

# 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): 9788907846

Date: 8/1/2018

## Section A: Project Information

Project Name: Kellogg Dimensional Variance

Property Address: 913 Kings Mill Road, Chapel Hill NC

Zip Code: 27517

Existing Zoning District: R-1 Residential

Project Description: Because our property is on a corner in the CD-3: Kings Mill/Morgan Creek NCD, we are requesting a Variance approval on one road side of the property for a two-story porch and accompanying deck.

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

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

Name: Lew and Susan Kellogg

Address: 913 Kings Mill Road

City: Chapel Hill

State: NC

Zip Code: 27517

Phone: 919-923-4969

Email: Susan.k.kellogg@gmail.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: *Russell Kellogg* *Susan K Kellogg* Date: 7/29/2018

### Owner/Contract Purchaser Information:

☒ **Owner**

☐ **Contract Purchaser**

Name: Lewis and Susan Kellogg

Address: 913 Kings Mill Road

City: Chapel Hill

State: NC

Zip Code: 27517

Phone: 919-923-4969

Email: Susan.k.kellogg@gmail.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: *Russell Kellogg* *Susan K Kellogg* Date: 7/29/2018



**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 \$	630.00
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 \$	44.20
x	Written Narrative describing the proposal		
x	Statement of Justification – see below for additional information		
x	Recorded Plat or Deed of Property		
x	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.



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**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

☒ X

**Area Map**

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

☒ X

**Detailed Site Plan**

Dimensional Variance Application  
Lew and Susan Kellogg  
Renovation Project  
913 Kings Mill Road, Chapel Hill NC 27517  
(PIN #9788-90-7846)

**Summary:**

We, Lewis and Susan Kellogg, look forward to retiring in our 913 Kings Mill Road single family home in Chapel Hill. To increase our enjoyment of the property, we would like to add a two-porch and exterior deck as part of a second-floor master bath and master bedroom renovation. Unfortunately, corner lots under the Kings Mill/Morgan Creek NCD are limited by two fifty-foot (50') minimum street setbacks which reduces the usable area of our property by roughly 58% and significantly limits our design possibilities. As relief, we are asking for a small dimensional variance to one of our street setbacks that is consistent with the spirit, purpose and intent of the ordinance.

**Background:**

On July 13, 2005 we purchased the 0.71-acre property at 913 Kings Mill Road in Chapel Hill from the original owner, Moyer G. Smith. Although the house had not been updated since construction was completed in 1977, it was in very good condition because of the excellent care the Smith's had given it. We were somewhat surprised that the second floor did not have windows on the East-side (Laurel Hill) making it dark. That issue aside, we purchased the home knowing that we could move in immediately and then over time, refine the layout to better match our lifestyle.

The Smith's had also put significant effort into the landscaping and we wanted to re-establish and expand it in ways that highlighted and enhanced the original landscape vision. As a start, we removed a large gravel, fenced-in play area that was clearly designed for kids and/or grandkids and shortened the second gravel driveway, adding a pond with a waterfall and additional areas for planting. At the same time, we repainted the inside and outside of the house and installed French drains to improve the drainage.

In keeping with our original plan, we later renovated the first floor, which holds the kitchen, dining room, and two living spaces. Within the original footprint, the kitchen and all electrical and flooring was updated. We also expanded a bay window in the new informal dining area to allow us a view of the landscape, our pond, and to provide a window that looked out towards the Kings Mill road giving us a view of who comes and goes in the primary driveway. We also learned that the neighborhood "legend" was that there were no windows on the second floor because of an unwritten privacy agreement between the Smith's and the prior owner of the lot. Interesting but unconfirmed. Most recently, we made the decision to retire here and began looking at our needs and desired modifications for the remainder of the house and property.

**Need for Variance:**



We would like to add a two story porch on the Laurel Hill side of the house but found that with the NCD setbacks of 50' from each road side of the house, we had only 4' from the Laurel Hill side in which to create a porch. We have slightly more room at the other end of the house but the most useable location is off the main living room and master bedroom which is on the end of the house with the least amount of setback to work with. It is for this reason we are asking for a variance for the 50' set back on the Laurel Hill side to accommodate the footprint of a porch.

