



CITY OF DAHLONEGA Board of Zoning Appeals Public Hearing Agenda

February 16, 2026, 4:00 PM

Gary McCullough Chambers, Dahlonega City Hall

I. CALL TO ORDER

II. APPROVAL OF AGENDA

III. PUBLIC HEARING

(1.) [BZA](#) 25-06: Leland Cox, applicant and property owner, seeks a variance to the Dahlonega Zoning Ordinance, Article XX, Minimum Dimensional Requirements, Section 2001, minimum setback requirements by zoning district (in feet), to reduce the principal building front setback required by the R-1, Single-Family Residential District from 35 to 15 feet for property (1.03 acre -+) fronting on Shamans Way (Map/Parcel 062B 096). Proposed use: Detached, single-family dwelling.

Doug Parks, City Attorney

IV. ADJOURNMENT



Agenda Memo

DATE: 2/16/2026

TITLE: BZA 25-06

PRESENTED BY: Doug Parks, City Attorney

PRIORITY Strategic Priority - Communication

AGENDA ITEM DESCRIPTION

BZA 25-06: Leland Cox, application and property owner, seeks a variance to the Dahlonega Zoning Ordinance, Article XX, Minimum Dimensional Requirements, Section 2001, minimum setback requirements by zoning district (in feet), to reduce the principal building front setback required by the R-1, Single Family Residential District from 35 to 15 feet for property (1.03 acre -/+ fronting on the Shamans Way (Map/Parcel 062B 096). Proposed use: Detached, single-family dwelling.

HISTORY/PAST ACTION

The Planning Commission voted to deny this variance.

FINANCIAL IMPACT

None.

RECOMMENDATION

As the Board of Zoning Appeals may choose in its discretion when the time for action on this matter occurs.

SUGGESTED MOTIONS

A motion consistent with the wishes of the Board at the time when action is appropriate.

ATTACHMENTS

Consultant's Report.

CONSULTING PLANNER'S REPORT FOR BZA 25-06

TO: City of Dahlonega, c/o Doug Parks, City Attorney

BY: Jerry Weitz, Consulting City Planner

DATE OF REPORT: February 6, 2026

SUBJECT REQUEST: BZA 25-06 Variance to the Dahlonega zoning ordinance, Article XX, "Minimum Dimensional Requirements," Section 2001, "Minimum setback requirements by zoning district (in feet)," to reduce the front principal building setback required by the R-1, Single-Family Residential District along Shamans Way from 35 to 15 feet

EXISTING ZONING: R-1, Single Family Residential District

EXISTING USE: Vacant/ undeveloped

BZA HEARING: TBD

APPLICANT: Leland Cox

OWNER(S): Leland Cox

PROPOSED USE: Detached, single-family dwelling

LOCATION: Fronting on the east side of Calhoun Road and the south side of Shamans Way

PARCEL(S) #: 062B/ 096

ACREAGE: 1.03

SURROUNDING LAND USE AND ZONING:

North: (across Shamans Way) Detached, single-family dwelling, R-1

East: Detached, single-family dwelling, R-1

South: Vacant/ undeveloped, R-1

West: (across Calhoun Road), Detached, single-family dwellings, R-1

RECOMMENDATION: Approval



Tax Map/Aerial Photograph

LEGAL FRAMEWORK AND REQUIREMENTS FOR VARIANCES

The Board of Zoning Appeals shall exercise its powers in such a way that the purpose and intent of the zoning regulations shall be accomplished, public health, safety and welfare secured, and substantial justice done (Sec. 2401 zoning ordinance).

The Board of Zoning Appeals is a body of limited powers, and its actions are taken in a quasi-judicial capacity rather than a legislative capacity. Failure to adopt written findings justifying all decisions shall render such decision null and void (Sec. 2403 zoning ordinance).

