

COUNTY OF CLEVELAND, NORTH CAROLINA
AGENDA FOR THE BOARD OF ADJUSTMENT MEETING

December 19, 2024

4:00 PM

311 E. Marion St.

Call to order and Establishment of a Quorum

Invocation and Pledge of Allegiance

Approval of Minutes

Approval of Minutes: November 21, 2024

Cases

24-10 SUP request for a Kennel/Animal Boarding Facility at 1411 Airport Rd.

Miscellaneous Business

Adjournment

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

Approval of Minutes: November 21, 2024

Department:

Agenda Title: Approval of Minutes: November 21, 2024

Agenda Summary:

Proposed Action:

ATTACHMENTS:

File Name	Description
<input type="checkbox"/> 11-21-24_BOA_Minutes_DRAFT.pdf	11-21-2024 BOA Minutes



MINUTES
CLEVELAND COUNTY BOARD OF ADJUSTMENT
Commission Chambers – County Administrative Building
311 East Marion St., Shelby, North Carolina
Regular Meeting - 4:00 p.m.
November 21, 2024

Members Present	Members Absent	Others Present
Thomas Fletcher, Vice Chairman	Tommy Brooks, Chairman	Cole Gurley
Leon Martin		Jayne C. Lewis
Bobby Watson	Staff Present	Gene Lewis
Paul Aulbach, <i>alternate</i>	Chris Martin, Planning Director	
Woody Edwards, <i>alternate</i>	Hayden Whetstine, Planner	
	Anna Parker, Clerk	
	Martha Thompson, Attorney	

CALL TO ORDER

Vice Chairman Fletcher called the meeting to order at 4:00 p.m.

ESTABLISHMENT OF QUORUM

It was determined that quorum was present.

PLEDGE & INVOCATION

Vice Chairman Fletcher led the pledge and invocation.

APPROVAL OF MINUTES: October 24, 2024 MINUTES

Paul Aulbach made a motion to approve the October 24, 2024 minutes. Bobby Watson seconded the motion and it carried unanimously.

SUP CASE 24-09: Variance at 817 Mt. Zion Church Rd.

Chris Martin was sworn in. He stated that Cole Gurley is the owner of the property and the applicant requesting the variance. Mr. Gurley submitted a complete application and site plan showing the proposed use and the variance requested. He plans to build a residence. The property is about 9 acres located in the northwestern part of the county by Moriah School Rd. and Golden Valley Rd. There is an existing mobile home on the property. The zoning in is residential throughout the area. The site plan shows the existing and proposed use of the property. The variance requested as shown on the site plan is for a 4' side property line setback. The site plan shows the approximate septic area, home location, and trees. The Board of Adjustment will consider the variance standards to see if Mr. Gurley's request is eligible. It requires a 4/5 majority vote and must show that the hardship is not self-created, that there are

features of the individual property that create the hardship, and the proposed the use is in spirit and harmony with the area as described in the North Carolina General Statute 160D-705(d).

Mr. Martin said the hardships listed by the applicant are encroachment in the current and proposed septic areas, risk of storm damage from the neighboring property's trees, the lot is long and narrow at only 110' wide, the utility right-of-way, drainage problems due to topography, and limited access to the rear of the property due to all those concerns. These issues pre-existed; they were not caused by the property owner. Mr. Gurley plans to meet all other standards.

Paul Aulbach asked who owns the neighboring property. Mr. Martin said it is the applicant's mother, and she owns the home on that property which is further west. Mr. Martin also pointed out that there is a difference in the WebGIS layout of the property line vs. the survey submitted with the application. The applicant attempted to re-survey the lot to make room to meet the 10' side property setback but the bank loan prohibited them from shifting the lot line. They attempted to meet the standards. WebGIS will go back to the original lot layout with the next update.

Paul Aulbach asked about their driveway location. Mr. Martin said they plan to use the neighboring property driveway. They have enough right-of-way access on the road frontage if they choose to put in their own driveway, which is up to the property owner. It is not a requirement to have their own driveway since they have enough road frontage to put one in if needed.

Vice Chairman Fletcher opened the Evidentiary Hearing at 4:15 pm.

