

ZONING BOARD OF APPEALS MEETING
Stonecrest City Hall ZOOM-Virtual, 6:00 PM



January 18, 2022

AGENDA

As set forth in the Americans with Disabilities Act of 1990, the City of Stonecrest will assist citizens with special needs given notice (7 working days) to participate in any open meetings of the City of Stonecrest. Please contact the City Clerk's Office via telephone (770-224-0200).

**Meeting will be held virtually via the www.zoom.com. Citizens wishing to make public comment can submit their questions via email address Lillian.Lowe@stonecrestga.gov. Comments must be received by noon the day of the hearing in order to be read at the hearing.*

I. Call to Order

II. Roll Call

III. Approval of the Agenda

IV. Minutes: Approval of the Zoning Board Meetings Minutes Summary dated December 21, 2021.

V. Old Business:

1. Public Hearing(s):

LAND USE PETITION:	V-21-004
PETITIONER:	VARIABLE STEEL UNLIMITED, LLC
LOCATION:	2813 SOUTH STONE MOUNTAIN LITHONIA ROAD, STONECREST, GA 30058 (PARCEL ID 16 152 02 008)
CURRENT ZONING:	M (LIGHT INDUSTRIAL)
PROPOSED DEVELOPMENT:	REQUEST TO ENCROACH INTO THE SIDEYARD SETBACK

VI. New Business: None

VII. Public Comments: The Secretary, Lillian Lowe, will read public general comments submitted before the meeting not related to any particular matter already discussed, if any were received.

VIII. Adjournment



ZONING BOARD OF APPEALS MEETING SUMMARY
Stonecrest City Hall ZOOM-Virtual, 6:00 PM
December 21, 2021

As set forth in the Americans with Disabilities Act of 1990, the City of Stonecrest will assist citizens with special needs given notice (7 working days) to participate in any open meetings of the City of Stonecrest. Please contact the City Clerk's Office via telephone (770-224-0200).

**Meeting will be held virtually via www.zoom.com. Citizens wishing to make a public comment can submit their questions via email address Lillian.Lowe@stonecrestga.gov. Comments must be received by noon the day of the hearing in order to be read at the hearing.*

I. Call to Order

Chairman Erica Williams called the meeting to order at 6:05 PM.

II. Roll Call

Chairman Williams called the roll. Ms. Sonja Hicks, and Mr. Michael Armstrong were present. Ms. Louise Alexander, and Ms. Gwen Green were absent. There was a quorum.

Planning & Zoning Director Jim Summerbell and Mr. Carl L. Christie, Esq., Fincher Denmark, LLC, were present.

III. Approval of the Agenda

Chairman Williams called for a motion to Approve the Agenda. Mr. Armstrong motioned to **APPROVE**. Ms. Hicks seconded the motion. The vote was unanimously **APPROVED**.

IV. Minutes:

Chairman Williams called for a motion to Approve the Zoning Board of Appeals Meeting Minutes Summary dated September 21, 2021. Mr. Armstrong motioned to **APPROVE**. Ms. Hicks seconded the motion. The vote was unanimously **APPROVED**.

V. Old Business: None

VI. New Business:

1. Approval of the 2022 Zoning Board of Appeals Meeting Schedule

Chairman Williams called for a motion. Mr. Armstrong motioned to **APPROVE the 2022 Zoning Board of Appeals Meeting Schedule**. Ms. Hicks seconded the motion. The vote was unanimously **APPROVED**.

2. **Public Hearing(s):**

LAND USE PETITION:	V-21-004
PETITIONER:	Variable Steel Unlimited, LLC
LOCATION:	2813 South Stone Mountain Lithonia Rd, Stonecrest, GA 30038
CURRENT ZONING:	M (Light Industrial)

PROPOSED DEVELOPMENT: Request to encroach into the side-yard setback.

Planning & Zoning Director Jim Summerbell presented **PETITION V-21-004**. On December 20, 2021, Mr. Summerbell, the City Engineer and Senior Planner walked on the site with the applicant and their neighbors. Together, the group came up with the following recommended conditions for the case, if the Board agrees to grant it:

- (1) That the construction of the 294 square feet addition to the principal building conforms to the site plan dated December 20, 2021, for Variance application **V-21-004**, by the Variable Design Group.
- (2) That gutters and downspouts be installed on the new building addition, and that the existing gutters and downspouts on the south side of the building be repaired and improved, to ensure that water runoff from the roof is directed down to the drainage ditch system along South Stone Mountain Lithonia Road, and not directly onto neighboring property.
- (3) That the fence along the south side of the building be replaced and improved, to screen the conveyor system associated with the plasma cutter from view.
- (4) That stormwater runoff from the construction will conform to the requirements of state and local stormwater regulations before issuance of a certificate of occupancy.

The Staff recommended **APPROVAL** of **PETITION V-21-004** to be subject to the above four mentioned conditions.

The applicant's representative, Attorney Bernard Knight, spoke on behalf of Variable Steel Unlimited, LLC and showed a PowerPoint (**ATTACHMENT I**). Attorney Knight introduced Mr. Jesse Tillman and his Team that works at the metal fabrication business. They get in steel beams, and they do things with them, but it is all indoors and none of it involves emissions. There is no requirement for an EPD permit because this business has no emissions, and work is done inside a building. It is classified as Light Industrial. There is a survey. The topographic lines meaning is that you got a steep slope. If it is a relatively flat area, then you see the topographic lines, 5 feet distance from each other.

There are strings of businesses up and down South Stone Mountain Lithonia Road, Randall Road, and the gravel road. Several businesses to the north and south have water and stormwater problems, and stormwater drainage problems. It has nothing to do with any of the businesses there. It is an oversight, a failure of the county. Design an adequate stormwater drainage system for the area to begin with and then maintain it. Whatever ditch system they have out there, and the problem that you get is, you get hit by stormwater drainage from roads.

The staff has been out to the site and inspected it a couple of times, including yesterday (December 20, 2021). See the letter from Mr. Tom Udell, the city engineer addressed the drainage issues. This particular new installation that we are proposing, a plasma cutter, and the dust collector figures, is not going to add to the stormwater problems, and probably make things a little better by improving the gutter system on the existing building.

Attorney Knight continued to speak on the details depicted on that map and the existing main building which has been there forever. Mr. Tillman did not build it, so it is not on him. The problem is the dark slanting line is actually the wall or the building line. The dashed line that you see is actually where the 20-foot line, between the boundary, and that dashed line is the existing building that is already encroaching into the 20-foot setback area, just a couple of inches. But when we talk to

you about encroachment variants, we are asking for a maximum of 19 feet at 8 inches that already has built into it. The additional couple of inches of the existing building, which otherwise is Grandfather.

Attorney Knight stated that at the CSX railroad switchyard area, there is a lot of heavy industry around the switchyards to make a lot of noise. Our installation is not going to add to the noise situation, The property borders Mr. Tillman's property, and right to the north is a Tire Company. The Allen property is to the South at 2825 South Stone Mountain Lithonia Road. There are two separate buildings on that property and a fence is on the boundary line between the two properties. Even if there were going to be problems with aesthetics or problems with noise from the new plasma cutter installation, they are really remarkable devices. They do not use fossil fuels, there are no toxic emissions from them. Electrically charged super-heated gases are fashioned into a torch flame, which in turn actually can cut very intricate patterns and designs into a steel beam. It can do a whole lot of things with great precision. Sometimes the plasma cutter is referred to as a robot, it does it without having a human being there.

Attorney Knight continued speaking on the aerial view, the Allen's building, the south side and the lime green area, the existing main building, and the proposed addition to the building.

After the 10 minutes allotted, the Secretary called time, and Attorney Knight asked for more minutes to finish the presentation.

Chairman Williams granted an additional minute to Attorney Knight.

Attorney Knight continued speaking about the plasma cutter and stated that it will not harm the Allen property or other nearby businesses or residence. The gas is not toxic emissions. Much lower than any of the surrounding it uses. The noise levels will be consistent with near uses. The appearance will be consistent with existing stormwater; drainage issues are common to the area; the plasma cutter will not cause new water from the roof of the addition; and will be piped to the south. The new fence will be installed on the south side of the of the main building and is the only feasible location.

The Chairman asked for those in support to speak. There were none.