A variance is defined in Sec. 301 of the zoning ordinance as "a minimal relaxation or modification of the strict terms of the height, area, placement, setback, yard, buffer, landscape strip, parking and loading regulations as applied to specific property when, because of particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make a profit."

The Board of Zoning Appeals is empowered to authorize upon application in specific cases such variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will in an individual case, result in unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted in an individual case of unnecessary hardship, after appropriate application in accordance with Article XXVI, upon specific findings that all of the following conditions exist. The absence of any one (1) of the conditions shall be grounds for denial of the application for variance (Sec. 2406 zoning ordinance).

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 land or structures in the same district; and
2. A literal interpretation of the provisions of these zoning regulations would create an unnecessary hardship and would deprive the applicant of rights commonly enjoyed by other property owners within the district in which the property is located; and
3. Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located; and
4. Relief, if granted, will be in harmony with the purpose and intent of these regulations and will not be injurious to the neighborhood or general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value; and
5. The special circumstances are not the result of the actions of the applicant; and
6. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure; and
7. The variance is not a request to permit a use of land, building or structures which are not permitted by right in the district involved.

Note: The Board of Zoning Appeals may adopt the findings and determinations provided in this report in whole or in part as written, if appropriate, or it may modify them. The Board of Zoning Appeals may cite one or more of these findings in its own determinations, if appropriate. The Board may modify the language provided here, as necessary, in articulating its own findings. Or, the Board of Zoning Appeals can reject these findings and make its own determinations and findings for one or more of the criteria for granting variances as specified in Section 2405 of the Dahlonega zoning ordinance.

In exercising the powers to grant appeals and approve variances, the Board may attach any conditions to its approval which it finds necessary to accomplish the reasonable application of the requirements of these [zoning] regulations (Sec. 2407 zoning ordinance).

PROPERTY DESCRIPTION AND APPLICABLE REGULATIONS

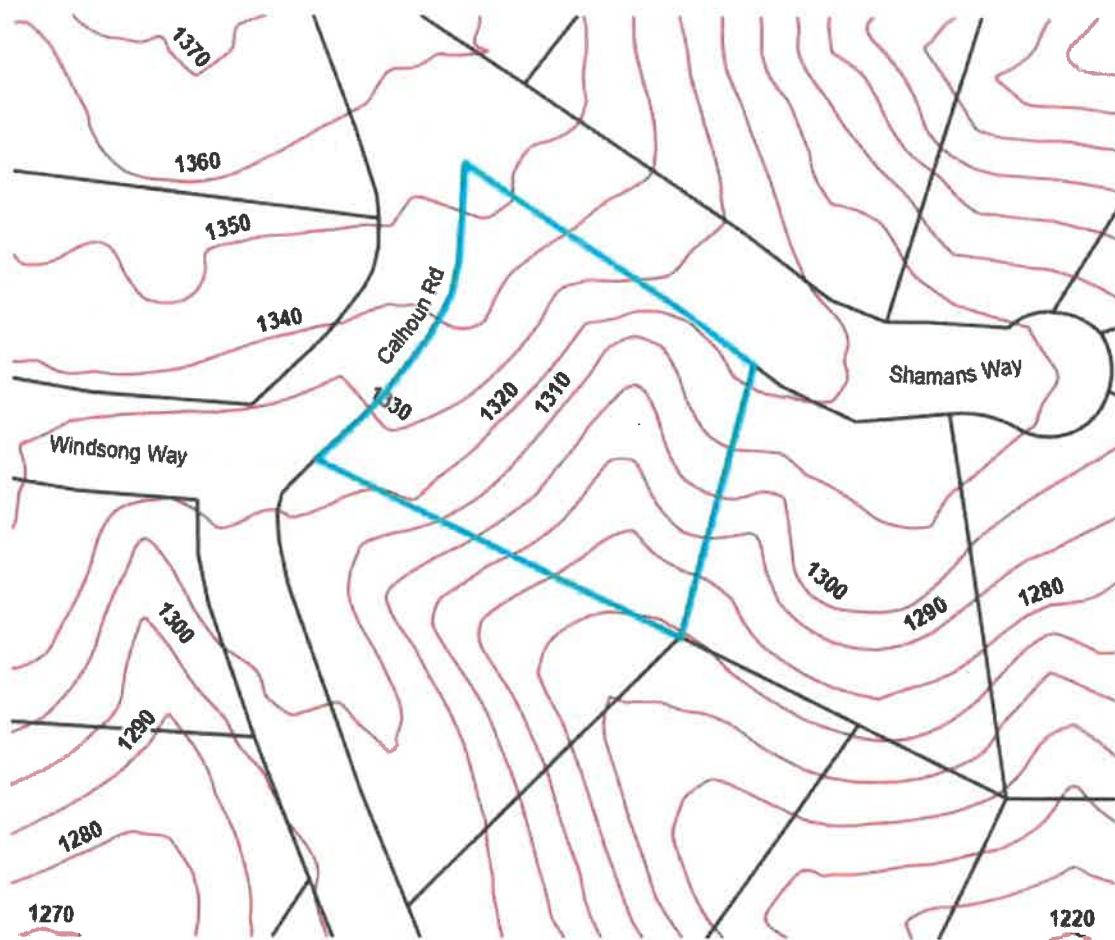
R-1 zoning districts require principal building setbacks of 35 feet (front; other than arterial street), 15 feet (side), and 15 feet (rear). Per the definition of building setback line in Article III of the zoning ordinance, "...in the case of corner lots or double frontage lots, front yard requirements shall be observed for those areas adjacent to street right-of-ways." This means that a 35-foot principal building setback is required along both frontages of the subject property (those abutting street right of ways).

