

---

Franklin County Board of Zoning Appeals  
Agenda  
August 4, 2020

I. Call to Order

II. Roll Call

III. Consent Agenda

A) Approval of Minutes from June 2, 2020 meeting

IV. Public Hearings:

1) **APPLICATION for VARIANCE-** Application of Milton and Connie Carter, Applicants, and Milton Wade Carter, Owner, requesting a variance to Section 25-182(a) Front Setback, and 25-182(c), Rear Yard, of the Franklin County Code, on an approximate 0.55 acre property zoned A-1, Agricultural, and located at 290 Carter's Country Lane in the Union Hall District of Franklin County and further identified by Franklin County Real Estate Records as Tax Map/Parcel # 0470008107. The A-1 zoning district requires a minimum front setback of thirty (30) feet from the Carter's Country Lane right-of way line and a rear yard setback of thirty (30) feet from the rear property line. The front yard and rear yard setbacks are being requested to allow for the construction of a in ground pool (Case # VAR-05-20-16592).

a. Staff Presentation (Steven Sandy)

b. Applicant Presentation

c. Public Comment

V. New Business- Discussion of Survey Requirement

VI. Citizen Comment

VII:Adjourn

# Department of Planning & Community Development



A public meeting of the Franklin County Board of Zoning Appeals was held June 2, 2020 at 6:00 p.m. in the Franklin County Board of Supervisors meeting room located in the Franklin County Government Center.

**THOSE PRESENT:**

William Lee, Chairman  
Eric Ferguson, Vice-Chairman  
Pamela Washington  
Kevin Hunt  
Wayne Worley  
Billy Kingery

**THOSE ABSENT:**

William Cooper

**OTHERS PRESENT:**

Terry Harrington, Senior Planner  
Steven Sandy, Director of Planning & Community Development  
Hannah Powell, Clerk

The meeting was called to order by Chairman Lee at 6:00 p.m. The first order of business was the roll call. The next item on the agenda was the approval of the minutes from the March 3, 2020 meeting. The March 3, 2020 minutes were approved by unanimous consent.

Chairman Lee announced the first item on the agenda and asked for the staff report.

**APPLICATION for VARIANCE-** Application of George I. Vogel, III, Applicant, and Lee Allen Minniear, Owner, requesting a variance to Section 25-272 (b), Side Setback, of the Franklin County Code, on an approximate 0.65 acre property zoned RC-1, Residential Combined Subdivision District, and located at 3935 Bluewater Drive in the Gills Creek District of Franklin County and further identified by Franklin County Real Estate Records as Tax Map/Parcel # 0320400300. The RC-1 zoning district requires a minimum side setback of twelve (12) feet from the side lot line. A side setback variance is requested to bring an existing side setback violation into conformance with Franklin County Code (Case # VAR-02-20-16508).

Mr. Harrington began by explaining that on March 3, 2020 the Board of Zoning Appeals considered the variance request of Lee Allen Minniear. Mr. Minniear was requesting a side yard setback variance to correct a side yard setback deficiency that has existed on the property since the home was built in 1993. Mr. Minniear was a recent purchaser of the property.

Mr. Harrington went on to say that after conducting a public hearing, the BZA suggested that Mr. Minniear contact his adjacent neighbor to see if there was interest in a minor land swap that would eliminate the need for a variance. Mr. George Vogel, who represents Mr. Minniear, advised the staff that a land swap proposal was presented to Mr. Minniear's neighbor for consideration several weeks ago. As

no land swap agreement was reached, the Board should consider and act upon the requested variance as presented at the March 3<sup>rd</sup> meeting. The original recommendation of staff was to deny the variance request.

Mr. Harrington offered to answer any questions. There were none. Chairman Lee asked to hear from the applicant.

George Vogel, III, representative for Mr. and Mrs. Minniear, briefly described the need for the variance and reiterated that the criteria to grant a variance had been met by the property owners.

Chairman Lee then opened the public hearing and asked if there was anyone present that would like to speak; there was not. Therefore, Chairman Lee closed the public hearing and the members had discussion among themselves.

Chairman Lee made a motion to approve the variance request, seconded by Wayne Worley, said motion was approved by the following recorded vote:

- AYES: Hunt, Washington, Kingery, Worley, Ferguson, Lee
- NAYES: None
- ABSENT: Cooper
- ABSTAIN: None

Chairman Lee announced the next item as citizen comment and asked if there was anyone present that would like to speak on any topic; there was not.

