

# RICHLAND COUNTY BOARD OF ZONING APPEALS



Wednesday, 4 January 2012

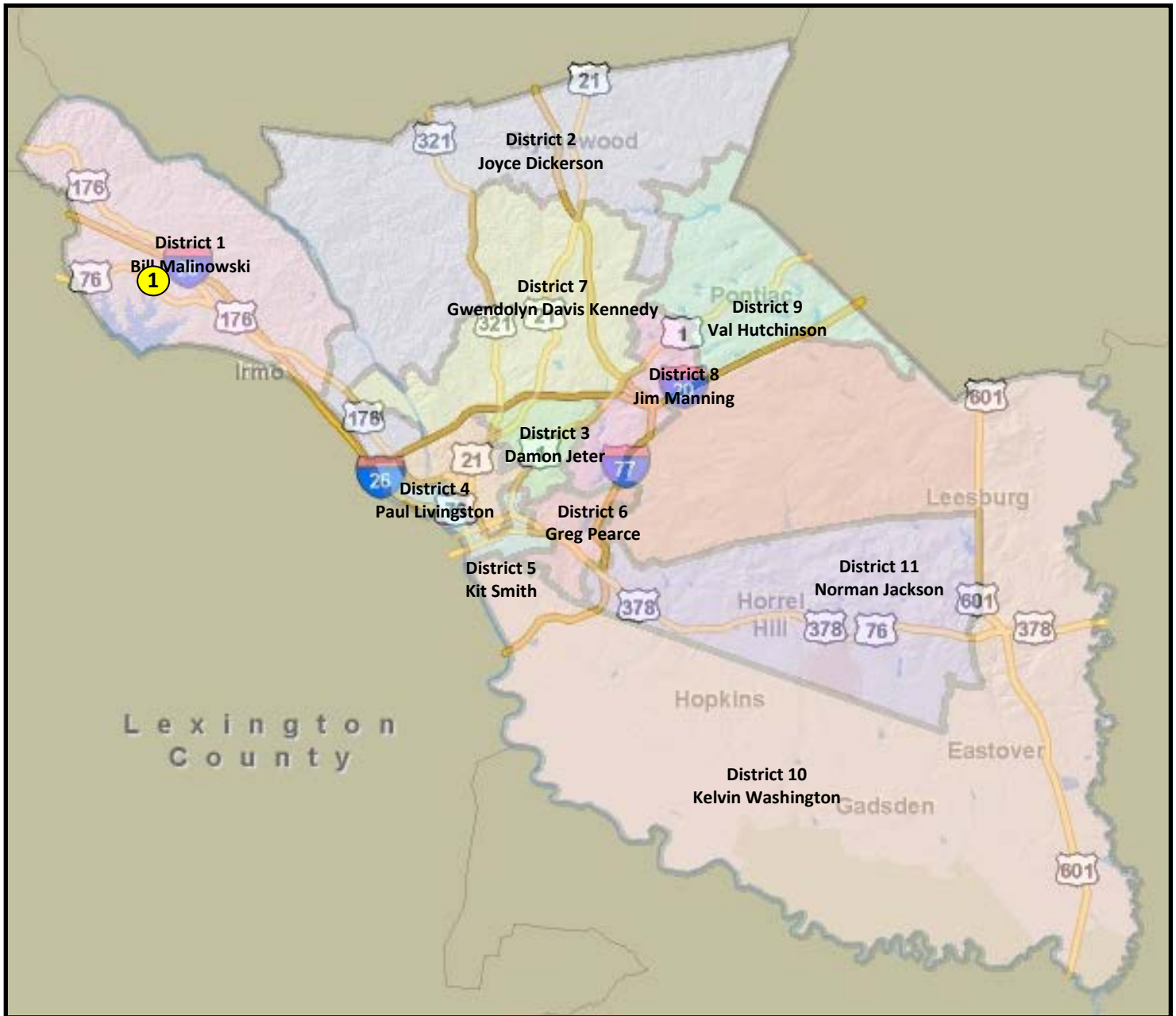
1:00 p.m.

