



GUILFORD COUNTY PLANNING AND DEVELOPMENT

BOARD OF ADJUSTMENT AGENDA

Old Guilford County Courthouse
Carolyn Q. Coleman Conference Room
301 W. Market Street, First Floor
Greensboro, NC 27401

July 11, 2023

Regular Meeting

6:00 PM

- A. Roll Call**
- B. Agenda Amendments**
- C. Approval of Minutes: February 7, 2023**
- D. Rules and Procedures**
- E. Old Business**
- F. New Business**

Evidentiary Hearing Items

Swearing in of staff and those speaking on the case

Case #23-06-BOA-00005

1984 Mt. Hope Church Road, Liberty, NC 27298

JH Stewart Family, LLC and West River Solar, LLC are requesting variances from Section 4.2.1 – Table B, which requires a minimum side yard setback of 15 feet and a minimum rear yard setback of 30 feet in an AG district and Section 6.2.D – Table 6-2-2 which requires a non-residential use adjacent to an AG zoning district to install a Type C planting yard (minimum width of 25 feet) for two sites along the internal boundaries of constituent parcels for Special Use Permit Case #21-05-GCPL-04192 (multiple parcels, two owners, one common development project).

Site 1: The internal boundary only of parcels 120662 and 116799.

Parcel 120662 - 15-foot variance to allow minimum side yard setbacks of 0 feet and the elimination of landscape buffer requirements.

Parcel 116799 - 30-foot variance to allow minimum rear yard setbacks of 0 feet and the elimination of landscape buffer requirements.

Site 2: The internal boundary only of parcels 116805 and 116807.

Parcel 116805 - 15-foot variance to allow minimum side yard setbacks of 0 feet and the elimination of landscape buffer requirements.

Parcel 116807 - 15-foot variance to allow minimum side yard setbacks of 0 feet and the elimination of landscape buffer requirements.

The parcels are located in Jefferson Township at 1413 Stewart Mill Road and 1890, 1942, and 1984 Mt. Hope Church Road, respectively, comprising 327.18 acres and are zoned AG, Agricultural.

G. Other Business

H. Adjournment

(Insert Color Paper)

GUILFORD COUNTY
PLANNING AND DEVELOPMENT

DRAFT

BOARD OF ADJUSTMENT MEETING MINUTES
Old Guilford County Courthouse
Carolyn Q. Coleman Conference Room
301 W. Market St, Greensboro, NC 27401

February 7, 2023

Regular Meeting

6:00 PM

Vice Chair Willie Johnson called the meeting to order.

Aaron Calloway announced that for tonight's hearing, there are only four (4) members present, which is the minimum required to hear the variance request. Therefore, he asked attorney Vaughan if he wished to proceed with the request, or would they rather postpone the request to a time when there are five (5) members present?

Attorney Vaughan spoke with his clients, and they responded that they would like to proceed with the request tonight.

A. Roll Call

The following Board members were in attendance in person for this meeting:

Willie Johnson, Vice Chair; Larry Standley; Carey Campbell; and Franklin Havens

The following Board members were not in attendance at this meeting:

Ditra Miller and Cory Randolph

The following staff members were in attendance in-person for this meeting:

Aaron Calloway, Planner I

B. Agenda Amendments

None

C. Approval of Minutes: November 1, 2022

Mr. Havens moved approval of the November 1, 2022, meeting minutes, as submitted, seconded by Mr. Campbell. The Board voted unanimously in favor of the motion. (Ayes: Johnson, Campbell, Havens, and Standley. Nays: None.)

DRAFT**D. Rules and Procedures**

Vice Chair Johnson went over the Rules and Procedures followed by the Guilford County Board of Adjustment.

E. Old Business

None

F. New BusinessEvidentiary Hearing Item(s)

Staff and those speaking on the case were sworn in.

Case #23-01-BOA-00001**5691 Apple Meadow Drive, Gibsonville, NC 27249**

Donald Vaughan, Attorney, on behalf of Eric and Tamara Shaughnessy is requesting a variance from Section 4.2.3 – Table B, which requires a minimum front yard setback of 40 feet in an RS-30 district. The property is located in Madison Township at 5691 Apple Meadow Drive, Guilford County Tax Parcel 114554, comprising 0.7 acres, and is zoned RS-30, Single-family Residential. The applicant is requesting an 18-foot variance to allow a minimum front yard setback for an attached garage of 22 feet and a 4-foot variance to allow a 36-foot minimum front yard setback for a porch.

Aaron Calloway explained the variance request and stated that Donald Vaughan, Attorney, on behalf of Eric and Tamara Shaughnessy is requesting a variance from Section 4.2.3 – Table B, which requires a minimum front yard setback of 40 feet in an RS-30 district. The property is located in Madison Township at 5691 Apple Meadow Drive, Guilford County Tax Parcel #114554, comprising 0.7 acres, and is zoned RS-30, Single-family Residential. The applicant is requesting an 18-foot variance to allow a minimum front yard setback for an attached garage of 22 feet and a 4-foot variance to allow a 36-foot minimum front yard setback for a porch.

The district description for RS-30 - The RS-30 district is primarily intended to accommodate single-family detached dwellings in areas without access to public water and sewer services. The minimum lot size of this district is 30,000 square feet. Cluster developments (conservation subdivisions) are permitted. The property is located at 5691 Apple Meadow Drive, Gibsonville, NC 27249.

Setbacks: RS-30 - Front street: 40 feet - Side yard: 10 feet - Rear yard: 30 feet. The area to the north is undeveloped and wooded; to the south, agricultural; to the east is single-family residential; to the west - single-family residential. There is a mapped stream near the eastern boundary of the subject property.

Vice Chair Johnson asked for those wishing to speak in favor of this application to please come forward.

Donald Vaughan, attorney representing the applicants, 612 W. Friendly Avenue, Greensboro, NC, was previously sworn in and stated that his clients, Eric and Tamara Shaughnessy, have met all the standards, and the County has done all the proper notifications. The homeowners are present to answer any questions the Board members may have. The builders are also present to answer questions. The request is to allow the proposed garage to encroach 18 feet into the 40-foot minimum street setback, and to allow a porch four feet into a 40-foot minimum street setback. It is very minimal, but they had to come before the Board to get approval of this request for variances. Nothing the homeowners did has caused an issue with the setbacks. There has been no opposition to this request.

In response to a question posed by Mr. Standley, Shields McQueen, the builder, Carolina Custom Homes, Burlington, NC, stated that to the technical property line would be roughly 22 feet, but that is not to the street. To the street, it would be about 42 feet. There is a dead period on their property, and the way the land lays, there is really no other way but to do a front-loading garage on a horizontal home. It would not work in the back because of the septic field. The house is located on a dead-end cul-de-sac, and the variance would not impact any other homes in the area. The proposed location of the garage and porch would make the home more easily accessible for the homeowners. The homeowner is partially handicapped, and the proposed location would make entry into the home easier for him.

Vice Chair Johnson asked if there was anyone to speak in opposition to the request, and no one came forward.

After a short discussion and some clarification, Mr. Campbell stated that it is the Board's conclusion that on February 7, 2023, to consider Case #23-01-BOA-0001, located at 5691 Apple Meadow Drive, Gibsonville, NC 27249, and having heard all the evidence and arguments presented at the hearing, the following Findings of Fact were found:

1) It is the Board's conclusion that unnecessary hardships will result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. This conclusion is based on the following Findings of Fact: The availability of land suitable for a septic field, combined with the topography of the land, will cause the disabled landowner hardship by preventing him from fully utilizing the property for its intended residential purpose.

2) It is the Board's conclusion that the hardship does result from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. This conclusion is based on the following Findings of Fact: The property's size prevents building on the sides of the home. The soil of the property requires the septic field to be

located directly behind the home, preventing any building in that area. The topography of the land will cause the landowner to be unable to fully use his land without the porch and garage being present.

3) It is the Board's conclusion that the hardship does not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following Findings of Fact: The hardship is due to the natural conditions specific to the property. Neither the applicant nor the landowner have caused these natural conditions to occur.

4) It is the Board's conclusion that the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based on the following Findings of Fact: The variance is consistent with the spirit, purpose, and intent of the ordinance, as it will allow normal residential construction projects. Public safety will be secured by the garage keeping the owner's vehicles off the street and in better maintenance. Substantial justice will be achieved by allowing the landowner to make full use of his property.

G. Other Business

Election of Chair and Vice-Chair

Mr. Johnson nominated Ms. Ditra Miller to continue to serve as Chair of the Guilford County Board of Adjustment, seconded by Mr. Havens. The Board voted unanimously in favor of the motion. (Ayes: Johnson, Campbell, Havens and Standley. Nays: None.)