With no other business, the meeting was adjourned at 6:19 pm.

\_\_\_\_\_, Clerk  
Franklin County Board of Zoning Appeals

\_\_\_\_\_  
Date

**VARIANCE STAFF REPORT**

To: Franklin County Board of Zoning Appeals

From: Steven M. Sandy, Director/Zoning Administrator

Date: July 9, 2020

Tax Parcel # 0470008107

District: Union Hall

Applicants/  
Owner: Milton and Connie Carter/Milton Wade Carter

**SUMMARY OF REQUEST**

This is a petition of Milton Wade Carter. Mr. Carter who have applied for a variance to Sections 25-182 (a) (Front Setback) and Section 25-182 (c) (Rear Yard) of the Franklin County Code to permit the construction of an in-ground swimming pool at his residence located at 290 Carter's Country Lane in the Union Hall district of Franklin County. Carters Country Lane is a 25 foot wide private gravel right of way that extends from Boxwood Green Drive to the lake. Lots along this road were created by Mr. Carter's father prior to 1988 (adoption of zoning) and most of the lots continue to be owned by members of the Carter family.

The property is zoned A-1 Agriculture. The minimum front yard setback requirement in A-1 district is 30 feet from the front property line or 55 feet from the centerline of the adjacent R/W, whichever is greater. Measuring from the centerline of the R/W the proposed 14 foot by 34 foot pool has a setback of 35 feet (55 feet required). Thus, this variance request is for 20 feet.<sup>1</sup>

**DESCRIPTION OF PROPERTY**

<sup>1</sup> Mr. Carters variance application requests a variance to both the front and rear setback requirements. The rear yard setback requirement is 12 feet (from the Whitlow property) for accessory structures based on Section 25-74 of the Franklin County Code. The submitted concept plan shows a proposed 35 foot setback, thus no rear yard setback variance is required.

The Carter property is a .548 acre parcel that is triangular. Mr. Carter applied for and was granted setback variances for this property in 2016. The setback variances allowed him to build his home on this property. Without the variances, the property had a maximum a building envelope 12.5 feet deep (See attached maps).

### **VARIANCES; DEFINITION AND CRITERIA FOR GRANTING**

Section 15.2-2201 of the Code of Virginia defines a variance as follows:

“Variance” means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

Per the Code of Virginia, compliance with one of the two following criteria is required to grant a variance:

1. Strict application of the ordinance would unreasonably restrict the utilization of the property, or;
2. The granting of the variance would alleviate a hardship due to the physical condition of the property or improvements thereon.

In addition, the following five criteria shall be met to grant a variance:

1. The hardship imposed by the ordinance was not created by the applicant (property owner) for the variance; and
2. The granting of the variance will not be of substantial detriment to adjacent and nearby properties; and
3. The variance does not correct a problem or condition that is so general and recurring a nature that a general ordinance amendment is reasonably practical; and
4. The granting of the variance will not result in the establishment of a land use that is not otherwise permitted in the A-1 zoning district; and
5. The relief sought by the variance cannot be achieved thru a rezoning or special use permit process currently authorized by the ordinance.

## **STAFF ANALYSIS OF VARIANCE CRITERIA IDENTIFICATION OF IMPACTS**

The staff's opinion is that the strict application of the ordinance would not unreasonably restrict the placement of a accessory use on the property. Staff has identified that the pool could be moved on the lot or reduced in size to comply with the setback requirements.

The lot's narrow triangular shape required the need for variances that allowed the Carter home to be built on this property in 2017. Lots platted in this subdivision were platted prior to 1988, when minimum setbacks were not required. Requiring an accessory structure such as a pool to comply with the setbacks is not an undue hardship as the property owner does enjoy use of the property with the existing single-family home.

Locating the in-ground pool in the chosen location will not negatively impact other properties in the area and should not be a detriment to the neighborhood.

Locating a pool on this property will not establish a land use that is otherwise prohibited in A-1 zoning districts, and a rezoning or a special use permit are not appropriate tools to resolve setback deficiencies

## **SUGGESSTED MOTIONS**

The following suggested motions are sample motions that may be used.

