

RICHLAND COUNTY BOARD OF ZONING APPEALS



**Wednesday, 1 December 2021
3 p.m.
Council Chambers**



**Richland County
Board of Zoning Appeals
Wednesday, December 1, 2021
3:00 p.m.**

Chairman - Jason McLees

Co-Chairman – Lonnie Daniels

Mike Spearman • Robert T Reese • Cody Pressley

Agenda

- I. CALL TO ORDER & RECOGNITION OF QUORUM** Jason McLees
- II. PUBLIC NOTICE ANNOUNCEMENT**
- III. ADOPTION OF AGENDA**
- IV. RULES OF ORDER** Chairman
- V. PUBLIC HEARING** Geonard Price,
Zoning Administrator

OPEN PUBLIC HEARING [ACTION]

- 1. ZV21-010** Request for a variance to encroach into the required side yard setbacks on property zoned Residential Single Family Low Density (RS-LD) **District 1**
Christopher A Brinkley Bill Malinowski
118 Blackburn Road W
Irmo, SC 29063
TMS# R02316-02-07
Page 1

VI. OTHER BUSINESS

VII. ADJOURNMENT



1 December 2021
Board of Zoning Appeals

REQUEST, DISCUSSION AND RECOMMENDATION

CASE:

ZV21-010 Variance

REQUEST:

The applicant is requesting the Board of Zoning Appeals to grant a variance to encroach into the required side yard setback in the Residential Single-Family - Low Density (RS-LD) district.

GENERAL INFORMATION:

Applicant: Christopher A Brinkley

TMS: 02316-02-07

Location: 118 W Blackburn Road, Irmo, SC 29036

Parcel Size: .99 acres

Existing Land Use: Currently the property is residentially developed.

Proposed Land Use: The applicant proposes an addition which will encroach into the required side yard setback.

Character of Area: The area is residentially developed.

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:

The applicant is proposing to construct an addition to the existing residential structure that will encroach into the required five (5) foot side yard setback. The proposed addition will, "...encompass a small pool intended primarily for therapeutic purposes as well as an elevator to access the main floor level for my partially disabled wife, and allow for a small walkway circulation around the pool."

According to the applicant, there is a deed restriction on the property which restricts additions or new construction rear of the existing residential structure. Specifically, the deed establishes a 150 foot rear yard setback on the subject property.

Staff believes that the subject parcel does not meet all of the criteria required for the granting of a variance. Section 26-33 of the Richland County Land Development Code (LDC) states that the BZA, "...shall have the power to authorize upon appeal in specific cases such variance from the terms of this chapter..." According to subsection 26-89 (c) (4) (c) of the LDC, the minimum rear yard setback for principle structures in the RS-LD district is twenty (20) feet. As previously stated, the BOZA is authorized to grant variances where the provisions of chapter 26 cannot be met. In this case, the requirement for the rear yard setback (20 feet) can be met.

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 identify extraordinary and/or exceptional conditions to the subject site.

b. Conditions applicable to other properties

Staff was unable to determine if conditions are applicable to other properties in the surrounding area which would necessitate a similar variance request.

c. Application of the ordinance restricting utilization of property

Applying the provisions of the LDC would not prevent the utilization of this parcel..

d. Substantial detriment of granting variance

There would be no substantial detriment to the surrounding properties if the variance is granted.

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 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.

