

**Town of Woodfin  
Board of Adjustment  
Town Hall  
July 28, 2022  
6:30 P.M.**

**A. Call to Order**

1. Meeting Call to Order

**B. Approval of the Agenda**

**C. Approval of the Minutes**

1. February 24, 2022

**D. New Business**

1. **Item 1: Public Hearing – Variance:** The property is zoned R-7 and is located at 99999 Elk Mountain Road, further identified by Buncombe County Parcel Identification Number 9730-25-8606. The variance request is to modify a non-conforming structure for use as a single-family residence.

**E. Adjournment**



## DRAFT MEETING MINUTES

### **Board Members Present**

Vice Chair Michael Bennett  
Member Scott Hanson  
Alternate Chris DeRonne

Member Stephanie Gosnell  
Member Patrizia Hoffman

### **Board Members Absent**

Chairperson Susannah Carver

### **Town Staff Present**

Adrienne Isenhower, Planning Director  
Ryan Vinson, Town Clerk / HR Analyst

Penny Sams, Planner / Zoning Administrator

Vice Chair Bennett called the meeting to order at 6:30 p.m.

### **A. Attendance Roll Call**

Member Stephanie Gosnell, Alternate Chris DeRonne, Vice Chair Michael Bennett, Member Patrizia Hoffman, and Member Scott Hanson, all announced themselves as present at the meeting.

### **B. Approval of the Agenda**

Member Hoffman made a motion to approve the agenda. Member Gosnell seconded the motion, which passed unanimously, 5-0.

### **C. Approval of the January 10, 2022, Regular Meeting Minutes**

Member Hanson made a motion to approve the minutes. Vice Chair Bennett seconded the motion, which passed unanimously 5-0.

- D. Public Comment** – The public is invited to attend this meeting in person or view this meeting on Facebook Live: <https://www.facebook.com/townofwoodfin>. All documents related to agenda items not published on the website may be viewed in advance of the meetings in person at Town Hall, 90 Elk Mountain Rd, Woodfin.

*Everyone wishing to address the Board must sign up with the Town Clerk 15 minutes prior to the meeting. Each speaker will be recognized by the Chair when it is their time to be heard. Comments are limited to three minutes per speaker and the time allotted to public comment will be at the discretion of the Chair.*

### **E. New Business**

- Item 1: Public Hearing – Variance:** The property is zoned R-7 and is located at 99999 Apple Lane, further identified by Buncombe County Parcel Identification Number 9730-80-8269. The variance request is for encroachment upon the required 20' side yard setback for construction of a two-family dwelling.

Vice Chair Bennett: Have you had any county involvement?

Casey Conner: Yes, stormwater and erosion control. We will talk officially about septic with Land Management Resources when we get their report.

Vice Chair Bennett: We are only approving for this special use? Comment mentioned about building hotel, would that have to come back?

Planning Director Isenhower: You are approving the property for hotel/motel/inn and this site plan only.

Vice Chair Bennett: So they would have to come back then?

Planning Director Isenhower: Correct.

Member Hoffman: I like that there's a future plan and have to get approval if use changes in the future.

Member DeRonne: I agree, I like they have to come back if they change their plan.

Discussion amongst board members about development and special use request. In terms of the special use permit and the standards the applicant needs to meet:

- a) The establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort, or general welfare;
  - a. Member Hanson: They talked about their septic system set up and plans, there's no danger to families, the business and owners are local, and there is minimal land disturbance.
  - b. Vice Chair Bennett: And there will be no commercial construction.
- b) The special uses will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor substantially diminish and impair property values within the neighborhood;
  - a. Vice Chair Bennett: Noise is not a concern for this project
  - b. Member Gosnell: I agree, their request seems straightforward.
  - c. Member Hanson: Their glamping sites are well spaced throughout the property
- c) The establishment of the special use will be in harmony with or compatible with its neighbors and generally consistent with the comprehensive plan; and
  - a. Vice Chair Bennett: While not totally consistent with its neighbors, it is a positive addition to the area.
  - b. Member DeRonne: Them showing the Town's plans for the Wave shows how it is / will be consistent with current and future plans and construction for the area.
- d) Adequate utilities, access roads, drainage, or other necessary facilities have been or are being provided;
  - a. Vice Chair Bennett: Do you plan to pave the access road?
  - b. Jack Carrier: No, but we do plan on adding more gravel to the drive
  - c. Member Hanson: They have been engaged [with the County and Town] to make sure all rules and processes are followed.
- e) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets; and
  - a. Member Gosnell: Traffic should not be a huge concern as you are only look at 6-12 cars if they are all fully built out and fully booked.
  - b. Vice Chair Bennett: While it is a tight intersection, it is not a hugely busy one.
- f) The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
  - a. Member Hanson: It does.

- b. Member DeRonne: The landowner reviewed hotel and RV guidelines and how this project conformed.

Member DeRonne made a motion to approve the Special Use Permit based on the findings and based upon the Board finding all the applicable standards as existing, noted in their discussion above. Member Hoffman seconded the motion, which passed unanimously, 5-0.

**F. Adjournment**

Member Hanson made a motion to adjourn regular meeting. Member DeRonne seconded the motion, which passed unanimously, 5-0.

Vice Chair Bennett adjourned the meeting at 6:59 pm.

\_\_\_\_\_  
Susannah Carver  
BOA Chairperson

Attest: \_\_\_\_\_  
Ryan Vinson  
Town Clerk



## STAFF REPORT

Type of Hearing: Variance

Address: 99999 Elk Mountain Road

Presenter: Adrienne Isenhower

Meeting Date: July 28, 2022

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**Summary:** The applicant is requesting a variance to modify an existing garage/accessory building into a single-family home. The building is non-conforming because it is located wholly within the front yard setback. The applicant is requesting a variance from Section 54-341 of the zoning ordinance which restricts extensions, enlargements or alterations of nonconforming structures unless required by law or to keep the building, structure, or sign in sound condition.

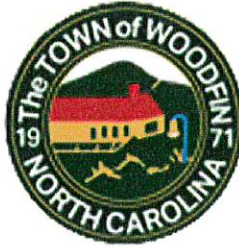
**Materials included in Packet:**

- Variance Application
- Building Plans
- GIS Map
- Zoning Ordinance Section 54-341

**Applicable Standards (General):**

When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

- a. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
- b. 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. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
- c. The hardship did 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 is not a self-created hardship.
- d. 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.



# Variance Permit Application

Date: 06/16/2022

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## Applicant / Owner

Applicant Name: Ryan Lewis / Jack Marques (Lobo Builders) Phone: 317-626-4569  
Address: 200 Elk Mountain Rd Email: jack@lobobuilders.com  
City, State, Zip: ASHEVILLE

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## Location

Site Address: 200 Elk Mountain Rd PIN #: 97302586060000  
City, State, Zip: Asheville, NC 28804 Zoning District: CWO-R7

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## Variance

What would you like to do with your property? Repurpose nonconforming structure to single family residence

What does the ordinance require? (Include ordinance reference) sec-54-341 "nor shall a nonconforming structure be altered"

Unnecessary hardship would result from the strict application of the regulation. Explain: strict application of the ordinance does not constitute uniform enforcement of the ordinance as zoning permit application would be approved if structure were conforming.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Explain: hardships result from the existing nonconforming condition

The hardship did not result from actions taken by the applicant or the property owner. Explain: the hardship was inherited by and not created by the current owner

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. Explain: The spirit and purpose and intent of this ordinance is all structures would be brought into conformity to the ordinance. The intent of the structure, nor the footprint will be enlarged, expanded or altered in a way that would exaggerate the nonconformity. Bringing the structure to habitable condition serves the interest of public safety and serves substantial justice.