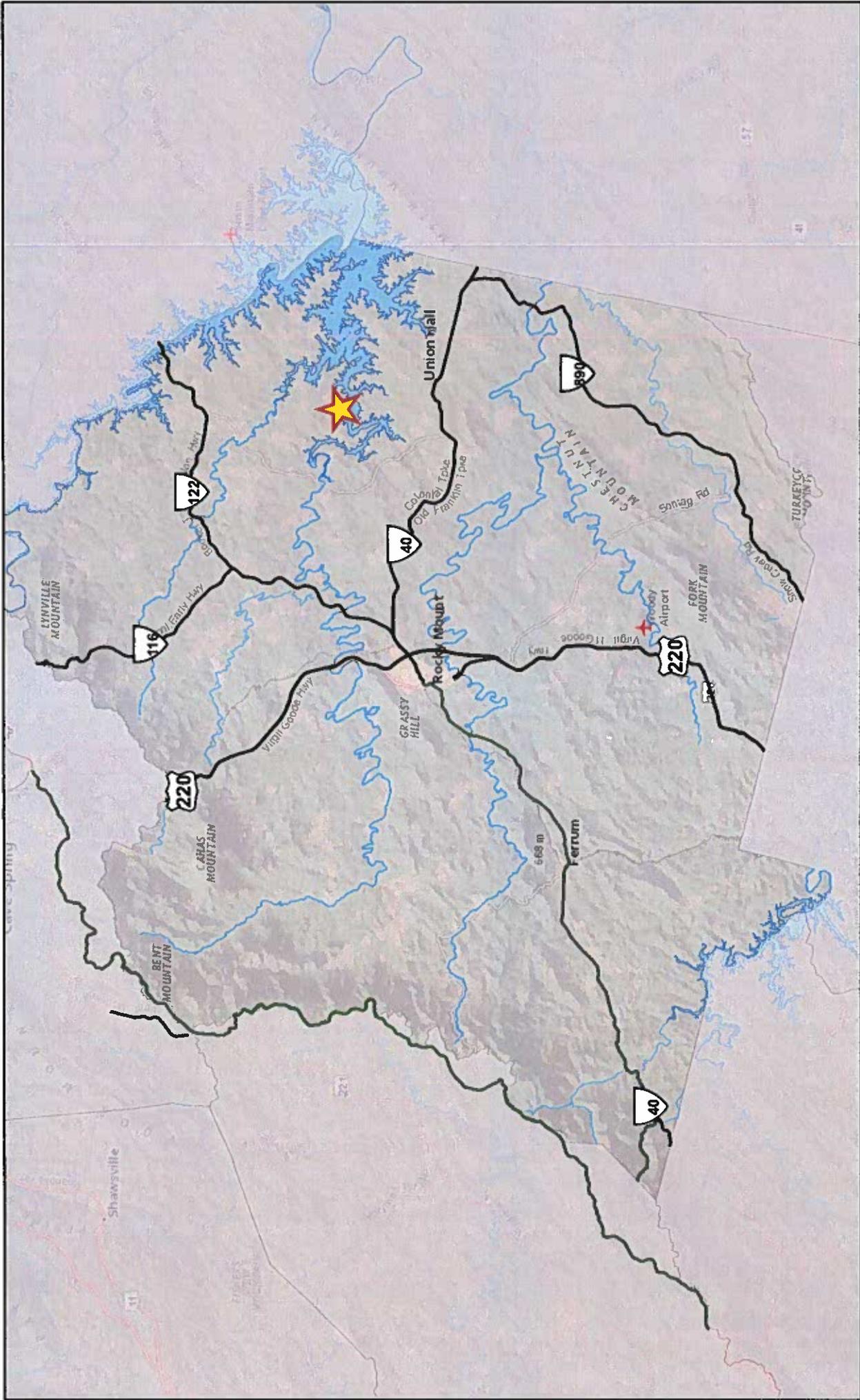
**(Deny)** Based on the fact the applicant has not demonstrated the required variance criteria identified in Section 15.2-2309 of the Code of Virginia have been met, I move to deny a variance to Section 25-182 (a) of the Franklin County Code, requesting a 20 reduction in the required front setback for an accessory structure as shown on the concept plat for Lot 7 comprised of .548 acres and located on Carters Cove Lane in the Union Hall district of Franklin County.