FINDINGS

Written findings below are those of the consulting planner; the applicant has addressed these criteria, and those answers are included as an attachment to this report.

- 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 land or structures in the same district;***

Consulting planner's findings: The subject site is fairly regular in shape and consists of more than 1.0 acre. The size and shape of the lot do not create an extraordinary or exceptional condition justifying a front setback variance (**does not support request**). The site is a corner lot, meaning that it is subject to front building setbacks from both road frontages. This in itself could be considered an exceptional condition (**may support request**). There is an overhead electric power line and easement that consumes approximately one-half of the land and constrains flexibility with regard to locating the dwelling. Because a home should not be located under (or even close to) an overhead power line and easement, the existence of the power line and easement may be considered an extraordinary and exceptional condition justifying relief (**may support request**). The subject property is proposed to be served by an on-site septic tank, and the proposed primary drainfield and reserve drainfield are shown on the applicant's site plan. There is probably limited flexibility in placing the septic drainfields, which must be situated in well-drained soils. In addition, the site plan shows there is a ditch that runs north-south across the lot and which constrains the location flexibility for the dwelling's footprint and the septic primary and reserve drain fields. These existing conditions may constitute extraordinary and exceptional conditions justifying relief (**may support request**). Topography, which is shown on the following page and is also shown on the applicant's site plan, contributes to the hardship of the site because the lot has a relief of more than 80 feet. The lot slopes from a high point of 1350' msl near the corner of the two roads to a low point of 1270' msl at the southeast corner. Along that part of the lot where the dwelling is proposed, relief is more than 50 feet, from a high point of 1320' msl at the road frontage along Shamans Way to 1270' at the back of the lot. Because of a relatively steep drop off, enforcement of the 35-foot front building setback would result in the need to push the dwelling back further downslope, which may pose hardship to the owner. Topography therefore contributes to hardship conditions and tends to support the request (**meets criterion**).



Topography of Site (Source: Lumpkin County Q Public)

2. *A literal interpretation of the provisions of these zoning regulations would create an unnecessary hardship and would deprive the applicant of rights commonly enjoyed by other property owners within the district in which the property is located;*

Consulting planner's finding: Based on review of the aerial photograph, there is an existing dwelling on the north side of Shamans Way that has a front setback from the right of way of Shamans Way of only about 15 feet, similar to the request of the applicant. This means the applicant would not be the only one along the street that would have a home within approximately 15 feet of the right of way of the subdivision street (*meets criterion/supports request*).