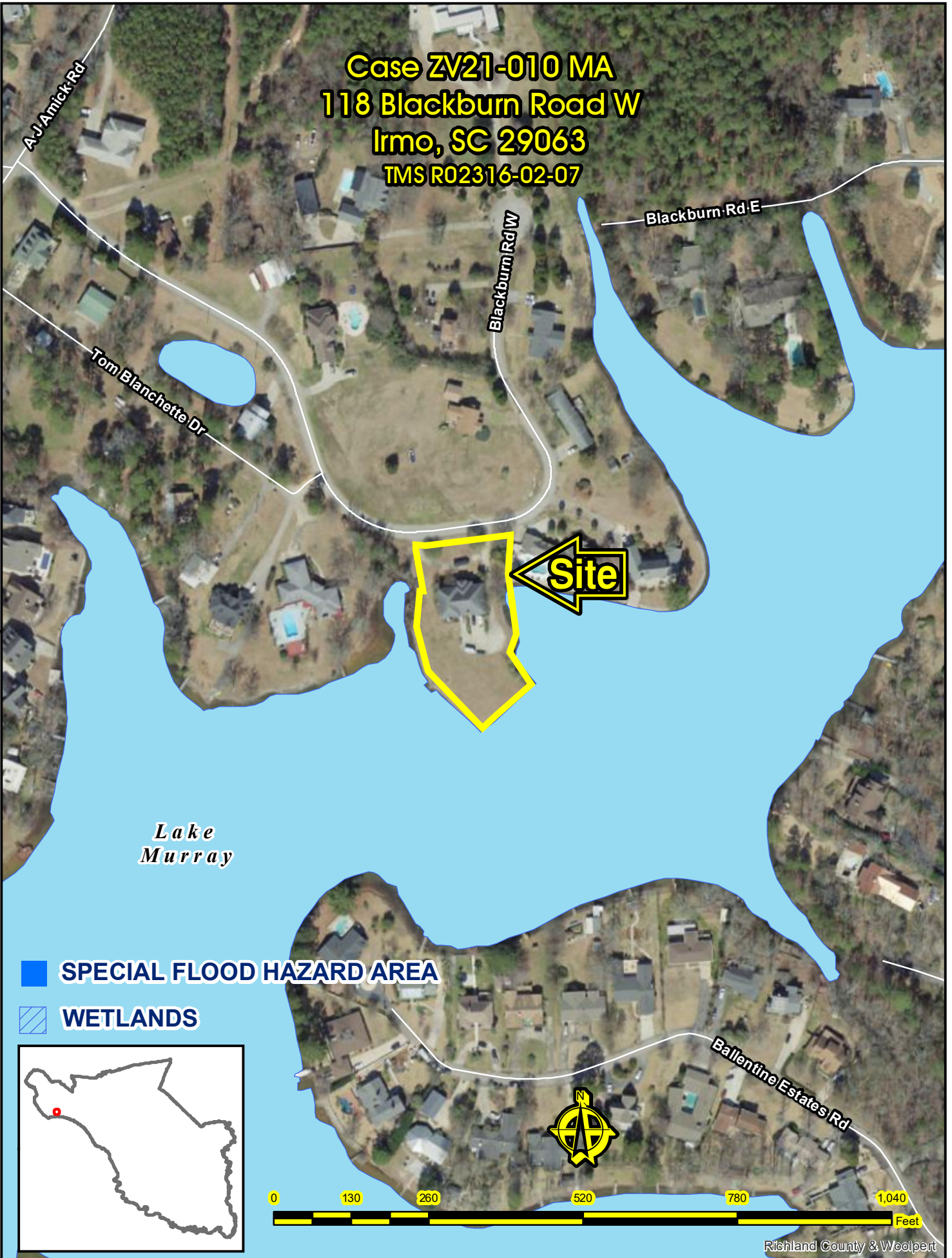
CASE HISTORY:

- None

ATTACHMENTS:

- Plat
- Application

Case ZV21-010 MA
118 Blackburn Road W
Irmo, SC 29063
TMS R02316-02-07






BOARD OF ZONING APPEALS VARIANCE APPEALS



Application #

1. Location 118 Blackburn Rd W, Irmo, SC 29063
 TMS Page 02316 Block 02 Lot 07 Zoning District RS-LD
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 26-89 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: Home Addition with Pool
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: see attached page
 - b) Describe how the conditions listed above were created: See attached page
 - c) These conditions do not generally apply to other property in the vicinity as shown by: See attached page
 - 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: See attached page
 - 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: See attached page
5. The following documents are submitted in support of this application [a site plan must be submitted]:
 - a) Annotated Plat
 - b) Partial Bostick Survey
 - c) Aerial & Photos

