Town of Indian Trail
Board of Adjustment
August 28, 2014

1. Call To Order
2. Roll Call
3. Swearing in of New Members
4. Appointment of Chair and Vice Chair
5. Approval of Minutes
6. VAR2014-001 Maffucci Rear Setback Encroachment
7. Other Business
   a) Rules and Procedures
8. Adjournment

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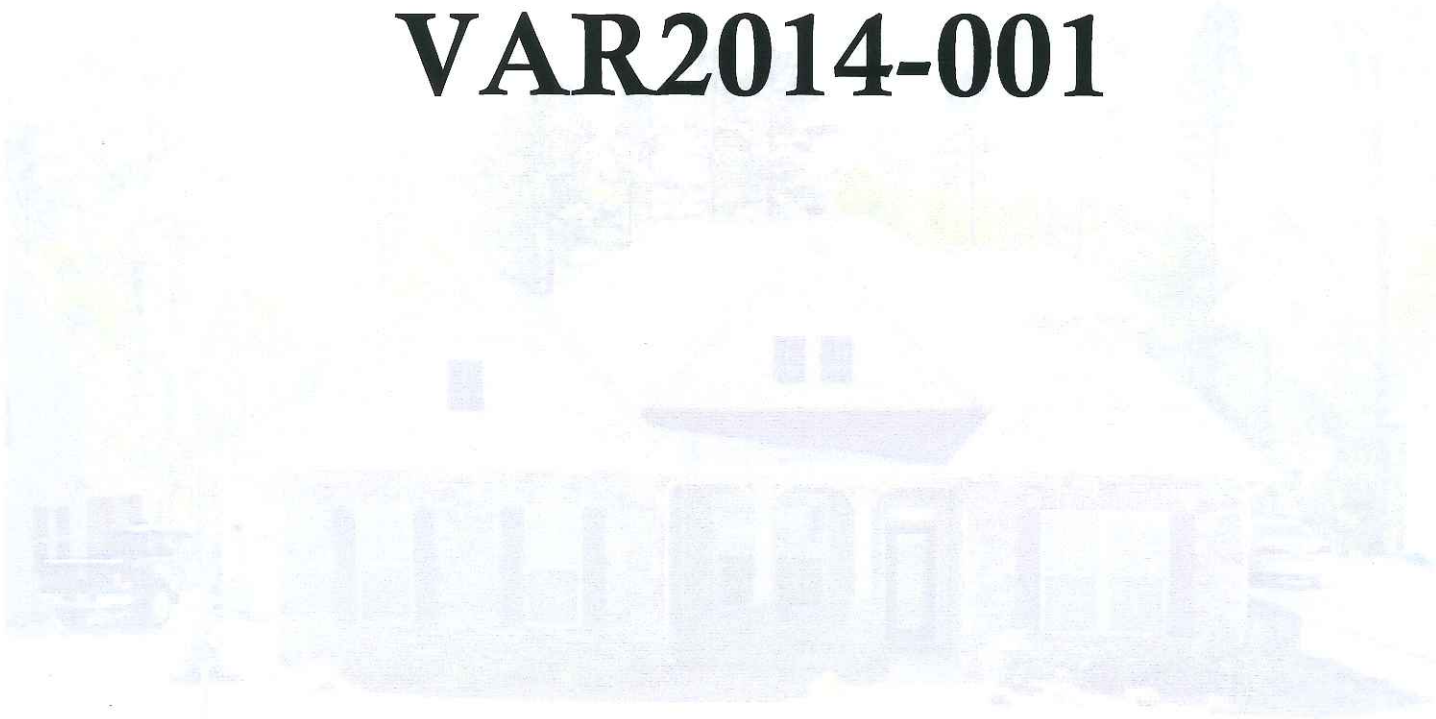
VAR2014-001



Daniel Maffucci
1120 Kinder Oak Drive
Rear Setback Encroachment

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Overview/Request

- Construct a screened in porch over a portion of the existing concrete pad
- Pad is currently located five (5') feet into required thirty (30') feet rear setback
- UDO Section 510.040
  (Setback based on Approved SUP1998)
  - Proposed structure would encroach five (5') feet into the rear setback
  - 30 foot setback from property line
  - Variance required
    - SF-4/SUP Crismark – Approved with a Special Use Permit prior to being annexed into the Town
      Front = 30 feet
      Side = 5 feet
      Rear = 30 feet