3. *Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located;*

Consulting planner's finding: All property owners are entitled to apply for variances from the zoning regulations; granting of a variance is therefore not a special privilege. There is an existing dwelling on the north side of Shamans Way that has a front setback from the right of way of Shamans Way of only about 15 feet, similar to the request of the applicant (**supports request/meets criterion**).

- 4. Relief, if granted, will be in harmony with the purpose and intent of these regulations and will not be injurious to the neighborhood or general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value;**

Consulting planner's finding: The zoning ordinance intends to provide for relief in cases of unnecessary hardship, and granting a request to vary the building setback requirement with due cause shown is in harmony with the purpose and intent of the zoning ordinance (**meets criterion/ supports request**). Granting the requested front building setback reduction will not injure the neighborhood or run counter to the general welfare (**meets criterion/ supports request**).

- 5. The special circumstances are not the result of the actions of the applicant;**

Consulting planner's finding: The applicant has not caused the physical conditions of the lot that give rise to the variance request and which provide supporting grounds for approval of the request (**meets criterion/ supports request**). The applicant is not requesting anything out of the ordinary in terms of the size or shape of the building footprint for the proposed dwelling, which might otherwise tend to disqualify the request as self-imposed (**supports request**).

- 6. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure;**

Consulting planner's finding: The applicant has provided a detailed site plan that shows topography, location of septic tank drain field and reserve drainfield, and other conditions of the lot which provide support for the request. It does not appear the requested setback reduction is excessive; to the contrary, it is reasonable given site-specific conditions (**meets criterion/ supports request**).

- 7. The variance is not a request to permit a use of land, building or structures which are not permitted by right in the district involved.**

Consulting planner's finding: The variance will enable construction of a dwelling which is a permitted use in the R-1 zoning district (**meets criterion/ supports request**).

CONCLUSIONS AND RECOMMENDATION

For the BZA to grant a variance, the Dahlonega zoning ordinance requires that affirmative findings be made that the variance application meets **all seven** of the criteria specified in Sec. 2406 of the zoning ordinance. Based on the consulting planner's findings, the application meets the criteria for relief. Accordingly, approval is recommended.

Variance Application	Applicant	Primary Location
BZA-25-6	DES Submittals 7069260316 @ submittals@davisengineers.com	60 SHAMANS WAY DAHLONEGA, GA 30533
Submitted On: Nov 11, 2025		

Variance Information

Describe Variance Request

Reduce the minimum required front setback from 35ft to 15ft, to maximize the buildable area due to the 100-ft power line easement that nearly consumes half of the property in the front.

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 land or structures in the same district.

maximize the buildable area due to the 100-ft power line easement that nearly consumes half of the property in the front.

A literal interpretation of the provisions of these zoning regulations would create an unnecessary hardship and would deprive the applicant of rights commonly enjoyed by other property owners within the district in which the property is located.

the power easement location in the front of this lot has a limited buildable area

Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.

No special privileges will be granted with this variance

Relief, if granted, will be in harmony with the purpose and intent of these regulations and will not be injurious to the neighborhood or general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

This variance will not negatively affect the surrounding community or adjacent land. This variance will allow the owner to build a 3 bedroom single family residence on the property.

