



Agenda
Board of Adjustment
Tuesday, April 9, 2024
12:00 PM

Item Topic

Call to Order

1. Call to Order

Regular Agenda

1. VAR-24-01: 302 South Main Street, The Learning Center
2. VAR-24-02: 306 South Main Street, Scooters Coffee
3. Adjournment

The Town of Rolesville will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call 919-556-3506 by noon on the Friday prior to the meeting to make arrangements.



Memo

To: Board of Adjustment
From: Micheal Elabarger, Assistant Planning Director and Meredith Gruber, Planning Director
Date: April 9, 2024
Re: VAR-24-01- 302 S. Main Street / Learning Center

Application/History/Request

Applicant: Marlane Klintworth/Rolesville, LLC
Property Owner: Rolesville, LLC
Property Address: 302 South Main Street
PINs: 1759808293
Zoning: General Commercial (GC)
Acreage: 1.25 acres
Total Lots: 1

Background

The Applicant is processing Site Development Plan SDP-23-07 for the development of a Child Care Use called 'The Learning Center' on the property. During the submittal and Technical Review Committee (TRC) review by Staff, the application was found to be not in compliance with the Land Development Ordinance (LDO) regarding the property's rear lot boundary and the Perimeter Bufferyard requirements of the LDO. Rather than redesign the development on the property so as to find a means to comply, the Applicant has chosen to pursue this Variance request.

Request

The subject property is zoned the General Commercial (GC) Zoning district. The adjacent property (5219 Old Rogers Road, PIN 1759806216) to the rear of the property (where subject property has a 73' long rear property line against this property) is zoned the Residential Low (RL) Zoning District.

Per LDO Section 6.2.2.1.G/Table 6.2.2.2, a GC zoned property adjacent a RL zoned property must install a Type 3 Perimeter Bufferyard, which is described as being 25' in depth, with prescribed trees and shrubs planted within this space, and then a 6' Fence on the interior of the bufferyard space. See graphic clip from the LDO of this Bufferyard further in this Memo.

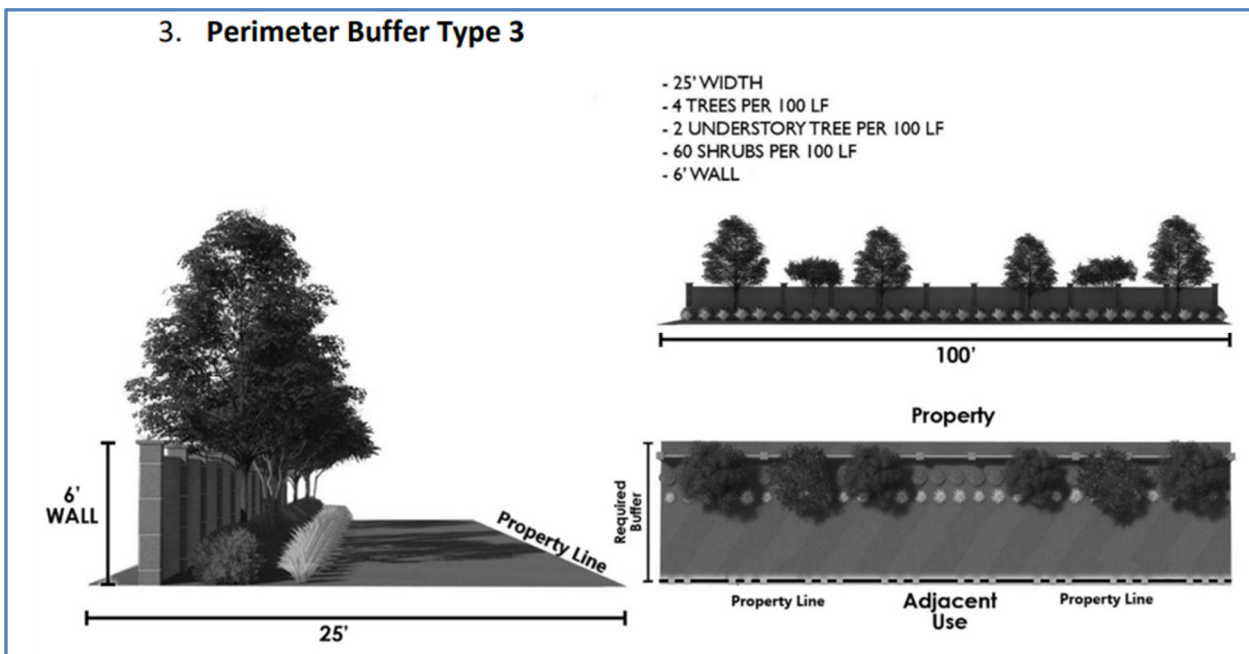
The Applicant is requesting one (1) Variance from the LDO as described below:

