City of Brevard Planning Department
95 West Main Street
Brevard, North Carolina 28712
Phone (828) 885-5630
Fax (828) 885-5625
cityofbrevard.com

VAR File #_____

APPLICATION FOR A VARINACE (VAR)
BREVARD BOARD OF ADJUSTMENT

PURPOSE OF VARIANCE – A variance is the official allowance of a variation from the dimensional requirements of the City of Brevard Unified Development Ordinance or other development regulations. An applicant for a variance must demonstrate valid reasons which create a need for a Variance. These reasons cannot be strictly economic in nature and must generally involve some physical problem with the subject property which will not allow it to be developed in a reasonable manner if City development regulations are followed literally, such as a lot which is substandard in area or width.

BOARD OF ADJUSTMENT - The Board of Adjustment or BOA, is the official City Board that considers request for variances. The BOA receives sworn testimony at its meetings and issues decisions on variance requests based on this testimony. It is the responsibility of each applicant for a variance to attend the BOA meeting and present sworn testimony in support of the request. Authority to grant a variance is found in 16.8.E of the City of Brevard's Unified Development Ordinance pursuant to North Carolina General Statute's 160D-705. The Unified Development Ordinance requires that the Brevard Board of Adjustment, when granting a variance must find that all four (4) of the following standards found in UDO Chapter 16.8.E.2. exist. In the spaces provided below, indicate the standards that you intend to show and the arguments that you intend to convince the Brevard Board of Adjustment that it can properly reach the four (4) required conclusions:

REASONS FOR VARIANCE REQUEST - Explain in your own words why you are requesting a Variance. Be sure to clearly indicate the problem(s) you will experience in complying with the City development regulations. (Attach additional sheets if needed.)

We, the owners of the subject property are seeking a variance to section 2.7.3, setbacks for accessory structure. We are requesting a 3 foot variance on the westerly side lot line and a 9 foot variance on the rear lot line for a 200 square foot accessory structure with its primary use as a home office and secondary use as guest space for our out of state adult children (see site plan attached).

We love our home and our community, but our 1930, 1 bedroom, 1 bath home will not accommodate our growing family.

We will explain the validity of our request on the attached sheets.

The BOARD OF ADJUSTMENT is required to make the following four (4) findings before granting a Variance. Write a thorough response to each of these items.

1. Unnecessary hardship would result from the strict application of the regulations. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the 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.

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.

4. The requested variance is consistent with the spirit, purpose, and intent of the regulations, such that public safety is secured, and substantial justice achieved. Substantial justice is not achieved when granting the variance would be injurious to the neighborhood or to the general welfare.

ATTACH SITE PLAN DESCRIBING VARIANCE REQUEST

PROPERTY LOCATION INFORMATION

Street address of subject property: 555 West Probart St. , Brevard, NC 28712

Tax Parcel Number of subject property: 8586-22-9973-000

ATTACH TAX PARCEL & OWNERSHIP INFORMATION FOR ADJACENT

PROPERTIES APPLICANT INFORMATION

Name: Joseph A. Kelly & Dawn S. Altman

Address: 555 West Probart St. , Brevard, NC 28712

Phone: (941) 809-1410

Email: dmaltman6@gmail.com

OWNER INFORMATION

Name: Joseph A. Kelly & Dawn S. Altman

Address: 555 West Probart St. , Brevard, NC 28712

Phone: (941) 809-1410 Email: dmaltman6@gmail.com

ATTACH AGENT FORM IF THE APPLICANT IS NOT OWNER

DATE: 3/12/2025_____

APPLICANT'S SIGNATURE_____

Please refer to the City of Brevard Planning Department Board of Adjustment Category III Application Timeline for Variances.

VARIANCE REQUEST TO BE HEARD BY BOA ON: May 6, 2025.

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BREVARD BOARD OF ADJUSTMENT – VARIANCE

APPOINTMENT OF AGENT

I_____, owner of property located at

(street address) _____ and

identified by the Transylvania County Tax Identification Number (PIN#):

_____, located in Transylvania County, North Carolina, do

hereby appoint _____ to represent me in

filing an application for Variance before the Brevard Board of Adjustment.

I further authorize _____ to act as my agent in

all matters, formal and informal, and to receive all official correspondence as it relates to

the VARIANCE request and hearing.