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

Power easement location is the cause of this hardship

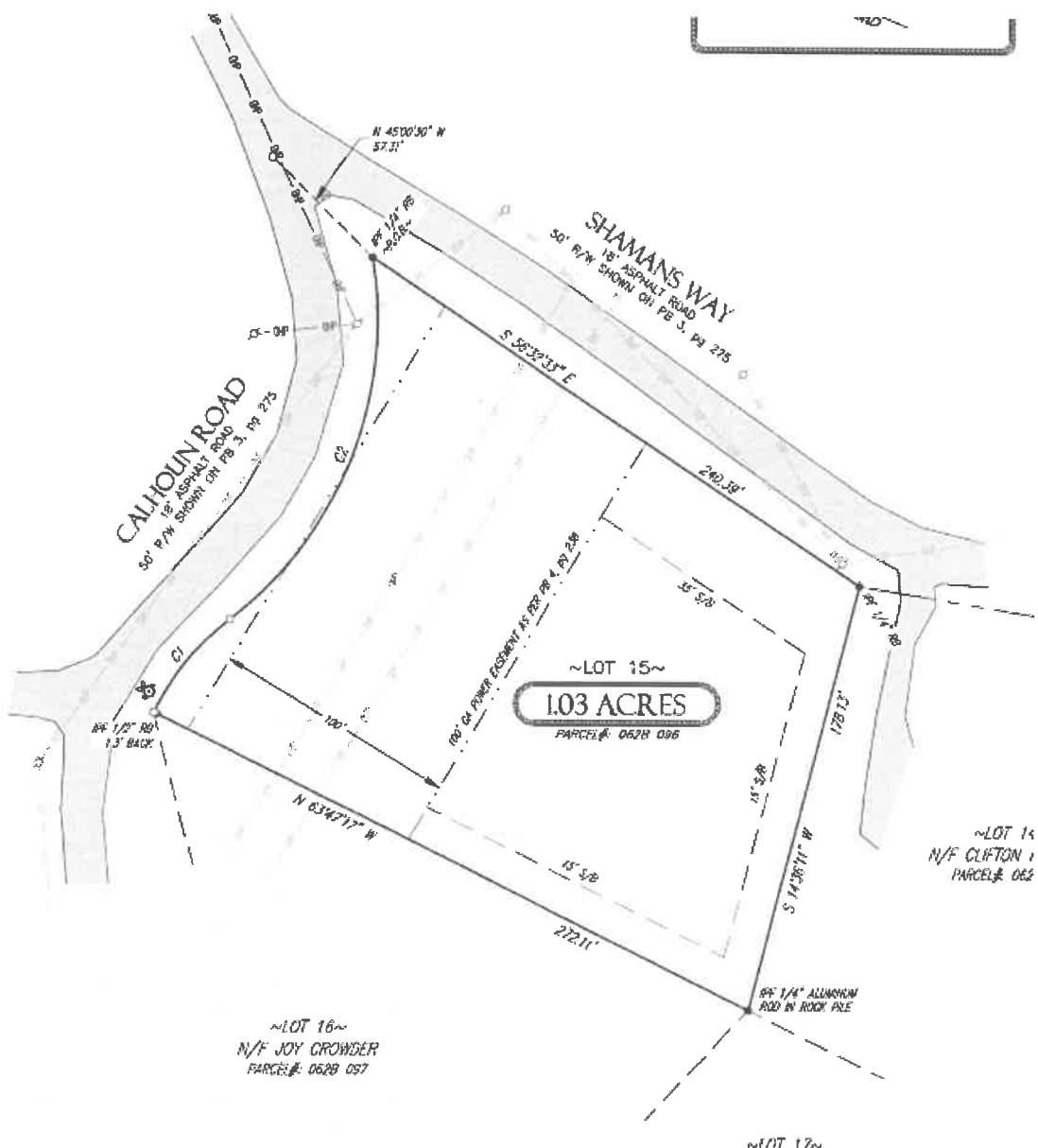
The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

A 15' front setback for this lot is the minimum variance to allow adequate building area

