

# VARIANCE OR APPEAL APPLICATION



TOWN OF CHAPEL HILL  
Planning Department  
405 Martin Luther King Jr. Blvd.  
phone (919) 969-5066 fax (919) 969-2014  
www.townofchapelhill.org

Parcel Identifier Number (PIN): 9788-78-1421 Date: April 20, 2018

## Section A: Project Information

Project Name: Grisham House 704 E. Franklin Street  
Property Address: 704 East Franklin Street, Chapel Hill, NC Zip Code: 27514  
Existing Zoning District: R-2  
Project Description: Replace asphalt shingles on roof with standing seam metal roof

## Section B: Applicant, Owner, and/or Contract Purchaser Information

### Applicant Information (to whom correspondence will be mailed):

Name: Oakwood Properties, Inc. and BuildSense, Inc. c/o LeAnn Nease Brown, their attorney  
Address: Brown & Bunch, PLLC, 101 N. Columbia Street  
City: Chapel Hill State: NC Zip Code: 27514  
Phone: (919) 968-1111 Email: lnease@brownandbunch.com

The undersigned applicant hereby certifies that, to the best of their knowledge and belief, all information supplied with this application is true and accurate.

Signature: LeAnn Nease Brown, attorney for Applicant Date: April 20, 2018

### Owner/Contract Purchaser Information:

Owner  Contract Purchaser

Name: See above  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Phone: \_\_\_\_\_ Email: \_\_\_\_\_

The undersigned applicant hereby certifies that, to the best of their knowledge and belief, all information supplied with this application is true and accurate.

Signature: \_\_\_\_\_ Date: April 20, 2018



VARIANCE OR APPEAL APPLICATION  
SUBMITTAL REQUIREMENTS

TOWN OF CHAPEL HILL  
Planning Department

Variances and Appeals may be granted by the Board of Adjustment for dimensional regulations, water and sewer regulations, steep slope regulations, house size limitations, Resource Conservation District regulations, Jordan Buffer regulations, and Watershed Protection District regulations. The following must accompany your application. Failure to do so will result in your application being considered incomplete.

X	Application fee ( <a href="#">refer to fee schedule</a> )	Amount Paid \$	600.00
X	Digital Files – provide digital files of all plans and documents		
X	Mailing list of owners of property within 1,000 foot perimeter of subject property ( <a href="#">see GIS notification tool</a> )		
X	Mailing fee for above mailing list	Amount Paid \$	68.00
	Written Narrative describing the proposal		
X	Statement of Justification – see below for additional information		
X	Recorded Plat or Deed of Property		
	Stream Determination – necessary for all submittals		
	Jurisdictional Wetland Determination – if applicable		
X	Reduced Site Plan Set (reduced to 8.5" x 11")		

Type of Variance or Appeal (Choose one of the following):

- Dimensional Variance       Water and Sewer Variance       Steep Slope Variance

Statement of Justification: Respond to parts 1-7 of Subsection 4.12.2(a) of the Land Use Management Ordinance.

- House Size Variance

Statement of Justification: Respond to parts 1-7 of Subsection 4.12.2(b) of the Land Use Management Ordinance.

- Resource Conservation District Variance

Statement of Justification: Respond to parts A-I of Subsection 3.6.3(j)(4) of the Land Use Management Ordinance.

- Jordan Watershed Riparian Buffer Variance

Statement of Justification: Respond to parts A-C of Subsection 5.18.8(d)(1) of the Land Use Management Ordinance.

- Watershed Protection District Variance

Statement of Justification: Respond to parts 1-4 of Subsection 3.6.4(h)(2) of the Land Use Management Ordinance.

- Appeal

Standing: Explain to the Board how the applicant is an aggrieved party (NC General Statute Sec. 160A-388(b1)(1))

Statement of Justification: Provide justification for decision that is being appealed.