1. LDO Section 6.2.2.1.G/Table 6.2.2.2 – reduce the depth of the required Type 3 Perimeter Bufferyard from 25' to 7', thus an 18' Variance Request. Per Attachment 3, this request would

extend the entire 73' rear property line; Attachment 2 Justification statement #4 says "The variance is only for the portion of the landscape buffer where the SCM is located and the sanitary sewer easement lies."

Attachment 2, the Applicant's Statement of Justification #4 states that "The plantings required for a Type 3 Landscape Buffer will be planted as stated in Section 6.2.2.1.E./Table 6.2.2.1" and that "A fence will also be provided as required for the Type 3 Buffer."

Thus, the required plantings for a 25' deep Bufferyard will be installed within a 7' deep Bufferyard space, and the required 6' fence will be located at the appropriate spot within what would otherwise be a 25' Bufferyard space measured from the rear property line (see LDO 6.2.2.1.F.3. clip below), and these two (2) elements of the Bufferyard are not requested for Variance.



Notification

Staff attests that letters were mailed to adjacent property owners, and posted notice has been carried out in accordance with Appendix A Section 3.3 of the LDO and NC G.S. § 160D-406, Quasi-judicial procedure.

Review Standards

As per LDO Appendix A Section 3.3 and North Carolina General Statutes Chapter 160D-705 (d), Variances, when unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the Board of Adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

1. Unnecessary hardship would result from the strict application of the regulation. It is not 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.

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

Potential Motions

Motion for approval: Involving case VAR-24-01, I make a motion to Approve the Variance request as presented...

Motion for approval: Involving case VAR-24-01, I make a motion to Approve the Variance request with modifications in consideration of information presented at the evidentiary hearing...

Motion for denial: Involving case VAR-24-01, I make a motion to Deny the Variance request because...

Attachments

1. Application
2. Applicants' Statement of Justification
3. Variance Request Exhibit
4. Variance Request Landscape Plan exhibit
5. Public Notification Letter / Photo of Sign posting

(LDO) Variance Application

Town of Rolesville Planning Department | PO Box 250 | Rolesville, NC 27571 | 919-554-6517 | planning@rolesville.nc.gov

Planning Department Home Page: [Official Town Webpage](#)

APPLICATION INFORMATION:	
Site Address(es): 302 South Main Street	Site Area (Acres/SF): 1.25 AC/ 54,450
Legal Description (BM or Bk/Pg): Bk 16870, Pg 545	Location: <input checked="" type="checkbox"/> Town Limits <input type="checkbox"/> ETJ
Existing Zoning District(s): GC	Zoning Overlay(s):
Property PIN #(s): 1759808293	Current Use(s): Vacant
Previous Town Application Number(s): SDP-23-07	
Brief Variance Description: Request for a reduction in the rear landscape buffer width. Type 3 buffer requires width of 25' per code section 6.2.2.1 Perimeter Buffers, sub-section E, Table 6.2.2.1.	

APPLICATION MINIMUM REQUIREMENTS / GUIDANCE:	
<input checked="" type="checkbox"/> Completed application and checklist below.	<input checked="" type="checkbox"/> Completed Property Owner's Consent Form . If multiple owners, each owner must complete their own form.
<input checked="" type="checkbox"/> Statement of Justification – see LDO Appendix A, part 3.3.B.2 and 3, and below. Provide on separate sheet. Each standard or section of the LDO sought to be modified/varied should be clearly stated as a separate request; multiple standards/sections may be in one Variance application, but clearly separate from one another, as the BOA may approve or deny all, some, or none of the multiple requests.	
<input checked="" type="checkbox"/> A Graphic Drawing that depicts the situation causing the Variance Request, and the resultant requested Variance. Ex: If request is to reduce a Building Setback dimension, graphic should show the required setback dimension, the hardship making compliance unachievable, the building in question, and the resultant reduced setback dimension.	
<input type="checkbox"/> NOTE: Upon application receipt and completeness check, an INVOICE for the application fee will be created and issued via email to Applicant.	
<input type="checkbox"/> NOTE: The Board of Adjustment will conduct an Evidentiary Quasi-judicial hearing per State Statute 160D-705(d). Representation by an Attorney is strongly suggested.	
<input type="checkbox"/> Any additional supporting documents that may have been requested by Staff may have been provided.	