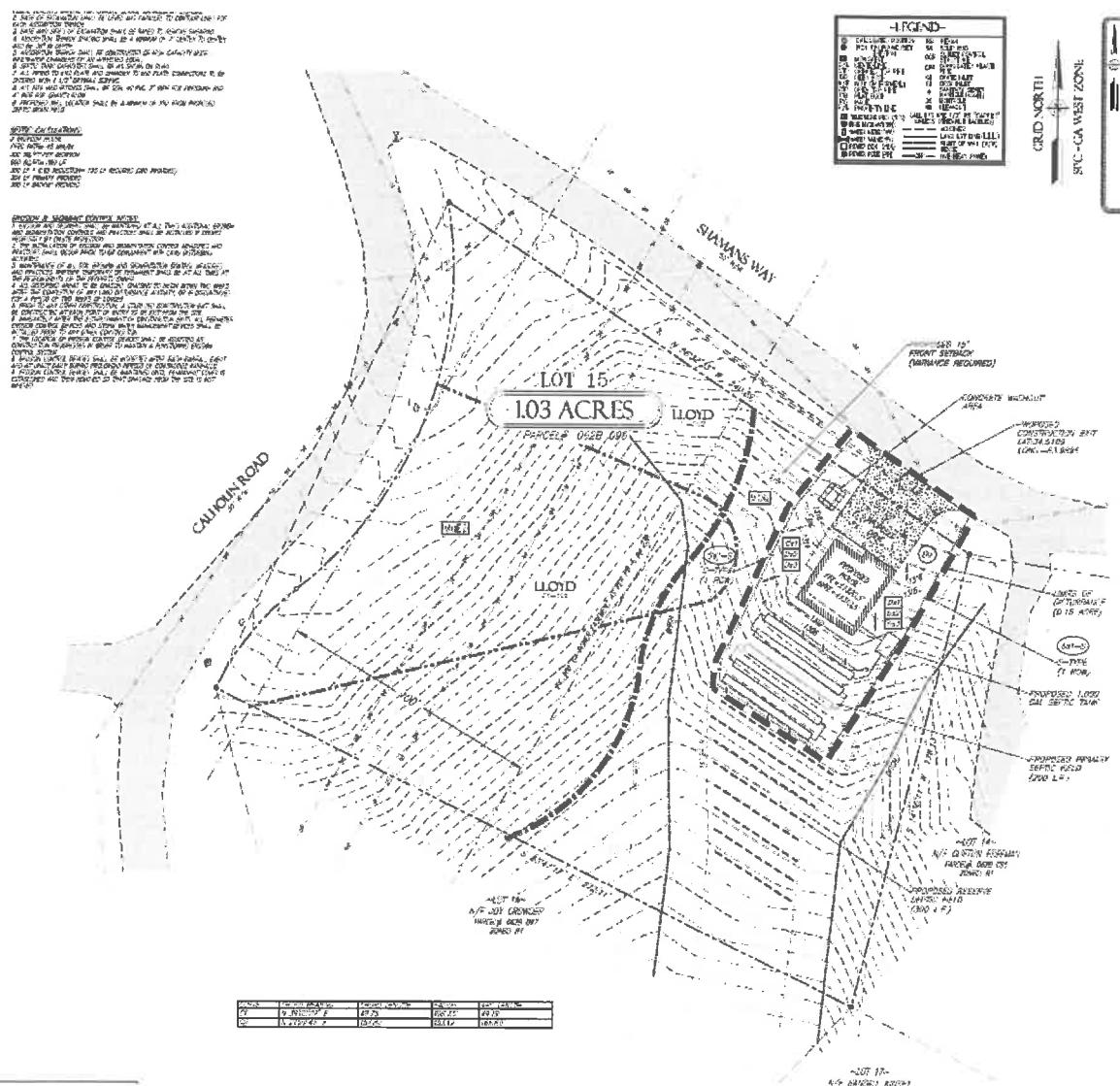
The variance is not a request to permit a use of land, building or structures which are not permitted by right in the district involved?

The variance request will allow the lot to be used as intended and in accordance with the zoning of this parcel

Applicant's Response to Variance Criteria



Boundary Survey Excerpt



Site Plan Excerpt