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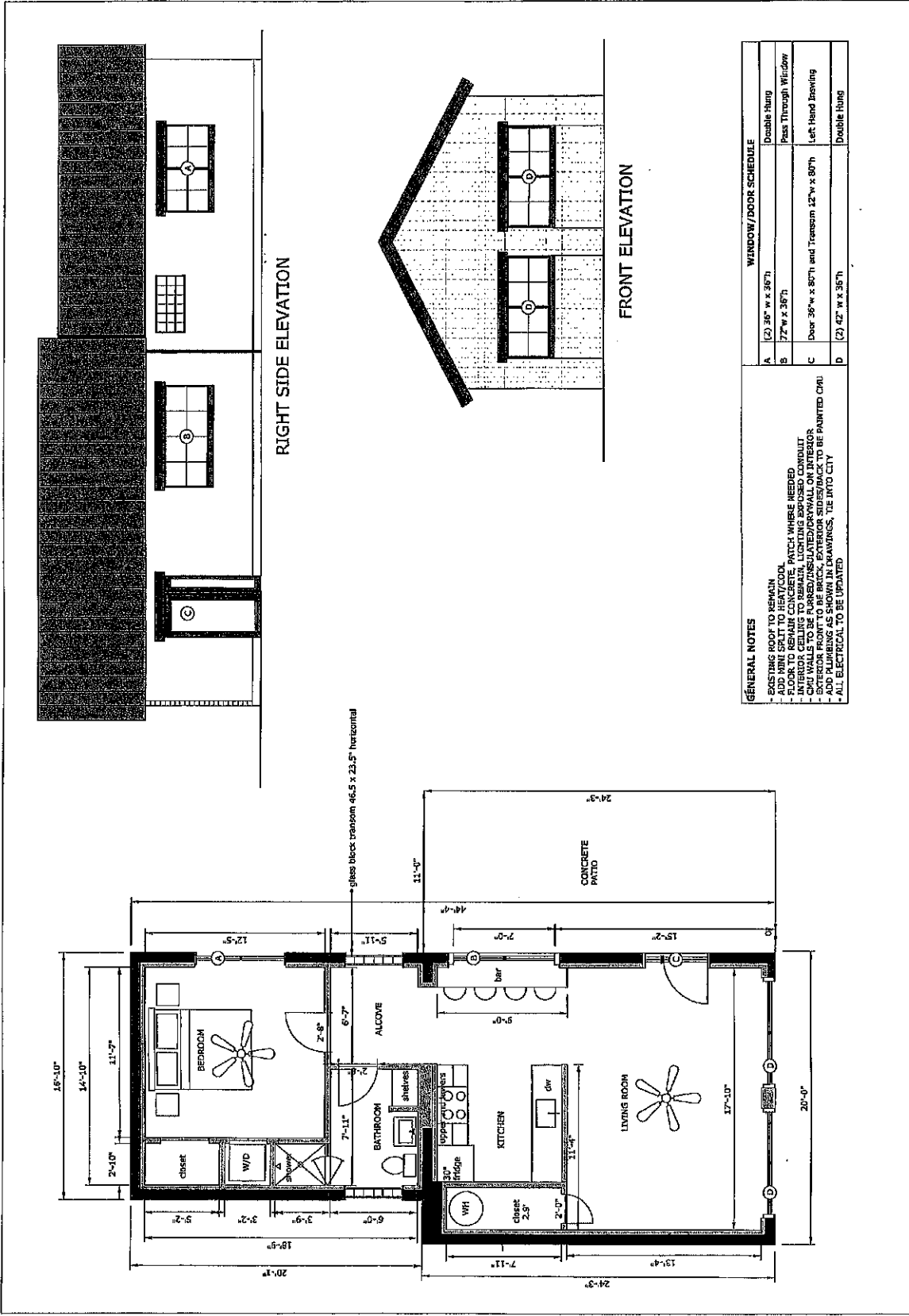
I do hereby certify that the information contained herein is true and correct.