Council Chambers



# RICHLAND COUNTY BOARD OF ZONING APPEALS

## January 4, 2012



CASE NO.	APPLICANT	TMS NO.	LOCATION	DISTRICT
1. 12-01 V	Michael J. & Carrie B. Reynolds	01415-02-15	1236 Richard Franklin Road Chapin, SC 29036	Malinowski





**Richland County  
Board of Zoning Appeals  
Wednesday, January 4, 2012  
2020 Hampton Street  
2<sup>nd</sup> Floor, Council Chambers**

## **Agenda**

**I. CALL TO ORDER & RECOGNITION OF QUORUM**

**Joshua McDuffie,  
Chairman**

**II. PUBLIC NOTICE ANNOUNCEMENT**

**III. RULES OF ORDER**

**Amelia Linder,  
Attorney**

**IV. APPROVAL OF MINUTES – December 2011**

**V. PUBLIC HEARING**

**Geonard Price,  
Deputy Planning Director/ Zoning  
Administrator**

**OPEN PUBLIC HEARING**

**12-01 V  
Michael Reynolds  
1236 Richard Franklin Rd.  
Chapin, SC 29036  
01700-07-15**

**Requests a variance to encroach into the setbacks on  
property zoned rural (RU).**

**VI. OTHER BUSINESS**

**VII. ADJOURNMENT**





## REQUEST, DISCUSSION AND RECOMMENDATION

### **CASE:**

12-01 Variance

### **REQUEST:**

The applicant is requesting the Board of Appeals to grant a variance to encroach into the required side yard setback on property zoned RU (Rural).

### **GENERAL INFORMATION:**

*Applicant:* Michael J. & Carrie B. Reynolds

*TMS:* 01415-02-15

*Location:* 1236 Richard Franklin Road, Chapin, SC 29036

*Parcel Size:* 1.99 acres

*Existing Land Use:* Currently, there is manufactured home and a 5,899 square foot metal building on the parcel.

*Proposed Land Use:* The applicant is proposing to construct a residential structure which will encroach into the required required side yard setbacks.

*Character of Area:* The area is residentially developed with many homes on acre plus parcels.

### **ZONING ORDINANCE CITATION:**

Section 26-33 (a) (2) of the Land Development Code empowers the Board of Zoning Appeals to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in an unnecessary hardship. Such appeals shall be made in accordance with the procedures and standards set forth in Sec. 26-57 of this chapter.

### **CRITERIA FOR VARIANCE:**

Standard of review. The board of zoning appeals shall not grant a variance unless and until it makes the following findings:

- a. That there are extraordinary and exceptional conditions pertaining to the particular piece of property; and
- b. That these conditions do not generally apply to other property in the vicinity; and
- c. That because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- d. That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

**DISCUSSION:**

Staff visited the site.

The applicant is requesting a variance to construct a residential structure which will encroach into the required side yard setback by 13.5 feet. In the RU district, the required setbacks for a principle structure are:

- Front - 40 feet
- Rear - 50 feet
- Side - 20 feet

The parcel is conforming according to the rural district requirements for lot area (33,000 square feet) and lot width (120 feet).

The parcel narrows from front to rear, resulting in a rear lot width of 110.92 feet (according to the submitted plat).

According to the applicant, the encroachment would allow for the construction of a residential structure at a desired location on the parcel.

Staff believes that the subject parcel does not meet all of the criteria required for the granting of a variance. Staff recommends that the request be denied. According to the standard of review, a variance shall not be granted until the following findings are made:

- a. **Extraordinary and exceptional conditions**  
Staff was unable to determine that extraordinary and/or exceptional conditions apply to the subject parcel.
- b. **Conditions applicable to other properties**
- c. **Application of the ordinance restricting utilization of property**
- d. **Substantial detriment of granting variance.**

**CONDITIONS:**

26-57(f)(3)

Conditions. In granting a variance, the board of zoning appeals may attach to it such conditions regarding the location, character, or other features of the proposed building, structure or use as the board of zoning appeals may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare. The board of zoning appeals may also prescribe a time limit within which the action for which the variance was sought shall be begun or completed, or both.

**OTHER RELEVANT SECTIONS:**

26-57 (f) (1) Formal review.

(1) Action by the board of zoning appeals. Upon receipt of the application for a variance request from the planning department, the board of zoning appeals shall hold a public meeting on the proposed variance request. Any party may appear in person or be represented by an authorized agent. In considering the application, the board of zoning appeals shall review the application materials, the staff comments and recommendations, the general purpose and standards set forth in this chapter, and all testimony and evidence received at the public hearing. After conducting the public hearing, the board of zoning appeals may:

- a. Approve the request;



b. Continue the matter for additional consideration; or

c. Deny the request.