Mr. Campbell nominated Mr. Willie Johnson to continue to serve as Vice Chair of the Guilford County Board of Adjustment, seconded by Mr. Havens. The Board voted unanimously in favor of the motion. (Ayes: Johnson, Campbell, Havens and Standley. Nays: None.)

H. Adjournment

There being no further business before the Guilford County Board of Adjustment, the meeting adjourned at 6:35 p.m.

(Insert Color Paper)



**GUILFORD COUNTY
PLANNING AND DEVELOPMENT**

**Board of Adjustment
Variance Application**

Date Submitted: 6/5/23 Fee **\$226.00** Receipt # REC-007754-2023 Case Number 23-06-BOA-00005
(includes \$26 recording fee)

PROPERTY INFORMATION

Address See attached City _____ State _____ Zip Code _____
Tax Parcel # _____ Zoning: _____
Plat Book & Page _____ Deed Book & Page _____ Township _____

OWNER INFORMATION

Name JH Stewart Family Limited Partnership (Bill Shepherd) Phone Number 775-826-0388
Address 3850 PLUMAS ST City Reno State NV Zip Code 89509
Email billshp38@gmail.com

DocuSigned by:
Owner Signature
I certify that all information presented by me in this application is accurate to the best of my knowledge, information, and belief.

APPLICANT INFORMATION – *If not property owner, a notarized statement of permission is required from the property owner.*

Name West River Solar, LLC Phone Number 772-214-5773
Address 130 Roberts Street City Asheville State NC Zip Code 28806
Email sandersen@pgrenewbales.com

Applicant Signature
I certify that all information presented by me in this application is accurate to the best of my knowledge, information, and belief.

TO THE GUILFORD COUNTY BOARD OF ADJUSTMENT:

I, West River Solar, LLC, hereby petition the Board of Adjustment for a VARIANCE from the literal provisions of the Development Ordinance because, under the interpretation given to me by the Enforcement Officer, I am prohibited from using the parcel of land described above in a manner shown by the plot plan attached. I request a variance from the following provisions of the ordinance (cite section numbers):

See attached

If the plot plan does not adequately reveal the nature of the variance, the request is more fully described below:

See attached



**GUILFORD COUNTY
PLANNING AND DEVELOPMENT**

**Board of Adjustment
Variance Application**

FACTORS RELEVANT TO THE ISSUANCE OF A VARIANCE

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a variance. Under the state enabling act, the Board is required to reach four conclusions before it may issue a variance: (1) that unnecessary hardship would result from the strict application of the ordinance; (2) that the hardship results from conditions that are peculiar to the property; (3) that the hardship did not result from actions taken by the applicant or the property owner; and (4) that the requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

In the spaces provided with the conclusions below, indicate competent, material and substantial evidence that you intend to show and the arguments that you intend to make to convince the Board that it can properly reach these four conclusions.

- 1) Unnecessary hardship would result from the strict application of the ordinance.
See attached

- 2) The hardship results from conditions that are peculiar to the property, such as location, size, or topography. (Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.)
See attached

- 3) The hardship did not result from actions taken by the applicant or the property owner. (The act of purchasing property knowing that circumstances exist that may justify the granting of a variance is not regarded as a self-created hardship.)
See attached

- 4) The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.
See attached



GUILFORD COUNTY PLANNING AND DEVELOPMENT

Board of Adjustment Variance Application

BOARD OF ADJUSTMENT CHECKLIST

The following is a list of materials and information which you must submit in order to have your case presented at the Board of Adjustment meeting. Failure to comply with all of the following may result in the case being delayed. Refer to the Meeting Schedule below for submittal deadlines and meeting dates.

1. Completed application.
2. Required fee paid.
3. Site/Plot Plan drawn to scale showing the property as it exists and with any proposed additions, structures, buildings, driveways, well, septic system, and abutting streets.
4. Written statement outlining the request and any information you wish to present to the Board for their consideration, optional.
5. Provide a minimum of 4, maximum of 6 photographs showing the area affected by your appeal. Graphics or architectural sketches may be used to fill this requirement. Additional information may be provided at the hearing.
6. If applicable, approval from the Guilford County Environmental Health Division, contact them at 336-641-7613.

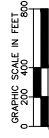
Refer to the Guilford County Meeting Schedule for BOA meeting dates.

NO.	REVISIONS	DATE	BY

ASSOCIATION INFORMATION MODEL: THIS PLAN WAS PREPARED IN ACCORDANCE WITH THE PRELIMINARY JUDICIAL/ADMINISTRATIVE DETERMINATION (JAD) 2017-00277 FROM THE FIELD ENVIRONMENTAL, INC. DATED 02/09/2018 AND RECEIVED 01/22/2020.

SURVEY INFORMATION: SURVEY INFORMATION AND BOUNDARY INFORMATION WAS PROVIDED IN AN ALTA SURVEY FROM MOVA & CREED DATED 05/21/2020 AND RECEIVED ON 10/27/2021.

PRELIMINARY - NOT FOR CONSTRUCTION



SITE TABLE DATA	
DESCRIPTION	ACREAGE
PROJECT BOUNDARY	467
AREA OF ENVIRONMENTAL REGIONS 1 AND 2	11.75
ACREAGE LOST TO ENVIRONMENTAL REGIONS 1 AND 2	585
ACREAGE LOST TO TRANSMISSION LINE EASEMENT	412

VARIANCE LEGEND	
	INTERNAL PROPERTY LINE VARIANCE REQUEST
	INTERNAL PROPERTY LINE VARIANCE REQUEST AFFECTED ADJACENT PARCELS
	ALTERNATE ADJACENT LAYOUT

ENVIRONMENTAL LEGEND	
	STREAM CENTERLINE/TOP OF BANK
	100-YR FEMA FLOODPLAIN ZONE AE
	500-YR FEMA FLOODPLAIN ZONE AE
	FEMA FLOODWAY LIMITS
	30' ZONE 1 STREAM BUFFER
	20' ZONE 2 STREAM BUFFER
	WETLAND

SITE LEGEND	
	PROPERTY LINE
	ADJACENT PROPERTY LINE
	PROPERTY LINE STRUCK
	EXISTING 5-FT CONTOUR
	PROPOSED 5-FT CONTOUR
	PROPOSED FENCE
	LIMITS OF DISTURBANCE
	EXISTING TIE/DELINE
	PROPOSED TIE/DELINE
	OVERHEAD ELECTRIC LINE
	EXISTING GRAVEL ACCESS ROAD
	PROPOSED GRAVEL ACCESS ROAD
	PROPOSED ASPHALT ACCESS ROAD
	PROPOSED LANDSCAPE BUFFER
	EXISTING LANDSCAPE BUFFER
	PROPOSED LANDSCAPE BUFFER



This document, together with the exhibits and design presented herein, is prepared for the sole use of the client. It is not to be used for any other purpose without the express written consent of Kimley-Horn and Associates, Inc. The information contained herein is confidential and may be subject to legal proceedings. Kimley-Horn and Associates, Inc. and its employees shall not be held liable for any errors or omissions in this document without written consent of Kimley-Horn and Associates, Inc.

NO.	REVISIONS	DATE	BY

KHA PROJECT
013633050
DATE
06/02/2023
SCALE AS SHOWN
DESIGNED BY T.C.L.
DRAWN BY S.R.F.
CHECKED BY J.S.L.

421 FAIRVIEW STREET, SUITE 600, RALPH, NC 27601
PHONE: 919-877-2000 FAX: 919-877-2050
WWW.KIMLEY-HORN.COM
#1-0102

SITE LEGEND

- PROPERTY LINE
- ADJACENT PROPERTY LINE
- PROPERTY LINE SETBACK
- EXISTING 5'-FT CONTOUR
- PROPOSED 5'-FT CONTOUR
- PROPOSED FENCE
- LIMITS OF DISTURBANCE
- EXISTING TIE/DRAINAGE
- PROPOSED TIE/DRAINAGE
- OVERHEAD ELECTRIC LINE
- EXISTING GRAVEL ACCESS ROAD
- PROPOSED GRAVEL ACCESS ROAD
- PROPOSED ASPHALT ACCESS ROAD
- PROPOSED LANDSCAPE/PARKING AREA
- EXISTING LANDSCAPE BUFFER
- PROPOSED LANDSCAPE BUFFER

ENVIRONMENTAL LEGEND

- STREAM CENTERLINE/TOP OF BANK
- 100'-YR FEMA FLOODPLAIN ZONE AE
- 500'-YR FEMA FLOODPLAIN ZONE AE
- FEMA FLOODWAY LIMITS
- 30' ZONE 1 STREAM BUFFER
- 20' ZONE 2 STREAM BUFFER
- WETLAND