(Attach additional pages if necessary)

 Applicant's Signature	<u>118 Blackburn Rd W.</u> Address	<u>803.767.5498</u> Telephone Number
<u>Christopher A. BRINKLEY</u> Printed (typed) Name	<u>Irmo SC 29063</u> City, State, Zip Code	_____ Alternate Number

Supplement to Board of Zoning Appeals

Variance Appeals

Answers to Questions 4a thru 4e

Dated 08.30.2021

4.

- a) The current deed restrictions and limitations on the property have created exceptional conditions due to deed setback conditions, and property boundaries that, if not relaxed will impede the property owner from expanding their current residence and not be able to fully utilize the property for a proposed expansion. There are deed setback limitations from the centerline of the road, which fall in a location that limits the width of proposed buildings. The rear of the residence is currently back at this full setback and the limiting width can be seen on the attached plat with the proposed expansion shown. The home was originally placed at the maximum deed setback and both sides have limiting boundaries due to the waters of lake Murray. Additionally, the front 50' was donated to Richland County by us for road improvements to create a 50' ROW.
- b) The above deed restriction conditions were created by previous owners to limit the southern location of any structures on the property and were not intended to create hardships on the side limitations, but by virtue of the property width at the various southern setbacks, it creates an unintended hardship of width.
- c) No other property in our area is conditional to this 150' deed setback. The limiting factors for other property owners are the Waters of Lake Murray and zoning setbacks only. Because of the unique location of this property, one of the previous owners wanted to protect his view across the lake side of the property and added the 150' setback.
- d) Because we cannot go back further to the south to take advantage of the additional width in the boundary, we will not be able to add an addition to the home which will encompass a small pool intended primarily for therapeutic purposes as well as an elevator to access the main floor level for my partially disabled wife, and allow for a small walkway circulation around the pool.
- e) There are no adjacent developable properties since part of it is the waters of Lake Murray, and adjacent fringe land for greenspace that cannot be improved for any purpose. As you can see in the photos there is no one to infringe upon as there is a body of water; then a substantial side yard before reaching the neighbor's existing house which is 170' away.

REVISED JUNE 26, 1995 TO ADD PROPOSED DWELLING AND ELEVATIONS.



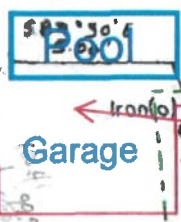
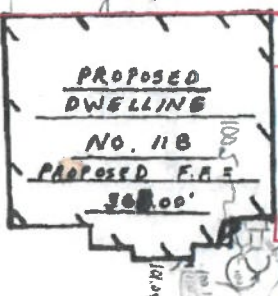
SEE LARGE SCALE DRAWING

1.09 ACRES
47,370 SQ. FT.

LAKE MURRAY

LAKE MURRAY

LAKE MURRAY



150' Setback Deed Restriction

5' Setback Line

Addition

NOW OR FORMERLY HAMBY

BLACKBURN ROAD

NOW OR FORMERLY HAMBY

T.O.M. TOP OF FIRE HYDRANT ELEVATION: 365.85'