Any approval or denial of the request must be by a concurring vote of a majority of those members of the board of zoning appeals both present and voting. The decision of the board of zoning appeals shall be accompanied by written findings that the variance meets or does not meet each of the standards set forth in the Standard of Review. The decision and the written findings shall be permanently filed in the planning department as a public record. The written decision of the board of zoning appeals must be delivered to the applicant.

**CASE HISTORY:**

No record of previous special exception or variance request for the subject parcel. Records indicate that variances were granted for side yard encroachments for the two parcels located south of the subject parcel.

**ATTACHMENTS:**

1. Application
2. Plat
3. Restrictive Covenants

*12-01 V*  
*MICHAEL J. & CARRIE B. REYNOLDS*  
*1236 RICHARD FRANKLIN ROAD*  
*CHAPIN, SC 29036*  
*01415-02-15*





# BOARD OF ZONING APPEALS

## VARIANCE APPEALS



Application #

1. Location 1236 Richard Franklin Rd, Chapin, SC 29036  
 TMS Page R01415 Block 02 Lot 15 Zoning District 6UD
2. Applicant hereby appeals to the Zoning Board of Appeals for a variance from the strict application to the property as described in the provisions of Section 26-86 of the Richland County Zoning Ordinance.
3. Applicant requests a variance to allow use of the property in a manner shown on the attached site plan, described as follows: Build a new house on the lot that will encroach into the designated 20 ft side setbacks to an absolute minimum of 7.5 ft on each side.
4. The application of the ordinance will result in unnecessary hardship, and the standards for a variance set by Sec. 26-602.3b(1) of the Richland County Zoning Code are met by the following facts.
  - a) There are extraordinary and exceptional conditions pertaining to the particular piece of property as following: This lakefront lot is ~90 ft wide at the location where it is desired to build the house. The current zoning restriction for side setbacks is 20 ft which leaves only 50 ft to build the house
  - b) Describe how the conditions listed above were created: This lot is part of Chamblee Point subdivision built in 1980 with nine (9) lakefront lots. The lots were designed with narrow width to most effectively utilize (Con't on attached)
  - c) These conditions do not generally apply to other property in the vicinity as shown by: This lot is the only remaining undeveloped lot in Chamblee Point and was the only one effected by the 2005 change in zoning restrictions. (con't on attached)
  - d) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: Application of 20 ft side setbacks prevents building the house that has been designed which is 70 ft wide and similar in size and shape (con't on attached)
  - e) The authorization of the variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: Houses on the lots adjoining both sides of the subject property have actual side setbacks of ~8 ft. All of the other lots in Chamblee Point were developed with side setback restrictions (con't on attached)
5. The following documents are submitted in support of this application [a site plan must be submitted]:
  - a) Full descriptions from #4 above
  - b) Plat showing property and house locations
  - c) Map from Richland County website showing aerial view

(Attach additional pages if necessary)