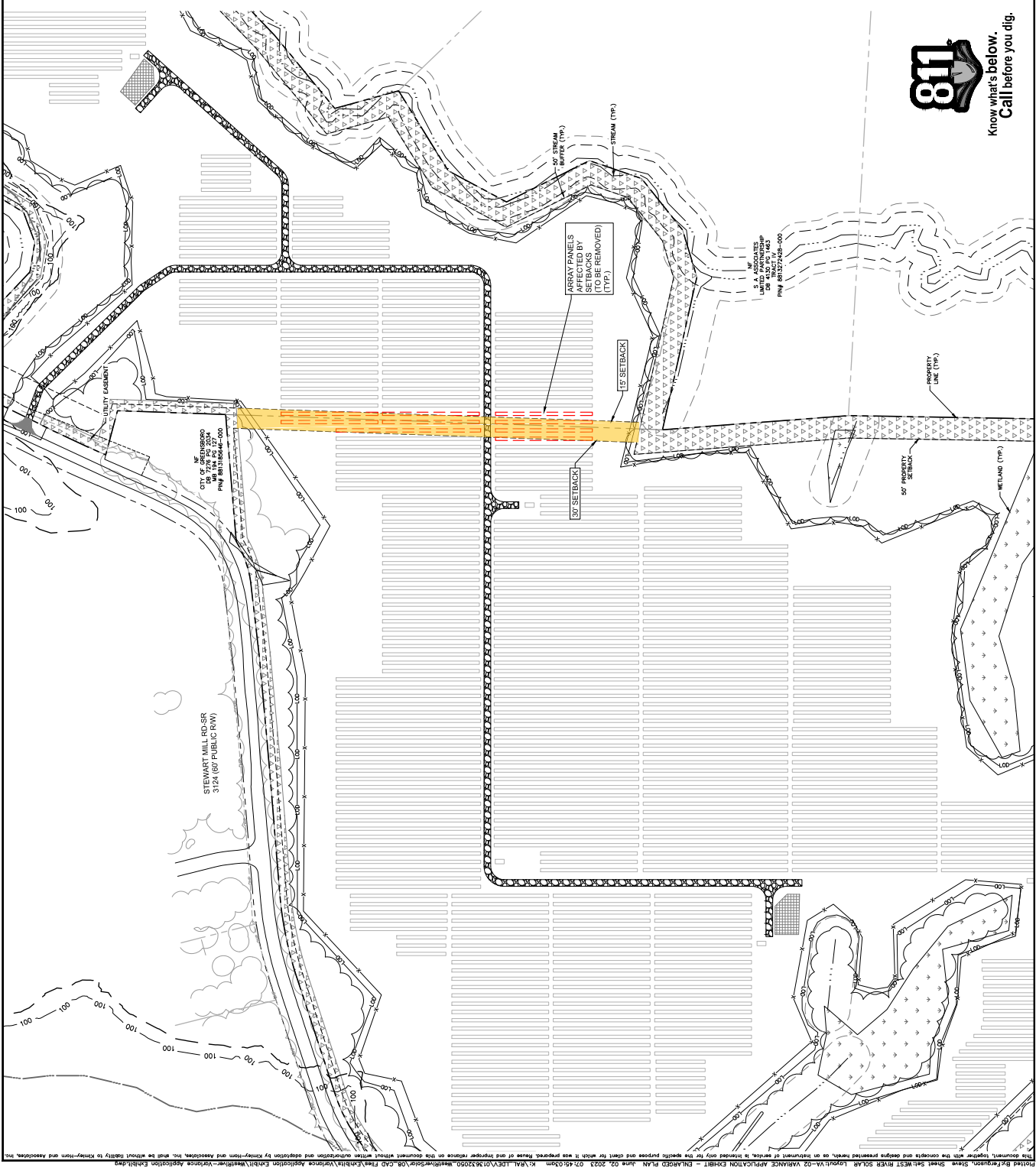
VARIANCE LEGEND

- INTERNAL PROPERTY LINE VARIANCE REQUEST
- INTERNAL PROPERTY LINE VARIANCE REQUEST AFFECTED ARRAY PANELS
- AFFECTED ARRAY PANELS
- ALTERNATE ARRAY LAYOUT

GRAPHIC SCALE IN FEET
0 50 100 200

811
Know what's below.
Call before you dig.

PRELIMINARY - NOT FOR CONSTRUCTION
ASSOCIATION INFORMATION MODEL: THIS PLAN WAS PREPARED IN ACCORDANCE WITH THE PRELIMINARY JURISDICTIONAL DETERMINATION (LDM-2016-10227) FROM FIELD ENVIRONMENTAL, INC. DATED 02/09/2016 AND RECEIVED 01/22/2020.
SURVEILANCE: GEOGRAPHICAL AND SURVEY INFORMATION WAS PROVIDED IN AN ALTA SURVEY FROM MOIM & GREED DATED 05/31/2020 AND RECEIVED ON 10/27/2021.



Revised 04/29/2023. Scale: 1/4"=1'-0". Project: WEST RIVER SOLAR. Title: VARIANCE APPLICATION EXHIBIT - ENLARGED PLAN. Date: 06/02/2023. 02-45-0200. KHA PROJECT: 013633050. Worksheet: 02-VA-02. Project: WEST RIVER SOLAR. This drawing is prepared based on an ALTA survey from MOIM & GREED dated 05/31/2020 and received on 10/27/2021. The contents and design presented herein are on a preliminary basis and are subject to change without notice. The engineer reserves the right to modify or delete any portion thereof at any time without notice and without liability to Kimley-Horn and Associates, Inc.

NO.	REVISIONS	DATE	BY

Kimley»Horn
 421 PATEVILLE STREET, SUITE 600, ARLING, NC 27009
 PHONE: 919-877-2000 FAX: 919-877-2050
 #1-0102
 WWW.KIMLEY-HORN.COM

KHA PROJECT 0131832050
 DATE 06/02/2023
 SCALE AS SHOWN
 DESIGNED BY T.C.L.
 SRP
 CHECKED BY J.S.L.

VARIANCE APPLICATION EXHIBIT - ENLARGED PLAN

WEST RIVER SOLAR
 GUILFORD COUNTY

SHEET NUMBER
VA-03

SITE LEGEND

	PROPERTY LINE
	ADJACENT PROPERTY LINE
	PROPERTY LINE SETBACK
	EXISTING 5-FT. CONTOUR
	PROPOSED 5-FT. CONTOUR
	PROPOSED FENCE
	LIMITS OF DISTURBANCE
	EXISTING TIELINE
	PROPOSED TIELINE
	OVERHEAD ELECTRIC LINE
	EXISTING GRAVEL ACCESS ROAD
	PROPOSED GRAVEL ACCESS ROAD
	PROPOSED ASPHALT ACCESS ROAD
	PROPOSED LAWN/PARKING AREA
	EXISTING LANDSCAPE BUFFER
	PROPOSED LANDSCAPE BUFFER

ENVIRONMENTAL LEGEND

	STREAM CENTERLINE/TOP OF BANK
	100-YR FEMA FLOODPLAIN ZONE AE
	500-YR FEMA FLOODPLAIN ZONE AE
	FEMA FLOODPLAIN LIMITS
	30' ZONE 1 STREAM BUFFER
	20' ZONE 2 STREAM BUFFER
	WETLAND

VARIANCE LEGEND

	INTERNAL PROPERTY LINE VARIANCE REQUEST
	EXTERNAL PROPERTY LINE VARIANCE REQUEST
	AFFECTED ADJACENT PANELS
	ALTERNATE ARRAY LAYOUT