Cole Gurley of 817 Mt. Zion Church Rd. was sworn in. He said he meant to be on the property temporarily but then the pandemic and inflation happened, so he decided to build there instead. He understands that there are policies; he has worked in government. He stated that the hardship is finding a suitable location. He said he can't control the tree line to the south, the utilities and septic locations, or drainage. That leaves a small portion of the home that will encroach in the setback (about 67 sq. feet), not the whole home. There is a wooded lot about 30 feet to the south. The home can't be pivoted to face the road more due to the drainage and topography of the property. Their proposed home has a basement which limits where it can go on the property due to the steep terraced drops (about 5 feet of drop for each terrace as seen on the aerial image). The existing septic system can be used, but they have to account for the grade and the repair area.

Jane Lewis of 821 Mt. Zion Church Rd. was sworn in. She said she is Cole Gurley's mother. She would give them all the land but the loan prevents it.

Vice Chairman Fletcher closed the Evidentiary Hearing at 4:42 pm.

The Board discussed the variance criteria.

The Board discussed the four criteria and determined the following:

1. **Yes**, unnecessary hardship would result from the strict application of the regulation.
2. **Yes**, the hardship results from conditions that are peculiar to the property due to the topography, trees, septic, and utility locations.
3. **Yes**, the hardship *did not* result from actions taken by the applicant or the property owner.
4. **Yes**, the requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved. There is no harm to safety with a small portion of the home encroaching in the side property line setback.

Vice Chairman Fletcher entertained a motion.

Bobby Watson made a motion to approve the side setback variance Case 24-09 for a 4' side setback for the home. Paul Aulbach seconded the motion and it passed unanimously.

MISCELLANEOUS BUSINESS

Chris Martin asked about setting a December meeting date. The Board agreed that Thursday December 19th at 4:00 pm would work.

ADJOURNMENT

Vice Chairman Fletcher entertained a motion to adjourn.

Bobby Watson so moved the motion to adjourn. It was seconded by Woody Edwards and unanimously approved to adjourn at 4:30 pm.

ATTEST:

Thomas Fletcher, Vice Chairman

Anna Parker, Clerk

COUNTY OF CLEVELAND, NORTH CAROLINA

AGENDA ITEM SUMMARY

24-10 SUP request for a Kennel/Animal Boarding Facility at 1411 Airport Rd.

Department:

Agenda Title: 24-10 SUP request for a Kennel/Animal Boarding Facility at 1411 Airport Rd.

Agenda Summary:

Proposed Action:

ATTACHMENTS:

File Name	Description
<input type="checkbox"/> 24-10_Staff_Report.pdf	Staff Report
<input type="checkbox"/> 24-10_Application.pdf	Application
<input type="checkbox"/> 24-10_final_survey.pdf	Site Plan updated
<input type="checkbox"/> 24-10_Application_Cover_sheet.pdf	Application Coversheet
<input type="checkbox"/> 24-10_Map_Aerial_Map.pdf	Aerial Map
<input type="checkbox"/> 24-10_Map_Zoning_Map.pdf	Zoning Map
<input type="checkbox"/> 24-10_Map_LUP_Map.pdf	Land Use Plan Map

STAFF REPORT

To: Board of Adjustment Meeting Date: 12-19-24
From: Chris Martin, Planning Director
Subject: Case 24-10 Special Use Permit

Summary Statement: Analee Fry is requesting a special use permit to operate a kennel/animal boarding facility at 1411 Airport Rd. (parcel 24421).

Background: Kennels/Animal Boarding are a compliant use in the Residential zoning district with the issuance of a special use permit. The property is currently zoned Residential and is 4.93 acres in size. It is owned by Analee and Matthew Fry. The applicant, Analee Fry, submitted a site plan along with the application illustrating compliance with the development standards and how the property will be used.

Review: The Cleveland County Unified Code of Ordinances (Section 12-162 Kennels) states that Kennels shall be allowed pursuant to [section 12-124](#) and are subject to the following standards.

1. No kennel shall exist on a single parcel that is less than two (2) acres in size.
2. All buildings shall be fully enclosed and all outdoor uses, including kennels and runs, shall be completely enclosed with a fence.
3. Setbacks.
 - a. A setback of fifty (50) feet shall be required from all public or private rights-of-way.
 - b. A setback of fifty (50) feet shall be required from all other property lines.