**VARIANCE OR APPEAL APPLICATION  
SUBMITTAL REQUIREMENTS  
TOWN OF CHAPEL HILL  
Planning Department**

**Plan Sets (2 copies to be submitted no larger than 24" x 36")**

Plans should be legible and clearly drawn. All plan set sheets should include the following:

- Project Name
- Legend
- Labels
- North Arrow (North oriented toward top of page)
- Property Boundaries with bearing and distances
- Scale (Engineering), denoted graphically and numerically
- Setbacks
- Streams, RCD Boundary, Jordan Riparian Buffer Boundary, Floodplain, and Wetlands Boundary, where applicable

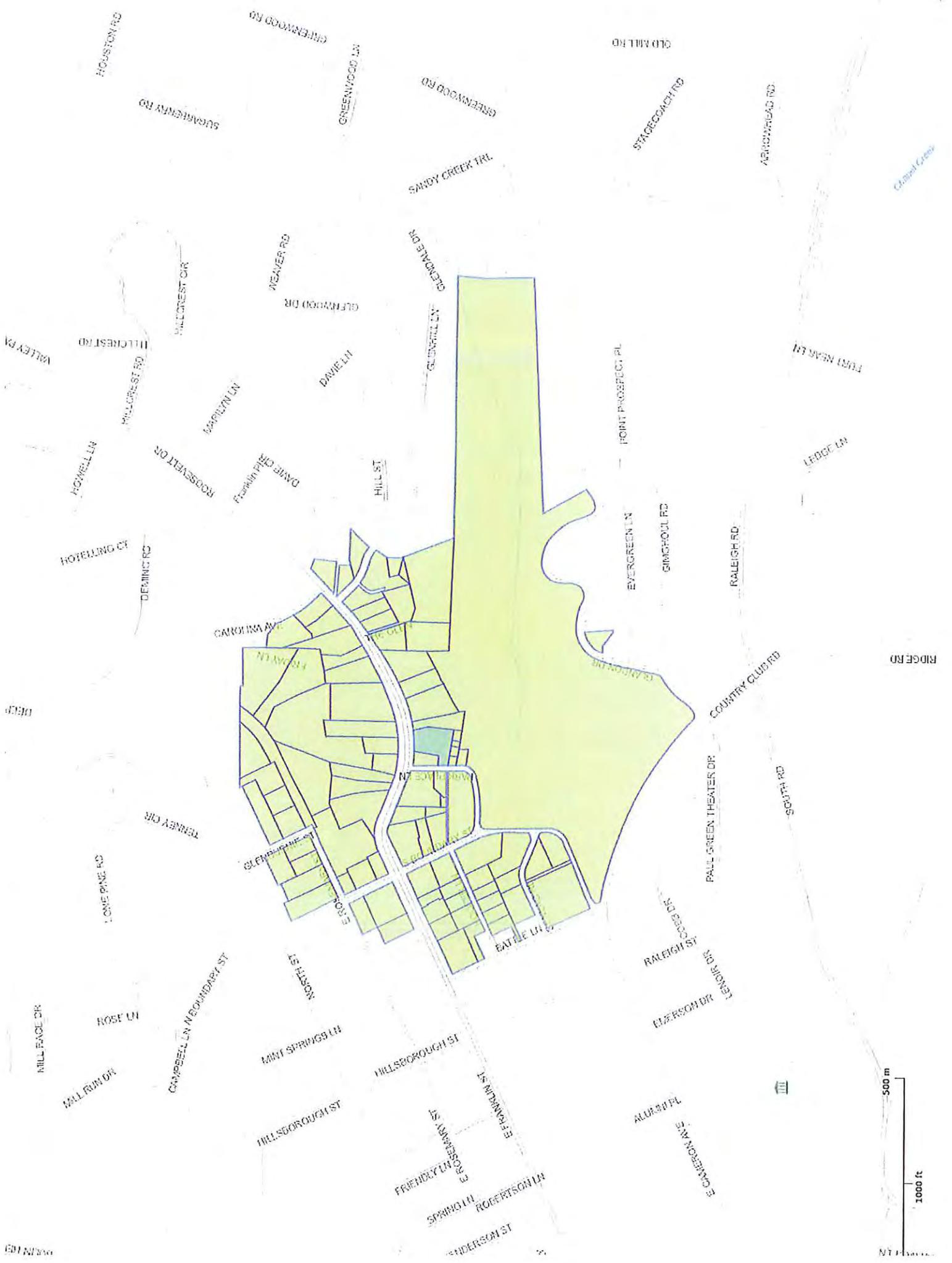
**Area Map**

- a) Overlay Districts
- b) 1,000 foot notification boundary

**Detailed Site Plan**

9.79E+09	UNIVERSIT' PROPERTY CHAPEL HII NC	27599
9.79E+09	ROBINSON 3505 OCEA VERO BEAC FL	32963
9.79E+09	BELL GERA 508 HOOPI CHAPEL HII NC	27514
9.79E+09	PHILLIPS E/ 511 SENLA' CHAPEL HII NC	2.75E+08
9.79E+09	CAROLINA 203 BATTLI CHAPEL HII NC	27514
9.79E+09	HAYES ANN 515 SENLA' Chapel Hill NC	27514
9.79E+09	VJV SAGE L 514 SENLA' CHAPEL HII NC	27514
9.79E+09	VJV SAGE L PO BOX 99 RALEIGH NC	2.76E+08
9.79E+09	PATEL MAI 514 SENLA' CHAPEL HII NC	27514
9.79E+09	MAY ALICE 519 SENLA' CHAPEL HII NC	27514
9.79E+09	TISE DONA 119 BATTLI CHAPEL HII NC	27514
9.79E+09	KYSER KIM P O BOX 7C CHAPEL HII NC	27514
9.79E+09	ROBERTSO 205 CEDAR CHAPEL HII NC	27517
9.79E+09	SYLVESTER 510 E FRAN CHAPEL HII NC	2.75E+08
9.79E+09	YARBROUG 517 E FRAN CHAPEL HII NC	27514
9.79E+09	MOUNSEY 516 E ROSE CHAPEL HII NC	27514