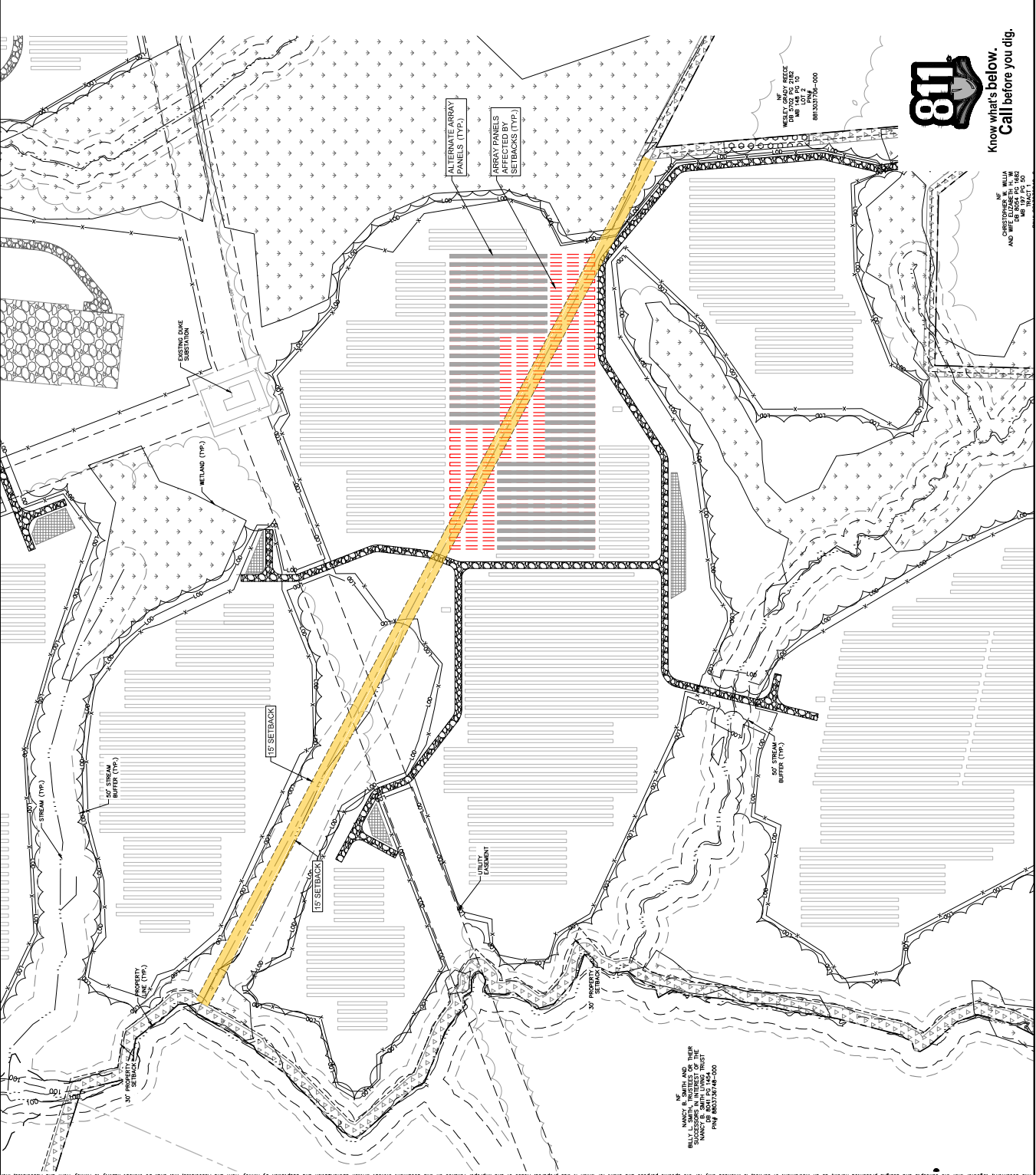
PRELIMINARY - NOT FOR CONSTRUCTION
 ASSOCIATION DECLARATION MODEL: THE PRELIMINARY JURISDICTIONAL ESTIMATION (JAE) WAS PREPARED FOR THE PRELIMINARY JURISDICTIONAL ESTIMATION (JAE) 2016-10257 FROM FIELD ENVIRONMENTAL, INC. DATED 02/09/2018 AND RECEIVED 01/27/2020.
 SURVEY NAME: TOPOGRAPHICAL AND BOUNDARY INFORMATION WAS PROVIDED IN AN ALTA SURVEY FROM MOHM & CREED DATED 05/21/2020 AND RECEIVED ON 10/27/2021.

GRAPHIC SCALE IN FEET
 0 50 100 200

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CHRISTOPHER W. WILIA
 AND THE STATE BOARD OF PUBLIC UTILITIES
 800-368-5847

WESLEY JOHNSON REECE
 DB 3026 P.O. BOX
 140 LOT 2
 883203706-000



THESE DOCUMENTS TOGETHER WITH THE VARIANCE APPLICATION EXHIBIT - ENLARGED PLAN, DATE 06/02/2023, C2-15-05299, K1-VN1-12CY0132120500-WESTRIVERVA03-CHP-FRM-KIMLEY-HORN-ASSOCIATION-DECLARATION-EXHIBIT-2016-10257 FROM FIELD ENVIRONMENTAL, INC. DATED 02/09/2018 AND RECEIVED 01/27/2020, AND THE PRELIMINARY JURISDICTIONAL ESTIMATION (JAE) 2016-10257 FROM FIELD ENVIRONMENTAL, INC. DATED 02/09/2018 AND RECEIVED 01/27/2020, SHALL BE CONSIDERED AS ONE ENTIRE INSTRUMENT. THE ASSOCIATION DECLARATION MODEL WAS PREPARED FOR THE PRELIMINARY JURISDICTIONAL ESTIMATION (JAE) 2016-10257 FROM FIELD ENVIRONMENTAL, INC. DATED 02/09/2018 AND RECEIVED 01/27/2020. SURVEY NAME: TOPOGRAPHICAL AND BOUNDARY INFORMATION WAS PROVIDED IN AN ALTA SURVEY FROM MOHM & CREED DATED 05/21/2020 AND RECEIVED ON 10/27/2021.

West River Solar, LLC
Variance Application Attachment

PROPERTY/OWNER INFORMATION

There are four parcels involved in this application. The northernmost and southernmost tracts are owned by West River Solar, LLC, and the two central tracts are owned by the JH Stewart Family Limited Partnership. Both owners support the variance request.

Owner: West River Solar, LLC
Parcels: 116807 and 120662
Addresses: 1984 Mt. Hope Church Road and 1413 Stewart Mill Road
Deeds: 8709/1479 and 8675/2498
Zoning: AG-SP
Township: Jefferson

Owner: JH Stewart Family Limited Partnership
Parcels: 116805 and 116799
Addresses: 1890 and 1942 Mt. Hope Church Road
Deeds: 8709/1479 and 4493/1246
Zoning: AG-SP
Township: Jefferson

APPLICANT

Name: West River Solar, LLC
Address: 130 Roberts Street, Asheville, N.C. 28801
Emails: sandersen@pgrenewables.com and terrell@foxrothschild.com
Telephone: 772-214-5773 (Sean Andersen) and 336-847-2000 (Tom Terrell)

HISTORY AND VARIANCE REQUESTED

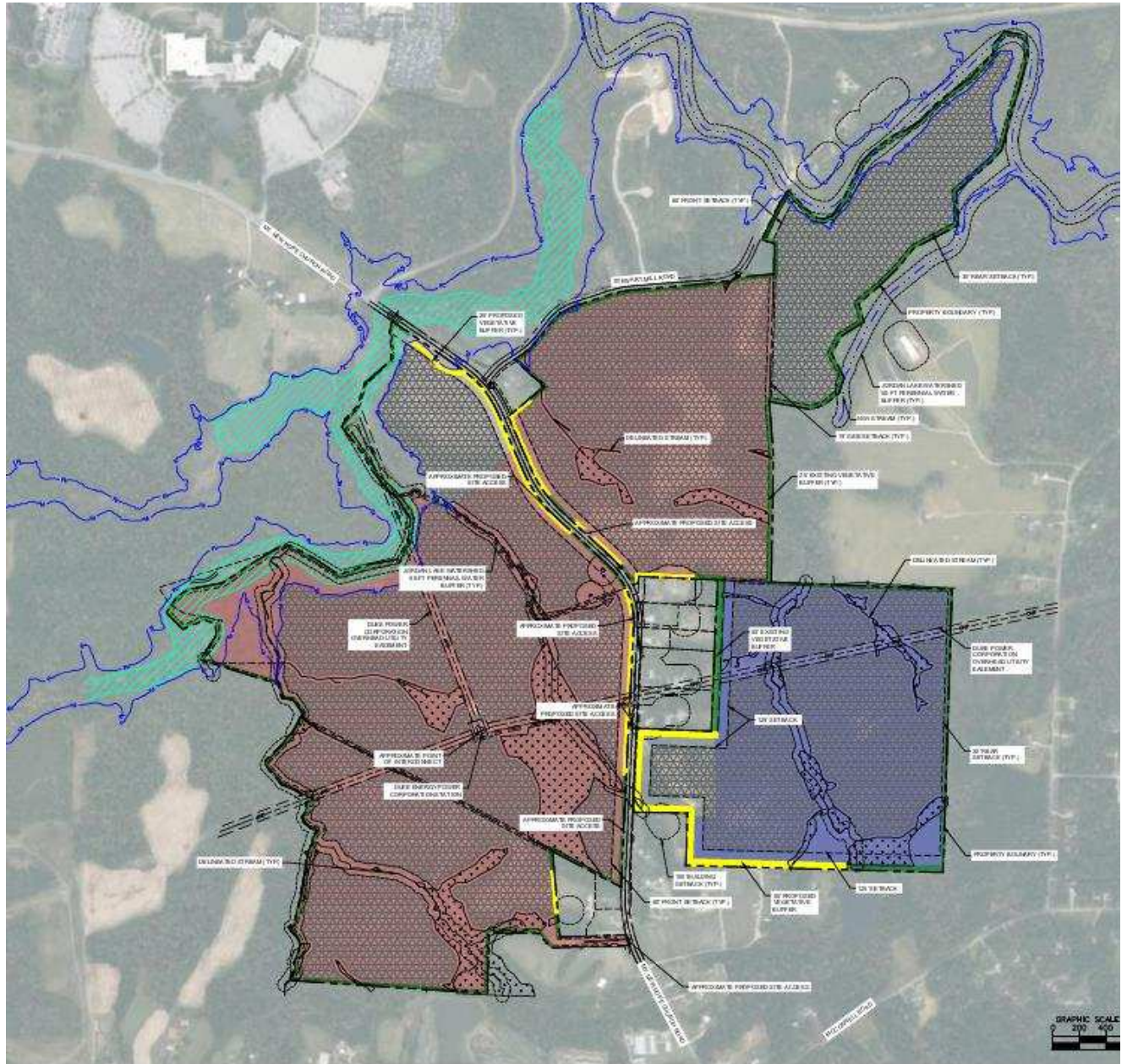
West River Solar requests two 100% variances from the *internal* setback and buffer requirements in UDO Secs. 4-2.1 (15' internal setbacks) and 6-2-2 (landscaping standards).