Iron set 26' from Pavement

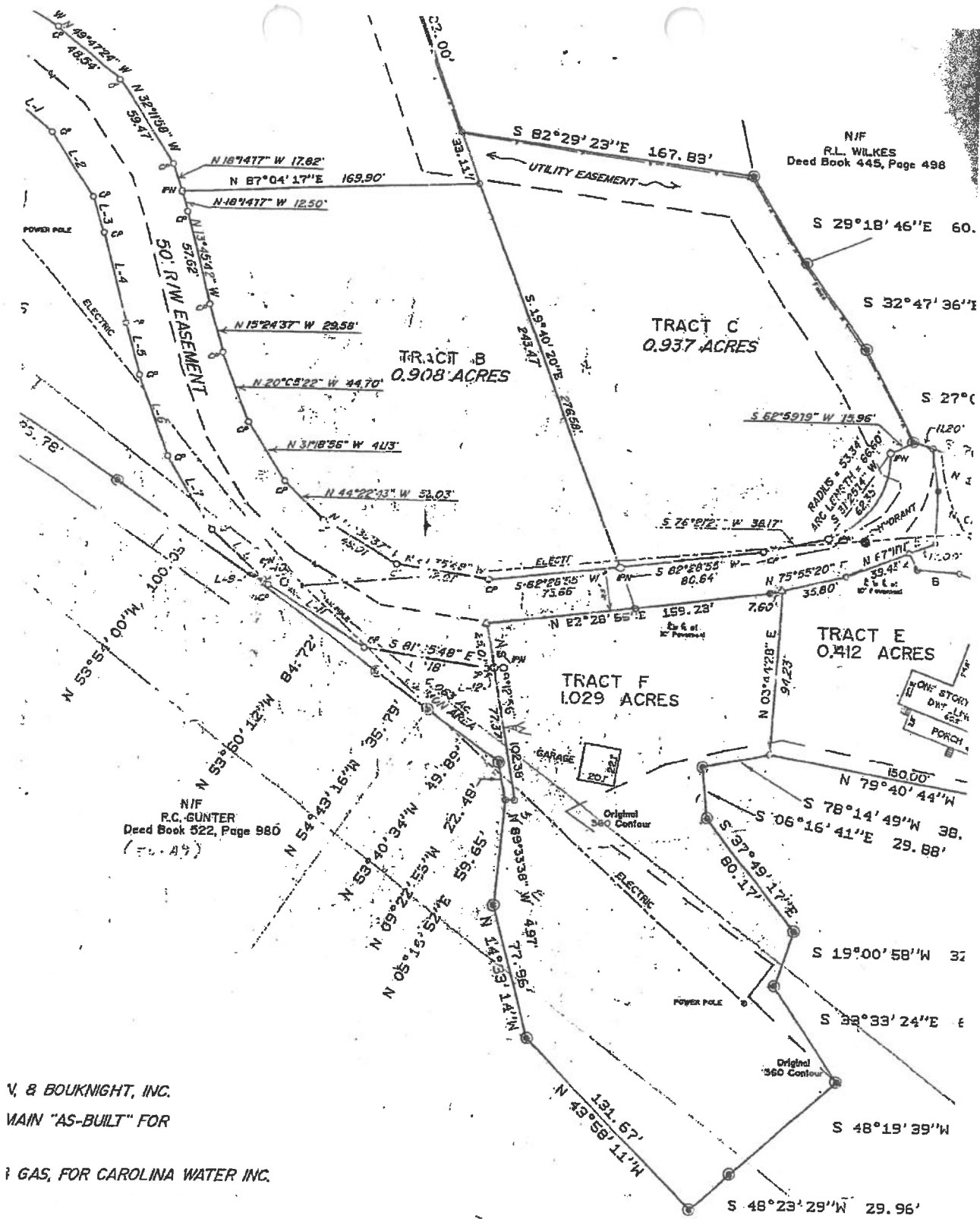
Iron set 26' from Pavement

To Hwy. No. 6

To 540-296

CHRISTOPHER A. BRINKLEY & TERESA J. BRINKLEY

DEPT. AND COUNTY RECORDS



NIF
R.L. WILKES
Deed Book 445, Page 498


NIF
R.C. GUNTER
Deed Book 522, Page 980
(P.L.A.?)