The Chairman asked for those in opposition to speak. There were two:

Spoke-in-person: Mr. William and Mrs. Faith Allen spoke in opposition. Mrs. Allen asked to delay the hearing until next month, in order to have more time to investigate and get answers. The following reasons for a delay are:

- 1) We were only given a notice 13 days ago of this hearing. Jim Summerbell, Keedra Jackson, Mr. Bernie Knight, and Mr. Tillman met us out there yesterday.
- 2) We have more questions than we have answers now, since we met them.
- 3) We are concerned about flooding. In addition, Mr. Tillman added to his building in 2019, and it caused our tenants to leave and cost us a lot of money to repair. They say it is not going to cause any water, but we did have flooding from his last edition, which he has since removed, and we have not had any problems since.
- 4) We need to check on that. Want to get somebody out there that knows what they are doing to look at his plans and give us advice. We would like an outside opinion.
- 5) Additionally, when we were looking at this before and I know Mr. Wheeler is no longer with y'all. It is supposed to be zoned M-2 and we brought that up yesterday.
- 6) We feel like this is a metal fabrication company and Stonecrest Municipal Code even states that metal fabrication is an M-2 zoning instead of a light industrial and heavy industrial.
- 7) There is another thing we would like to get check on is the zoning with somebody else, to see what they think. You know Chris Wheeler is no longer at Stonecrest. We would like to have an opinion on the zoning.

- 8) If it is light industrial and heavy industrial, I mean speak now or forever hold your peace. Is the covered conflict in the plans that they submitted? It shows that concrete is covered. We asked Mr. Knight about it, and he said it was a play on words that it means that it was reinforced. We did some research on that, like he told us to do, and that is not what it means. When the cut concrete was covered, we got flooded. We want to make sure that the new plans are submitted, do not show that concrete covered. Because that is what flooded us.

The Chairman asked if there were anyone else in opposition? Attorney Knight raised his hand.

The Chairman asked where are we on the time? I know that Attorney Knight does not have any time left, but there may be some time left between support and opposition. The Secretary replied, "We have 6:26 minutes left for opposition.

The Chairman turned the floor over to Attorney Knight and/or Mr. Summerbell to address those questions.

Attorney Knight stated that this is an area wide problem. It is not just caused by anything on Variable Steel's property. Variable Steel is doing an addition to a building that will not increase the amount of impervious service. Whatever runoff is hitting that concrete now, will be the same amount from the future, and that is partly just why we put a condition there about the gutter and the downspouts. Making sure that anything coming off that roof, is going down toward the road. Hopefully, in the coming years, the county and city will improve the ditch system on that road and properly maintain it as we go forward. We think that will be adequate and from the drainage standpoint, this will not exacerbate the problem.

Attorney Knight stated that Mr. Wheeler made a mistake when he initially thought that this sort of business was heavy industrial; he was retained by Mr. Tillman to represent him after the application was withdrawn; and had a long discussion with Mr. Wheeler. The key thing is approval of this variance and what was offered is conditioned on substantial compliance with the site plan.

The Chairman asked if there were any more comments?

With 3:20 minutes remaining, Mrs. Allen requested to speak. The Chairman turned the floor over to Mrs. Allen.

Spoke-in-person: Mrs. Allen stated, "I want to know about the zoning on this property...a metal fabricator is M-2 industrial...is not zoned heavy industrial..."

The Chairman asked for a motion to close the public hearing before going into discussion. Mr. Armstrong motioned to close the public hearing. Ms. Hicks seconded the motion. The vote was unanimously **APPROVED**.

The Chairman asked for a motion.

Ms. Hicks motioned to **DEFER PETITION V-21-004 UNTIL NEXT MONTH (JANUARY 18, 2022) TO GIVE THE OPPOSING PARTY MORE TIME TO GET THE QUESTIONS ANSWERED**. Mr. Armstrong seconded the motion. The vote was 02-01 and **FAILED**. Mr. Armstrong and Ms. Hicks voted **YEA TO THE DEFFERAL**. Chairman Williams voted **NAY TO THE DEFERRAL**. The vote was not unanimous.

Chairman Williams made a motion to reconsider the motion to **APPROVE** the applicant's application. There was no motion by Mr. Armstrong and Ms. Hicks. The motion to reconsider the motion to **APPROVE** the applicant's application **FAILED AND WAS TABLED UNTIL JANUARY 18, 2022**.

VII. Public Comments: The Secretary, Lillian Lowe, did not receive any public general comments to be read.

VIII. Adjournment

The vote was carried unanimously to adjourn the meeting at 7:09 PM. Mr. Armstrong motioned to adjourn the meeting. Ms. Hicks seconded the motion.

Visit the following link to view the meeting: [12 21 21 Zoning Board of Appeals 6:00pm -YouTube](#)

APPROVED:

Chairman Date

ATTEST:

Secretary Date



ZONING BOARD OF APPEALS MEETING

December 21, 2021

ATTACHMENT I V-21-004

**Presentation In Support Of
Variable Steel Unlimited, LLC's Application**

by

Attorney Bernard Knight

PRESENTATION IN SUPPORT OF
VARIABLE STEEL UNLIMITED LLC'S
APPLICATION V-21-004 FOR SIDE
YARD SETBACK VARIANCE FOR PLASMA
CUTTERBUILDING ADDITION
DECEMBER 21, 2021