These properties have been under development for a solar farm for approximately 6 years. The original SUPs were issued in September 2018 (418 acres) and November 2018 (52 acres). In 2021, the northernmost parcel was added and other modifications were made to the original SUPs, resulting in a combined and single SUP issued by the Planning Board in 2021.

Neighborhood opposition to SUPs was minimal. Adjoining owners' concerns were resolved with additional 50' vegetative buffers and 125' setbacks for the tract to the east, which is not part of this application. Those buffers and setbacks are not affected.

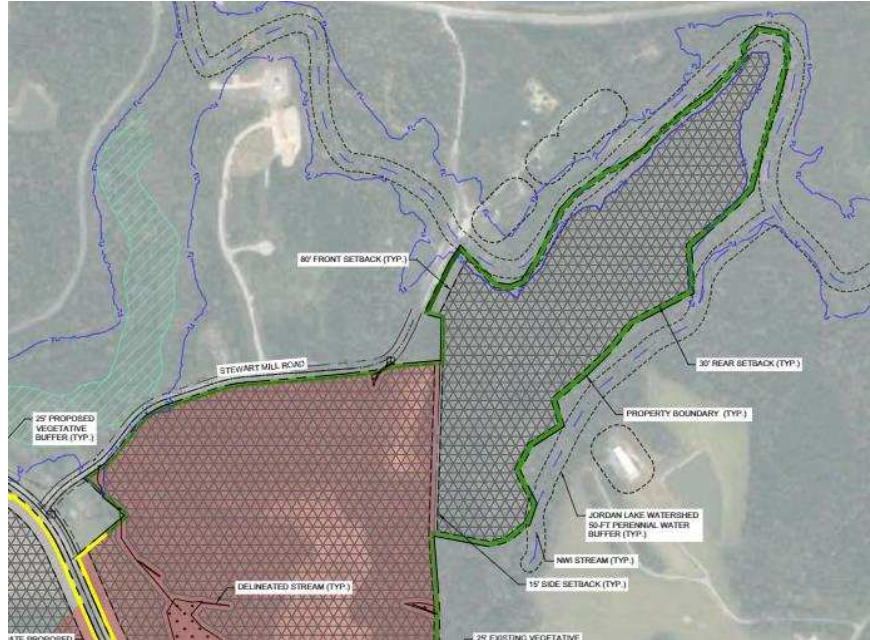
ILLUSTRATION OF PARCELS INCLUDED IN APPLICATION

This aerial site plan shows the six parcels that comprise the entire facility. For simplicity, neither the blue parcel nor an unrelated parcel owned by the Trust are involved in this application. The northernmost and southernmost parcels are owned by West River Solar, and the variances requested are along the internal property lines where the West River tracts abut the internal parcels owned by the Stewart Family Trust.



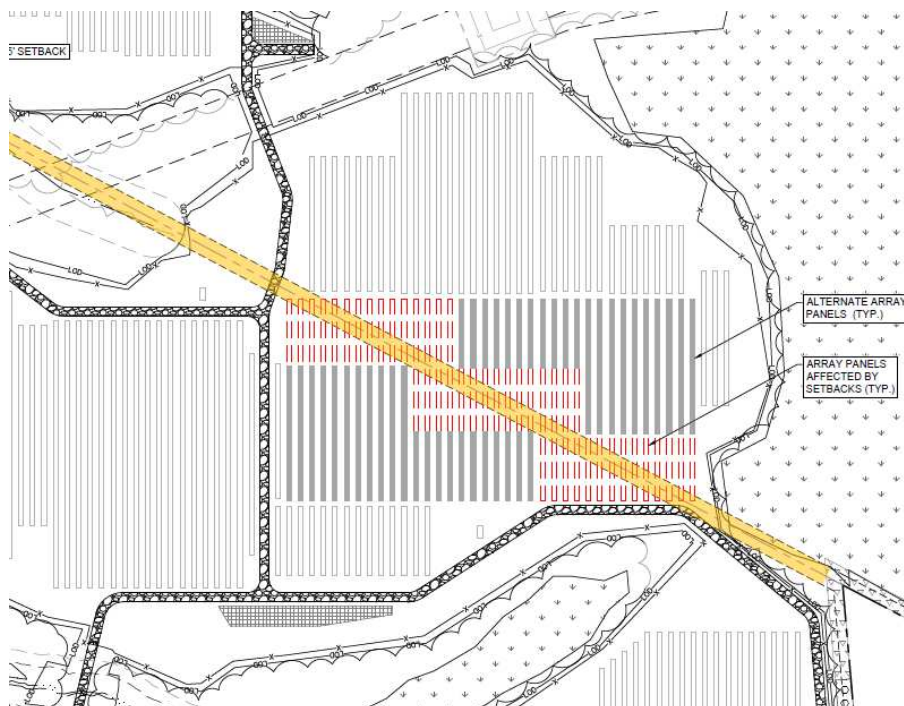
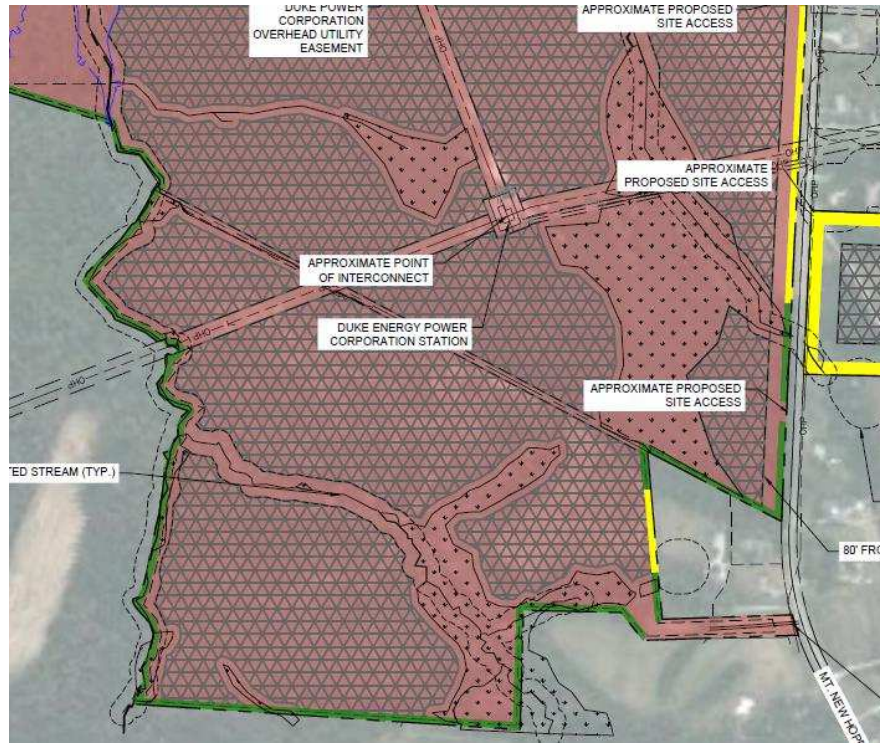
LOCATION OF VARIANCE # 1

The first variance involves the setback and vegetative buffer requirements between parcels 116799 and 120662 shown below, illustrated by both the aerial site plan and drawing:



LOCATION OF VARIANCE # 2

The second variance involves the setback and vegetative buffer requirements along the identified section of between parcels 116805 and 116807. The property line is shown on the red-hued site plan, and the smaller variance section is shown in red on the drawing below:



1. Unnecessary hardship would result from the strict application of the ordinance.

This project is part of Duke Energy's Green Source Advantage Program that enables military installations, universities, and large businesses to purchase energy directly from renewable energy providers using Duke Energy substations and transmission lines. The GSA program enables customers to select their provider and to negotiate price, length of contract, and other terms custom tailored to the purchaser's needs.