**OR**

**(Approve)** Based upon the fact the applicant has demonstrated the variance criteria identified in Section 15.2-2309 of the Code of Virginia have been met, I move to approve the variance requested to Section 25-182 (a) for a proposed twenty (20) foot reduction in the required front yard setback for an accessory structure as shown on the concept plat for Lot 7 comprised of .548 acres and located on Carters Cove Lane in the Union Hall district of Franklin County.

**OR**

**(Table)** Based on the fact that more information is needed I move that this item be tabled until the Board of Zoning Appeal has the information it needs to make a final determination on this variance request.



Subject Property Location

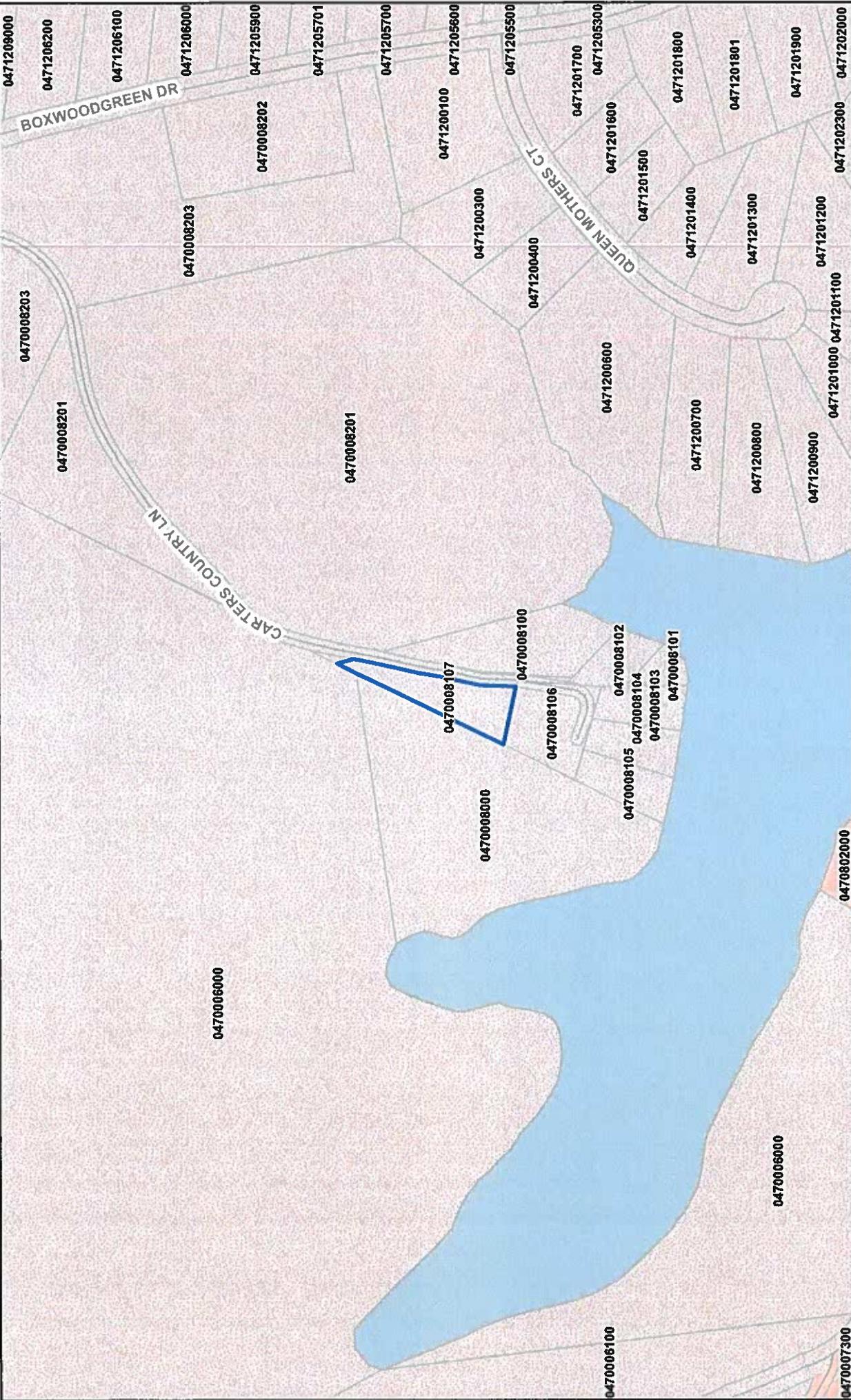
Tax Map # 0470008107  
 VAR-05-20-16592  
 Milton & Connie Carter