1

1

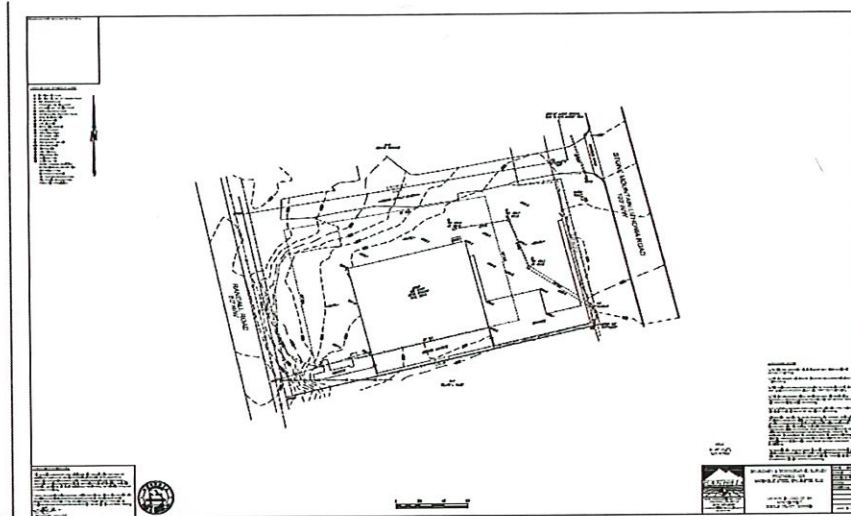
VARIABLE STEEL TEAM



2

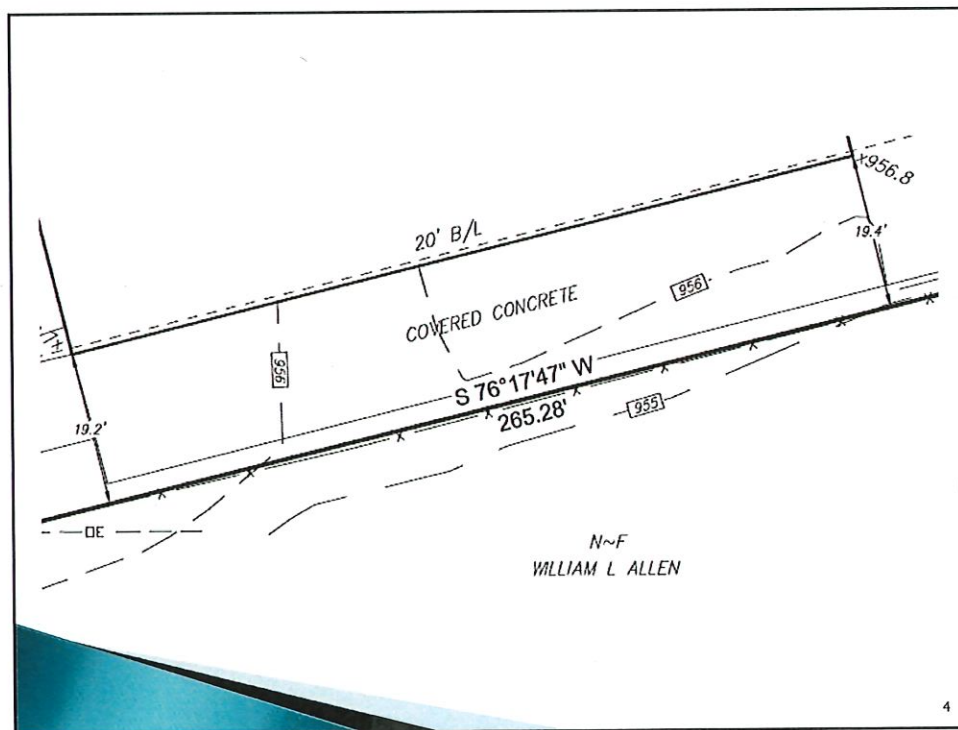
2

Plat of Survey August 20, 2019



3

3



4

4

VIEW FROM VARIABLE STEEL: CSX SWITCHYARD



5

5

2196 RANDALL ROAD, ON NORTH SIDE OF VARIABLE STEEL



6

6

VIEW FROM
VARIABLE STEEL
OF ALLEN
PROPERTY 2825
SSML RD



7

7

VIEW FROM SSML ROAD OF ALLEN 2825
SSML RD & VARIABLE STEEL BUILDINGS



8

8

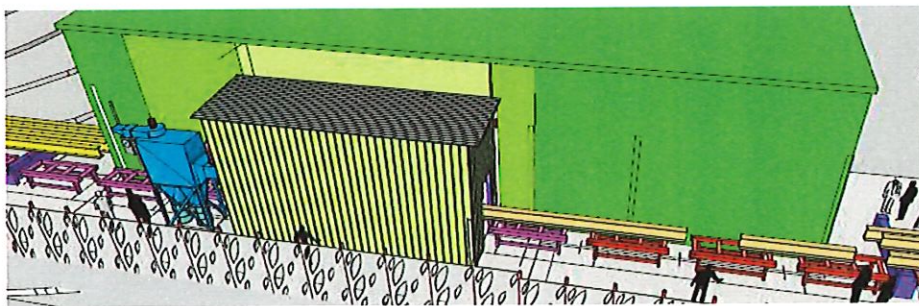
**VIEW OF ALLEN
PROPERTY FROM
VARIABLE STEEL**



9

9

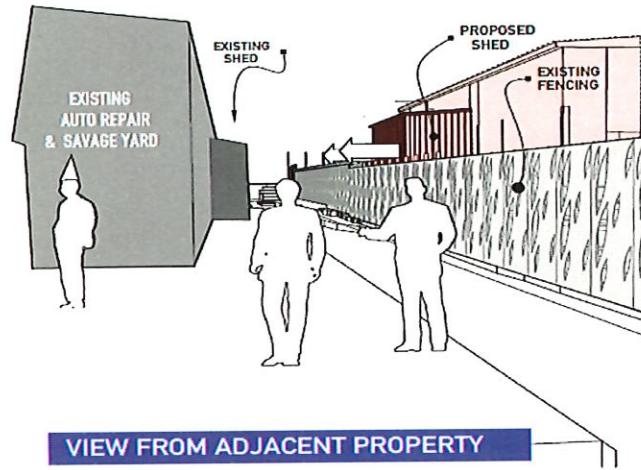
**MODEL OF FUTURE PLASMA CUTTER
ATTACHED SHED, AIR CLEANER, AND ROLLERS**



10

10

MODEL OF VIEW FROM ALLEN PROPERTY,
LOOKING AT ALLEN & VARIABLE STEEL BLDGS.



11

11



12

12

VARIABLE STEEL IS A LIGHT INDUSTRIAL BUSINESS.

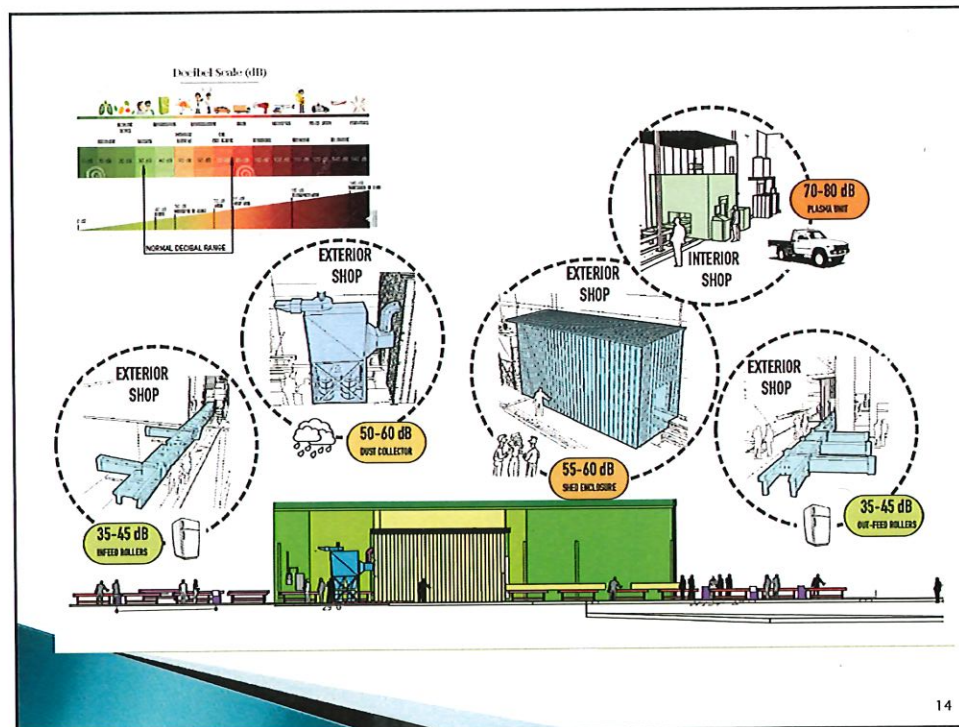
THE PLASMA CUTTER WILL NOT HARM THE ALLEN PROPERTY, OTHER NEARBY BUSINESSES, OR RESIDENTS.

PLASMA CUTTER DOES NOT BURN GASES.

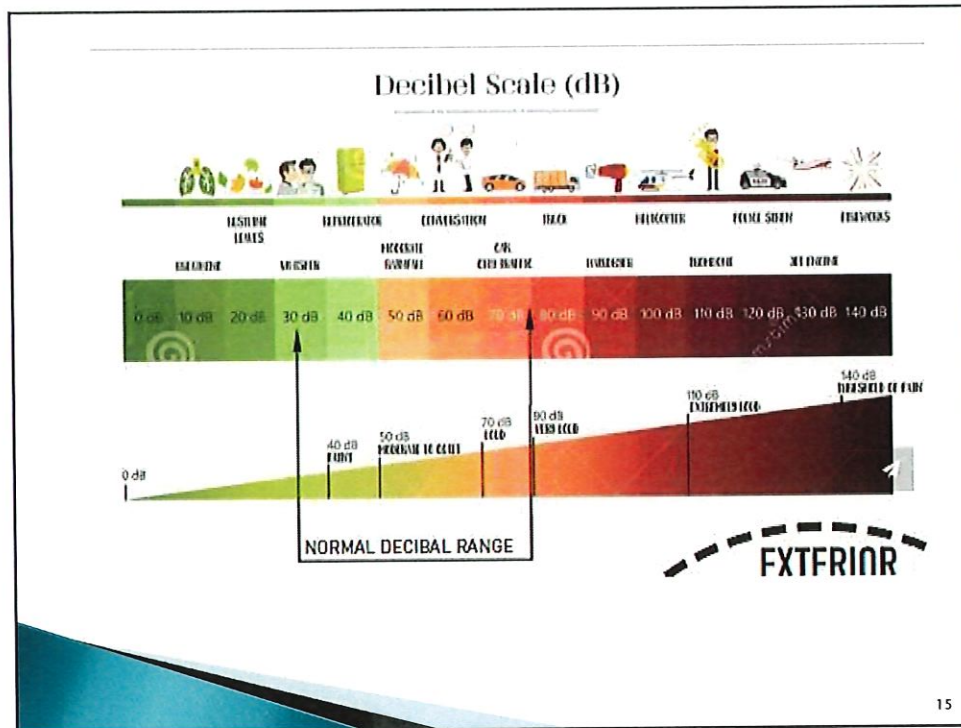
THERE WILL BE NO TOXIC EMISSIONS.

13

13



14



15

NOISE LEVELS WILL BE CONSISTENT WITH NEARBY USES

NEAREST WALL OF ALLEN BUILDING HAS NO WINDOWS OR DOORS.

APPEARANCE OF NEW ADDITION & EQUIPMENT WILL BE CONSISTENT WITH OR BETTER THAN NEIGHBORING PROPERTIES.

16

EXISTING STORM WATER DRAINAGE
ISSUES ARE COMMON TO THE AREA.

CITY STAFF HAS DETERMINED THAT
THE PLASMA CUTTER
WILL NOT CAUSE NEW
STORM WATER PROBLEMS FOR
THE ALLEN PROPERTY.