**Variance Request:**

The Laurel Hill side of the house is the only viable option for a two-story porch. To build a lower and upper level porch in other locations would require multiple footprints which would be cost prohibitive. We chose porches versus other options to add to the aesthetics of the house as well as provide the ability to integrate the front of the yard to the house. To-date the house is built to "interact" with the side yard which has resulted in us improving very little on the Laurel Hill side of the property.

When we include the porches in the plan, we extend 9 feet into the NCD setback. As you can see from the included land survey, stream determination, plan drawings and photos, there are no ecological or aesthetic issues with the proposed structure. In fact because we will remove the existing brick patio on the Laurel Hill side of the house, we will be reducing a safety issue as that patio has had a significant leak under it resulting in an unstable base that in time, will give way.

This plan has been well thought out over a considerable amount of time and is very important to our family. We respectfully request that you grant us a Dimensional Variance of ten (10 feet) into the NCD 50' road-side yard setback for the construction of the porch(es) and deck. If you will grant this variance, we will submit our full plan for permitting to ensure the entire project is within all Town of Chapel Hill guidelines and regulations.

Thank you in advance for your time and consideration on this project.

Susan and Lew Kellogg

Rev. 8/1/2018

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**Facts in Support of Determinations as Required in Section 4.12.2 (a)**

- 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.***

The house is sited at an angle to the 50-foot setback and property line; working with-in this very large setback results in an ability to use much of our property. Given that the property is on a corner, the two fifty-foot (50') setbacks results in roughly 58% of our property being unusable for building. The strict application of the NCD 50' setback would not be the best and most effective use of our property.

- 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.***

Our home is sited where one side of the house is very close to the 50' setback meaning that we have no ability to modify that corner of our house. That corner of the house is where the most significant living areas are located. Because of the original location of the house in conjunction with the property line being angled, we have a unique hardship not experienced by other home owners.

- 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 a self-created hardship.***

The home siting existed prior to our buying the property and was further exacerbated with the creation of the NCD strict street setbacks. Our work on the property and house are to improve upon the original in ways consistent with the intent of the NCD.

- 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.***

The spirit and intent of the guidelines are to preserve the uniqueness and the personality of the Kings Mill/Morgan Creek neighborhood. The proposed modifications to the home will enhance the appeal of the home while remaining consistent with the NCD's intent and purpose in both scale and aesthetics. Even with granting the variance, there will still be 40 feet of wooded property to the street. As shown in the provided pictures, it is doubtful our changes would even be visible from the street.

The original home layout also consists of a large brick patio on the Laurel Hill side of the house that expands well into the NCD 50' setback. It is our intent to remove this patio because of safety reasons. A long-standing water leak has washed away a large portion of the patio's foundation making it unstable.

Because there will be an overall reduction of the impervious surfaces with the removal of this patio along with removing a large portion of one driveway, there are positive ecological reason that this variance cannot be approved.

We have discussed this change with our neighbors and they are very supportive. We are lucky to live in this neighborhood and have such neighbors.

Thank you in advance for your consideration.

Lew and Susan Kellogg

Rev 8/1/2018

Orange County NC 07/14/2005  
State of North Carolina  
Real Estate Excise Tax  
Excise Tax: \$895.00

FILED Joyce H. Pearson  
Register of Deeds Orange County, NC  
BY

*Delwood B. Brooks*  
ASST.

## NORTH CAROLINA GENERAL WARRANTY DEED

Prepared by/return to: Thomas R. Holt, 111 Cloister Court, Suite 200, Chapel Hill, NC 27517  
Grantee's address: 913 Kings Mill Road, Chapel Hill, North Carolina 27514

NORTH CAROLINA

ORANGE COUNTY R/S: \$895.00

This Deed is made this 13th day of July, 2005, by and between **Moyer G. Smith and wife, Jane W. Smith**, hereinafter called "Grantor," and **Lewis Arthur Kellogg and wife, Susan King Kellogg**, hereinafter called "Grantee."