Michael J. Reynolds  
Applicant's Signature

1232 Richard Franklin Rd  
Address

803-422-5248  
Telephone Number

MICHAEL J. REYNOLDS  
Printed (typed) Name

Chapin, SC 29036  
City, State, Zip Code

919-624-9152  
Alternate Number

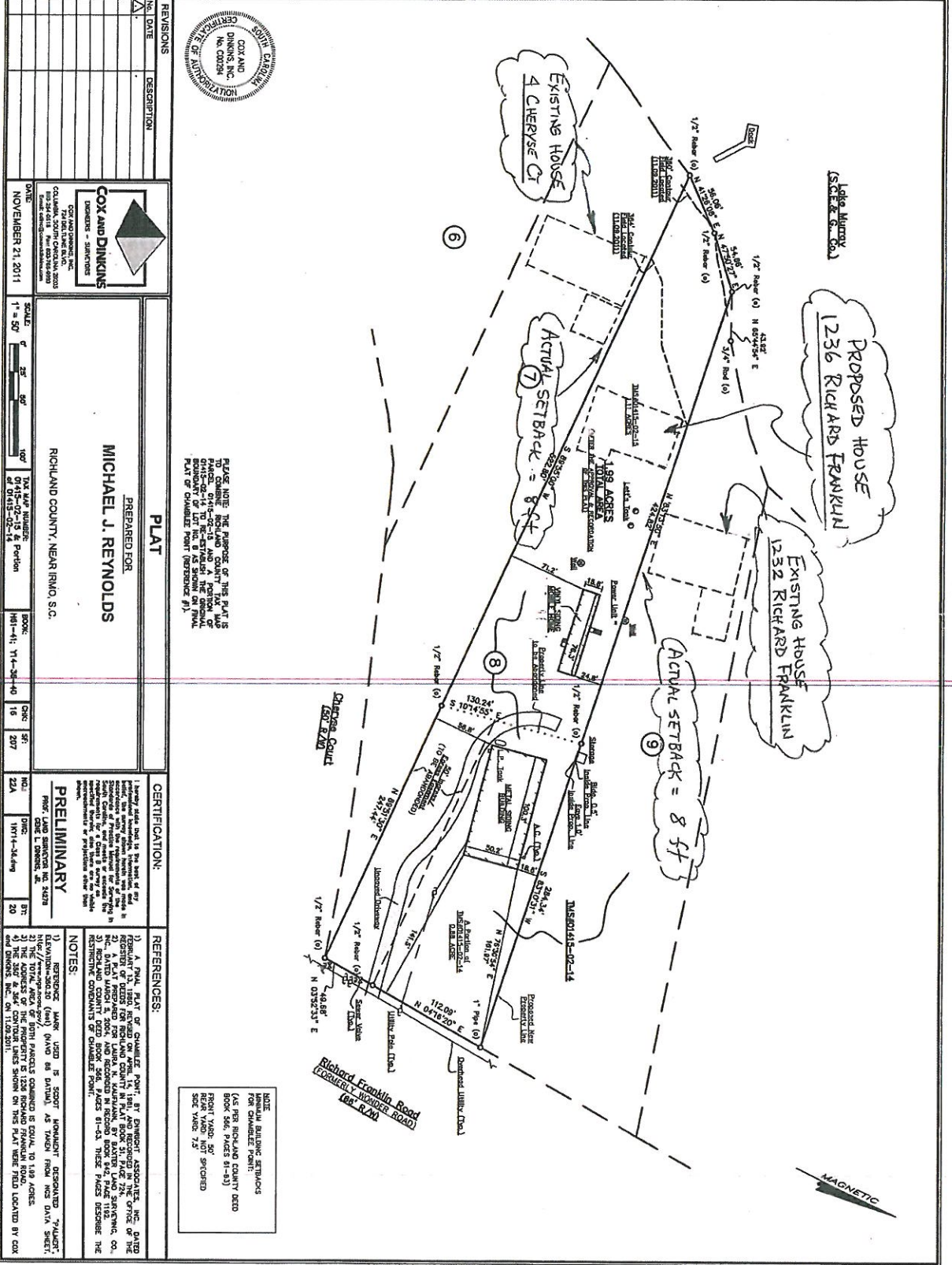
## Attachment to Application for Variance of Zoning Restriction

1236 Richard Franklin Rd, Chapin, SC 29036

4. The application of the ordinance will result in unnecessary hardship, and the standards for a variance set by Sec. 26-602.3b(1) of the Richland County Zoning Code are met by the following facts.

- a) **There are extraordinary and exceptional conditions pertaining to the particular piece of property as following:** *This lakefront lot is ~90 ft wide near the lake at the location where it is desired to build the house. The current zoning restriction for side setbacks is 20 ft per side which leaves only ~50 ft of width to build the house.*
- b) **Describe how the conditions listed above were created:** *This lot is part of Chamblee Point subdivision, developed in 1980 with nine (9) lakefront lots. The lots were designed with narrow width to most effectively utilize the valuable shoreline on Lake Murray and were restricted to side setbacks of 7.5 ft per recorded restrictive covenants for the subdivision. Current zoning restrictions updated in 2005 include side setbacks of 20 ft for the subject property.*
- c) **These conditions do not generally apply to other property in the vicinity as shown by:** *This lot is the only remaining undeveloped lot in Chamblee Point and was the only one effected by the 2005 change in zoning restrictions for side setbacks. All of the other eight (8) lots in Chamblee Point were developed with side setback restrictions of 7.5 ft. The subject property has the least width of all the lots in Chamblee Point so it is most heavily impacted by implementation of the 20 ft side setback restriction. The 20 ft side setbacks would consume ~45% of the available width on the subject property whereas the 7.5 ft side setbacks on other lots consumes only ~15% of the available width.*
- d) **Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows:** *Implementation of the 20 ft side setbacks prevents building the house that has been designed which is 70 ft wide and similar in size and shape to other houses in the subdivision and the general surrounding area.*
- e) **The authorization of the variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons:** *Houses on the lots adjoining both sides of the subject property have actual side setbacks of ~8 ft. All of the other lots in Chamblee Point were developed with side setback restrictions of 7.5 ft and many of the houses were built at the restriction limit in order to locate the house near the lake. Many other lakefront houses in the Chapin area that are located on lots of similar size and shape to the subject property have been built at or near the 7.5 side setback restriction. The proposed house is of similar size and shape to other lots in the subdivision and the general area.*