17

17

WATER FROM ROOF OF
ADDITION WILL BE PIPED TO
SOUTH STONE MTN. LITH. RD.

VARIABLE STEEL WILL INSTALL
A NEW FENCE
WITH CLOTH PANELS
ALONG THE BOUNDARY LINE.

18

18

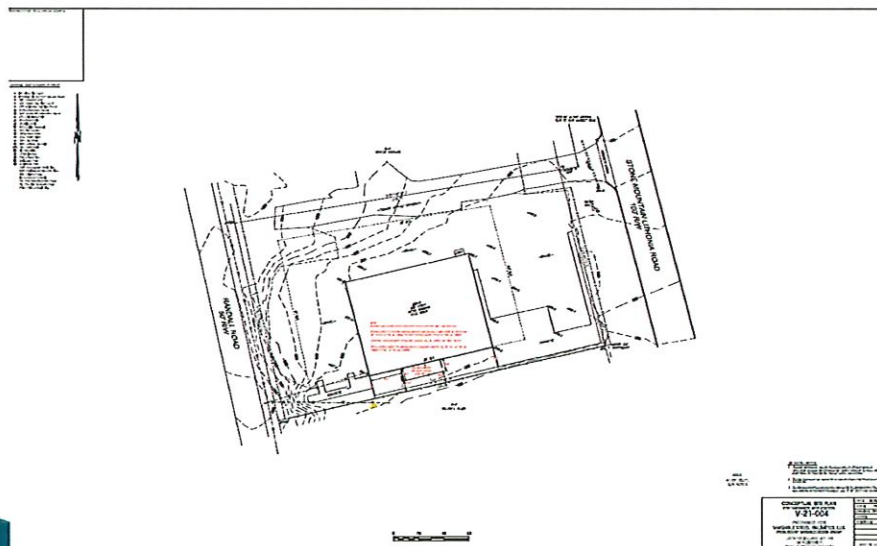
SOUTH SIDE OF EXISTING
VARIABLE STEEL MAIN BUILDING
IS ONLY FEASIBLE LOCATION
FOR PLASMA CUTTER AND
ASSOCIATED EQUIPMENT.

PLASMA CUTTER IS NEEDED
TO KEEP VARIABLE STEEL
COMPETITIVE.

19

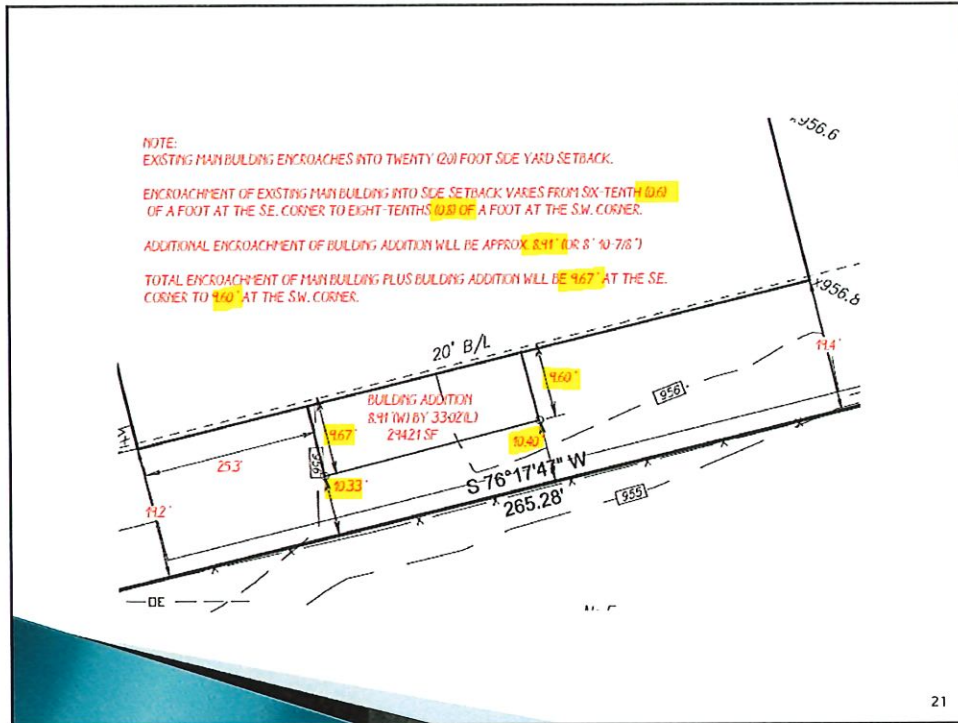
19

VARIABLE STEEL CONCEPTUAL SITE PLAN



20

20



21

ADDENDUM

DENIAL OF THE REQUESTED VARIANCE WOULD BE ARBITRARY, UNREASONABLE, IRRATIONAL AND CAPRICIOUS, AND WOULD DENY APPLICANT DUE PROCESS AND EQUAL PROTECTION UNDER THE UNITED STATES AND GEORGIA CONSTITUTIONS, BOTH ON THEIR FACES AND AS APPLIED. FURTHER, DENIAL OF THE REQUESTED VARIANCE WOULD CONSTITUTE A TAKING OF APPLICANT'S PROPERTY WITHOUT COMPENSATION. MOREOVER, DENIAL OF THE APPLICATION WOULD BE UNSUPPORTED BY ANY EVIDENCE, AND WOULD BE BASED ON MATERIAL ERRORS OF LAW UNDER THE ZONING CODE OF THE CITY OF STONECREST.

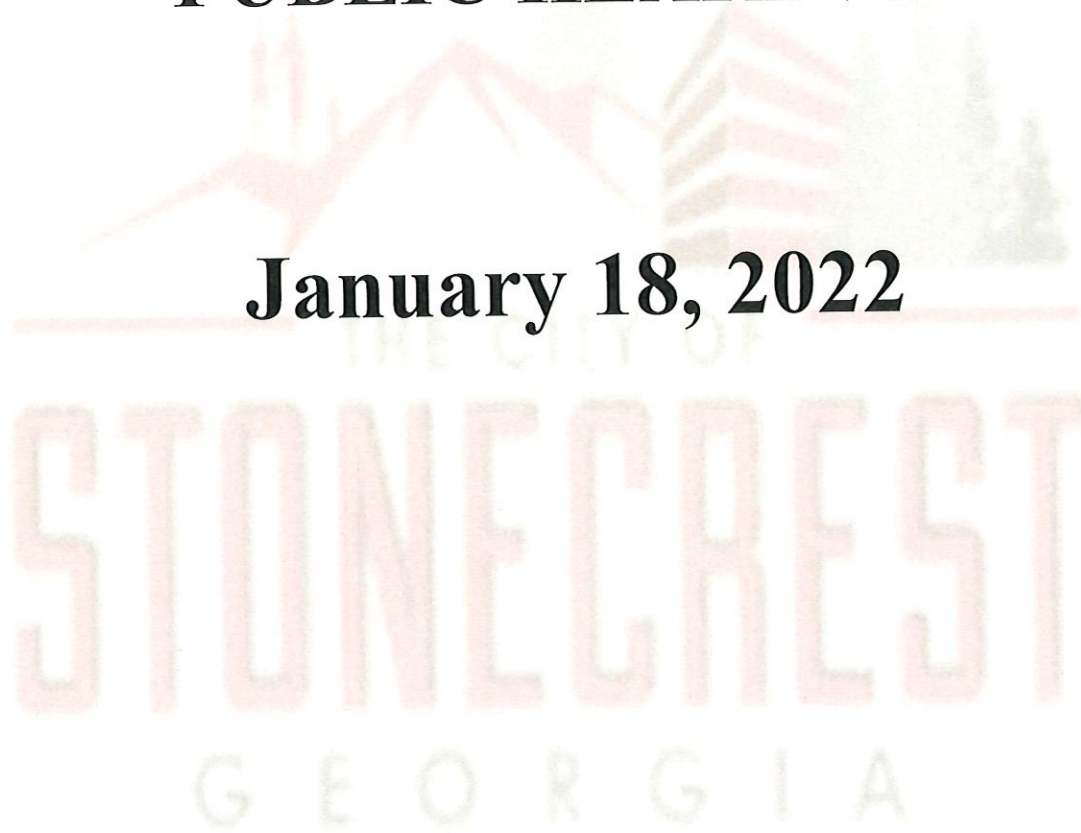
22

22

ZONING BOARD OF APPEALS

PUBLIC HEARING

January 18, 2022



Staff Report
V-21-004



BOARD OF ZONING APPEALS STAFF REPORT

Board of Zoning Appeals Public Hearing: January 18, 2022

CASE NUMBER:	V-21-004
PROPERTY LOCATION:	2813 South Stone Mountain Lithonia Road (Parcel 16 135 02 008
CURRENT ZONING:	Light Industrial (M)
PARCEL SIZE:	Approximately 1 acre
PROPERTY OWNER(S):	Variable Steel Unlimited LLC
STAFF RECOMMENDATION:	Approval
VARIANCE REQUEST:	Encroachment into the sideyard setback

Current Use

Currently, the subject property is an active metal fabrication business, Variable Steel, which is classified as a light industrial use. Light industrial uses are distinguished in the Stonecrest Zoning Ordinance from heavy industrial uses by the location of operations and degree of impact that such a use has on surrounding properties from noise, smoke, emissions, etc. . By definition, light industrial operations, such as Variable Steel, are all “conducted wholly within a building or other enclosed structure, and generate no measurable dust, vibrations, odor, glare or emissions beyond the subject property.” The primary structure on the property is an 8,300 square foot (sf) metal building. Note that a recently approved text amendment to the Zoning Ordinance, TMOD-21-010, adopted by the City Council on November 22, 2021, supports this interpretation, as metal fabrication that does not require an EPD permit is allowed in the M – Light Industrial zoning district.