Section 12-33 – Special Use Permits

Even if the board of adjustment finds that the application complies with all other provisions of this chapter, it may still deny the permit if it concludes, based on the information submitted at the hearing, that if completed as proposed, the development, more likely than not:

1. Will materially endanger the public health or safety;
2. Will substantially injure the value of adjoining or abutting property;
3. Will not be in harmony with the area in which it is to be located; or
4. Will not be in general conformity with the land use plan, thoroughfare plan, or other plans officially adopted by the board of commissioners.



APPLICATION FOR A SPECIAL USE PERMIT

Cleveland County
NORTH CAROLINA

APPLICANT NAME: Analee Fry
MAILING ADDRESS: 834 Hillcrest Ave
CITY/STATE /ZIP: Gastonia, NC 28052
PHONE: 269 274 4231 E-MAIL: analeefry@hotmail.com

TO THE CLEVELAND COUNTY BOARD OF ADJUSTMENT:

I/We, the undersigned, hereby petition the Board of Adjustment to issue a Special Use permit in the name of:

Analee Fry

for the use of the property located at: 1411 Airport Rd Shelby, NC 28150,

Parcel #(s) 24421 in R Zoning District.

Title to this property is in the name of:

Matthew & Analée Fry

Owner Name(s)

834 Hillcrest Ave

Mailing Address

Gastonia, NC 28052

City / State / Zip Code

The authority of the Cleveland County Board of Adjustment to grant the requested Special Use Permit is contained in the Cleveland County Code, Section(s): _____

The requested Special Use is described as follows: Kennels / Animal Boarding 812910

Include a site plan of the subject property. See Section 12-33(a) for site plan requirements. The Board of Adjustment may request additional information as listed in Section 12-33(b).

It is understood by this applicant that the approval of this application by the Board authorizes only the Special Use requested herein by this applicant and that all conditions and requirements imposed by the Development Ordinance and/or by the Board shall be properly always maintained and complied with.

I/We hereby certify that the information contained in this application, including attachments, is true and correct to the best of my knowledge and belief.