9.79E+09	BECKER KE 510 HOOPI CHAPEL HII NC	27514
9.79E+09	WORTHY F 517 HOOPI CHAPEL HII NC	2.75E+08
9.79E+09	SLOMIANY 516 E FRAN CHAPEL HII NC	27514
9.79E+09	CHURCH EL 51 FIFTH A' NEW YORK NY	10003
9.79E+09	PENNYBAC 519 HOOPI CHAPEL HII NC	27514
9.79E+09	WOOD MO 520 E FRAN Chapel Hill NC	27514
9.79E+09	UNIVERSIT' 134 E FRAN CHAPEL HII NC	27514
9.79E+09	SEMANS JA 602 E ROSE CHAPEL HII NC	27514
9.79E+09	CHURCH EL 51 FIFTH A' NEW YORK NY	10003
9.79E+09	EARP JO A' 521 HOOPI CHAPEL HII NC	27514
9.79E+09	COX CHRIS' 524 E FRAN CHAPEL HII NC	2.75E+08
9.79E+09	RICH SAND 603 E FRAN CHAPEL HII NC	27514
9.79E+09	WINSTANL' 104 N BOU CHAPEL HII NC	2.75E+08
9.79E+09	GRAVELY F 103 S BOUI CHAPEL HII NC	27514
9.79E+09	WATSON JI 604 E FRAN CHAPEL HII NC	27514
9.79E+09	CAPEL MAI 105 S BOUI CHAPEL HII NC	27514
9.79E+09	DELUCA EA 614 E FRAN CHAPEL HII NC	2.75E+08
9.79E+09	SMITH STEI 232 DIGH C MOORESVI NC	28117
9.79E+09	DELUCA EA 614 E FRAN CHAPEL HII NC	2.75E+08
9.79E+09	MOULTON 619 E FRAN CHAPEL HII NC	2.75E+08
9.79E+09	PARK PLAC 6 DUNAW/ GREENSBO NC	27408
9.79E+09	GILLINGS JI PO BOX 55 DENVER CO	80217
9.79E+09	MUIR JEFFI 218 E VALL CARBOND/ CO	81623
9.79E+09	HAMPTON 703 E FRAN CHAPEL HII NC	27514
9.79E+09	LEE BARBA 218 E VALL CARBOND/ CO	81623
9.79E+09	SATHER LU 206 N BOU CHAPEL HII NC	2.75E+08
9.79E+09	PERLMUTT 607 E ROSE CHAPEL HII NC	2.75E+08
9.79E+09	MINER DEN 611 E ROSE CHAPEL HII NC	27514
9.79E+09	BELL FAMILI PO BOX 11 CHAPEL HII NC	27514
9.79E+09	FREEMAN ' 316 TENNE CHAPEL HII NC	27514
9.79E+09	CUMBIE ST 8230 LEESE VIENNA VA	22182