This project is designed to produce 40 megawatts (alternating current, or "AC") and 49 megawatts (direct current, or "DC") of power. West River has contracted to sell 100% of the power to Duke University so that Duke University can meet its environmental sustainability goals, reduce its overall energy costs, and have predictable and leveled costs over the term of the contract. Duke University has made long-term energy plans, closed doors on other options, and made substantial financial commitments based upon an expected amount of energy to be produced by West River Solar.

Post-entitlement calculations show that these internal setbacks cost the project approximately 5 of 49 megawatts (DC). This loss has a serious and detrimental affect on Duke University's energy plans and expectations, and likely makes the entire project financially infeasible for West River, which would, in turn, have even more serious repercussions to Duke University's energy and financial pro formas if the project were abandoned.

For deeper explanation, solar farms use two measurements of power. DC power is the power generated by the panels on the ground before conversion to AC power that is placed onto the grid. An ideal ratio of DC to AC power is 1.35 to 1.4.

Translated: for this 40-megawatt AC project, the DC power should be 54 to 56 megawatts. Instead, it only reaches 49 megawatts DC. The loss of power to topography, easements, and streams and wetlands reduces the DC output to approximately 44 megawatts DC, which is not feasible. The only way to bring power back up to a useable level is to eliminate the internal setbacks.

The acreage lost to environmental features (approximately 85 acres) and transmission line easement (approximately 12 acres) is listed in the data table with the accompanying site plans. For a site this size, the lost acreage is excessive. Loss of energy due to topography cannot be calculated on a per-acre basis.

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

Environmental and Topography. As amply shown by the site plan, this site is beset with streams, wetlands, and steep topography that already reduce the total energy output. Panels must be located outside of all wetland and stream buffers, and topography reduces placement and energy output (e.g., north facing slopes have less exposure to the sun). While the *general locations* of wetlands and topography were known pre-entitlement, the cost-intensive engineering studies necessary for project development do not occur until it is known whether an SUP will be issued.

Post-SUP engineering studies have revealed that these environmental features erode the power output substantially more than pre-SUP estimates revealed. The only place this loss can be recovered is through reduction of the *internal* setbacks and vegetative buffers to zero.

Easements. Duke Energy has transmission line easements that run generally east-west and another running north-south that further erode the usefulness of this site. Solar panel placement is engineered for both construction efficiency (a cost factor) and power maximization. It was not known pre-entitlement how much efficiency was lost when the easements, wetlands, streams, and topography were combined.

3. The hardship did not result from actions taken by the applicant or the property owner.

The hardships listed above were not caused by the applicant, nor are they common to other similarly situated owners in the area.

4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Setbacks and vegetative buffers have but one purpose: to provide a reasonable separation between separate uses and separate owners.

Although the West River Solar tracts are titled in different owners, those owners have joined in a common project for a common purpose. The internal setbacks and buffers only harm the project and its customer, Duke University. No person or landowner is benefited by these internal setbacks and buffers. To be clear, were it not for the loss of power resulting from wetlands, easements, and topography, the internal setbacks would not be as significant. But elimination of the internal setbacks in two locations represent the only cure.

Notably, external setbacks are not affected, and on variance #2, only a short section where the properties abut is the variance requested. The drawing for variance #2 shows that far more panels are lost than just those panels 15 feet each side of the property lines. The resulting loss of what appear to be much large rectangular shaped sections is explained by the manner in which panels are connected, which prohibits a perfect and linear 30-foot separation, and by the fact that the panels do not run perfectly perpendicular to the property line.

CONCLUSION

Because (1) neither owner caused the hardship; (2) no neighbor is affected by the variances; (3) no one is benefitted by the imposition of the UDO requirements; and because (4) a third party – Duke University – would be substantially harmed if this loss of power output cannot be addressed, West River Solar respectfully submits that it has met all legal standards for issuance of the two variances.

From: Terrell, Tom <TTerrell@foxrothschild.com>
Sent: Tuesday, June 27, 2023 2:46 PM
To: Aaron Calloway
Cc: Matthews, La-Deidre D.
Subject: RE: West River Solar Project

Follow Up Flag: Follow up
Flag Status: Flagged

WARNING* This email originated outside Guilford County's email system. *WARNING

Do not click unrecognized links or attachments. **When in doubt**, use the **Phish Alert Report** button.

Aaron – I will be on vacation, but La-Deidre Matthews will very ably cover for me.

Tom Terrell

Partner

Fox Rothschild LLP

230 N. Elm St.

Suite 1200

Greensboro, NC 27401

(336) 378-5412 - direct

(336) 378-5400 - fax

TTerrell@foxrothschild.com

www.foxrothschild.com

From: Aaron Calloway <acalloway@guilfordcountync.gov>

Sent: June 27, 2023 11:38 AM

To: Terrell, Tom <TTerrell@foxrothschild.com>

Subject: [EXT] West River Solar Project

Good morning Mr. Terrell,

Will you be representing the property owners for the BOA meeting?

Regards?



Aaron Calloway, MPA

Planner I

Planning & Development Dept

Guilford County Government

400 West Market Street, Greensboro, NC 27401

336-641-2489 | f: 336-641-6988

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Limited Liability Company

Legal Name

JH Stewart Family LLC

Prev Legal Name

J H Stewart Family Limited Partnership

Information

SosId: 0961453

Status: Current-Active ⓘ

Date Formed: 6/1/2019

Citizenship: Domestic

Annual Report Due Date: April 15th

Current**Annual Report Status:**

Registered Agent: Overby, Benjamin D.

Addresses

Mailing

3850 Plumas St
Reno, NV 89509

Principal Office

3850 Plumas St
Reno, NV 89509

Reg Office

522 S Lexington Ave
Burlington, NC 27215

Reg Mailing

522 S Lexington Ave
Burlington, NC 27215

Company Officials

All LLCs are managed by their managers pursuant to N.C.G.S. 57D-3-20.

Managing Member

HILLIARD WILLIAM SHEPHERD , JR
3850 PLUMAS ST
RENO NV 89509

• File an Annual Report/Amend an Annual Report • Upload a PDF Filing • Order a Document Online • Add Entity to My Email Notification List • View Filings • Print a Pre-Populated Annual Report form • Print an Amended a Annual Report form

Limited Liability Company

Legal Name

West River Solar, LLC

Information

SosId: 1419189

Status: Current-Active ⓘ

Date Formed: 12/30/2014

Citizenship: Domestic

Annual Report Due Date: April 15th

Current**Annual Report Status:**

Registered Agent: Registered Agent Solutions, Inc.

Addresses

Mailing

130 Roberts Street
Asheville, NC 28801

Principal Office

130 Roberts Street
Asheville, NC 28801

Reg Office

176 Mine Lake Court, Ste. 100
Raleigh, NC 27615

Reg Mailing

176 Mine Lake Court, Ste. 100
Raleigh, NC 27615

Company Officials

All LLCs are managed by their managers pursuant to N.C.G.S. 57D-3-20.

Manager

FP 2021 Dev Holdco, LLC
130 Roberts St
Asheville NC 28801

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Staff Report

23-06-BOA-00005

A. Summary

JH Stewart Family, LLC and West River Solar, LLC are requesting variances from Section 4.2.1 – Table B, which requires a minimum side yard setback of 15 feet and a minimum rear yard setback of 30 feet in an AG district and Section 6.2.D – Table 6-2-2 which requires a non-residential use adjacent to an AG zoning district to install a Type C planting yard (minimum width of 25 feet) for two sites along the internal boundaries of constituent parcels for Special Use Permit Case #21-05-GCPL-04192 (multiple parcels, two owners, one common development project). The approved Special Use Permit was recorded September 9, 2021 in book R 8507 and pages 2196-2205 (copy of SUP enclosed).

Site 1: The internal boundary only of parcels 120662 and 116799.

Parcel 120662 - 15-foot variance to allow minimum side yard setbacks of 0 feet and the elimination of landscape buffer requirements.

Parcel 116799 - 30-foot variance to allow minimum rear yard setbacks of 0 feet and the elimination of landscape buffer requirements.

Site 2: The internal boundary only of parcels 116805 and 116807.

Parcel 116805 - 15-foot variance to allow minimum side yard setbacks of 0 feet and the elimination of landscape buffer requirements.