Zoning and case history

The subject property and all surrounding properties are zoned Light Industrial (M), and no conditions of zoning have been placed on it.

The site was the location of a previous variance case V-20-001, heard by the Zoning Board of Appeals (ZBA) on February 18, 2020. At that time Variable Steel was requesting to reduce the front and side yard setback for the construction of an attached awning, which was already in the process of being constructed. The applicant requested a deferral at the hearing, after staff recommended denial of the request, and the deferral was granted by the ZBA. Following the hearing the awning was removed, and case was never brought back to the ZBA.

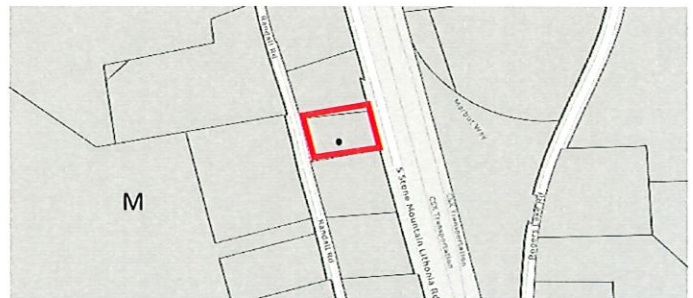


Figure 1: V-21-004 Zoning Map, the site and all surrounding property is zoned Light Industrial (M)



BOARD OF ZONING APPEALS STAFF REPORT

This request is different and reduced in scale from that original variance request heard in 2020. While the old awning had encroached 19' 2" into the 20' sideyard setback and 10' into the 50' front yard setback, this request is for only a 9' 8" encroachment into the 20' sideyard setback.

This case was previously heard by the Zoning Board of Appeals on December 21, 2021. The Board tabled taking action on the case until their next meeting. The minutes of the December 21, 2021 meeting are in the agenda packet for this January 18, 2022 meeting.

Existing Conditions

The property slopes down to the southeast corner, and has been terraced to provide a relatively level, though uneven, work site. There are only a few trees along the periphery of the site and there are no water features. Most of the yard has gravel surfacing, and there is a concrete pad that runs along the southern edge of the property.

Access to the site is by a shared driveway off of South Stone Mountain Road on the east side of the property but the parcel also has street frontage at the rear along Randall Road. The primary structure on the site is a 8,300 sf fabricated metal building, similar to the other buildings on neighboring properties.

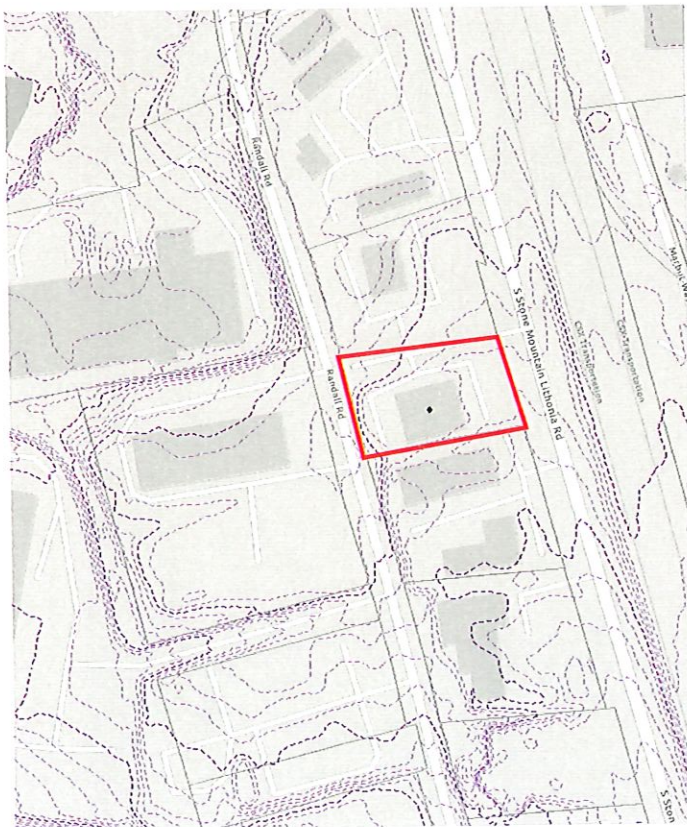


Figure 2: V-21-004 Topography Map

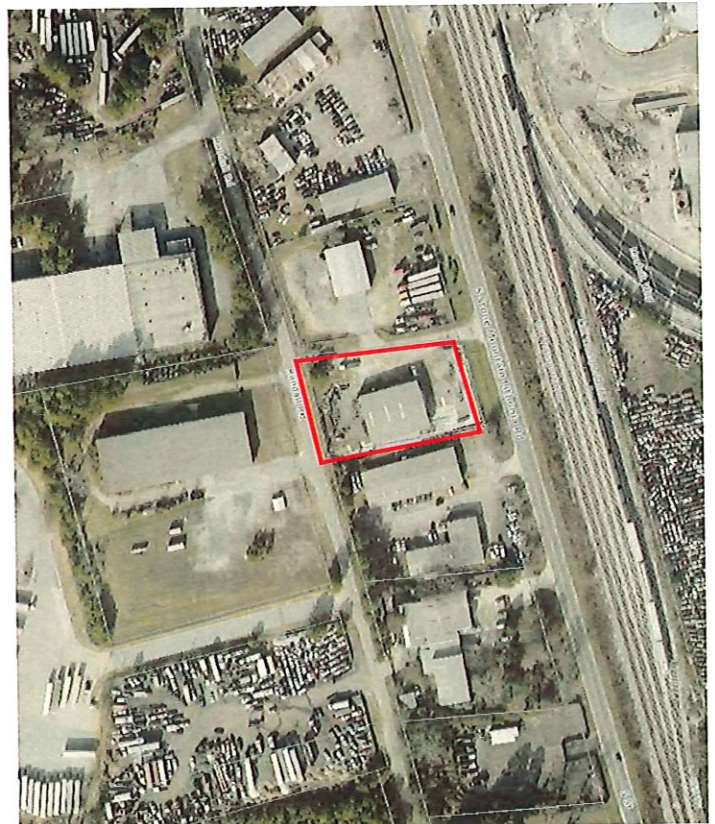


Figure 3: V-21-004 Aerial Map



BOARD OF ZONING APPEALS STAFF REPORT

The character of the entire area surrounding the site is active industrial, with a wide variety of both light and heavy industrial uses including a CSX switch yard, a rock quarry, and many auto related uses. Ambient noise levels in the area are high.

One of the major issues facing properties all along this portion of South Stone Mountain Lithonia Road is water runoff and flooding. According to the City Engineer who has inspected the site, the primary cause of the flooding is a failure by the County to maintain the drainage ditches along the roadway. Though the ditches are in city rights-of-way, the city contracts with the county to maintain the roads. The need to improve the road drainage system has been identified and the county is aware of it.



Figure 4: Ditch in front of site along S Stone Mountain Lithonia Rd

Complaints of water runoff from the Variable Steel site have been made by its neighbors to the south at 2825 South Stone Mountain Lithonia Road. The issue was more of concern before the building awning on the south side of the property was removed a year ago following the 2020 variance hearing, as the roof of the awning was right on the shared property line. It also has been noted that Variable Steel in turn experiences water runoff from its up hill neighbor to the north at 2196 Randall Road. It is the opinion of the City Engineer that this is an area wide issue, that requires an area wide effort to address. Again both the City and the County are aware of it, and are seeking ways to mitigate it, see memo from the City Engineer in the attachments.