9.79E+09 NUNN CHA 709 E ROSE Chapel Hill NC	27514
9.79E+09 SWEET JOE 208 GLENB Chapel Hill NC	27514
9.79E+09 PERL DE PA 710 E ROSE CHAPEL HII NC	27514
9.79E+09 LASCELLES 719 E ROSE CHAPEL HII NC	2.75E+08
9.79E+09 PAUL SAMI 214 GLAND CHAPEL HII NC	27514
9.79E+09 OAKWOOD 105 WEST ' CHARLOTTI VA	22902
9.79E+09 MARTIN CL 3 BRIARCLI ASHEVILLE NC	28803
9.79E+09 EPTING RO PO BOX 13 CHAPEL HII NC	2.75E+08
9.79E+09 FLANAGAN 708 E FRAN CHAPEL HII NC	27514
9.79E+09 GORGONS P O BOX 12 RALEIGH NC	27605
9.79E+09 BOWERS IV 714 E FRAN CHAPEL HII NC	27514
9.79E+09 DAVIES CAI 718 E FRAN CHAPEL HII NC	2.75E+08
9.79E+09 TURNER GF 721 E FRAN CHAPEL HII NC	27514
9.79E+09 REID J SCO 729 E FRAN CHAPEL HII NC	27514
9.79E+09 HERSHEY H 722 E FRAN CHAPEL HII NC	2.75E+08
9.79E+09 NYE NANC 733 E FRAN CHAPEL HII NC	27514
9.79E+09 IKENBERRY 4 THE GLEN CHAPEL HII NC	27514
9.79E+09 CULBRETH 730 E FRAN CHAPEL HII NC	27514
9.79E+09 RUDIN CYN 737 E FRAN CHAPEL HII NC	27514
9.79E+09 STANBACK 736 E FRAN CHAPEL HII NC	27514
9.79E+09 L RIVERS PI PO BOX 97 CHAPEL HII NC	27515
9.79E+09 HOU BARB. 21 SHEPAR CAMBRIDG MA	2138
9.79E+09 GRAVELY S 377 TENNE CHAPEL HII NC	27514
9.79E+09 CAMPBELL 7595 CINEE BOCA RATON FL	3.34E+08
9.79E+09 TURNER GF 721 E FRAN CHAPEL HII NC	27514
9.79E+09 HAPGOOD 13 FRIDAY CHAPEL HII NC	27514
9.79E+09 SOO LIANG 1 FRIDAY L CHAPEL HII NC	27514
9.79E+09 GRIZZARD I 741 E FRAN CHAPEL HII NC	27514
9.79E+09 AZIZ AND C 743 EAST F CHAPEL HII NC	27514
9.79E+09 GRIZZARD I 741 E FRAN CHAPEL HII NC	27514
9.79E+09 MILLS DIN/ 3 THE GLEN CHAPEL HII NC	27514
9.79E+09 RAYNOR W 1 THE GLEN CHAPEL HII NC	27514
9.79E+09 MILLS DIN/ 3 THE GLEN CHAPEL HII NC	27514
9.79E+09 LIU LEI 100 GLEND CHAPEL HII NC	27514
9.79E+09 REEBYE UD 742 E FRAN CHAPEL HII NC	27514
9.79E+09 MCCAUGH. 104 GLEND CHAPEL HII NC	2.75E+08
9.79E+09 MORELL BK 404 BROOF CHAPEL HII NC	2.75E+08
9.79E+09 LINDBERG I 3406 STAG DURHAM NC	27713