Date: 7/23/2020



Franklin Co GIS



**Tax Map # 0470008107**  
**VAR-05-20-16592**  
**Milton & Connie Carter**

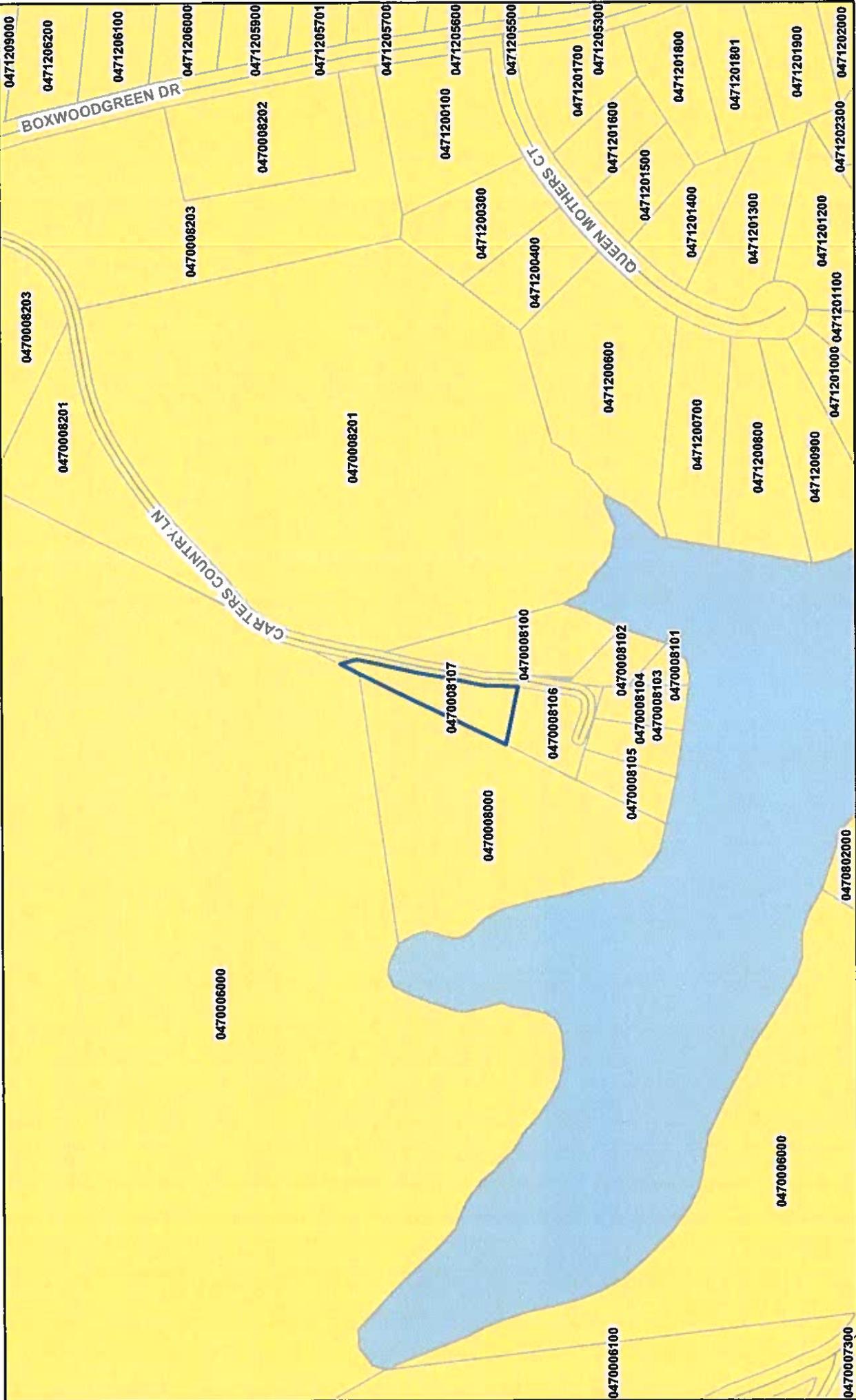
- Legend**
- Parcels
  - Special Use Permit
  - Smith Mtn Lake
  - Zoning Classifications
    - A1 - Agricultural
    - RC1 - Residential Combined Subdivision