Variance Request

The applicant is seeking a variance of nine feet eight inches into the twenty foot interior side yard setback on the south side of the existing building to construct a shed to allow the addition of a plasma cutter. Plasma cutting uses supercharged, micro screen of gas, funneled through a plasma torch to heat, melt and cut electrically conductive material, such as steel, into custom shapes and designs. According the letter of intent, this plasma cutter is necessary for the applicant to stay competitive with other metal fabricating businesses.

The plasma cutter will be enclosed within two nested structures attached to the existing building, and roller conveyors will convey steel beams into and out of the plasma cutter enclosures, from the rear of the property to the front. A fence will also be constructed along the southside of the property screen the rollers. Figure 1 on the following page shows a sketch of what the addition will look like. A concept plan for the site can be found in Figure 8.



BOARD OF ZONING APPEALS STAFF REPORT

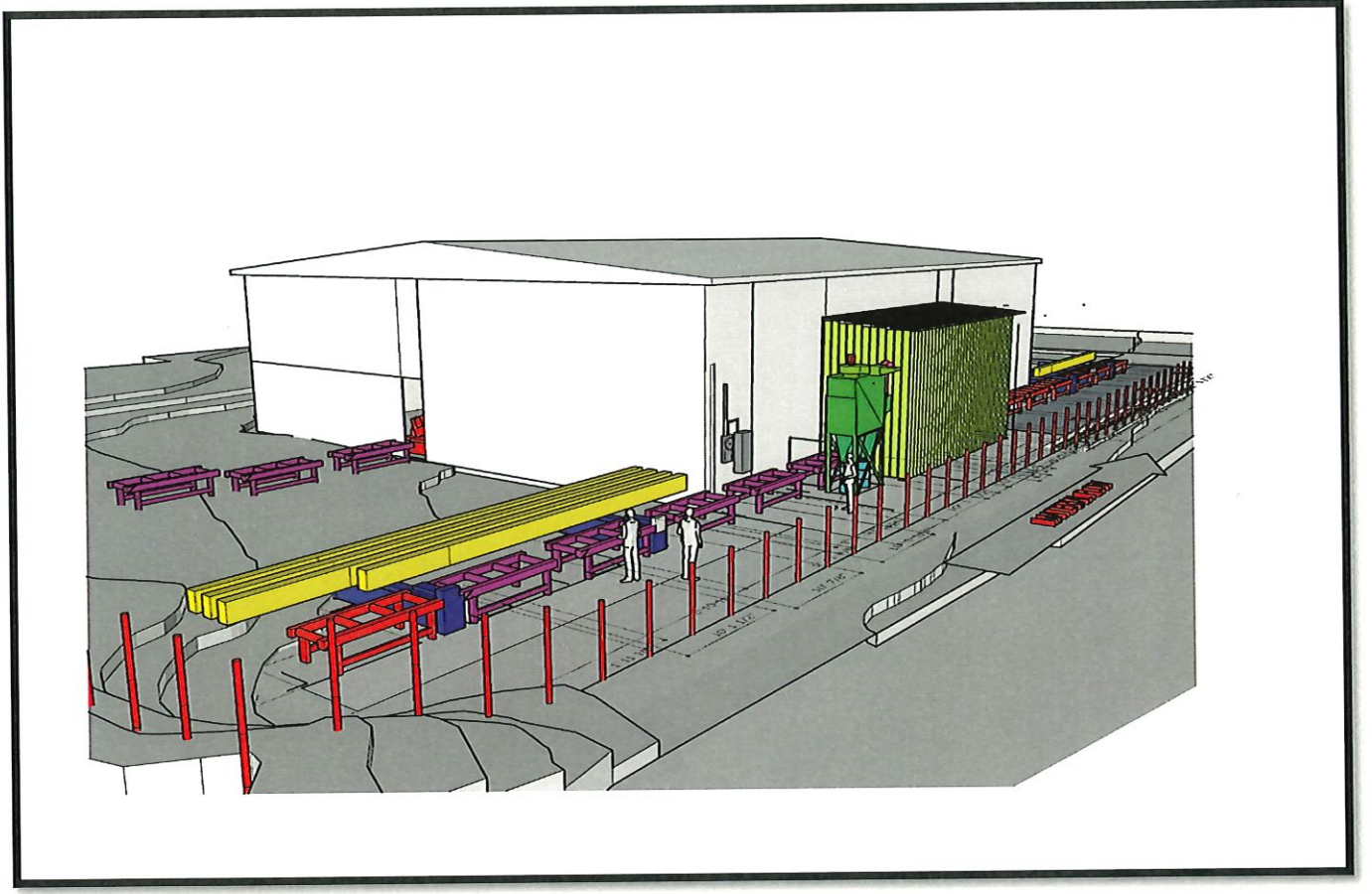


Figure 5: V-21-004 Variable Steel Proposed Elevation

BOARD OF ZONING APPEALS STAFF REPORT

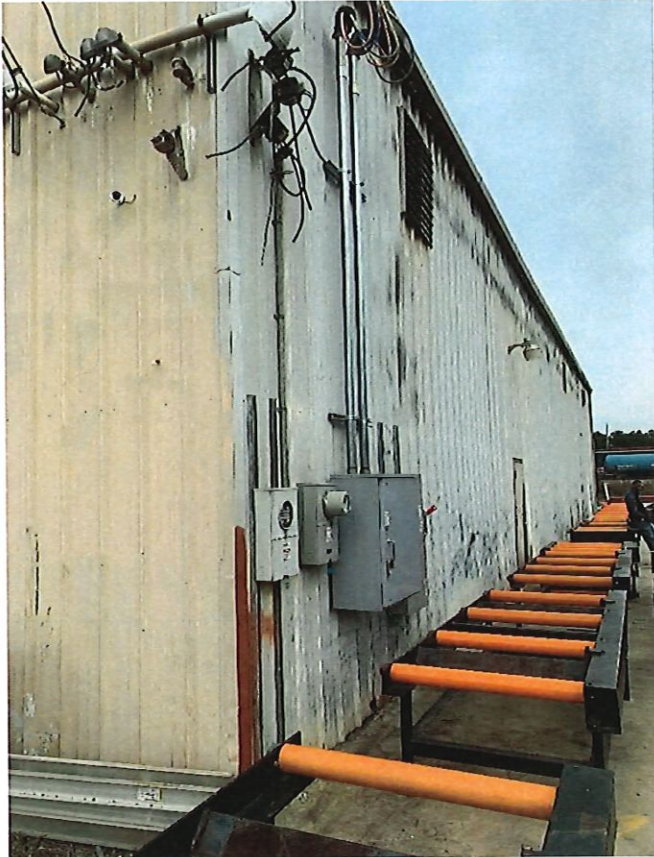


Figure 6: Future site of the building addition and conveyors



Figure 7: Existing fence on southside of building



BOARD OF ZONING APPEALS STAFF REPORT

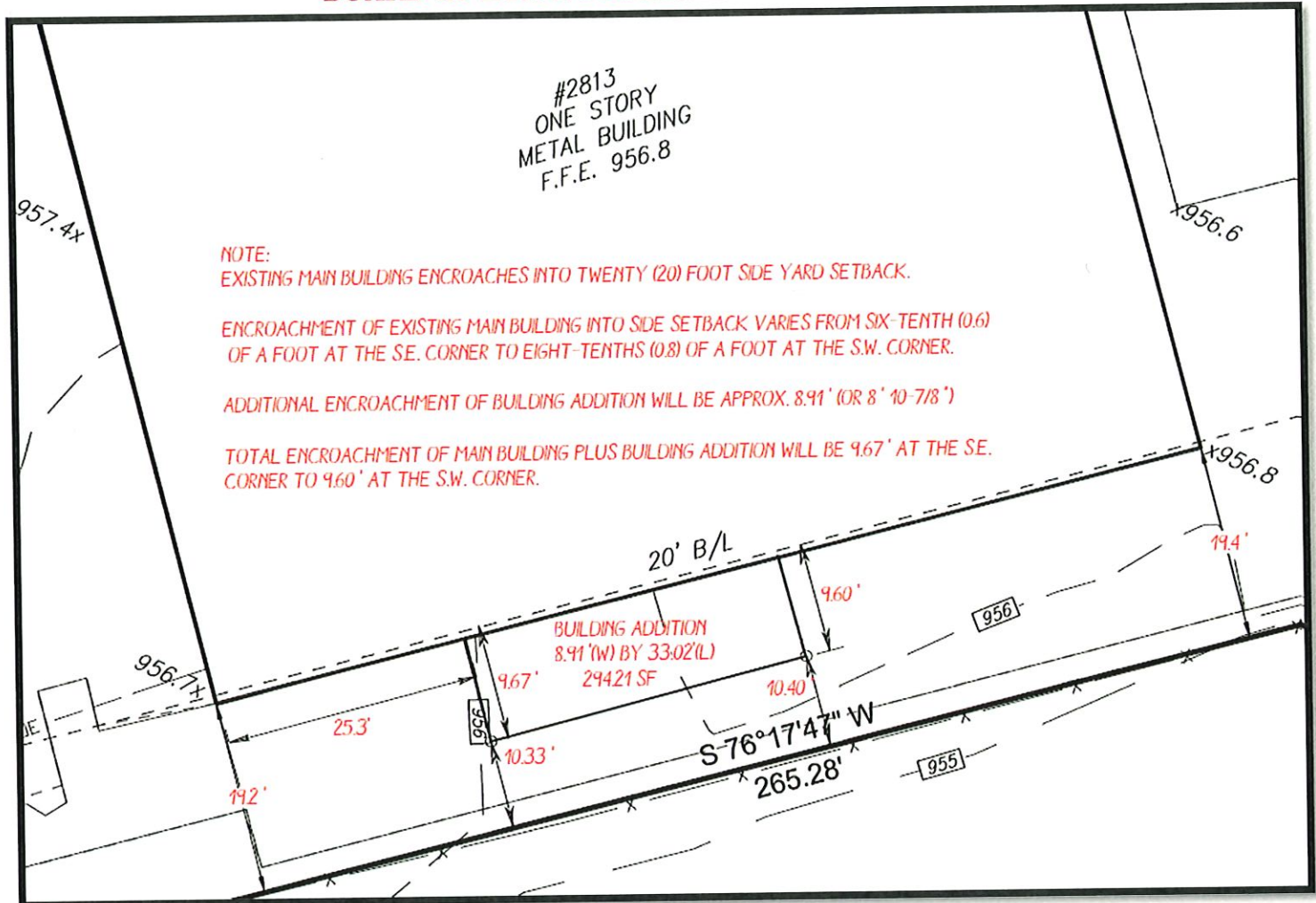


Figure 8: V-21-004 Variable Steel Conceptual Site Plan enlargement showing dimensions. See attachments for full conceptual site plan.

APPLICABLE CODE REQUIREMENTS

City of Stonecrest Zoning Ordinance; Chapter 27 Article 2 District Regulations, Division 24 – Nonresidential Zoning Districts: Dimensional Requirements, Section 2.24.1, Table 2.2 which establishes the sideyard setback requirement for Light Industrial, M at 20 feet.



BOARD OF ZONING APPEALS STAFF REPORT

VARIANCE CONSIDERATIONS

Following are the specific considerations listed in Sec 7.5.3 of the Stonecrest Zoning Ordinance that must be considered by the Board of Zoning Appeals in order to grant a variance. These considerations include:

- A. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**
- B. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**
- C. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**
- D. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.**
- E. The requested variance would be consistent with the spirit and purpose of this chapter and the Comprehensive Plan text.**



BOARD OF ZONING APPEALS STAFF REPORT

STAFF ANALYSIS

- A. By reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic and other site conditions (such as, but not limited to, floodplain, major stand of trees, steep slope), which were not created by the owner or applicant, the strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district.**

There are exceptional site conditions, due to the orientation of the building and site layout. Since the site shares a driveway with its neighbor to the north, 2916 Randall Road, truck deliveries and employee parking for both businesses occupy the site north of the building. This north side of the building also experiences storm water drainage issues as the 2916 Randall is uphill of the site. In short the north side of the building is not available or suitable for the plasma cutter. The front and rear yards are not suitable for the plasma cutter because of the length of the steel beams being unloaded on the site, leaving only the south side of the property available for the plasma cutter and rollers.

- B. The requested variance does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located.**

Granting the variance would not go beyond the minimum necessary to afford relief and does not constitute granting special privilege which is inconsistent with the limitations upon other properties in the zoning district in which the subject property is located. Due to the site factors and space requirements of the site, the applicant's request is reasonable.

- C. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.**

The granting of the variance will not be materially detrimental to the public welfare or injurious to the property. With regards to stormwater runoff, the applicant is not intending to increase the amount of impervious surface on the site. The addition of the plasma cutter will take place on existing concrete surfaces, so amount of runoff should not increase after construction. In addition, the plasma cutter itself will not emit any harmful emissions, and the noise from the cutter and the rollers will be at acceptable levels, below the already existing ambient noise levels found on the site due to surrounding industrial and transportation related uses. In addition, the rollers will be screened from view of the adjacent property to the south by a fabric covered fence.



BOARD OF ZONING APPEALS STAFF REPORT

D. The literal interpretation and strict application of the applicable provisions or requirements of this chapter would cause undue and unnecessary hardship.

