the Special Use Permit based on the Findings of Fact and the evidence submitted. Mr. Aman seconded said motion. Motion passed. All were in favor.

**VOTE: 7-0**

Mr. Aman asked Chairman West if the Board could ask staff to address the setbacks in the RR (Resort Residential) zoning districts for lakefront properties.

Chairman West said he feels the Board is in agreement that it needs be addressed.

Ms. Harper said staff could look into the setbacks for the lakefront properties in the RR zoning district.

**ADJOURNMENT:** At this time, Chairman West declared the meeting adjourned at 8:23 pm.

\_\_\_\_\_  
Cindy Nicholson, Administrative Assistant

\_\_\_\_\_  
Date Read and/or Approved

DATE FILED IN THE MINUTE BOOK BY THE CLERK: \_\_\_\_\_. NOTE: THE APPLICANT HAS THIRTY [30] DAYS FROM THIS DATE TO APPEAL THE DECISION BY THE BOARD.