Contact Information

Property Owner(s) Rolesville, LLC

Address 11016 Rushmore Drive, Suite 160 City/State/Zip Charlotte, NC 28277-4450

Phone 919-868-4472 Email mvkcommercial@gmail.com

Applicant / Agent (Business & Contact Name) Marlane Klintworth (Rolesville, LLC)

Address 11509 John Allen Road City/State/Zip Raleigh, NC 27614

Phone 919-868-4472 Email mvkcommercial@gmail.com

Engineer/Architect (Business & Contact Name) Chris Bostic (Kimley-Horn & Associates, Inc.)

Phone 919-653-2927 Email chris.bostic@kimley-horn.com

Attorney/Agent (Business & Contact Name) Doug Baumgartner

Phone 704-542-7773 Email doug.baumgartner@yorkdevelopmentgroup.com

Preferred Point of Contact: Owner Applicant Engineer/Architect Registered Attorney/Agent

Statement of Justification

Provide a **separate document** titled "Statement of Justification" (including Date) that addresses each/all of the following:

1. Unnecessary hardship would result from the strict application of Land Development Ordinance Section(s) ___<list all separately>__ .
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 Land Development Ordinance], such that public safety is secured, and substantial justice is achieved.

Property Owner Notification List / Notification Letter Requirement

Per State Statute 160D-406(b) - *Notice of Hearing*. – *Notice of evidentiary hearings conducted pursuant to this Chapter shall be mailed to **the person or entity whose appeal, application, or request is the subject of the hearing**; to the **owner of the property that is the subject of the hearing** if the owner did not initiate the hearing; to the owners of **all parcels of land abutting the parcel of land that is the subject of the hearing**; and to any other persons entitled to receive notice as provided by the local development regulation. In the absence of evidence to the contrary, the local government may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the local government shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.*

Provide on a separate sheet, list of all property owners as described above in 160D-406(b) (per Wake County tax records at the time of filing this Application).

When the Board of Adjustment (BOA) meeting is scheduled by Town Staff, the Applicant/Property Owner shall create and mail a Notification Letter (to that list) regarding the application and the date/time/location of that Quasi-Judicial Hearing before the Board of Adjustment. A Letter shall also be mailed to the Town Planning Department to demonstrate compliance with this State requirement.

