



P.O. Box 2430  
 Indian Trail, North Carolina 28079  
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 PLANNING AND NEIGHBORHOOD SERVICES  
 May 13, 2015

## Variance Staff Report

<b>Case: VAR 2015-001 Lot 1 Wadsworth Front Loading Garage</b>		
<b>Reference Name</b>	DC Homes USA, LLC	
<b>Proposed Request</b>	Variance Relief from Section: <ul style="list-style-type: none"> <li>1310.030(K) of the UDO which states the following; Front loading garages shall not extend further than 4 feet past the predominant front façade of the house unless a front porch is used and then the garage shall not extend further than 4 feet past the porch excluding side loading garages. The owner built a garage that is approximately 15-feet in front of the façade.</li> </ul>	
<b>Existing Site Characteristics</b>	<b>Existing Zoning</b>	SF-3 (PED)
	<b>Existing Use</b>	Residential
	<b>Site Acreage</b>	0.197 (8,581 SF)
<b>Applicant</b>	Dan Cole, President DC Homes USA, LLC	
<b>BOA Hearing Date</b>	May 28, 2015	
<b>Location</b>	1005 Sugar Mill Road (Lot 1) Wadsworth, Indian Trail	
<b>Tax Map Number(s)</b>	07-114-553	
<b>Plan Consistency</b>	<b>Designation</b>	Old Monroe Village
	<b>Plan Consistency</b>	Yes

### Project Summary

Mr. Dan Cole, President of DC Homes, LLC, the property owner of Lot 1 in Wadsworth (Parcel 07-114-553) is requesting a variance for relief from the front garage protrusion requirement that all newly constructed homes must meet.

UDO Section 1310.030(K) specifies that front loading garages may not extend more than four (4') feet beyond the front façade (i.e. wall) or the front porch of a home. Mr. Cole's home was initially permitted as a side-loaded garage home which is exempt from this requirement. During the final zoning inspection of the home it was noted that a front loading garage home was actually constructed in conflict with the approved plans. A condition of approval on the Town zoning permit (attached) was to submit a preliminary "foundation survey" of the home to the Town for review. The foundation survey was not submitted, which prevented an earlier identification of the garage location issue. The Town is unable to issue the zoning approval of the home due to the garage violation, which prevents the owner from obtaining a Union County Certificate of Occupancy and ultimately being able to sell the home

This public hearing for the subject variance was noticed in compliance with NC State Statutes and the UDO. Adjacent property owners were notified by first class mail and the lot was

properly posted. The Wadsworth HOA and Deerstyne HOA (Bonterra Builders) were also notified of the public hearing.

## Analysis

### Site and Adjacent Properties

The subject property is located in the Wadsworth Phase II subdivision. The neighborhood is zoned SF-3 PED (Single-Family Residential), the lot is approximately 0.197 acre or 8,581 square feet, as referenced in the maps below.



*Wadsworth (Lot 1 in yellow)*

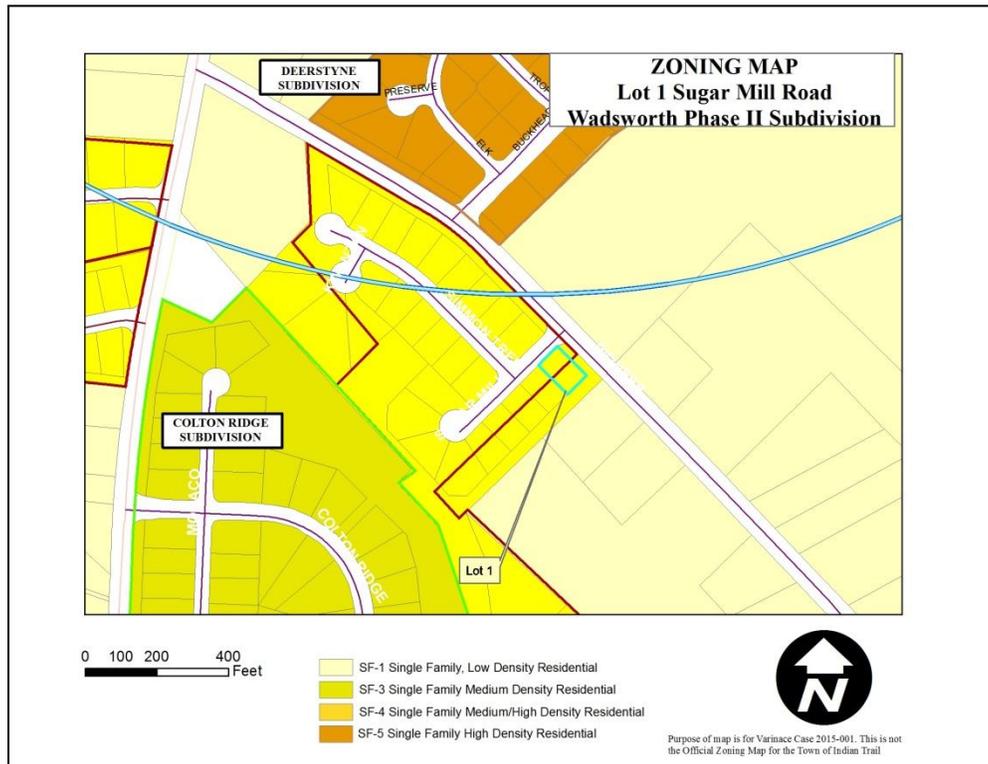
Lot 1 is located at the front entrance of the Wadsworth subdivision located off of Pioneer Lane. Other properties around the area typically consist of large lot single family development (1/ac +). Other homes in the community are generally front loading garage product. Below are two examples of existing homes in the community. Note the front loading garage protruding; however, these meet the maximum four (4') foot allowance. The façade on the left side of the homes shown below protrude further than the front door which allows for it to meet the requirement.