Jack Marques

\_\_\_\_\_  
Name

06/16/2022

\_\_\_\_\_  
Date



RIGHT SIDE ELEVATION

FRONT ELEVATION

GENERAL NOTES

- EXISTING ROOF TO REMAIN
- EXISTING FLOOR TO REMAIN
- FLOOR TO REMAIN CONCRETE, PATCH WHERE NEEDED
- INTERIOR CEILING TO REMAIN, LIGHTING EXPOSED CONDUIT
- CHU WALLS TO BE PARDED/INSULATED/DRYWALL ON INTERIOR
- ALL INTERIOR WALLS TO BE PAINTED CRU
- ADD PLUMBING AS SHOWN IN DRAWINGS, THE INTO CITY
- ALL ELECTRICAL TO BE UPDATED

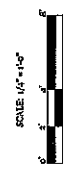
WINDOW/DOOR SCHEDULE

NO.	DESCRIPTION	TYPE
A	(2) 36" w x 36" h	Double Hung
B	72" w x 36" h	Pass Through Window
C	Door 36" w x 80" h and Transom 12" w x 80" h	Left Hand Beaving
D	(2) 42" w x 36" h	Double Hung

A-301

200 ELK MOUNTAIN ROAD  
 RYAN LEWIS AND JENNY SKIHAN  
 ASHEVILLE, NC 28804

GARAGE RENOVATION 700sf



**LOBO**  
 SOLUTIONS  
 ARCHITECTURE & INTERIOR DESIGN  
 1000 W. MAIN ST. SUITE 100  
 ASHEVILLE, NC 28801  
 TEL: 828.252.1000  
 WWW.LOBOSOLUTIONS.COM



ROBERT E. SKEHAN, Surveyor, State of North Carolina, License No. 10389. This seal is a reproduction of the original seal of the State of North Carolina. The seal is circular and contains the text 'ROBERT E. SKEHAN, SURVEYOR, STATE OF NORTH CAROLINA, LICENSE NO. 10389'.

THIS SURVEY IS OF APPLICABLE COURTESY, SUCH AS THE PROPERTY OWNERS, RECORDS OFFICE, COUNTY RECORDS OFFICE, AND THE TOWN OF WOODLIN, NORTH CAROLINA. THE SURVEYOR HAS REVIEWED THE RECORDS AND HAS FOUND NO RECORDS THAT WOULD AFFECT THIS SURVEY. THE SURVEYOR HAS ALSO REVIEWED THE RECORDS OF THE TOWN OF WOODLIN, NORTH CAROLINA, AND HAS FOUND NO RECORDS THAT WOULD AFFECT THIS SURVEY.

Surveyor: Robert E. Skehan, Jr., License No. 10389  
 Date: 07/22/2021

Client: Robert E. Skehan, Jr., License No. 10389  
 Date: 07/22/2021

Town of Woodlin, Surrogate County, North Carolina  
 Date: 07/22/2021

Recommender: Jennifer E. Skehan and husband, Ryan R. Lewis  
 Date: 07/22/2021

General Notes:  
 1. Property subject to all easements, rights-of-way or restrictions of record which are shown on this plan.  
 2. All dimensions are horizontal unless otherwise noted.  
 3. The area shown between the centerline and the easement is not to be used for any purpose.  
 4. All dimensions are horizontal unless otherwise noted.  
 5. All dimensions are horizontal unless otherwise noted.  
 6. This map does not, however, to certify other than that the survey was made in accordance with the rules and regulations of the Board of Survey and Land Use, North Carolina.