Date: 7/23/2020



Franklin Co GIS



Date: 7/23/2020

**Tax Map # 0470008107**  
**VAR-05-20-16592**  
**Milton & Connie Carter**



- Legend**
- Subject Property
  - Tax Parcels
  - Low Density Residential



**Tax Map # 0470008107**  
**VAR-05-20-16592**  
**Milton & Connie Carter**

**Legend**

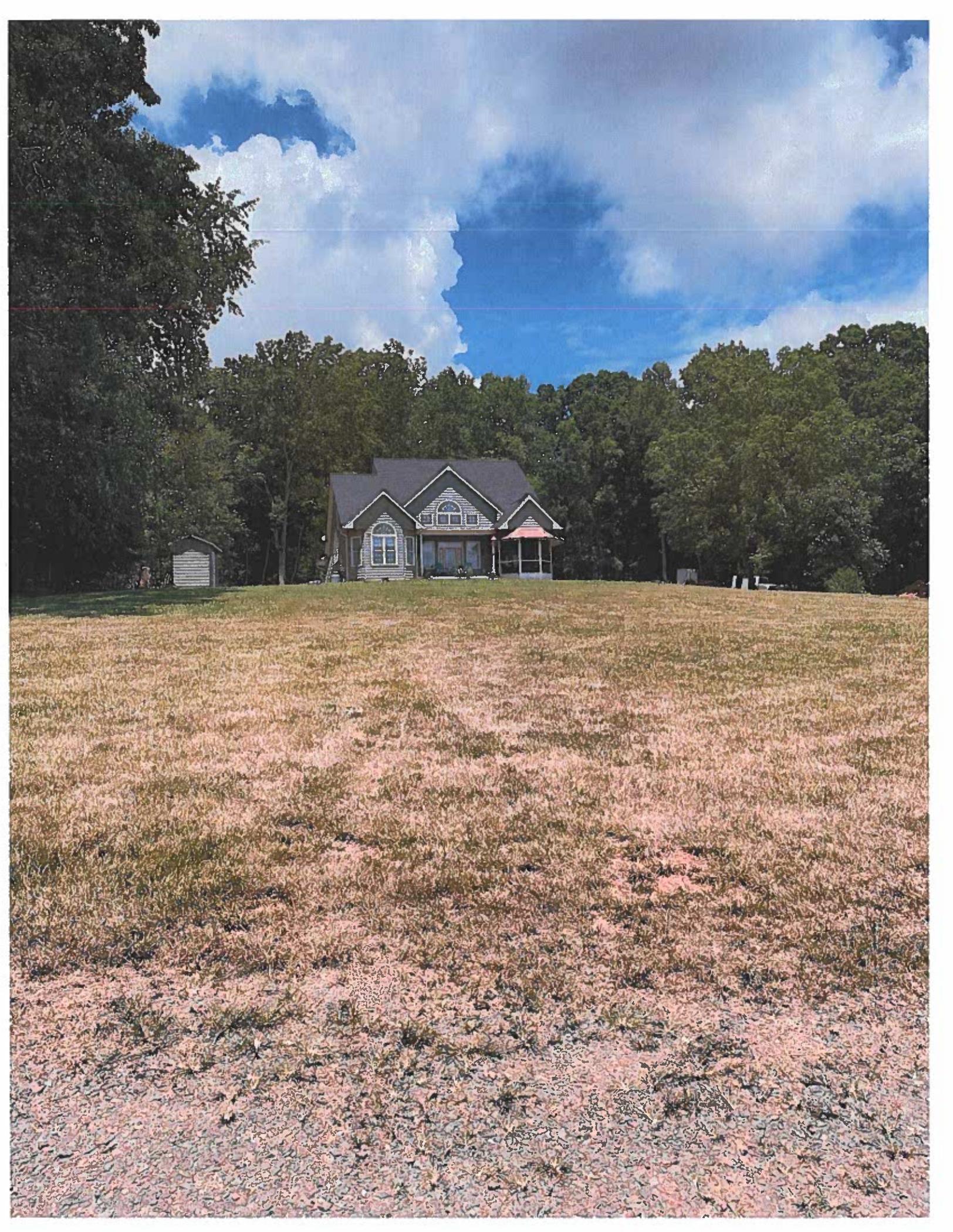
- Subject Parcel
- Tax Parcels
- 2017 Pictometry Imagery