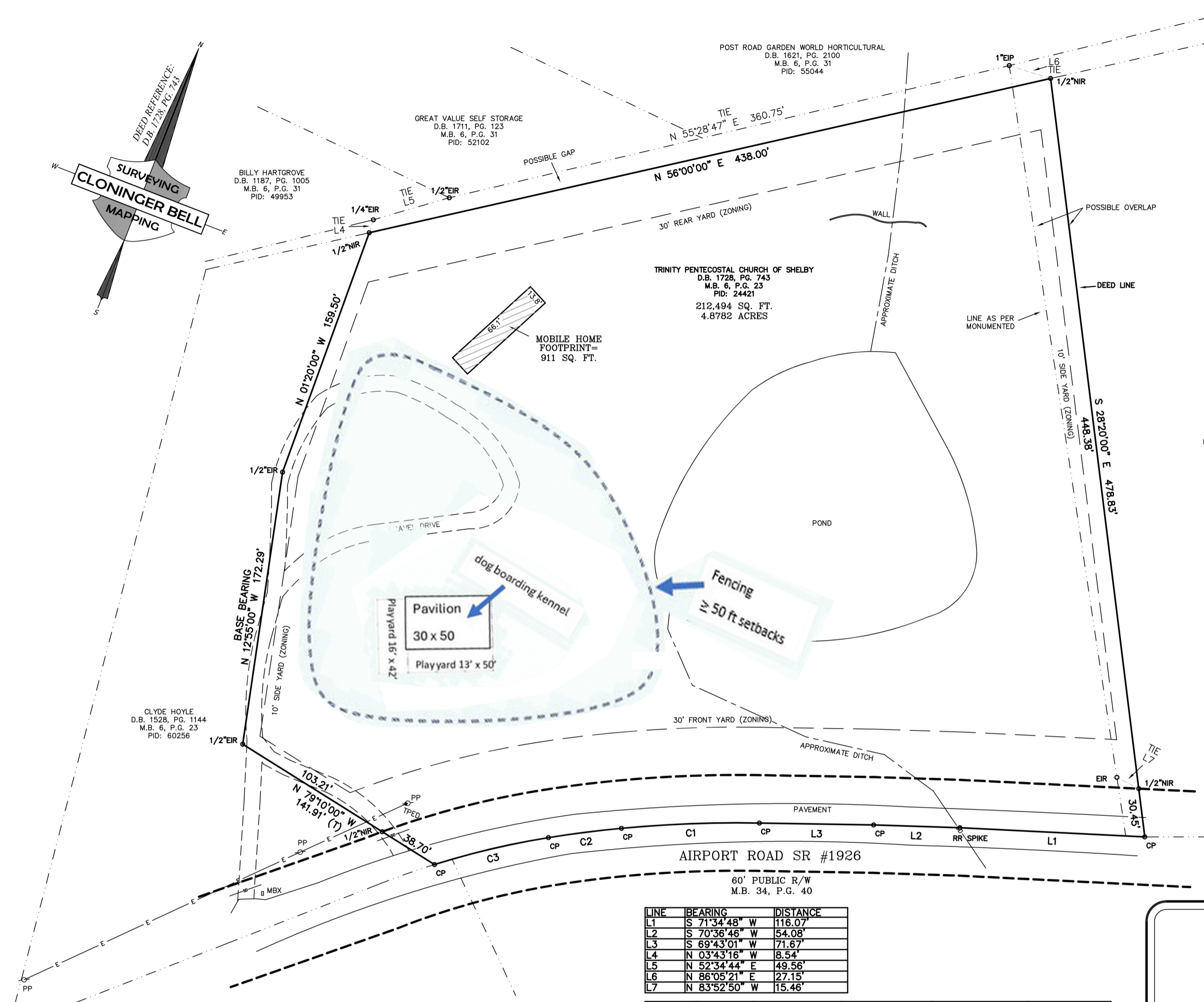
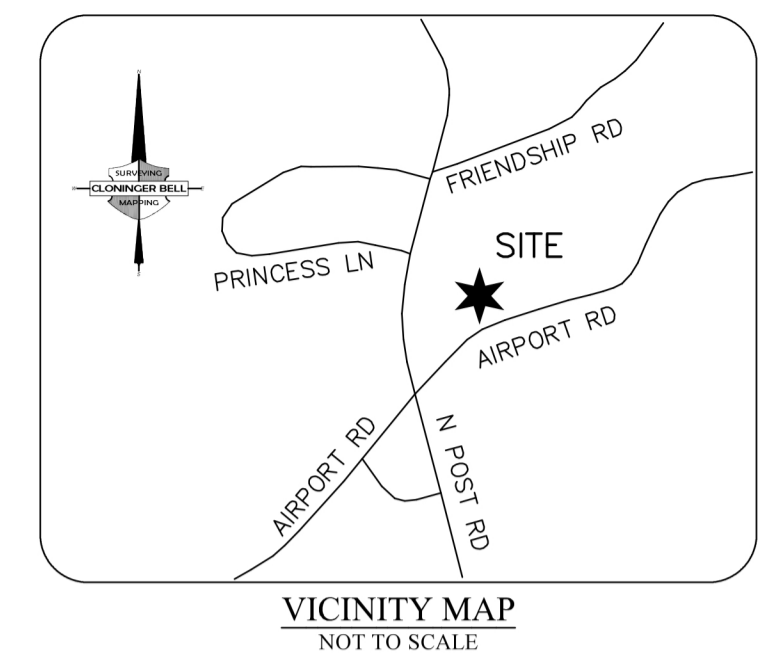
Analee Fry
Signature of Applicant

11/18/2024
Date of Application

For office use:

Payment Code: ZP 33 Special Use Permit Fee: \$300

Paid on: 11-20-24 ZP: 181528 Case #: 24-10

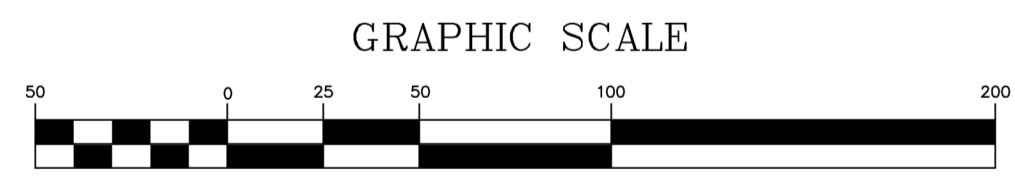


- NOTES:**
1. THIS PLAT IS NOT FOR RECORDATION AS PER G.S. 47-30 AS AMENDED.
 2. ALL CORNERS MONUMENTED AS SHOWN.
 3. NO RECOVERABLE NGS MONUMENT LOCATED WITHIN 2,000 FEET OF SUBJECT PROPERTY.
 4. THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF A TITLE COMMITMENT REPORT. CLONINGER BELL SURVEYING & MAPPING, PLLC DOES NOT CLAIM THAT ALL MATTERS OF RECORD WHICH MAY OR MAY NOT AFFECT THE SUBJECT PROPERTY ARE SHOWN HEREON.
 5. BROKEN LINES INDICATE PROPERTY LINES NOT SURVEYED.
 6. THE OFF-SITE RIGHT-OF-WAY SHOWN HEREON IS FOR ILLUSTRATIVE PURPOSES ONLY. THE UNDERSIGNED CERTIFIES ONLY TO THE RIGHT-OF-WAYS SURVEYED, AND DOES NOT CERTIFY TO THE RIGHT OF WAY WIDTH OF ANY ADJACENT PROPERTIES.

ZONING:
 ZONING RESTRICTIONS AS PER ZONING ORDINANCE:
 SUBJECT PROPERTY ZONED: R
 MINIMUM SETBACK: 30'
 MINIMUM SIDE YARD: 10'
 MINIMUM REAR YARD: 30'
 FOR FURTHER INFORMATION CONTACT THE CLEVELAND COUNTY ZONING DEPARTMENT.

LINE	BEARING	DISTANCE
L1	S 71°34'48" W	116.07'
L2	S 70°36'46" W	54.08'
L3	S 69°43'01" W	71.67'
L4	N 03°43'16" W	8.54'
L5	N 52°34'44" E	49.56'
L6	N 86°05'21" E	27.15'
L7	N 83°52'50" W	15.46'

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	783.59'	86.60'	86.56'	S 66°33'06" W	6°19'57"
C2	698.31'	46.12'	46.11'	S 61°29'36" W	3°47'02"
C3	510.64'	73.46'	73.40'	S 55°28'46" W	8°14'33"

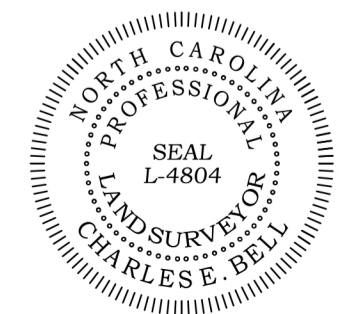


- LEGEND:**
- CP - CALCULATED POINT
 - D.B. - DEED BOOK
 - EIP - EXISTING IRON PIPE
 - EIR - EXISTING IRON ROD
 - M.B. - MAP BOOK
 - MBX - MAILBOX
 - NIR - NEW IRON ROD
 - PG. - PAGE
 - PM - POWER METER
 - PP - POWER POLE
 - RR - RAIL ROAD
 - R/W - RIGHT-OF-WAY
 - TPED - TELEPHONE PEDESTAL
 - PROPERTY LINE
 - PROPERTY LINE (NOT SURVEYED)
 - RIGHT-OF-WAY
 - RIGHT-OF-WAY (NOT SURVEYED)
 - SETBACK
 - STORM DRAIN LINE
 - OVERHEAD ELECTRIC

FLOOD CERTIFICATION
 THIS IS TO CERTIFY THAT THE SUBJECT PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON MAPS PREPARED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY, FEDERAL INSURANCE ADMINISTRATION, DATED FEBRUARY 20TH, 2008
 COMMUNITY PANEL NO: 3710255800J

THIS IS TO CERTIFY THAT ON THE 15TH DAY OF NOVEMBER 2023 AN ACTUAL SURVEY WAS MADE UNDER MY SUPERVISION OF THE PROPERTY SHOWN ON THIS PLAT, AND THAT THE BOUNDARY LINES AND THE IMPROVEMENTS, IF ANY, ARE AS SHOWN HEREON. THIS PLAT MEETS THE MINIMUM STANDARDS OF PRACTICE FOR LAND SURVEYING IN NORTH CAROLINA, BOARD RULE .1600 (21 NCAC 56) AND THE RATIO OF PRECISION DOES NOT EXCEED AN ERROR OF CLOSURE OF ONE (1) FOOT PER 10,000 FEET OF PERIMETER SURVEYED NOR 20 SECONDS TIMES THE SQUARE ROOT OF THE NUMBER OF ANGLES TURNED.