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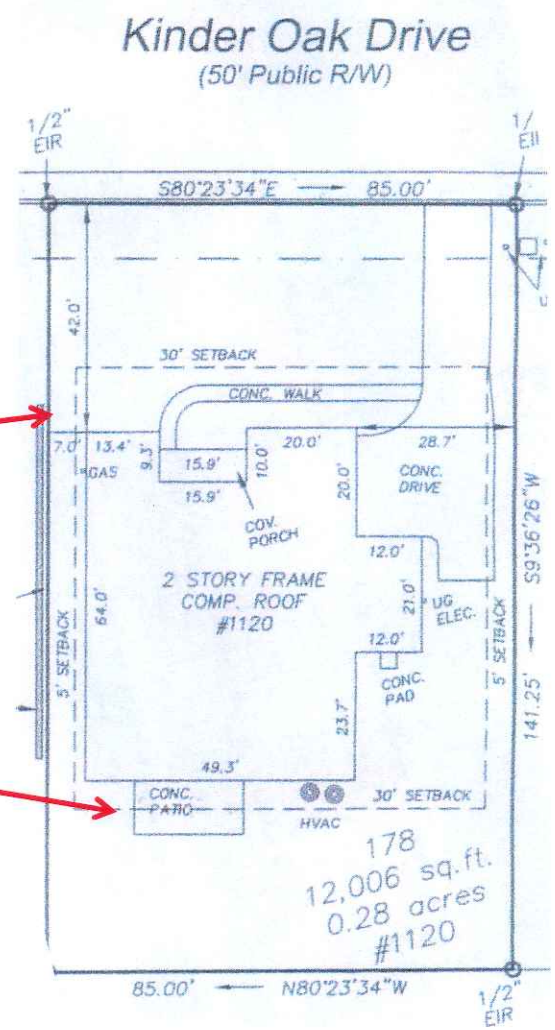
Site Summary

- Crismark Subdivision
- 2,870 SF Building
- 12,006 SF Lot
- Building placed 12' behind 30' front setback
- Pad is located 5' into rear setback



Site Summary (cont.)

- Creek/Floodplain located behind the lots along Kinder Oak Dr.
- No lots are immediately behind row of homes
- Low laying area is completely wooded

Approx. Location of Creek Bed

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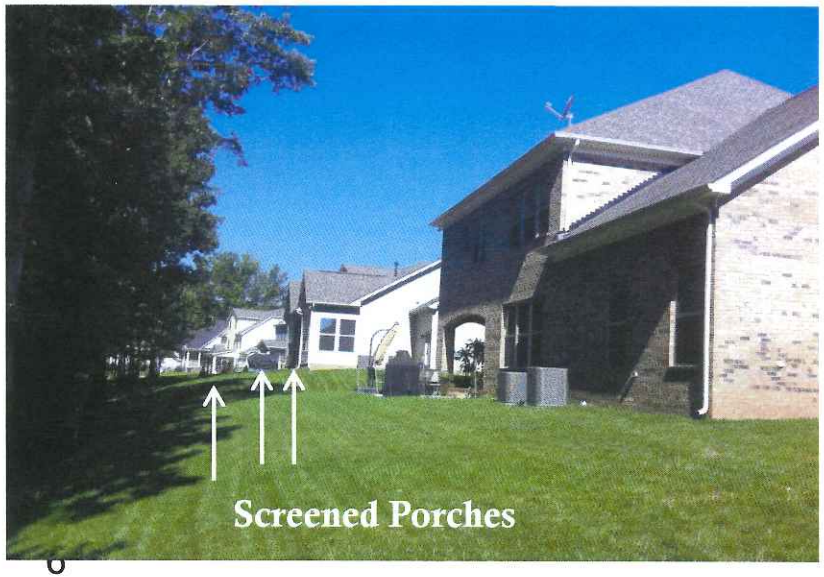
Site Photographs