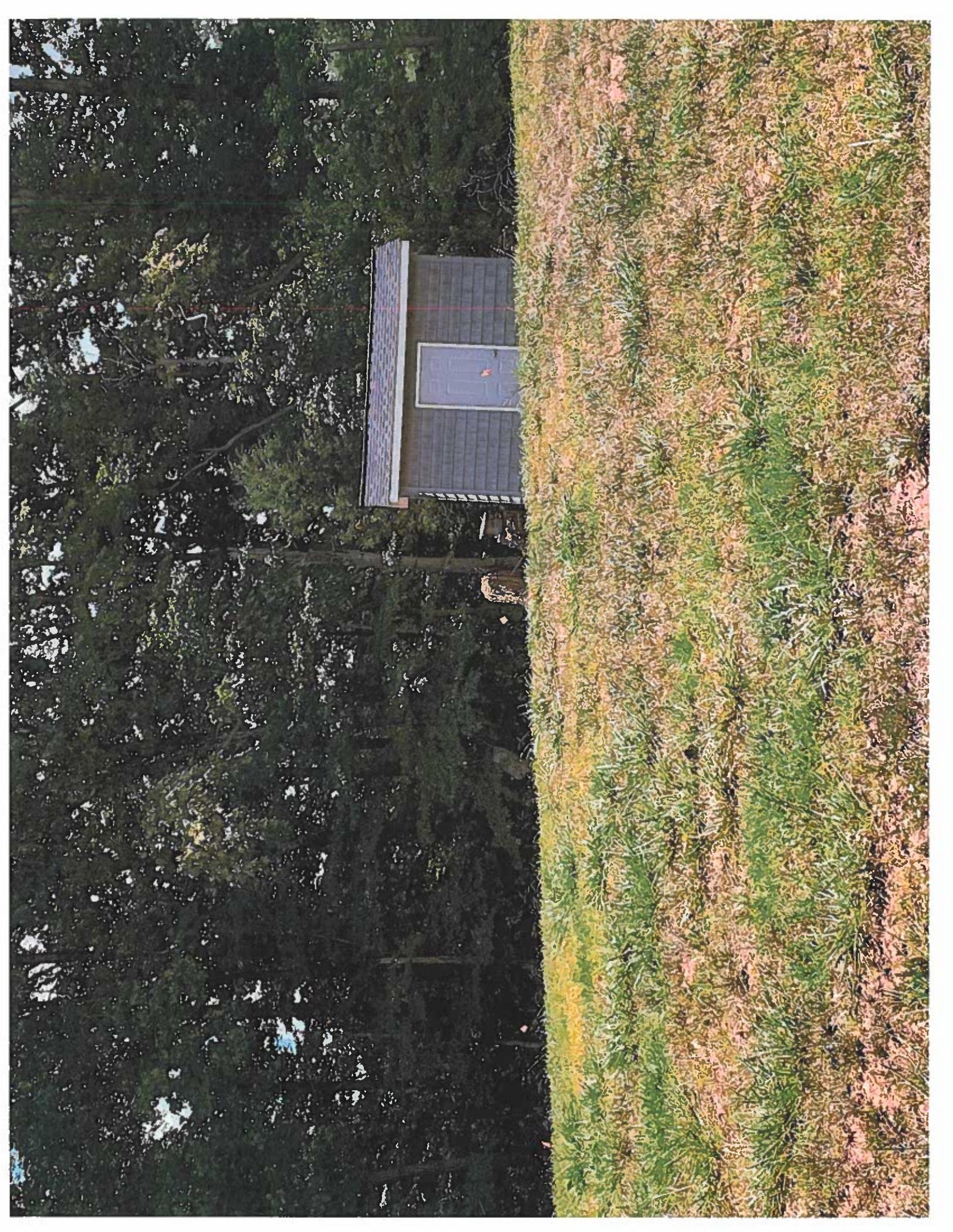
Date: 7/23/2020



Franklin Co GIS









Milton W. Carter  
290 Carters Country Lane  
Wirtz, VA 24184

May 19, 2020

Board of Zoning Appeals  
Franklin County

I am applying to the Board to request a variance from requirements at 25-182 (a) and (c) (front and rear setbacks) in order to construct an in ground pool on parcel 47-81.7.