SIGNED *Charles E. Bell*



BOUNDARY AND PHYSICAL SURVEY
 PREPARED FOR
MATTHEW AND ANALEE FRY
 1411 AIRPORT ROAD
 SHELBY, CLEVELAND COUNTY, NC
 DEED REFERENCE: 1728-743
 MAP REFERENCE: 6-23
 TAX PARCEL: 24421

SURVEYING
CLONINGER BELL
MAPPING

CLONINGER BELL
 SURVEYING & MAPPING, PLLC
 107 RIVERSIDE DRIVE
 MCADENVILLE, NC 28101
 704.864.9007
 LICENSE P-2326

CREW: OB	DRAWN: AHC	REVISED:	SCALE: 1" = 50'	DATE: NOV. 15TH, 2023	FILE NO. 3382
-------------	---------------	----------	--------------------	--------------------------	------------------

Sec. 12-33. - Special use permits.

A completed application for a special use permit shall be submitted to the board of adjustment by filing a copy of the application and site plan with the administrator. The site plan shall include the following information:

1. Name, address and phone number of the owner (or agent) and the tax map/block/lot.

Analee Fry
834 Hillcrest Ave.
Gastonia, NC 28052
(269) 274 4231

Map: 6-23 Blk: 1 Lot: 58

2. A boundary survey and vicinity map, total acreage, zoning classification(s), adjoining streets, railroads, water features, date, north arrow, and scale.

ATTACHED

3. Adjoining property owners' names, addresses, tax map/block/lot, and existing land use(s).

Parcel No.: 24431
Parcel Address(es):
1501 AIRPORT RD
Owner: HOYLE CLYDE STEVE
HOYLE CATHY M
1501 AIRPORT RD
SHELBY NC 28150
Map: 6-23 Blk: 1 Lot: 63L
Deed Book: 17H Pg: 412
Land Area: 6.4 acres
Use: residential/car lot

Parcel No.: 60256
Owner: HOYLE CLYDE STEVE
1501 AIRPORT RD
SHELBY NC 28150
Map: 6-23 Blk: 1 Lot: 139
Deed Book: 1528 Pg: 1144
Land Area: 1.17 acres
Use: storage

Parcel No.: 49953
Parcel Address(es):
1316 N POST RD
Owner: HARTGROVE BILLY RAY
HARTGROVE GEORGIAN

717 E ZION CHURCH RD
SHELBY NC 28150-9340
Map: 6-31 Blk: 1 Lot: 95
Deed Book: 1187 Pg: 1005
Land Area: 1.224 acres
Use: Childcare

Parcel No.: 52102
Parcel Address(es):
1322 N POST RD
Owner: GREAT VALUE SELF STORAGE
544 CORPORATE BLVD
ROCK HILL SC 29730
Map: 6-31 Blk: 1 Lot: 98
Deed Book: 1711 Pg: 0123
Land Area: 1.25 acres
Use: storage

Parcel No.: 55044
Parcel Address(es):
1326 N POST RD
Owner: POST ROAD GARDEN WOR
HORTICULTURAL PROPERTIES LLC
1326 N POST RD
SHELBY NC 28150
Map: 6-31 Blk: 1 Lot: 105
Deed Book: 1621 Pg: 2100
Land Area: 6.18 acres
Use: Greenhouse

4. Proposed use of all land and structures, including the number of residential units (if applicable).

Existing structures:

- a. Pavilion: proposed enclosing the building, adding heating/cooling, upgrade electrical and plumbing to allow a suitable, temperature-controlled environment.
- b. Mobile home: staff break area / overnight staff quarters.

Land use:

Addition of 2 fenced play-yards of approximately 500 sq ft each for small groups

Group play in main fenced area

5. Proposed number and location of all structures, their approximate area and exterior dimension, to include height.

N.A. No additional buildings added. Propose to enclose existing 30' x 50' pavilion

6. Screening required by this chapter and/or proposed by the applicant.

Per state regulations, perimeter fencing in animal area to be upgraded to 5ft fence.

7. All existing easements, reservations and right-of-way.

N.A.