Property Owner Signature:_____Date:_____
Mailing Address:_____
Phone:_____ Email:_____

Agent Name: _____
Mailing Address:_____
Phone: _____ Email:_____

The City of Brevard North Carolina

Variances
"Unnecessary Hardship"

North Carolina General Statutes, 160D-705, authorizes the local Board of Adjustment to grant a variance from certain zoning regulations, such as setbacks and dimensional standards, under limited circumstances. The burden of proof is on the applicant seeking the variance to show an "unnecessary hardship." That term is outlined in the General Statutes and all of the criteria must be met in order for the Board of Adjustment to grant a variance, but what is an unnecessary hardship?

§ 160D-705. When unnecessary hardships would result from carrying out the strict letter of a zoning regulations, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

(1) Unnecessary hardship would result from the strict application of the regulation. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the 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. 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.

(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 is not a self-created hardship.

(4) 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.

<u>No change in permitted uses</u> may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance.

This literature is meant to provide general knowledge about variances. Please call (828) 885-5630 to make an appointment with a City Planner if you require further information.

555 W. Probart St, Brevard variance to section 2.7.3 continued from application.

In response to the Board of Adjusters requirements of the following for findings we offer theses arguments:

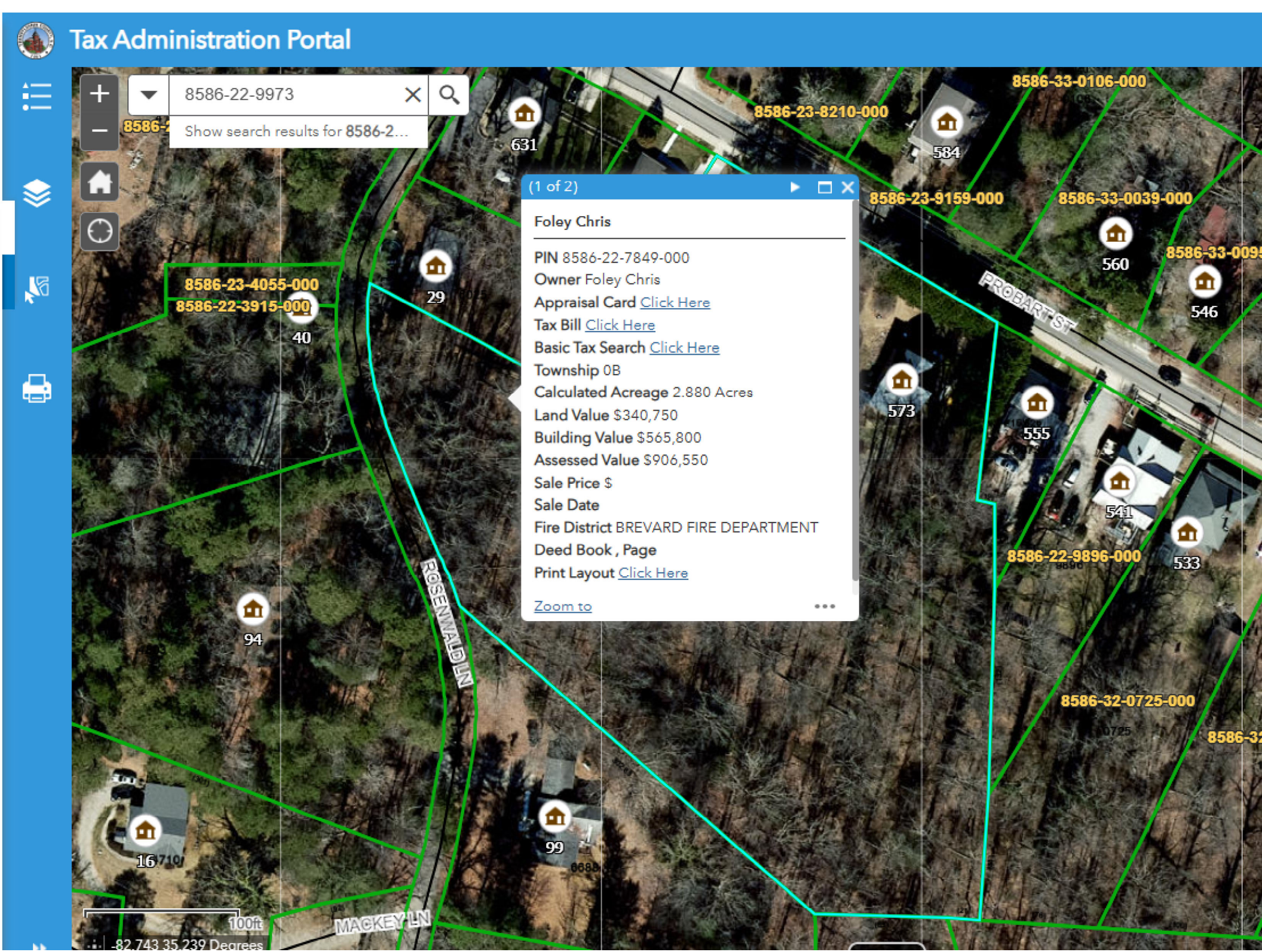
1. With strict adherence to the current UDO Sec. 2.7.3, it will not be feasible or practical without extraordinary measures, to be able to construct or erect enough additional living space to allow for a home office as required for Joseph's current employment and provide adequate accommodations for our out of state family. We have two adult children and wish to add two additional bedrooms to accommodate their growing families. Our current floor plan has one bedroom and a small spare room that is currently used as a home office, and doubles as a guest room via a Murphy bed. The addition of a 200sqft out building will allow us to move the office out of the spare room dedicating it as a guest room. The outbuilding will then double as additionally guest space.
   The narrow triangular shape of the lot will not allow enough space to accommodate the proposed outbuilding at the current 6' side and 10' rear setback requirements. The 10' rear setback leaves 22' from the face of the outbuilding to the existing deck, approximately 27' from the existing structure which is not enough room to park and maneuver our vehicles. The length and narrowness of the driveway on the east side of the house and steep slope makes it extremely difficult to back out of the driveway making it necessary to turnaround to safely exit the driveway. At the 6' side setback the area required to turn a vehicle around is severely diminished.