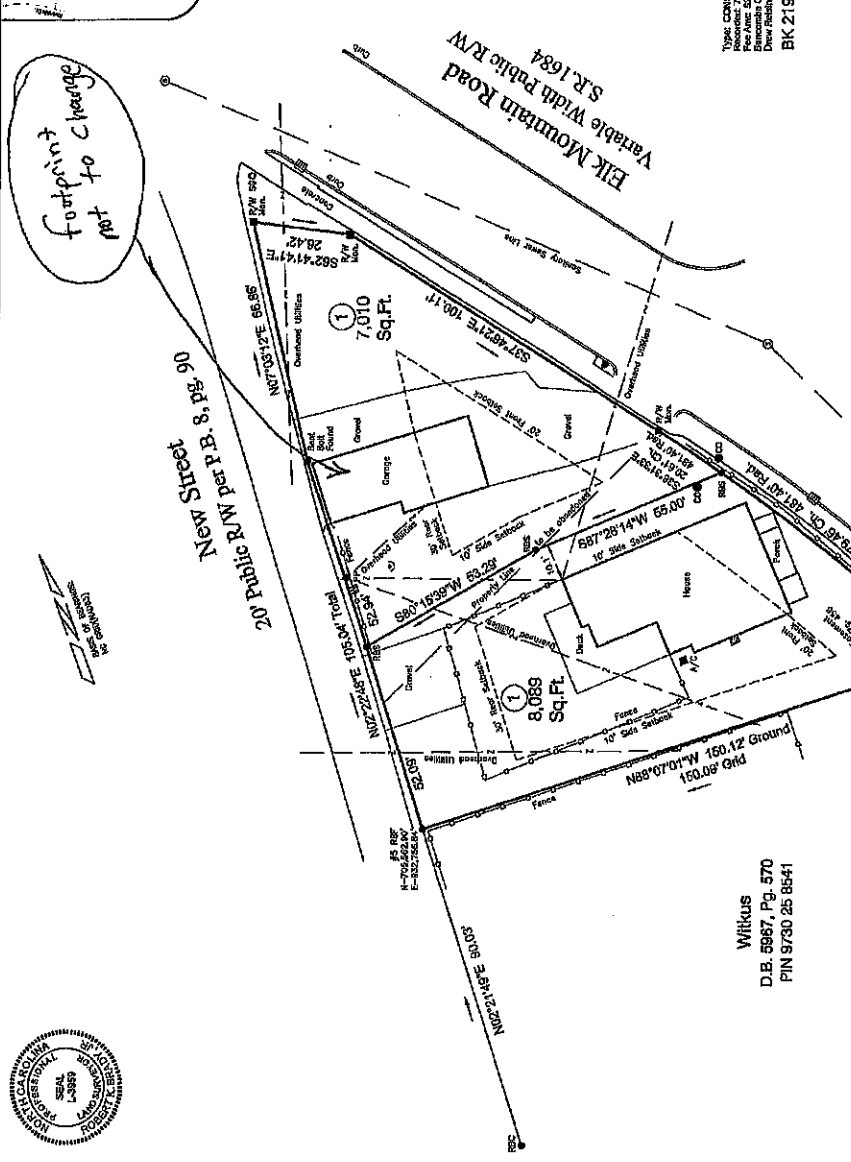


Legend

Symbol	Description
Circle with dot	Survey Station
Circle with cross	Corner
Circle with 'X'	Corner
Circle with 'A'	Corner
Circle with 'B'	Corner
Circle with 'C'	Corner
Circle with 'D'	Corner
Circle with 'E'	Corner
Circle with 'F'	Corner
Circle with 'G'	Corner
Circle with 'H'	Corner
Circle with 'I'	Corner
Circle with 'J'	Corner
Circle with 'K'	Corner
Circle with 'L'	Corner
Circle with 'M'	Corner
Circle with 'N'	Corner
Circle with 'O'	Corner
Circle with 'P'	Corner
Circle with 'Q'	Corner
Circle with 'R'	Corner
Circle with 'S'	Corner
Circle with 'T'	Corner
Circle with 'U'	Corner
Circle with 'V'	Corner
Circle with 'W'	Corner
Circle with 'X'	Corner
Circle with 'Y'	Corner
Circle with 'Z'	Corner