ATTACHMENT 2

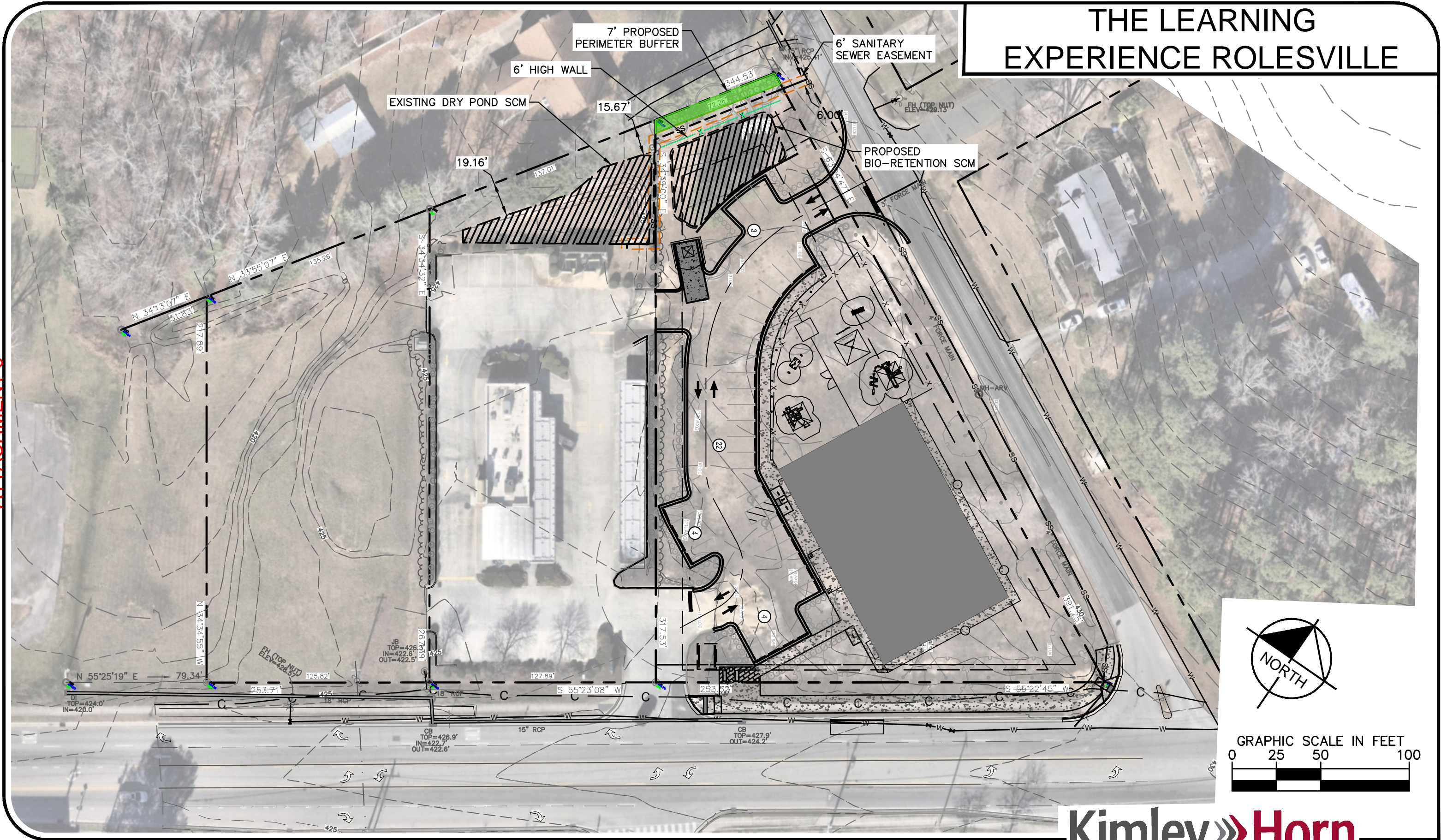
Statement of Justification 03/05/2024

A variance is requested to the minimum rear (abutting residential) landscape buffer to allow for a reduction in the width of the rear landscape buffer. The landscape buffer reduction is requested along the property line shared with Andelia Watkins, PIN: 1759806216. The property address is 302 South Main St, Rolesville, NC 27571. Town of Rolesville Development Project Number SDP-23-07.

1. LDO section 6.2.2.1 Perimeter Buffers, sub-section G, Table 6.2.2.2 states a Type 3 landscape buffer will be required for properties zoned Commercial abutting properties zoned Residential. LDO section 6.2.2.1 Perimeter Buffers, sub-section E, Table 6.2.2.1 states the requirement that Type 3 landscape buffers should have a minimum width of 25 feet. Unnecessary hardship will result from the strict enforcement of these sections of the LDO. The existing grade of the site slopes towards the section of the property which abuts the residential property. The only reasonable location to place the stormwater control measure (SCM) and maintain the current drainage pattern is at the back of the property within 25 feet of the rear property line. The site also has an existing sanitary sewer force main with a proposed 6' sewer easement along this portion of the site within the 25' landscape buffer width.
2. The topography of the site limits the location of a stormwater SCM. An SCM similar to that of the adjacent Commercially zoned property, Sonic, is proposed for this site. Property 1759807165, Sonic, has similar topography as that of the proposed The Learning Experience. The SCM of the Sonic is located within 25 feet of the rear property boundary abutting the same residential property.
3. The hardship is a result of the site topography and sanitary sewer easement within 25' of the rear property line. The only reasonable location of the SCM is at the rear of the property. Additionally, no plantings will be allowed within the 6' sanitary sewer easement.
4. The requested variance asks to reduce the required 25-foot perimeter buffer width by 18 feet to ensure the proposed SCM can be implemented to effectively treat and detain the stormwater runoff from the proposed development and keep any plantings out of the sewer easement for future maintenance. The proposed perimeter buffer width is 7' and will meet the requirements of the Type 3 Perimeter Buffer per the Town of Rolesville LDO Sec 6.2.2.1, less the width requirement. The proposed SCM will be placed in a similar location as that of the adjacent property, Sonic, abutting the same residential property. The variance is only for the portion of the landscape buffer where the proposed SCM is located and where the sanitary sewer easement lies. The plantings required for a Type 3 landscape buffer will be planted as stated in section 6.2.2.1, sub-section E, Table 6.2.2.1 of the LDO. A fence will also be provided as required for the Type 3 buffer.