## STATEMENT OF JUSTIFICATION

Under N.C.G.S. §160A-388, §160A-393, §160A-400.9 and Land Use Management Ordinance of the Town of Chapel Hill ("LUMO"), including §§3.6.2, 4.10 and 4.12, property owner, Oakwood Properties, Inc. and applicant, BuildSense, Inc. ("Appellants"), appeal the Town of Chapel Hill Historic District Commission's ("HDC") March 13, 2018 denial of an Application for a Certificate of Appropriateness for 704 East Franklin Street to the Town of Chapel Hill Board of Adjustment. This appeal is made within the latter of 30 days of filing the decision being appealed or the delivery of the required written notice of the decision to the property owners. The written notice of the decision was provided to BuildSense, Inc. by letter dated March 22, 2018 sent by certified mail, return receipt requested. A copy of the letter and the Town of Chapel Hill Historic District Commission's written decision is attached as Exhibit A.

The Appellants are represented in this appeal by LeAnn Nease Brown, Brown & Bunch, PLLC, 101 N. Columbia Street, Chapel Hill, NC 27514, Telephone: (919) 968-1111, Email: lnease@brownandbunch.com.

### Decision Being Appealed.

The decision being appealed is the March 13, 2018 denial by the Historic District Commission of Appellants' Application for a Certificate of Appropriateness for a standing seam metal roof.

### Standing.

Appellant Oakwood Properties, Inc. is the owner of 704 East Franklin Street and Appellant BuildSense, Inc. is the Applicant for the denied Certificate of Appropriateness. See, Deed recorded at Book 6088, Page 47, Orange County Registry attached as Exhibit B and the Application for Certificate of Appropriateness attached as Exhibit C. Owners of property have standing to appeal decisions of the Historic District Commission to the Board of Adjustment. See, N.C.G.S. §160A-388(b1(1)a and §393(d)(1)a. Applicants for Certificates of Appropriateness that are denied have standing to appeal. See, N.C.G.S. §160A-388(b1(1)c and §393(d)(1)c.

### Background.

704 East Franklin Street is an improved lot in the Franklin-Rosemary Historic District. The underlying zoning is residential (R-2).

On May 8, 2017, Appellants applied to the Historic District of the Town of Chapel Hill for a Certificate of Appropriateness to remove a porch stoop and stair, extend an existing side porch to wrap around and enable access to the entry door from the garage and enhance the flow between the side entry door and porch patio area, add stucco piers, wood

framing, a T&G porch floor and ceiling, painted posts and guard rails, metal roof, wall sconces and fans. The Certificate of Appropriateness was approved by the Historic District Commission in July 2017.

In September 2017, BuildSense, Inc. obtained a Zoning Compliance Permit and Building Permit for the work identified in the Certificate of Appropriateness and commenced work. As work proceeded, the owners considered whether to replace the existing composition (asphalt) shingles with standing seam metal (copper) roofing, the material approved for the porch in July 2017. BuildSense, Inc. approached the Town of Chapel Hill regarding a modification of the Building Permit to expand the scope of work to include replacement of the roof. A modification of the Building Permit was granted. Work contemplated by the Building Permit as modified was completed in December 2017. The Town of Chapel Hill then issued a Certificate of Occupancy for the project.

After the Certificate of Occupancy was issued by the Town of Chapel Hill, a member of its staff contacted BuildSense, Inc. with a "courtesy notice" that an "after the fact" Certificate of Appropriateness was required for the change in the roof material from composition shingles to standing seam metal roofing. While standing seam copper metal roofing was approved for a portion of the Certificate of Appropriateness issued in July 2017, it was not approved for the entire roof.