The enclosed concept plan shows in detail the configuration of the proposed structure, including distances from the private right of way and adjoining property line. Though the right of way is 25 ft, only about 10 ft is actually used, and that 10 ft deviates from the surveyed right of way onto my sister's property. We see nothing in this plan that will adversely affect the neighboring properties.

We received a variance from these requirements an 2016 in order to construct our home.

My wife or I would be happy to meet any board member at the site to answer any questions or provide clarification as needed.

I appreciate the board's consideration of this request.

  
Milton Carter

FRANKLIN COUNTY  
APPLICATION  
FOR VARIANCE  
(Type or Print)

I/We, MILTON & CONNIE CARTER as Owner(s), Contract Purchasers, or Owner's Authorized Agent of the property described below, hereby apply to the Franklin County Board of Zoning Appeals for a variance from requirements of the Zoning Ordinance as hereinafter described:

1. Applicant's Name: MILTON & CONNIE CARTER
2. Property Owner's Name: SAME
3. Address of Property: 290 CARTER'S COUNTRY LANE WICH 24184
4. Phone Number: 540-798-1716
5. Exact Directions to Property from Rocky Mount: RT 122 N. to R. ON BURNT Chimney RD To R. ON CRAFTS Ford RD To L. ON OAKSHIRE to R. on Boxwood Green to R. on Carter's Country Ln to # 290
6. Tax Map and Parcel Number: 47-81.7
7. Magisterial District: UNION HALL
8. Property Information:
  - A. Size of Property: .548 A
  - B. Existing Land Use: Single Family home
  - C. Existing Zoning: A1
  - D. Is property located within any of the following overlay zoning districts:  
 Corridor District  Westlake Overlay District  Smith Mountain Lake Surface District
  - E. Is any land submerged under water or part of a lake? Yes  No   
If yes, explain: \_\_\_\_\_
  - F. Describe how the strict application of the ordinance would unreasonably restrict the use of the property or how the granting of the variance would alleviate a hardship due to a physical condition of the property: Unable to construct in-ground pool due to setbacks.

9. Proposed Development Information:

A. Proposed Land Use: NO Change

B. Proposed Zoning: 1 1

C. Size of Proposed Use: 14'6" x 34'

- Section of the Zoning Ordinance for which a variance is being requested: \$75.182  
(Zoning Code section must be correct and all applicable code sections included in request.)

1.

**Checklist for completed items:**

- Application Form
- Letter of Application
- Concept Plan
- Application Fee

I certify that this application for a variance and the information submitted herein is correct and accurate.

Applicant's Name (Print): Milton CARTER

Signature of Applicant: Milton Carter

Date: 5-18-2020

Mailing Address: 290 CARTERS County Lane  
Wirtz, VA 24184

Telephone: 540-798-1716

Email Address (optional): mmlb60789@gmail.com

Owner's consent, if applicant is not property owner:

Owner's Name (Print): \_\_\_\_\_

Signature of Owner: \_\_\_\_\_

Date: \_\_\_\_\_

Date Received by Planning Staff: \_\_\_\_\_

Time: \_\_\_\_\_

Clerk's Initials: \_\_\_\_\_

CHECK#: \_\_\_\_\_

RECEIPT #: \_\_\_\_\_

AMOUNT: \_\_\_\_\_

Now or Formerly  
COUNTY OF FRANKLIN  
DB 975, PG 537  
TAX No. 47-60

Now or Formerly  
MICHAEL F. CAR  
BARBARA J. CAR  
DB 1110, PG 7  
TAX No. 47-8.

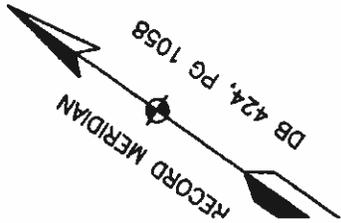
Now or Formerly  
WANDA WHITLOW  
WILL INST. #65826  
TAX No. 47-80

**LOT 7**  
**0.548 AC.**  
TAX No. 47-81.7

2 STORY  
HOUSE  
No. 290

PROPOSED  
POOL  
14 X 34

Now or Formerly  
Y.B. & TRICIA H.  
JOHNSON  
'114, PG 1152  
No. 47-81.6



6