*Simmon Tree Court*



*Simmon Tree Court*



*Zoning Map for Wadsworth Phase II*

**Letter of Intent/Statement of Justification** (See Attachment #1)

A copy of the Letter of Intent/ Statement of Justification is provided as an attachment to this report.

## Variance Request

This request is for relief of the maximum four (4') foot garage protrusion from the front façade associated with Section 1310.030 of the UDO, which provides regulations for articulation standards for all residential buildings within the Town.

### 1310.030 (K) Articulation Standards for All Residential Buildings

*Front loading garages shall not extend further than 4 feet past the predominant front façade of the house unless a front porch is used and then the garage shall not extend further than 4 feet past the porch excluding side loading garages. A maximum of 1/4 of the front façade is allowed to be front facing garage door(s).*

The applicant built a home with a front loading garage that is approximately fifteen (15') feet beyond the front porch. Below is a timeline of events that as to why the applicant is requesting the variance;

- **October 17, 2014** – Planning Staff issues a zoning permit (Z-083090) based on the information provided with the application. A side-loaded garage was presented to staff for approval. (*See Attachment #2 Zoning Permit Z-083090*)
  - Plot Plan provided shows side-loaded with driveway placement initialed by applicant.
  - Side loading garages are excluded from section 1310.030 of the UDO.
  - Basis of approval was from an image provided by the applicant.
  
- **April 13, 2015** – Staff inspects the property for compliance. During initial review staff determined that the location for the garage was reversed from what was approved and the side-loaded garage was changed to a front loading garage. (*See Attachment #3 Pictures from inspection 4-13-15*)
  - The home built was not the same as what was presented to staff for approval.
  - There is no documentation on file that changes to the approved permit was allowed.
  
- **April 14-17, 2015** – Staff coordinates with the applicant regarding violation and that a possible solution is to add a front porch to the home so that it will meet the requirement of being within the four (4') feet of the front of the garage.
  
- **April 24, 2015** – Applicant submits a variance request.

## Outside Agencies

### **Union County Building Code Enforcement**

Tom Helms – Building Inspector with 4/29/15 via email;

The direction of entry into the garage does not matter in our building code unless the change moves any part of the garage to within 3 feet of the property line which would require that part to be built with code compliant fire resistant materials, as the footings are dug continuously for the full perimeter of garages, bearing capacity is not affected and as the framing was inspected and all load paths checked, the changing of the entry path would be a non-issue as far as the building code is concerned. Based on the pictures supplied and the provided plot plan, fire resistant construction would not have been required on this home.

### **Plan Consistency**

The subject property is located within the Old Monroe Village Plan of the Comprehensive Plan, which is a Suburban Mix Village. This project is consistent with Comprehensive Plan goal 2.3.2 Land Use and Housing.

*Land Use and Housing No. 3: Improve existing Indian Trail neighborhoods to create strong and vibrant communities.*

The construction of a new single-family home on an infill lot within an established Indian Trail neighborhood will increase investment in the neighborhood and help contribute to its overall viability.

### **Required Findings**

Under UDO Chapter 380, the Board of Adjustment, when considering whether to approve an application for a variance request, shall review and evaluate the following:

1. **Whether the permit is in the Town's Jurisdiction according to the table of permissible uses:**  
The subject property is within the Town's jurisdiction to regulate single-family residential uses and its accessory uses.
2. **Whether the application is complete.**  
Staff is of the opinion that the application for VAR2015-001 is complete.
3. **The Board will consider whether the application complies with all of the applicable requirements of this ordinance.**  
The facts show that VAR 2015-001 would not be in compliance with the section 1310.030(K) of the Unified Development Ordinance, however, the subject application is for a Variance to these requirements. If approved, the proposal will comply with all other applicable sections of the Unified Development Ordinance.

Under UDO Section 380.020, the Board of Adjustment must make these required considerations of public health, safety, and welfare. The Board of Adjustment's authority in the review of this variance application is broad and the Board may approve with conditions if it concludes, based upon the information submitted at the hearing, that the proposed request finds that:

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 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; *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.

If one of these findings cannot be made, then the Board must move to deny the variance request, stating for the record why the Board has decided to do so.

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

1. Staff does not have any recommended conditions of approval. The Board may develop specific conditions if it chooses to approve the proposed variance.

### **Summary**

The Town has provided its analysis of this variance request in the above staff report, and now offers this into the record for the Board's consideration.

### **Staff Contact**

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**Attachment 1** – Application/Letter of Intent

**Attachment 2** – Zoning Permit Z-083090

**Attachment 3** – Inspection Images 4-13-15

**ATTACHMENT #1**  
Application/Letter of Intent

**ATTACHMENT #2**  
Zoning Permit Z-083090

**ATTACHMENT #3**  
Inspection Images 4-13-15



*1005 Sugar Mill Road*



*Approved Building Plan VS. Actual Construction*



*May 12 Posting of Property*