### WITNESSETH:

That the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has given, granted, bargained, sold and conveyed, and by these presents does give, grant, bargain, sell and convey unto the Grantee, its successors and assigns, all that certain tract of real estate located in Orange County, North Carolina, and more fully described as follows:

ALL that certain lot or parcel of land situated, lying and being at the Northwestern intersection of the angle in Laurel Hill Road, and a short distance South of the Town of Chapel Hill, North Carolina, known and designated as Lot No. 10 of the PROPERTY OF DR. W. C. COKER, as surveyed and plotted by E. C. Leonard, Registered Surveyor, in April, 1951, and more particularly described as BEGINNING at a stake in the said intersection and running thence along the North property line of the Southern part of Laurel Hill Road North 83 degrees 30' West 164.8 feet to a stake, the Southeast corner of Lot No. 9; running thence with the line of Lot No. 9 North 6 degrees 30' East 200 feet to a stake in the line of Lot No. 17; running thence with the line of the said lot South 83 degrees 30' East 140.7 feet to a stake in the West property line of the Eastern part of Laurel Hill Road; running thence along the property line of the said road South 9 degrees 06' East 20 feet; thence along the curve of the said road and along the arc of a circle with a radius of 573.6 feet in a Southern direction for a distance of 149.7 feet, and thence South 6 degrees 39' West 35.6 feet to the BEGINNING, containing 0.71 of an acre, more or less, and being shown on that Plat recorded in the Orange County Registry at Book 4, Page 169.

9788-90-7846 *TS*

7, 68, C, 8

TO HAVE AND TO HOLD the above described tract of real estate, with all privileges and appurtenances thereunto belonging, to the Grantee in fee simple.

The Grantor covenants that it is seized of the tract in fee, and has the right to convey the same in fee simple; that the tract is free from encumbrances; and that it will warrant and defend title to the tract against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

1. Ad valorem taxes for the year 2005 and subsequent years.
2. Restrictive and protective covenants of record.
3. Utility easements and rights-of-way of record.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this Deed to be signed in its corporate names by its duly authorized officers and its seal to be hereunto affixed by authority of their Boards of Directors, the day and year first above written.

Moyer G. Smith (Seal)  
Moyer G. Smith

Jane W. Smith (Seal)  
Jane W. Smith

NORTH CAROLINA

ORANGE COUNTY

I, THOMAS R. HOOT, a Notary Public, do hereby certify that **Moyer G. Smith and Jane W. Smith**, Grantor, personally came before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official seal this the 14 day of July, 2005.

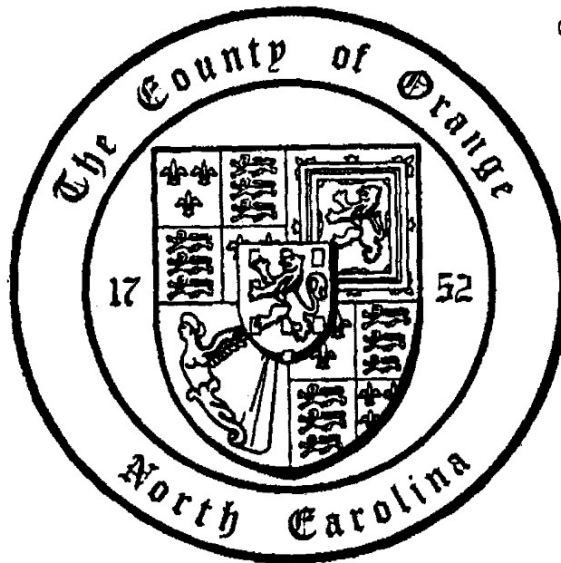
My commission expires:

9-10-2005

[Signature]  
Notary Public



(Affix Notary Seal)