The literal interpretation and strict application of the applicable provision or requirements of this chapter would cause undue and unnecessary hardship on the applicant's business. The applicant claims that the plasma cutter, which is state of the art technology, is necessary for his business to stay competitive with other metal fabrication businesses.

E. The requested variance would be consistent with the spirit and purpose of this chapter and the Stonecrest Comprehensive Plan text.

The requested variance would be consistent with the spirit and purpose of this chapter and the Stonecrest Comprehensive Plan, which has designated this site as Light Industrial on the Future Development Map. As such the proposed light industrial use is consistent with the desired character of the area, the spirit and intent of the M zoning district, and would be an asset to the overall economy of the city.

RECOMMENDED CONDITIONS

Based on the findings and conclusions, it appears the applicant meets all the criteria for approval. Therefore, staff recommends **Approval of V-21-004** with the following conditions.

1. That the construction of the 294 sf addition to the principal building conforms to the site plan dated December 20, 201 for Variance application V-21-004 by the Variable Design Group, see Attachment.
2. That gutters and downspouts be installed on the new building addition and that the existing gutters and downspouts on the south side of the building be repaired and improved to ensure that water runoff from the roof is directed down to the drainage ditch system along South Stone Mountain Lithonia Road, and not directly onto neighboring property.
3. That the fence along the south side of the building be replaced and improved to screen the conveyor system associated with the plasma cutter from view.
4. That stormwater runoff from the construction will conform to the requirements of state and local stormwater regulations, before issuance of a certificate of occupancy.

Attachments:

- 1 – Application Packet for V-21-004 with updated Conceptual Site Plan
- 2 – Concept Drawing, Plat and Conceptual Site Plan
- 3 – Memo from City Engineer about the drainage situation at 2813 S Stone Mountain Lithonia Rd

Attachment 1: V-21-004 Application Packet

Letter of Intent in support of
Application for Side Yard Setback Variance
by Variable Steel Unlimited, LLC
November 3, 2021

Applicant's description of the reason for requesting this variance:

Applicant seeks a variance of nine feet eight inches (9' 8") into the twenty (20) foot interior side yard setback on the south side of his existing building. The purpose of the variance is to allow adding plasma cutter equipment to Applicant's existing metal fabrication manufacturing business at 2813 South Stone Mountain Lithonia Road. Plasma cutting is a state-of-the-art metal fabrication process which uses supercharge, micro-screen of gas (known as plasma) funneled through a plasma torch to heat, melt and ultimately cut electrically conductive material such as steel into custom shapes and designs. The plasma cutter installation at Applicant's business is necessary for Applicant to stay competitive with other steel fabricators. The installation will include the plasma cutter itself, which will be enclosed in two nested structures attached to the south side of Applicant's existing building. The installation will also include roller conveyors on the exterior of the plasma cutter enclosures on the west and east sides which will convey steel beams into and out of the plasma cutter enclosures, from the rear of the property to the front.

Applicant's showing that this variance request is a result of all of the following conditions:

1. Whether by reason of exceptional narrowness, shallowness, or shape of a specific lot, or by reason of exceptional topographic conditions, which were not created by the owner or applicant, the strict application of the requirements of

this Chapter would deprive the property owner of rights and privileges enjoyed by other property owners in the same zoning district?

Answer: Applicant's business shares a driveway with his neighboring property to the north at 2916 Randall Road, which lies uphill of Applicant's existing building. The remaining space north of Applicant's building is used for employee parking and truck deliveries of steel beams. Due to the shared driveway, parking and truck deliveries on the north side of the building and issues with storm water drainage from 2916 Randall Road and the lack of a functioning public storm water drainage system along South Stone Mountain Lithonia Road, the north side of Applicant's property is not available or suitable for the plasma cutter and its associated rollers. Moreover, due to the length of steel beams the rear of Applicant's property cannot be used. This leaves the south side of Applicant's property as the only available location for the plasma cutter and rollers. Moreover, Applicant's existing main building is offset to the south side of Applicant's parcel close to the building setback line. This means the only available space for the installation is within the south setback area.