PROPOSED HOUSE AT 1236 RICHARD FRANKLIN RD, CHARPIN, SC 29036



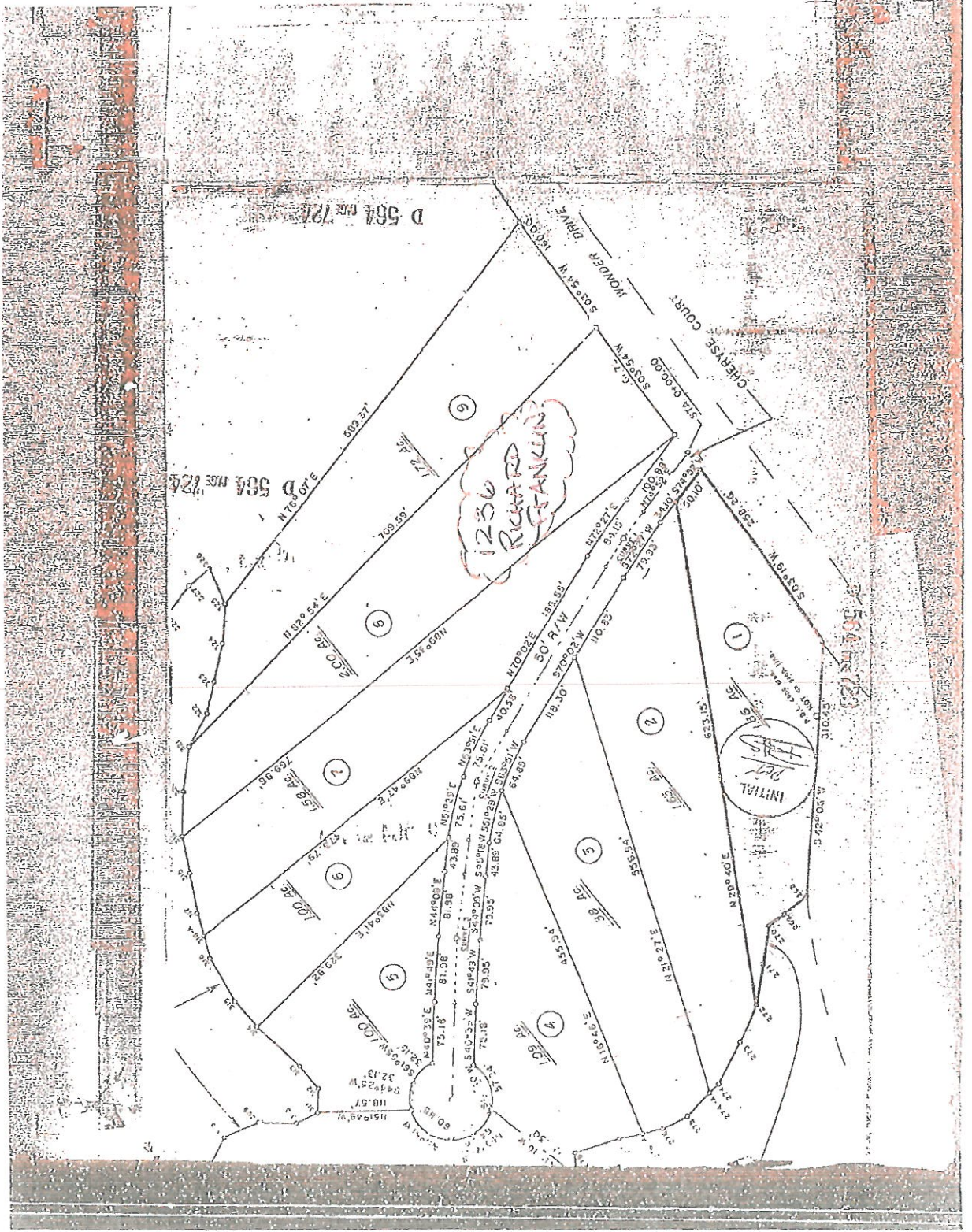
PLEASE NOTE: THE PURPOSE OF THIS PLAT IS TO SHOW THE EXISTING AND PROPOSED BOUNDARY OF LOT NO. 1236 AS SHOWN ON THIS PLAT OF CHANGE POINT (REFERENCE #1).