Joyce H. Pearson  
Register of Deeds  
Orange County  
North Carolina

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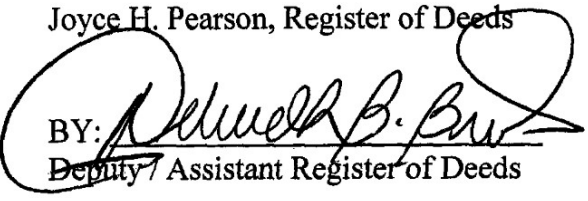
**State of North Carolina, County of Orange**

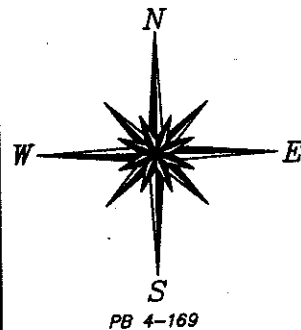
The foregoing certificate(s) of THOMAS R HOLT, NOTARY PUBLIC for the Designated Governmental units is/are certified to be correct. See filing certificate herein.

This day July 14, 2005.

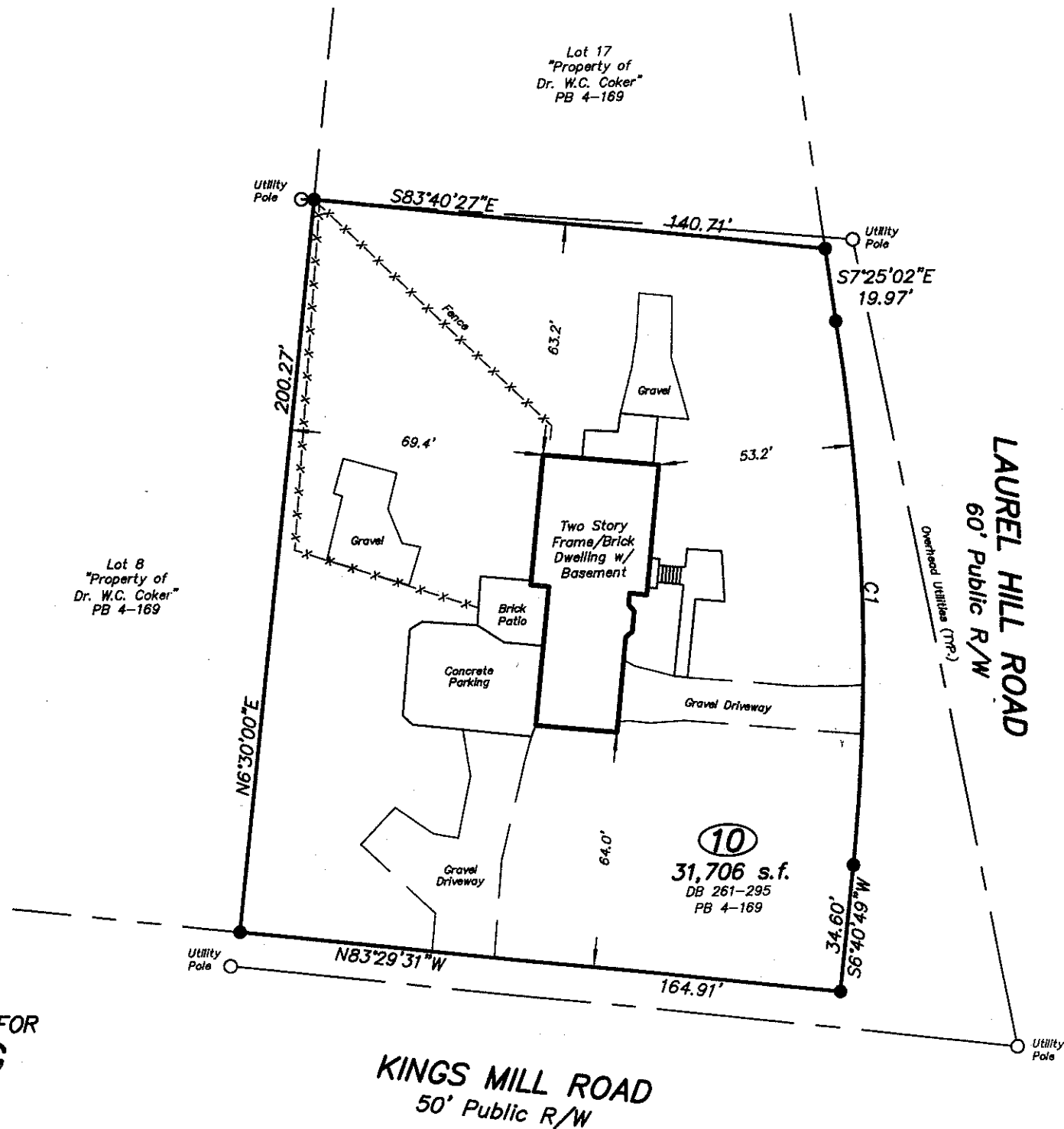
Joyce H. Pearson, Register of Deeds

BY:

  
Deputy Assistant Register of Deeds



— NOT FOR RECORDATION —



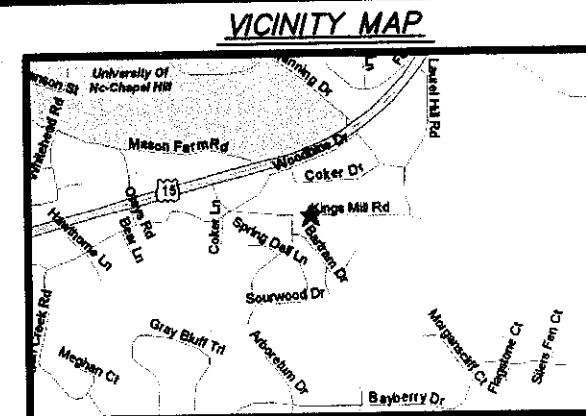
**LOT 10**  
**"PROPERTY OF**  
**DR. W.C. COKER"**

PROPERTY EXCLUSIVELY SURVEYED FOR  
**SUSAN K. KELLOGG**  
and  
**LEWIS A. KELLOGG**

CHAPEL HILL TWP., ORANGE CO., NORTH CAROLINA  
JULY 6, 2005  
SCALE 1"=40'



Existing Corner  
Iron Stake Set  
Mathematical Point  
Areas by Coordinate Computation



I, Terry L. Westendorf, L-3232, certify that this plat was drawn from an actual field survey performed under my direction and supervision that meets or exceeds the requirements of a Class A survey in accordance with the Standards of Practice for Land Surveying in the state of North Carolina.