THE LEARNING EXPERIENCE ROLESVILLE

ATTACHMENT 3



VARIANCE EXHIBIT

KHA PROJECT NO: 013031004
DATE: 03/05/2024

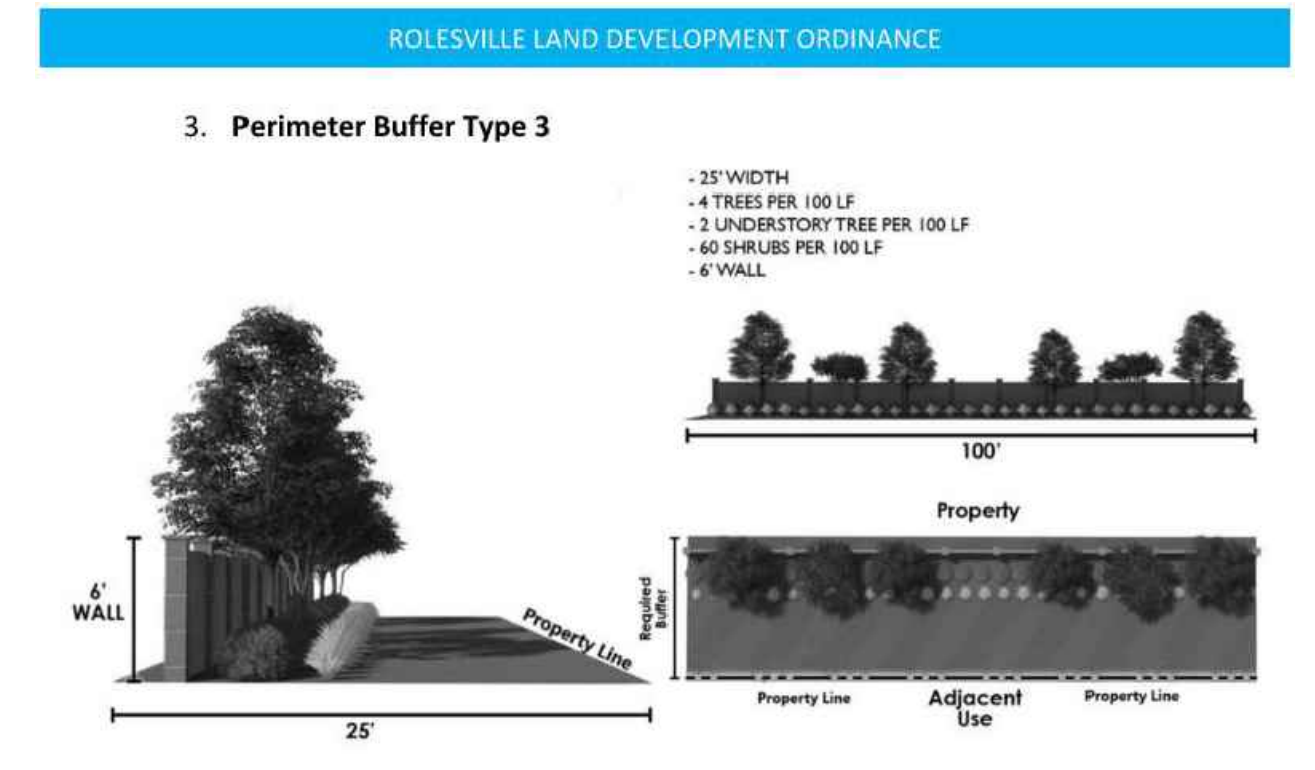
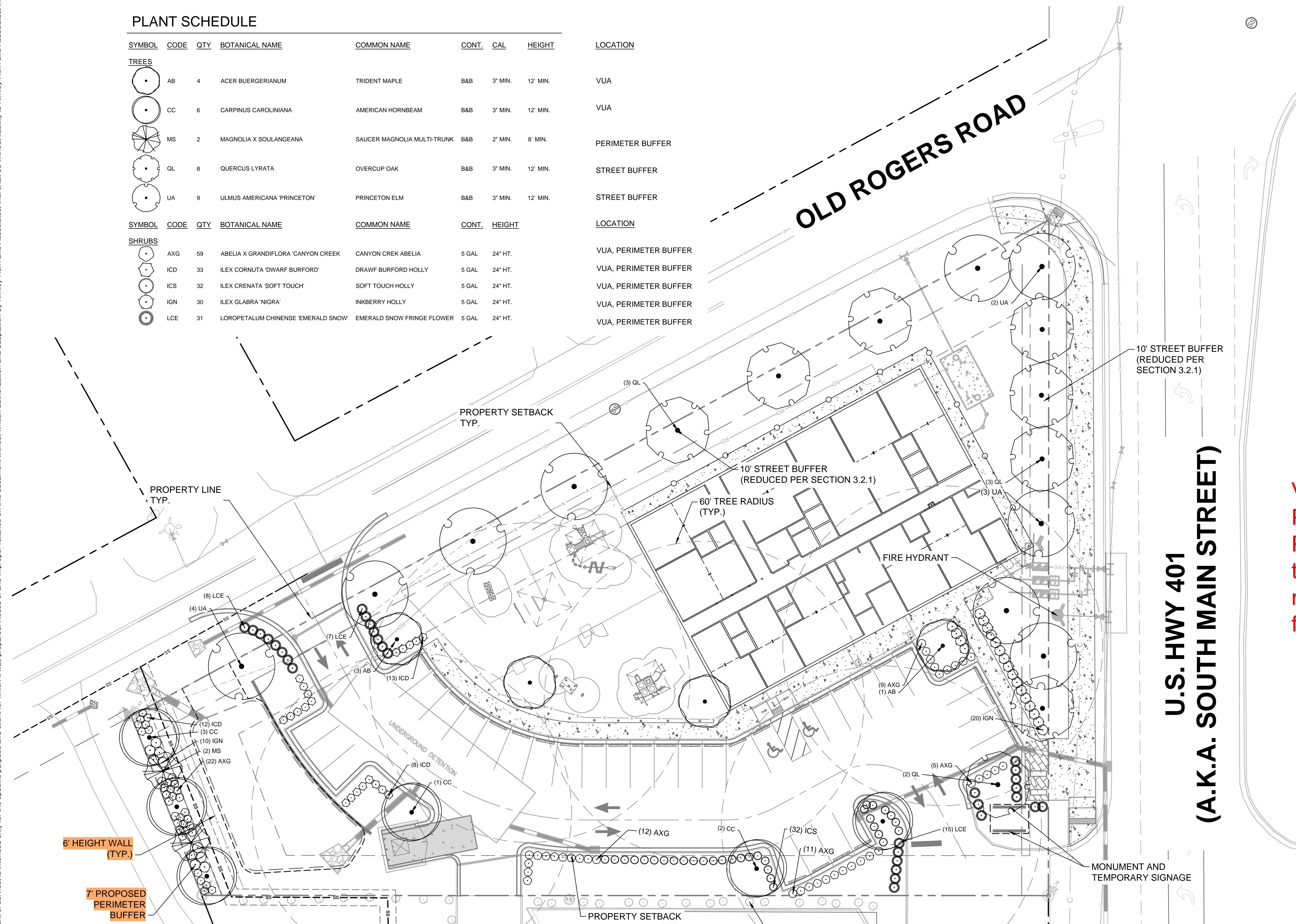
Kimley»Horn

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421 FAYETTEVILLE STREET, SUITE 600, RALEIGH, NC 27601
PHONE: 919-677-2000 FAX: 919-677-2050
WWW.KIMLEY-HORN.COM

Plotted By: Alexander, Jamal Sheet Set: THE LEARNING CENTER ROLESVILLE Layout: L1.0 LANDSCAPE PLAN March 29, 2024 01:32:54pm K:\RAL_LDEV\013031004_Rolesville_Learning_Center\PI0_CAD Files\PlanSheets\L1.0 LANDSCAPE PLAN.dwg
This document, together with the concepts and designs presented herein, is an instrument of service, as an instrument of service, is intended only for the specific purpose and client for which it was prepared. Reuse of and improper reliance on this document without written authorization and adaptation by Kimley-Horn and Associates, Inc. shall be without liability to Kimley-Horn and Associates, Inc.