8. Floodplain areas as shown on the FEMA Flood Hazard Boundary Maps.

ATTACHED

9. Traffic, parking and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets.

N.A. Up to 2 clients to drop off/pick up at a time. Use of driveway.

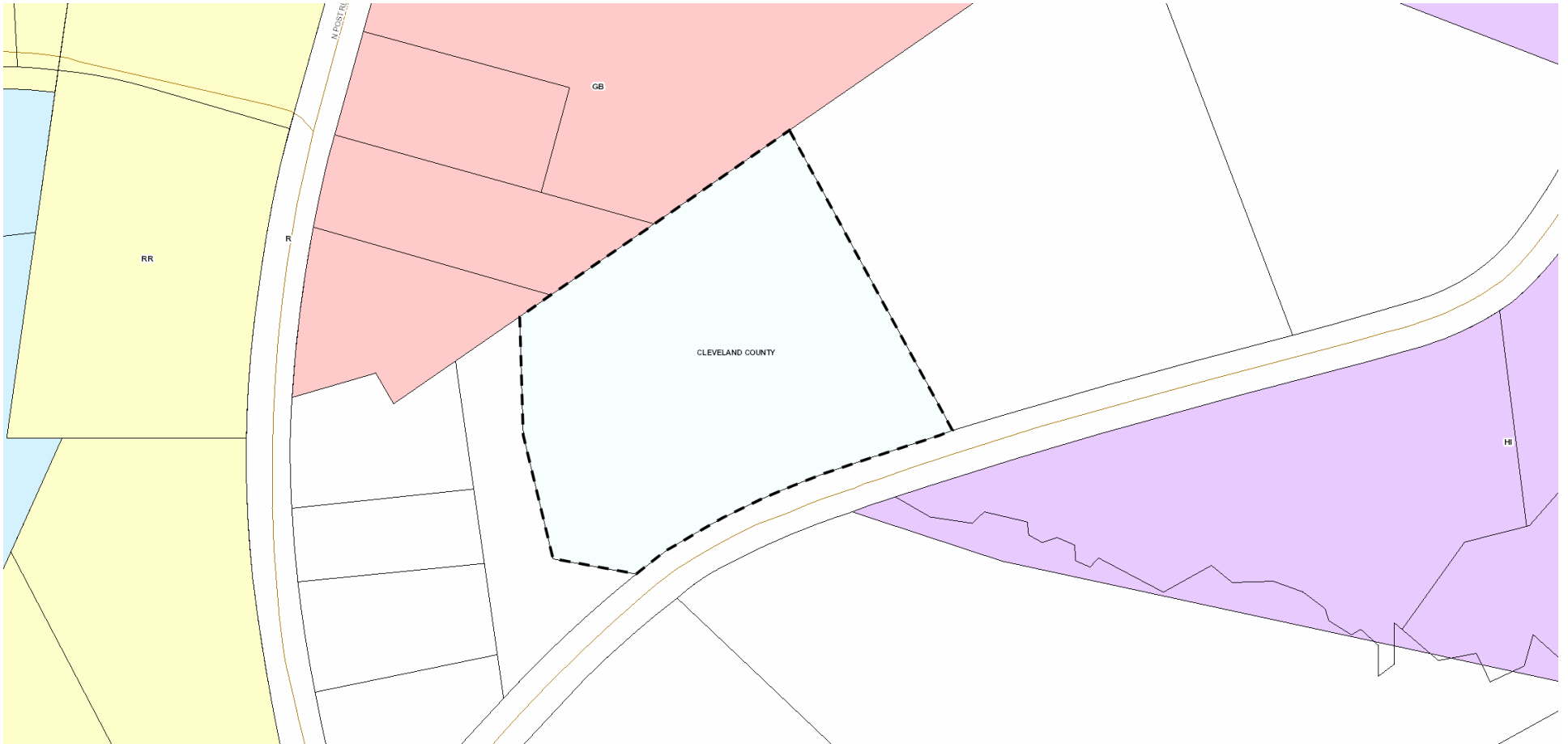
10. Proposed phasing, if any, and schedule for completion of entire project

Completion within 3 months of receipt of special use permit.

Board of Adjustment Case #24-10
1411 Airport Rd. Parcel # 24421



Board of Adjustment Case #24-10
1411 Airport Rd. Parcel # 24421



Board of Adjustment Case #24-10
1411 Airport Rd. Parcel # 24421