Parcel 116807 - 15-foot variance to allow minimum side yard setbacks of 0 feet and the elimination of landscape buffer requirements.

The parcels are located in Jefferson Township at 1413 Stewart Mill Road and 1890, 1942, and 1984 Mt. Hope Church Road, respectively, comprising 327.18 acres and are zoned AG, Agricultural.

District Description: AG, Agricultural

The AG, Agricultural, district is intended to provide locations for agricultural operations, farm residences, and farm tenant housing on large tracts of land. This district is further intended to reduce conflicts between residential and agricultural uses and preserve the viability of agricultural operations.

B. Property Specifics

- a. **Applicant/Property Owners:** JH Stewart Family, LLC and West River Solar, LLC
- b. **Property Location:** 1984 Mt. Hope Church Road, Liberty, NC 27298
- c. **Legal Description:** Reference Deeds
- d. **Setbacks:** AG
 - Front street:** 40 feet
 - Side yard:** 15 feet
 - Rear yard:** 30 feet

C. Character of the Area

- a. **Existing Land Use(s) on the Property:** Single-family home

b. **Surrounding Uses:**

- i. North: Undeveloped and Rural Residential
- ii. South: Undeveloped and Rural Residential
- iii. East: Undeveloped and Rural Residential
- iv. West: Undeveloped

c. **Area Visual Survey:** Undeveloped and Rural Residential

d. **Environmental Impacts:** The properties are located in the Lake Mackintosh water supply watershed in the general watershed area. The properties are also located in the Jordan Lake Watershed and are therefore subject to the Jordan Lake Riparian Buffer Rules. The Jordan Lake Riparian Buffer Rules includes 50-foot buffers on both sides of the stream that begin at the top of the bank and extend outward, totaling 100 feet plus the width of the channel. The buffered area is protected by the Jordan Lake Rules. Table 9.1.6, Table of Uses, in the Guilford County UDO dictate what can be done within the riparian buffer. There are multiple buffered streams throughout the properties including streams on parcels 116807, 116805, 116804, 120643, and 120662. There are additional non-buffered streams that have been located on the property but are not protected by the Jordan Lake riparian buffer rules. All jurisdictional features are subject to the State and US Army Corps of Engineers regulations. There is regulated floodplain on parcels 116805, 116804, 116799, and 120662. There are mapped wetlands on parcel 116805.

Date of application:
June 5, 2023

Date adjacent property owner(s) notified:
June 28, 2023

Date sign posted on the subject property:
June 27, 2023

Date posted on County website:
June 28, 2023

Date of hearing:
July 11, 2023

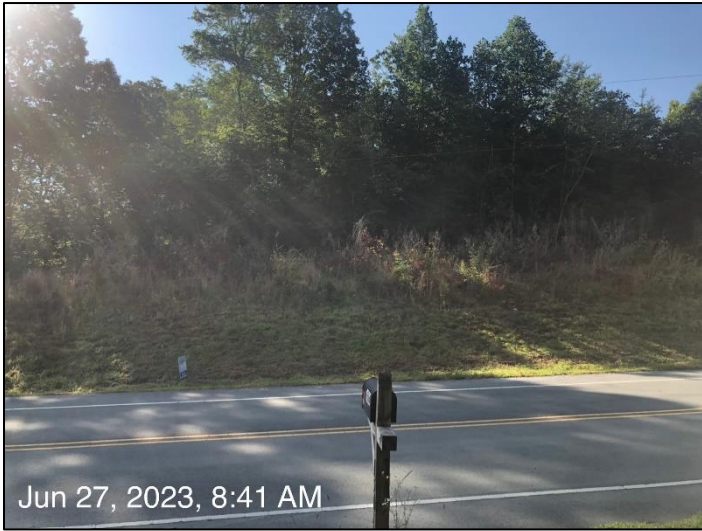
Findings of Facts

Guilford County Development Ordinance Sec. 3.5 (W)

Granting of Variance: A variance may be granted by the Board if evidence presented by the applicant persuades it to reach the following conclusions:

- 1) There are practical difficulties or unnecessary hardships that would result in the way of carrying out the strict letter of this Ordinance. The Board may reach this conclusion if it finds that:
 - a) The applicant complies with the provisions of this Ordinance and can make no reasonable use of his property;
 - b) The hardship of which the applicant complains results from unique circumstances related to the applicant's property;
 - c) The hardship relates to the applicant's property, rather than personal circumstances; and
 - d) The hardship is not the result of the applicant's own actions.
- 2) The variance is in harmony with the general purpose and intent of this Ordinance and preserves its spirit.
- 3) The granting of the variance assures the public safety and welfare and does substantial justice.

Parcel 120662 POSTING
Subject Posting



Across from Subject



North



South



Parcel 116799 POSTING
Subject Posting



Across from Subject



North



South



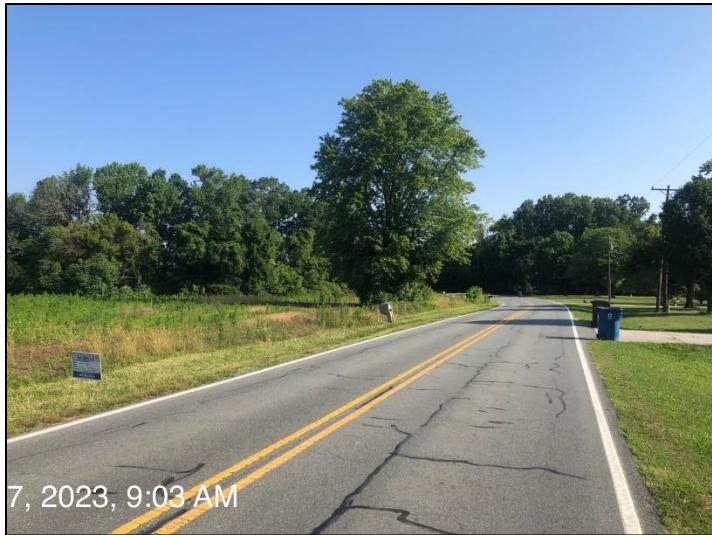
Parcel 116805 POSTING
Subject Posting



Across from Subject



North



South



Parcel 116807 POSTING
Subject Posting



Across from Subject



North



South





Jurisdiction:
GUILFORD COUNTY

Case Number:
23-06-BOA-00005

Case Area:
Parcels - 116805, 116807,
116799, 120662



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BK: R 8507
PG: 2196-2205
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09-09-2021
11:09:29 AM
BY: SABRINA MILLSAPS
DEPUTY-GB



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NC FEE \$26.00

GUILFORD COUNTY, NC
JEFF L. THIGPEN
REGISTER OF DEEDS

105M



**GUILFORD COUNTY
PLANNING AND DEVELOPMENT
400 W. Market St.
P. O. Box 3427
Greensboro, NC 27402
(336) 641-3334**

SPECIAL USE PERMIT

On June 21, 2021 the Guilford County Planning Board met and held an Evidentiary Hearing to consider the following application:

- Case Number:** 21-05-GCPL-04192
- Property Owner/Applicant:** Stewart JH Family Limited Partnership, Richard and Margie Brinkley, Needham Farm LLC, and Bryan Morris Associates LLC
- Request:** Solar Collectors (Principal) and subject to the approved Site Plan
- Property Location:** Located on the west side of Mt Hope Church Rd, approximately 1500 feet northwest from its intersection of McConnell Rd, approximately 470 acres.
- Tax Parcel Number(s):** 116807, 116805, 116804, 116799, 120643, and 120662
Total Acreage: 470 AC
- Zoning District:** AG-SP
The AG Agriculture district is intended to provide locations for agricultural operations, farm residences, and farm tenant housing on large tracts of land. This district is further intended to reduce conflicts between residential and agricultural uses and preserve the viability of agricultural operations. Commercial agricultural product sales – “agritourism” may be permitted. The minimum lot size of this district is 40,000 sqft.
- Surrounding Uses:**
North: Vacant/single-family residential
South: Large-lot Residential and Farm

East: Vacant/single-family residential
West: Vacant/single-family residential

The application was submitted to Guilford County Planning and Development on May 12, 2021 and appeared before the Guilford County Planning Board on June 21, 2021.

The applicant is proposing to operate Solar Collectors (Principal) and subject to the attached Site Plan. The Guilford County Future Land Use Plan designates the subject parcel as AG Rural Residential. The proposed use is only permissible in the AG Zoning District with a Special Use Permit approval by the Guilford County Planning Board.

The Guilford County Future Land Use Plan designates the subject parcel as Rock Creek and Alamance Creek Area Plans. The proposed use is only permissible in the AG Zoning District with a Special Use Permit approval by the Guilford County Planning Board.