PLANT SCHEDULE

SYMBOL	CODE	QTY	BOTANICAL NAME	COMMON NAME	CONT.	CAL	HEIGHT	LOCATION
TREES								
	AB	4	ACER BUERGERIANUM	TRIDENT MAPLE	B&B	3' MIN.	12' MIN.	VUA
	CC	6	CARPINUS CAROLINIANA	AMERICAN HORNBEAM	B&B	3' MIN.	12' MIN.	VUA
	MS	2	MAGNOLIA X SOULANGEANA	SAUCER MAGNOLIA MULTI-TRUNK	B&B	2' MIN.	8' MIN.	PERIMETER BUFFER
	QL	8	QUERCUS LYRATA	OVERCUP OAK	B&B	3' MIN.	12' MIN.	STREET BUFFER
	UA	9	ULMUS AMERICANA 'PRINCETON'	PRINCETON ELM	B&B	3' MIN.	12' MIN.	STREET BUFFER
SHRUBS								
	AXG	59	ABELIA X GRANDIFLORA 'CANYON CREEK'	CANYON CREEK ABELIA	5 GAL.	24" HT.		VUA, PERIMETER BUFFER
	ICD	33	ILEX CORNUTA 'DWARF BURFORD'	DRAWF BURFORD HOLLY	5 GAL.	24" HT.		VUA, PERIMETER BUFFER
	ICS	32	ILEX CRENATA 'SOFT TOUCH'	SOFT TOUCH HOLLY	5 GAL.	24" HT.		VUA, PERIMETER BUFFER
	IGN	30	ILEX GLABRA 'NIGRA'	INKBERRY HOLLY	5 GAL.	24" HT.		VUA, PERIMETER BUFFER
	LCE	31	LOROPETALUM CHINENSE 'EMERALD SNOW'	EMERALD SNOW FRINGE FLOWER	5 GAL.	24" HT.		VUA, PERIMETER BUFFER



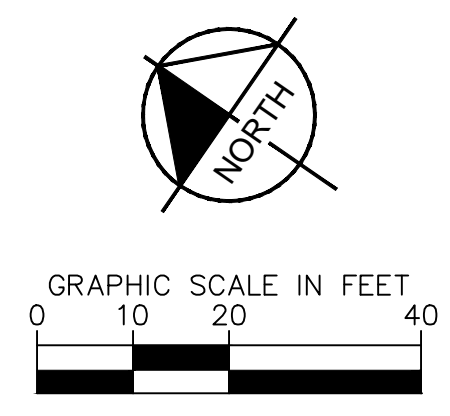
GENERAL NOTES:
1. SEE SHEET L2.0 LANDSCAPE DETAILS FOR LANDSCAPE INSTALLATION NOTES AND DETAILS

VAR-24-01 - Variance Exhibit - Proposed Variance to Rear Perimeter Bufferyard shown on the Landscape Plan from the related Site Development PLAN for the project.

LANDSCAPE REQUIREMENTS & CALCULATIONS

AREA TO BE LANDSCAPED	CODE REQUIREMENT	LOCATION	MEASUREMENT	QUANTITY REQUIRED	TOTAL QUANTITY PROVIDED	CODE SECTION
STREET BUFFER - 10' WIDE (REDUCED TO 65% OF WIDTH PER SECTION 3.2.1)	4 CANOPY TREE PER 100 LF	EAST - US HWY 401	*253 LF	((253 / 100) X 2.5) = 7 CANOPY TREES + 1 TREE (25%)	8 CANOPY TREES	SECTION 6.2.2
STREET BUFFER - 10' WIDE	4 CANOPY TREE PER 100 LF	NORTH - OLD ROGERS ROAD	*390 LF	((253 / 100) X 2.5) = 7 CANOPY TREES + 2 TREES (25%)	9 CANOPY TREES	SECTION 6.2.2
TYPE 3 BUFFER - 7' WIDE (PENDING VARIANCE)	4 CANOPY TREES, 2 UNDERSTORY TREES, AND 60 SHRUBS PER 100 LF WITH WALL AT 6' HEIGHT	WEST	*72 LF	(72 / 100) X 4 = 3 CANOPY TREES	3 CANOPY TREES	SECTION 6.2.2
		WEST	*72 LF	(72 / 100) X 2 = 2 UNDERSTORY TREES	2 UNDERSTORY TREES	SECTION 6.2.2
WEST	*72 LF	(72 / 100) X 60 = 44 SHRUBS	44 SHRUBS		SECTION 6.2.2	
PARKING LOT	1 LARGE OR 1 MEDIUM CANOPY TREE PER PARKING ISLAND	PARKING LOT	SEE PLAN	TREES LOCATED WITHIN TERMINAL PARKING ISLANDS AND EACH PARKING SPACE TO BE WITHIN 60' OF A TREE	7 CANOPY TREES	SECTION 6.2.4