Instructed by Town of Chapel Planning Staff to submit an Application for a Certificate of Appropriateness or face a notice of zoning violation, BuildSense, Inc. submitted an after the fact Application for a Certificate of Appropriateness in February 2018. The only approval sought was for a standing seam copper metal roof.

On March 13, 2018, the Historic District Commission considered the after the fact Application for Certificate of Appropriateness. Competent, material and substantial evidence was submitted by Appellants to demonstrate that the Application for Certificate of Appropriateness as proposed meets the standards of congruity for the grant of the Certificate of Appropriateness. The evidence presented demonstrated that the roofing materials were in harmony with the Franklin-Rosemary Historic District and that the applicable standards for the grant of a Certificate of Appropriateness were met. No one testified in opposition to the Application for Certificate of Appropriateness. No evidence was presented in opposition to the grant of Certificate of Appropriateness. No evidence was received that contradicted the evidence offered by Appellants. A copy of the transcript of the portion of the March 13, 2018 HDC meeting addressing Appellants' Application is attached as Exhibit D.

Even though competent, material and substantial evidence in the record demonstrated that Appellants were entitled to the issuance of a Certificate of Appropriateness, the Historic District Commission denied the Certificate of Appropriateness. Written notice of the decision to deny was provided to BuildSense, Inc. by letter dated March 22, 2018. Applicants have timely filed this appeal of the denial of the Certificate

of Appropriateness by the Historic District Commission to the Board of Adjustment in accordance with the provisions for appeal in LUMO and the North Carolina General Statutes.

Errors.

1. The HDC erred by failing to base their decision on competent, material and substantial evidence in the whole record. The competent, material and substantial evidence in the whole record demonstrates that standing seam copper metal roofs are congruous with the Franklin-Rosemary Historic District and that Appellants' Application meets all requirements for the grant of a Certificate of Appropriateness. There is no competent, material or substantial evidence in the record to support denial of the Certificate of Appropriateness. There is no competent, material and substantial evidence in the record to support the HDC's findings or its conclusion that the replacement of the asphalt shingles with a standing seam copper metal roof is inconsistent with the applicable Design Guidelines or is incongruous with the special character of the Historic District or that the Application for a Certificate of Appropriateness should not be allowed.
2. The HDC erred by basing its decision on errors of law, including its flawed interpretation of North Carolina statutes, its flawed interpretation of caselaw interpreting those statutes, its flawed interpretation of LUMO (especially LUMO §3.6.2), and its flawed interpretation of its Rules of Procedure and Design Guidelines in contravention of LUMO and N.C.G.S. §400.9.
3. The HDC erred by failing to follow procedures specified by statute and ordinance.
4. The HDC erred by failing to ensure Appellants' due process rights, including its rights for a hearing before a fair and impartial tribunal and its right to have its matter heard in a quasi-judicial setting by individuals without conflict of interest.
5. The decision of the HDC was arbitrary and capricious.

Reservation of Rights to Raise Additional Issues.

Under N.C.G.S. §160A-388(b)(8), Appellants are not limited at the hearing of this appeal to matters stated in this notice. Appellants reserve all rights to raise additional issues at the hearing.

Prayer for Relief.

Appellants respectfully request the Board of Adjustment review the decision of the Historic District Commission of the Town of Chapel Hill,

reverse and vacate the decision, and remand this matter to the Historic District Commission with instructions it grant Appellants' Application for a Certificate of Appropriateness.