Town of Woodlin, Surrogate County, North Carolina  
 Jennifer E. Skehan and husband, Ryan R. Lewis  
 BK 219 PG 178

Client Name	Jennifer E. Skehan and husband, Ryan R. Lewis
Address	208 Elk Mountain Rd., Woodlin, NC 28389
Phone	770-23-8800
Fax	770-23-8806
Project No.	111739
Date	07/22/2021
Scale	1" = 20'



Wilkus  
 D.B. 5987, Pg. 570  
 PIN 9730 26 8541

BLACKROCK SURVEYING & LAND DESIGN, PC  
 1700 West 10th Street  
 Oklahoma City, Oklahoma 73106  
 Phone: 405-225-5911  
 www.blackrocksurveying.com





## **ARTICLE XI. NONCONFORMING USES<sup>1</sup>**

### **Sec. 54-340. Definition.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Nonconforming use* means any building, structure, or use of land existing at the time of the enactment of this article or any amendment thereto not permitted in the zoning district in which it is located. However, any existing nonconforming use may be changed to another nonconforming use of the same or higher classifications provided that the other conditions in the section are complied with. For the purpose of this article, the rank, order or used form, high to lower, shall be: residential, public, commercial, and industrial.

(Ord. of 5-18-2021; Ord. of 1-18-2022)

### **Sec. 54-341. Limitation on nonconforming use.**

When a nonconforming use has been changed to a conforming use, it shall not thereafter be used for any nonconforming use. A nonconforming use may not be extended or enlarged; nor shall a nonconforming structure be altered except as follows:

- (1) Structural alterations as required by law or ordinance as ordered by the zoning administrator to secure the safety of the structure are permissible.
- (2) Maintenance and repair necessary to keep a nonconforming building, structure or sign in sound condition are permissible, provided that the costs do not exceed 40 percent of the current replacement costs of the building, structure or sign or portion of the structure being repaired.
- (3) Existing single-family residential structures in business or industrial districts may be enlarged, extended, or structurally altered, provided that no additional dwelling units result therefrom. However, any such enlargement, extension or alteration shall comply with the dimensional requirements of the R-7 Residential District.
- (4) Any existing nonconforming use which ceases to exist at any time for any reason, on any particular piece of property may not be reestablished or replaced after a period of 180 days.
- (5) Any manufactured home park may be allowed to continue to operate as a nonconforming use as long as they are not increased in number of units beyond the permitted number by the county health department (enlarged) or increase the geographical boundaries of the park (extended).

(Ord. of 5-18-2021)

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<sup>1</sup>Editor's note(s)—Formerly, Art. X. See the editor's note at Article VIII.

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**Sec. 54-342. Continuance.**

It is the intent of this chapter to recognize that the elimination as expeditiously as is reasonable, uses that are not in conformity with the provisions of this chapter is as much a subject of health, safety, and welfare as is the prevention of the establishment of new uses that would violate the provisions of this chapter.

(Ord. of 5-18-2021)

**Sec. 54-343. Preexisting substandard lot.**

These regulations shall not prohibit the erection of a single-family dwelling in a residential district on any lot which was a lot of record on July 23, 1974, and which does not meet the width or area requirements of the applicable residential district, provided that:

- (1) Such lot does not abut one or more unoccupied lots in the same ownership at any time since September 16, 1973, with which it could be combined. This provision of common ownership shall not apply to lots in a duly recorded and accepted subdivision existing prior to September 16, 1973.
- (2) All yard requirements in the applicable residential district are met. No zoning permit shall be issued for a principal use located on a lot of record which does not abut a public street unless an access easement of not less than 25 feet shall be provided to connect said lot to said public street. The access easement shall be recorded in the office of the register of deeds.
- (3) For accessory buildings on preexisting substandard lots of record, as defined in this section, the side yard setback shall be computed as five percent of the average lot width, but not less than five feet.

(Ord. of 5-18-2021)