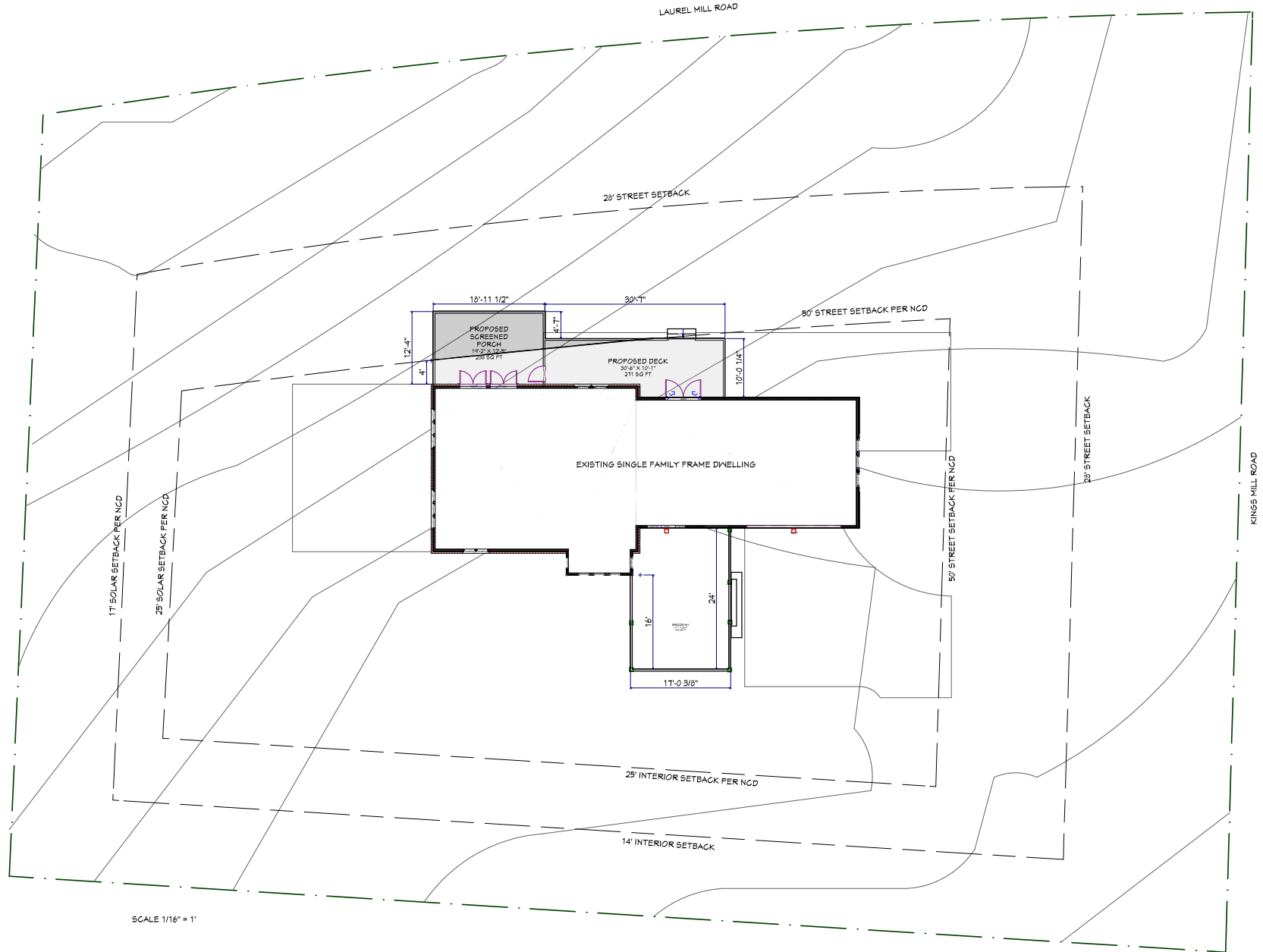
This plat will be deemed unreliable if this surveyor's original blue seal is not affixed to said plat. No person may copy, reproduce, distribute or alter this plat in whole or in part without the written permission of MITCHELL WESTENDORF, P.A.

Witness my hand and original seal.  
This 14 day of July 2005.  
*[Signature]*  
Professional Surveyor



**MITCHELL WESTENDORF, P.A.**

ENGINEERING & SURVEYING  
1709 LEGION ROAD, SUITE 201 - CHAPEL HILL, NC 27517  
(919)932-4567  
WWW.MITCHELLWESTENDORF.COM





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Photographs Illustrating Positioning and View of Proposed Porch and Deck