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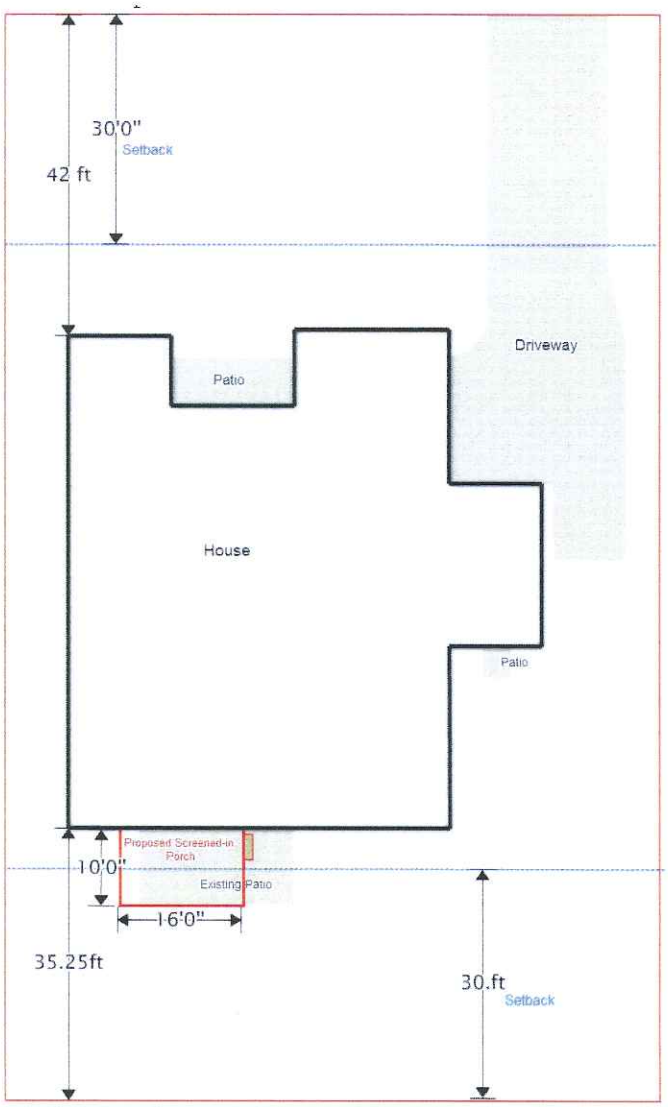
Site Plan



Design of addition will be consistent with existing materials.

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Staff Analysis

- **Site Aspects**
  - Multiple homes on street have screened or covered porches *(See Attachment #3 of the Staff Report)*
- **Proposed Addition**
  - 10'x16'
  - Staying with same footprint as concrete pad
  - Request up to 13' to allow for overhang and flexibility during design

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Plan Consistency

Idlewild Village Plan of the Comprehensive Plan

- Mostly built out subdivision
- No change of use

Goal 2.3.1 Quality of Life - Staff is of the opinion that similar design elements are common in the community's design and that there are similar additions throughout the neighborhood.

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Criteria for Approving a Variance

Pursuant to UDO Chapter 380.020, when considering whether to approve an application for a Variance:

1. **Whether the property is in the Town's jurisdiction.**

   Staff is of the opinion that the application for VAR 2014-001 is complete.

2. **Whether the application is complete.**

   Staff is of the opinion that the application for VAR 2014-001 is complete.

3. **Consider whether the application complies with all of the applicable requirements of this ordinance.**

   The facts show that VAR 2014-001 would not be in compliance with the requirements set forth by the Unified Development Ordinance, however, the subject application is for a Variance of the Sections regulating setbacks.

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Findings of Fact

Pursuant to UDO Chapter 380.020, the BOA must make the required <u>considerations of public health, safety, and welfare</u>. The Board may approve with conditions if it concludes, based upon the information submitted at the hearing, that the proposed development will:

1. Unnecessary hardship would 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; *and*

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as wells as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance; *and*

3. 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 shall not be regarded as self-created hardship; *and*

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; *and*

5. The variance will neither result in the extension of a nonconforming situation in violation of DIVISION 1400, Nonconformities nor authorize the initiation of a nonconforming use of land.

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Staff Summary

- Staff officially enters the presentation, testimony and the staff report into the public record for the Board's consideration

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Action Items for the Board

- Application complete?
- Consistent with UDO?
- Findings of Fact?
- Agree upon draft conditions?

Questions?

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Other Business

- Review and Adoption of the Rules and Procedures for the Board of Adjustment

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Adjournment

August 28, 2014

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Draft Conditions

If the Board is of the opinion that the required findings of fact can be made to approve the project, staff recommends the site be subject to the following conditions:

1. Applicant must obtain all applicable permits for the addition.
   a) A zoning permit from the Town; and
   b) A building permit from Union County Building Code Enforcement; and
   c) Provide an as-built survey once the addition is complete.
   d) Enclosed structure may not exceed more than 6' into the rear setback
   e) Overhang may encroach an additional 2' beyond the structure into the rear setback

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