*NOTE: PER CODE SECTION 6.2.4, PARKING PERIMETER PLANTINGS SHALL CONSIST OF A SINGLE CONTINUOUS ROW OF SHRUBS PLANTED NO GREATER THAN THREE (3) FEET ON-CENTER AND WITHIN FIVE (5) FEET OF THE PARKING LOT EDGE. SHRUBS USED FOR PARKING PERIMETER PLANTING SHALL BE OF A MINIMUM HEIGHT OF THIRTY (30) INCHES ABOVE GRADE WITHIN THREE YEARS OF PLANTING. SHRUBS MAY NOT EXCEED A HEIGHT OF FOUR (4) FEET AND SHALL BE PRUNED AND MAINTAINED.



SURVEY NOTE:
EXISTING TOPOGRAPHICAL INFORMATION IS BASED ON A TOPOGRAPHIC SURVEY OBTAINED ON 02/23/2023 BY CMP PROFESSIONAL LAND SURVEYORS, 333 S. WHITE STREET, WAKE FOREST, NC, 27988. PHONE: (919) 556-3148. CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFYING ALL EXISTING INFORMATION, DEPICTED OR NOT, PRIOR TO CONSTRUCTION AND REPORT POTENTIAL CONFLICTS TO OWNER AND ENGINEER.



Kimley >>> Horn

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421 FAYETTEVILLE STREET, SUITE 600, RALEIGH, NC 27601

THE LEARNING CENTER ROLESVILLE

PREPARED FOR
ROLESVILLE, LLC.

TOWN OF ROLESVILLE
NORTH CAROLINA

LANDSCAPE PLAN

SHEET NUMBER
L1.0

KHA PROJECT	013031004	DATE	09/29/2023	SCALE	AS SHOWN	DESIGNED BY	JAA	DRAWN BY	JAA	CHECKED BY	COE
<p>VAR-24-01 - Variance Exhibit - Proposed Variance to Rear Perimeter Bufferyard shown on the Landscape Plan from the related Site Development PLAN for the project.</p>											

No.	REVISIONS	DATE	BY
1	TOWN COMMENTS	03/01/2024	JAA
2	TOWN COMMENTS	01/02/2024	JAA



March 28, 2024

Regarding: Notice of Evidentiary Hearing for a Variance Request VAR-24-01 for 302 S. Main Street

Dear Property Owner,

The Town of Rolesville Board of Adjustment (BOA) will hold an evidentiary hearing on **Tuesday, April 9, 2024, at 12:00 PM**, on a Variance Application near a property that you own. Details of the application include:

Project Name: 302 South Main Street/Learning Center

Applicant: Rolesville, LLC

Location: 302 South Main Street

Acreage: 1.25

Wake County PIN: 1759808293

Variance Request: A reduction to the Perimeter Buffer Yard requirements in LDO Section 6.2.2.1. along the subject property's boundary with 5219 Old Rogers Road, PIN 1759806216.

Meeting Date and Time: **Tuesday, April 9, 2024, at or after 12:00 PM**

Meeting Location: Rolesville Town Hall, 502 Southtown Circle

Meeting Information: planning@rolesville.nc.gov or 919-554-6517

You are invited and encouraged to attend the Evidentiary Hearing; your active involvement in the development process is a valued asset to our community. Please contact the Town of Rolesville Planning Department with any questions.

Best regards,

Meredith A. Gruber, PLA, AICP
Planning Director

Town of Rolesville

PO Box 250 / Rolesville, North Carolina 27571 / RolesvilleNC.gov / 919.554.6517

Notification sign posted on property 03-28-2024