13570\01\m\003Statement of Justification

1/1



20160311000046690 DEED  
Bk:RB6088 Pg:47  
03/11/2016 02:10:21 PM 1/2

FILED Mark Chilton  
Register of Deeds, Orange Co., NC  
Recording Fee: \$26.00  
NC Real Estate TX: \$3150.00

ER  
NA

LO

NA

**NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \$3,150.00

Parcel Identifier No. 9788781421 Verified by PR County on the \_\_\_ day of \_\_\_\_\_, 20\_\_\_  
By: \_\_\_\_\_

Mail/Box to: GRANTEE

This instrument was prepared by: Law Office of Scott D. Beasley, P.A., 100 Connemara Drive, Suite 120, Cary, NC 27519

Brief description for the Index: LOT 2, Mary Wells Ballentine, PB 47 page 8

THIS DEED made this 9th day of March, 2016, by and between

**GRANTOR**

Paul T. Meegan and wife,  
Kelli A. Meegan  
2601 Chelmsford Court  
Cary, NC 27518

**GRANTEE**

Oakwood Properties, Inc.  
Mailing Address: PO Box 270  
North Garden, VA 22959  
Property Address: 704 East Franklin Street  
Chapel Hill, NC 27514

Enter in appropriate block for each Grantor and Grantee: name, mailing address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot, parcel of land or condominium unit situated in the City of Chapel Hill, \_\_\_\_\_ Township, Orange County, North Carolina and more particularly described as follows:

BEING all of Lot No. 2, Property of Mary Wells Ballentine, according to plat and survey thereof, as recorded in Plat Book 47, Page 8, Orange County Registry, to which plat reference is hereby made for a more particular Description of same.

The property hereinabove described was acquired by Grantor by instrument recorded in Book 5614 page 270.  
All or a portion of the property herein conveyed X includes or \_\_\_ does not include the primary residence of a Grantor.

A map showing the above described property is recorded in Plat Book 47 page 8.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever, other than the following exceptions:

Subject to current year Ad Valorem Taxes. Restrictions, Easements, Rights-of-Way and Conditions and Covenants of Record.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

\_\_\_\_\_  
(Entity Name) Paul T. Meegan (SEAL)  
Print/Type Name: Paul T. Meegan

By: \_\_\_\_\_  
Print/Type Name & Title: \_\_\_\_\_  
Kelli A. Meegan (SEAL)  
Print/Type Name: Kelli A. Meegan

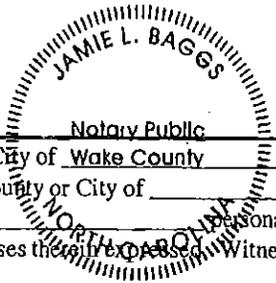
By: \_\_\_\_\_ (SEAL)  
Print/Type Name & Title: \_\_\_\_\_  
Print/Type Name: \_\_\_\_\_

By: \_\_\_\_\_ (SEAL)  
Print/Type Name & Title: \_\_\_\_\_  
Print/Type Name: \_\_\_\_\_

State of North Carolina - County or City of Orange Wake  
I, the undersigned Notary Public of the County or City of Orange Wake and State aforesaid, certify that Paul T. Meegan and wife, Kelli A. Meegan personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this 9 day of March, 2016.

My Commission Expires: 9/2/2018  
(Affix Seal)

Jamie L. Baggs Notary Public  
Notary's Printed or Typed Name



State of \_\_\_\_\_ - County or City of Wake County  
I, the undersigned Notary Public of the County or City of \_\_\_\_\_ and State aforesaid, certify that \_\_\_\_\_ personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed. Witness my hand and Notarial stamp or seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_  
(Affix Seal)

\_\_\_\_\_  
Notary Public  
Notary's Printed or Typed Name

State of \_\_\_\_\_ - County or City of \_\_\_\_\_  
I, the undersigned Notary Public of the County or City of \_\_\_\_\_ and State aforesaid, certify that \_\_\_\_\_ personally came before me this day and acknowledged that \_\_\_\_\_ he is the \_\_\_\_\_ of \_\_\_\_\_, a North Carolina or \_\_\_\_\_ corporation/limited liability company/general partnership/limited partnership (strike through the inapplicable), and that by authority duly given and as the act of such entity, \_\_\_\_\_ he signed the foregoing instrument in its name on its behalf as its act and deed. Witness my hand and Notarial stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My Commission Expires: \_\_\_\_\_  
(Affix Seal)

\_\_\_\_\_  
Notary Public  
Notary's Printed or Typed Name