2. This unnecessary hardship is the result of the irregular shape and size of the lot, exacerbated by the topography along the east and rear property boundaries. The jog in the westerly lot line creates two "rear lot lines" requiring a 10' rear setback for accessory structures and 25' rear setbacks for primary structures which burdens the lot with less usable space for improvements. Steep slopes on the easterly lot line and the rear portion render those area unusable for egress and parking. The narrow common driveway makes it unusable for parking, vehicle must be stored in the parking area behind the home. The steep grade of the driveway makes backing out dangerous due obscured line of site of oncoming vehicles and pedestrians. The neighboring driveway often has multiple vehicles due to it being an Airbnb which also makes ingress and egress difficult without the ability to turn our cars around behind the home.

3. The size and configuration of the lot, topography, and existing structure are of no fault of the homeowner. Contrary, the homeowner wishes to improve upon these conditions to the best of their ability and in the spirit of the UDO and the community.

4. We believe the granting of this variance is within the spirit of UDO section 2.7.3 and consistent with the community. We have the consent and support of our adjoining neighbors. It is my understanding of the reduced setback for accessory structures is to lessen the burden to the homeowner within smaller city lots and allow for accessory structures for purposes consistent with our request. Granting this variance will allow this while posing no harm or safety risk to the community and will enhance the property in a manner that is consistent with the community.


1 STORY STRUCTURE
DECK
GRAVEL DRIVE
25' SETBACK
6' SETBACK
32.4
8'x20'
10' SETBACK
PROP.
10'x20'
(200 sq ft)
15.2
6' SETBACK
6.0
3.0
1.0
10' SETBACK
STEEP SLOPE
STEEP SLOPE
25.3


Tax Administration Portal
8586-22-9973
Show search results for 8586-2...
(1 of 2)
Foley Chris
PIN 8586-22-7849-000
Owner Foley Chris
Appraisal Card Click Here
Tax Bill Click Here
Basic Tax Search Click Here
Township 0B
Calculated Acreage 2.880 Acres
Land Value $340,750
Building Value $565,800
Assessed Value $906,550
Sale Price $
Sale Date
Fire District BREVARD FIRE DEPARTMENT
Deed Book , Page
Print Layout Click Here
Zoom to
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8586-23-8210-000
8586-23-9159-000
8586-33-0039-000
8586-23-4055-000
8586-22-3915-000
8586-22-9896-000
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PROBART ST
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MACKEY LN
100ft
-82.743 35.239 Degrees

Tax Administration Portal