SECTION 1 – FINDINGS: Having heard all the evidence and arguments presented at a Special meeting on June 21, 2021, the Planning Board determines that subject to the conditions imposed below, the following findings are made:

1. A written application was submitted and **is** complete in all respects.
2. That the use **will not** materially endanger the public health or safety if located where proposed and developed according to the plan submitted. This conclusion is based on sworn testimony and evidence submitted during the Evidentiary Hearing which shows the following:
 - a. Solar farms are passive facilities that turn sunlight into clean energy; and
 - b. The solar panels that comprise the solar arrays are made primarily of glass; they do not contain dangerous materials, nor do they emit dust, noxious fumes or liquids; and
 - c. Solar farms do not generate toxic or hazardous materials that threaten groundwater or surface water resources; and
 - d. Someone standing close to the sight will not be able to hear noise pollution due to the solar farm only generating a slight hum noise.
3. The use, Solar Collectors (Principal) for which the Special Use Permit is sought, **is** in conformance with all special requirements applicable to this use. The use meets all required conditions and specifications. This is based on sworn testimony and evidence submitted during the Evidentiary Hearing which shows the following:

- a. The applicants, consultants, and engineers have worked diligently to make sure the proposed facility meets all requirements in the Guilford County UDO for solar collector facilities and enforcement of these requirements is a staff level function; and
 - b. If the applicant does not meet these requirements, then no building permits will be issued.
4. That the location and character of the use, if developed according to the plan submitted, **will** be in harmony with the area in which it is to be located and **is** in general conformity with the plan of development of the Jurisdiction and its environs. This is based on sworn testimony and evidence submitted during the Evidentiary Hearing which shows the following:
- a. That most of the acreage has already been previously approved for two prior special use permits; and
 - b. That additional buffers have been added adjacent to certain properties to encourage additional harmony and protect any adverse effects to adjoining property owners.
5. The use **will not** substantially injure the value of adjoining or abutting property, or the use is a public necessity. This is based on sworn testimony and evidence submitted during the Evidentiary Hearing which shows the following:
- a. Based upon the appraisal information submitted in the package that there is no negative impact in terms of value on adjoining properties as submitted by the certified appraiser for the project.

SECTION 2 – CONDITIONS: Now, therefore, the application to make use of the above described property for the purpose indicated is hereby **approved and granted**, subject to all applicable provisions of the Guilford County Development Ordinance, this permit, and the following special conditions which the Planning Board finds to be in the public interest.

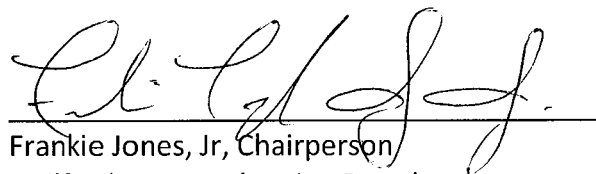
- 1. The development of the parcel shall comply with all regulations as specified in the Guilford County Development Ordinance (GCDO).
- 2. The development shall proceed in conformity with all amended plans and design features submitted as part of the Special Use Permit Application and kept on file by the Guilford County Planning and Development Department.
- 3. The development shall proceed upon approval of plan and design features by the Technical Review Committee (TRC), illustrating conditions related to the request and applicable development standards.
- 4. It is subject to the attached Site Plan along with the following conditions: 1.) Along the western and southern boundaries of Parcel #120643, West River Solar will observe a minimum setback of 125' from the nearest panel to adjoining property lines as shown on

the SUP site plan submitted May 12, 2021, 2.) Along the western and southern boundaries of Parcel #120643, West River Solar will plant or preserve a minimum of 50' of vegetation for screening purposes as shown on the SUP site plan submitted May 12, 2021, 3.) To the extent practicable, West River Solar will plant native grasses or pollinator plant species within the project footprint and install wildlife friendly fencing that meets or exceeds the standards of the National Electrical Code, 4.) The Applicant, West River Solar, shall plant or preserve a minimum of 50' buffer of vegetation for screening purposes, and shall observe a minimum setback of 50' from the nearest panel to adjoining property lines of the following parcel IDs: 120646, 120668, and 120669, 5.) The buffer yard will be as shown on the submitted development site plan which is in addition and is more stringent than what is required by the Guilford County UDO, and 6.) The decommissioning of the solar farm shall be pursuant to the decommissioning plan dated May 12, 2021 submitted by the Applicant, West River Solar, in connection with the application; provided, however, that the decommissioning shall be subject to the timing requirements for completion of the decommissioning as set forth in the ground lease submitted in conjunction with the application.

5. If the specified conditions addressed in this Special Use Permit are violated, the permit shall be revoked, and the use will no longer be allowed. Only by reapplying to the Planning Board for another Special Use Permit and receiving their approval can the use be again permitted.

SECTION 3 – VESTED RIGHTS: Approval of this permit confers upon the right to develop with the type and intensity of use as herein described and as shown on the approved site plan. Vested rights are hereby established pursuant to Section 3-16 of the Guilford County Unified Development Ordinance.

SECTION 4 – SEVERABILITY AND RECORDATION: Invalidation of any one or more of these conditions shall not adversely affect the balance of said conditions, which shall remain in full force and effect.



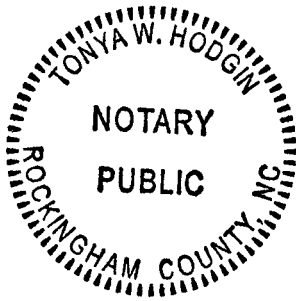
Frankie Jones, Jr, Chairperson
Guilford County Planning Board

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

I certify that Mitchell Byers personally appeared before me this day and certified to me under oath or by affirmation that he is not a grantee or beneficiary of the transaction, that Mitchell Byers recognizes the signature of Frankie Jones and that the signature is genuine.

Date: 9-9-21

Tonya W. Hodgkin
Tonya Hodgkin, Notary Public
My commission expires: 1-20-25



(Official Seal)

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**GUILFORD COUNTY BOARD OF ADJUSTMENT
ORDER GRANTING A VARIANCE**

The Guilford County Board of Adjustment, having held a hearing on July 11, 2023, to consider Case # 23-06-BOA-00005, submitted by JH Stewart Family Limited Partnership and West River Solar, LLC, a request for variances to use the properties located at 1413 Stewart Mill Road and 1890, 1942, and 1984 Mt. Hope Church Road, being Tax Parcel(s) # 120662, 116799, 116805, and 116807 in a manner not permissible under the literal terms of the ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACTS and draws the following CONCLUSIONS:

- 1. It is the Board's CONCLUSION that, unnecessary hardship **will** result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variances, no reasonable use can be made of the property. This conclusion is based on the following FINDINGS OF FACT:

- 2. It is the Board's CONCLUSION that the hardship **does** result from conditions that are peculiar to the properties, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. This conclusion is based on the following FINDINGS OF FACT:

- 3. It is the Board's CONCLUSION that the hardship **does not** result from actions taken by the applicants or the property owners. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT:

- 4. It is the Board's CONCLUSION that the requested variances **are** consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based on the following FINDINGS OF FACT:

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be **GRANTED** subject to the following:

- 1. Compliance with all local, state, and federal laws.



**GUILFORD COUNTY BOARD OF ADJUSTMENT
ORDER DENYING A VARIANCE**

The Guilford County Board of Adjustment, having held a hearing on **July 11, 2023**, to consider Case # **23-06-BOA-00005**, submitted by **JH Stewart Family Limited Partnership and West River Solar, LLC**, a request for variances to use the property located at **1413 Stewart Mill Road and 1890, 1942, and 1984 Mt. Hope Church Road**, being Tax Parcel(s) # **120662, 116799, 116805, and 116807** in a manner not permissible under the literal terms of the ordinance, and having heard all of the evidence and arguments presented at the hearing, makes the following FINDINGS OF FACTS and draws the following CONCLUSIONS:

- 1. It is the Board's CONCLUSION that, unnecessary hardship **will not** result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variances, no reasonable use can be made of the property. This conclusion is based on the following FINDINGS OF FACT:

- 2. It is the Board's CONCLUSION that the hardship **does not** result from conditions that are peculiar to the properties, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. This conclusion is based on the following FINDINGS OF FACT:

- 3. It is the Board's CONCLUSION that the hardship **does** result from actions taken by the applicants or the property owners. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. This conclusion is based on the following FINDINGS OF FACT:

- 4. It is the Board's CONCLUSION that the requested variances **are not** consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved. This conclusion is based on the following FINDINGS OF FACT:

THEREFORE, on the basis of all the foregoing, IT IS ORDERED that the application for a VARIANCE be **DENIED** subject to the following:

- 1. Compliance with all local, state, and federal laws.