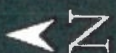
V. & BOUKNIGHT, INC.
MAIN "AS-BUILT" FOR
GAS, FOR CAROLINA WATER INC.
THE CITY OF COLUMBIA,

CARL W. BOSTICK, R. L. S. 4



Legend

 118 Blackburn Rd



200ft

Google Earth

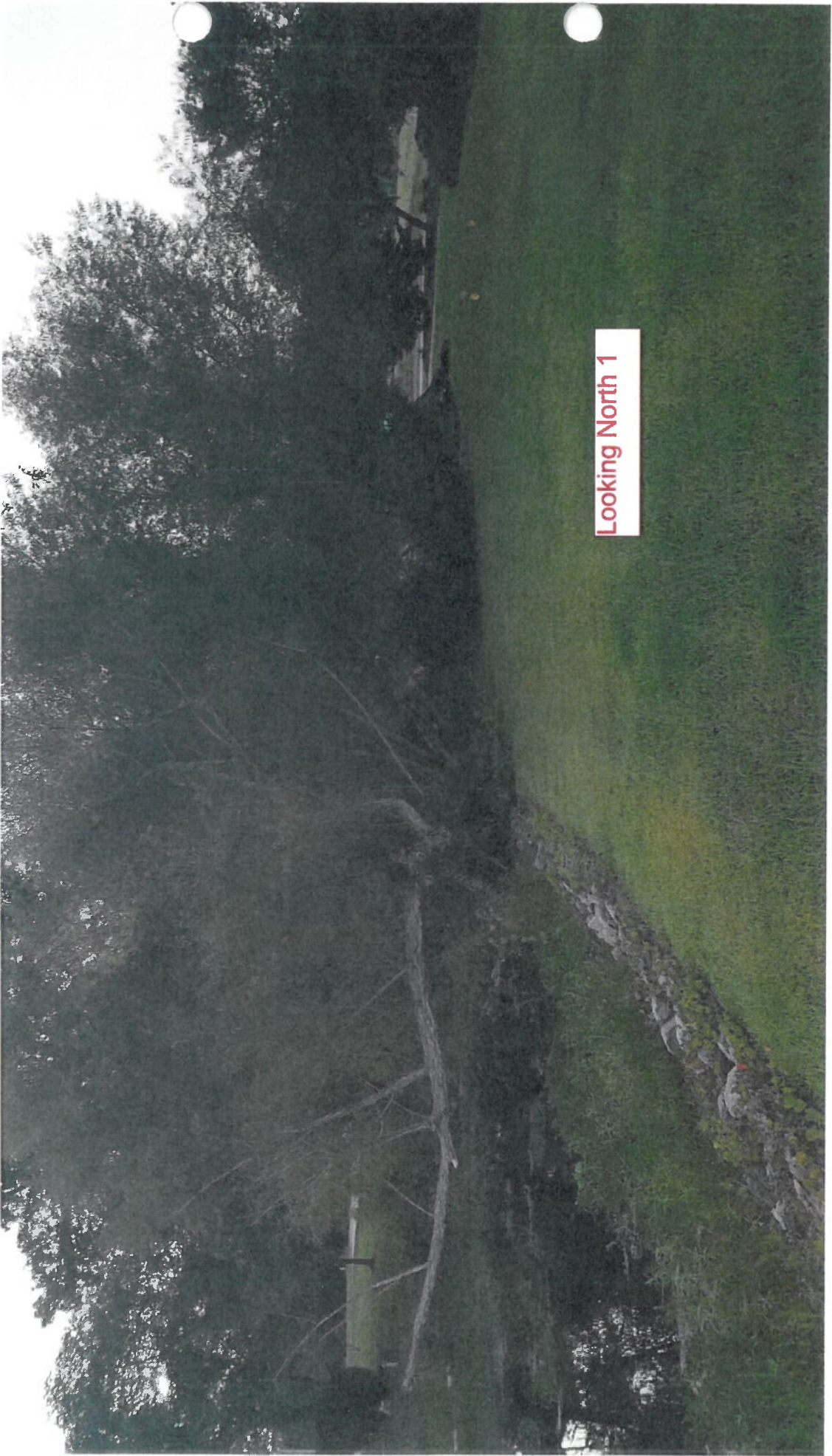
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Looking South from Road 1



Looking South 2



Looking North 1





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