NO.	DATE	DESCRIPTION

		<b>COX AND DINKINS</b> SURVEYORS 100 S. 11th St., Suite 100 Columbia, South Carolina 29201 Tel: 803.742.2000 Fax: 803.742.2009 www.coxanddinkins.com	
DATE:	NOVEMBER 21, 2011	SCALE:	1" = 50'
PREPARED FOR: <b>MICHAEL J. REYNOLDS</b> RICHLAND COUNTY, NEAR IRMO, S.C.		BOOK: 191-41, 114-36-40 PAGE: 18 DATE: 2007	
PREPARED BY: <b>MICHAEL J. REYNOLDS</b> RICHLAND COUNTY, NEAR IRMO, S.C.		BOOK: 191-41, 114-36-40 PAGE: 18 DATE: 2007	
PREPARED BY: <b>MICHAEL J. REYNOLDS</b> RICHLAND COUNTY, NEAR IRMO, S.C.		BOOK: 191-41, 114-36-40 PAGE: 18 DATE: 2007	

Chamblee Point Subdivision





STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND ) RESTRICTIVE COVENANTS

Restrictive Covenants on Lots #1 thru #9 of Chamblee Point as shown upon plat prepared by Carl W. Bostick, dated February 13, 1980.

1. No structure shall be erected on any of said lots other than one (1) single family dwelling. No use shall be made of the property, or of any right or privilege appurtenant thereto, other than for private residential purposes of a single family. There shall be no type of commercial establishment on these lots.

2. No dwelling shall be erected having less than One Thousand Six Hundred (1,600.0) square feet of heated floor space.

3. No lot may be subdivided without the written consent of the seller, Peggy C. Tapp, or persons or a person designated by Peggy C. Tapp.

4. No structure of a temporary character, trailer, tent, shack, barn or other outbuilding shall be used on any lot at any time other than storage sheds or boat houses constructed of brick, painted metal or a material matching that of the residence placed upon the lot.

5. Plans & Specifications - No residence or other structure of any kind shall be erected or placed on any of the lots on the above tract until the building plans together with specifications, design and plat showing the location of such residence on the lot in question, has been approved by Seller, Peggy C. Tapp, or a person or persons designated by seller.

6. Set-Back Lines - No residence shall be located on any lot nearer than Seven & Five-tenths (7.5) feet to any side line. No residence shall be located closer than Fifty (50.0) feet from the roadway.

No residence shall be located on Lot #7 nearer than One Hundred (100.0) feet from the 360 degree contour line.



No residence shall be located on Lot #6 nearer than One Hundred Twenty-Five (125.0) feet from the 360 degree contour line.

All other lots in this subdivision will be individually restricted in their Deed as to the set-back lines of the residences from the 360 degree contour line.

7. Refuse Restrictions - No lot covered by these restrictions or any property of said tract may be used or maintained as a dumping ground for refuse, garbage, rubbish or cast-off material. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

8. Construction Time - All residences and storage sheds must be completely finished outside and painted where painting is required within six (6) months from the beginning of construction.

9. Offensive Activity/Pets - No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. No animals, except domestic pets, may be kept thereon.

10. Fencing - No fence of any type shall be erected on any lot or lots without the written consent of the seller, Peggy C. Tapp, or a person or persons designated by Seller.

These Restrictive Covenants shall run with the land and shall be binding on all parties and persons claiming under them for a period of twenty (20) years from the date these covenants are recorded.

WITNESS my hand and seal this the 1st day of April,

1980.

WITNESS:

*[Signature]*  
*[Signature]*

*[Signature]*  
PEGGY C. TAPP



STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND )

PERSONALLY appeared before me, S. Wyman Boozer  
who being duly sworn, deposes and says that he saw the within  
named Peggy C. Tapp, sign, seal and as her act and deed, deliver  
the within Restrictive Covenants, and that he, together with  
Karen Y. Jordan witnessed the execution thereof.



SWORN to before me this the  
1st day of April, 1980.

S. Wyman Boozer (L.S.)  
Notary Public for SC  
Commission Expires: 8/5/85



Richland County Government  
2020 Hampton Street  
Columbia, SC 29204

Phone (803) 576-2180  
Fax (803) 576-2182

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