View of proposed porch on current structure



View of current porch which will be removed





View of Deck off Porch





## Porch to Deck Transition





View Best View of Deck corner from Road





Corner of Porch from Road





View of House from Laurel Hill



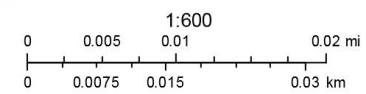


# Overhead Photo of Property from Orange County GIS System

## Orange County



July 29, 2018





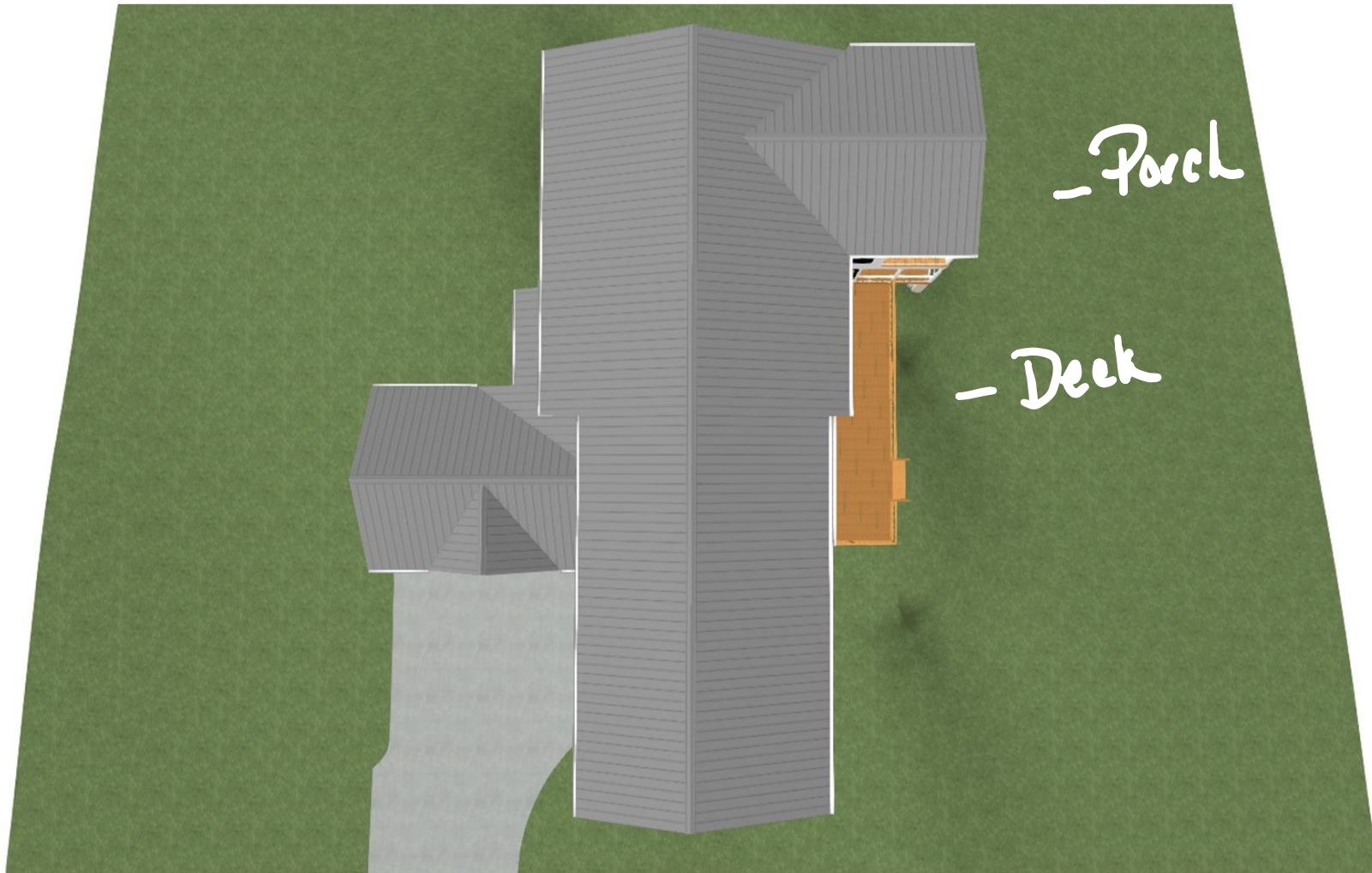
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## Illustrations of Proposed Changes – Early Draft

A few notes:

- These illustrations do not indicate the boundaries of the property
- These illustrations are only for context of requested variance
- These illustrations will likely change in color and other aesthetic items like railings
- These illustrations are not the final versions that will be submitted with the permit application

From the top of the house looking down:



## Illustration of Proposed Porches and Deck from North



## Illustration of Proposed Porches and Deck from Laurel Hill Road (East)





Illustration of Proposed Porches and Deck from South-East