2. Whether the requested variance does not go beyond the minimum necessary to afford relief, and does not constitute a grant of special privilege inconsistent with the limitations upon other properties in the zoning district in which the subject property is located?

Answer: The requested variance does not go beyond the minimum necessary to afford relief and would not constitute the grant of a special privilege, due to the constraints imposed by the shared driveway, space needed for employee parking and truck deliveries, storm water drainage issues, and the noncentral location of the existing building, and to the length of steel beams.

3. Whether the grant of the variance will not be materially detrimental to the public welfare or injurious to the property or injurious to the property or improvements in the zoning district in which the subject property is located?

Answer: Granting the variance will not be materially detrimental to the public welfare, injurious to the property, or injurious to the property or improvements in the zoning district in which the subject property is located. There will be no emissions of any kind from the plasma cutter operations. Noise levels from the plasma cutters and the rollers will be at acceptable levels, below the already existing ambient noise in the vicinity of Applicant's property. The appearance of the plasma cutter enclosure and rollers will be consistent with the surrounding industrial context, which includes the CSX RR switch yard and E.R. Snell property with asphalt tanks on the other side of South Stone Mountain Lithonia Road. The rollers will be screened from view of the adjacent property to the south at 2825 South Stone Mountain Lithonia Road by a fabric-covered fence.

4. Whether the literal interpretation and strict application of the applicable provisions or requirements of this Chapter would cause undue and unnecessary hardship rather than merely imposing a casual/discretionary inconvenience to Applicant or his assigns?

Answer: The literal interpretation and strict application of the interior side yard setback limitation for the light industrial zoning district would cause undue and unnecessary hardship for Applicant's business rather than merely imposing a casual/discretionary inconvenience to Applicant or its assigns. Applicant needs to install the plasma cutter, which is state-of-the art technology, in order to stay competitive with other steel fabrication manufacturers

5. Whether the requested variance would be consistent with the spirit and purpose of this Chapter and the City of Stonecrest Comprehensive Plan text?

Answer: The requested variance would be consistent with the spirit and purpose of the Stonecrest Zoning Code (Chapter 27) and the Stonecrest Comprehensive Plan Update 2038. The plasma cutter, enclosure, and rollers will be an outstanding example of responsible and sustainable industrial growth in the City of Stonecrest.

Attachment: Deed to Variable Steel Unlimited, LLC for 2813 South Stone Mountain Lithonia Road, recorded September 5, 2019, Deed Book 27773, Page 33, with full legal description with narrative of metes and bounds.

2019129206 DEED BOOK 27773 Pg 33
Filed and Recorded: 9/5/2019 10:12:00 AM
Recording Fee: \$16.00
Real Estate Transfer Tax: \$435.00
Prepared By:
2979894615
7067927936

Record and Return to:
Weissman PC
5909 Peachtree Dunwoody Road, Suite 100
Atlanta, GA 30328

File No.: CM104-19-0117-R
Parcel No.: 16-135-02-008

LIMITED
WARRANTY DEED

STATE OF GEORGIA
COUNTY OF FULTON

THIS INDENTURE, made this 30th day of August, 2019, between Wayne E. Phillips, as party or parties of the first part, hereinafter called Grantor, and Variable Steel Unlimited, LLC, a Georgia Limited Liability Company as party or parties of the second part, hereinafter called Grantee, (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that Grantor, for and in consideration of the sum of TEN DOLLARS AND NO/100 (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee.

See Exhibit "A" attached hereto.

This Deed is given subject to all easements and restrictions of record and those certain exception listed on Exhibit "B" attached hereto.

TO HAVE AND TO HOLD the said tract or parcel of land, with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, only to the proper use, benefit and behoof of the said Grantee, forever in FEE SIMPLE.

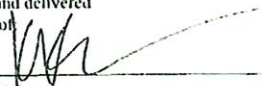
AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons claiming by, through and the above named grantor.

Deed (Warranty)

CM104-19-0117-R

IN WITNESS WHEREOF, the Grantor has signed and sealed this Deed, on the date and year above written

Signed, sealed and delivered
in the presence of


Unofficial Witness

 (Seal)
Wayne E. Phillips


Notary Public

My Commission Expires: _____



EXHIBIT "A"**Legal Description**

File No.: CM104-19-0117-R

ALL THAT TRACT or parcel of land lying and being in the City of Stonecrest in Land Lot 135 of the 16th District of DeKalb County, Georgia, and being more particularly described as follows:

TO FIND THE TRUE POINT OF BEGINNING, begin at an iron pin found located on the westerly side of the original right of way of Stone Mountain-Lithonia Road, being 1285.54 feet south of the 80-foot right of way of Marbut Road as measured along the original 70 foot right of way of Stone Mountain-Lithonia Road; thence running South 80 degrees 08 minutes 02 seconds West a distance of 15.03 feet to a P. K. Nail Set being the TRUE POINT OF BEGINNING. FROM SAID TRUE POINT OF BEGINNING: thence running along the westerly side of the current right of way of said Stone Mountain-Lithonia Road (100 foot right of way) and running South 13 degrees 42 minutes 13 seconds East a distance of 151.00 feet to an iron pin set; thence leaving the westerly side of the right of way of said Stone Mountain-Lithonia Road and running South 76 degrees 17 minutes 47 seconds West a distance of 265.28 feet to an iron pin set located on the easterly side of the right of way of Randall Road (50-foot right of way); thence running along the easterly side of the right of way of said Randall Road North 11 degrees 36 minutes 33 seconds West a distance of 168.49 feet to an iron pin set (said iron pin set being the centerline of common asphalt drive); thence leaving the easterly side of the right of way of said Randall Road and running along the centerline of common asphalt drive North 80 degrees 08 minutes 02 seconds East a distance of 259.70 feet to a P. K. Nail Set and the TRUE POINT OF BEGINNING. Said property being part of Lot 3 of the William A. Kelly Subdivision, containing 0.96 acres, more or less, and having a street address of 2813 Stone Mountain-Lithonia Road, according to the present system of numbering in the City of Stonecrest, DeKalb County, Georgia.

This being the same property as conveyed to Jane Allen Hoffmeyer by Administrator CTA Deed of Assent, dated May 18, 2000, and recorded in Deed Book 11372, Page 406, DeKalb County, Georgia records; and then conveyed to Hoffmeyer Properties, LLC, by Limited Warranty Deed, dated February 16, 2010, recorded in Deed Book 21859, Page 128, DeKalb County, Georgia records.

TOGETHER WITH AND SUBJECT TO all rights and interest of third parties in and to use of common asphalt drive on north boundary of property. Centerline of common asphalt drive is apparent north property line.

Exhibit A (Letter Size Legal Description)

CM104-19-0117-R

Exhibit "B"

Permitted Exceptions

1. All taxes for the year 2020 and subsequent years, not yet due and payable
2. RIGHT OF WAY DEED to DeKalb County recorded in Deed Book 2204, Page 356, aforesaid records.
3. EASEMENT to Georgia Power Company recorded in Deed Book 2489, Page 253, aforesaid records.
4. PERMIT FOR ANCHORS, GUY POLES AND WIRES to Georgia Power Company recorded in Deed Book 3658, Page 647, aforesaid records.
5. RIGHT OF WAY DEED to DeKalb County recorded in Deed Book 5074, Page 2, aforesaid records.
6. RIGHT OF WAY DEED to DeKalb County recorded in Deed Book 5074, Page 3, aforesaid records.
7. All rights and interest of third parties in and to use of common asphalt drive along north boundary of property.
8. All matters disclosed by survey for Jack A. Phillips made by J. M. Massey & Company, dated July 28, 2010.
9. Anything to the contrary contained herein notwithstanding, no insurance is afforded as to any matters revealed by survey by Foothills Land Surveying, LLC, dated August 20, 2019, including without limitation the following:
 - (a) Fences located partially upon the Land and extending outside the northern and eastern boundaries thereof;
 - (b) 30" CMP and 6" PVC with drop inlets crossing eastern portion of the Land, and concrete and gravel areas extending over same;
 - (c) Fence located partially along the southern boundary of the Land and partially outside said boundary;
 - (d) Common asphalt driveway located partially upon the Land and partially upon adjacent property to the north;
 - (e) 60-foot front, 20-foot side, and 30-foot rear building setback lines, with encroachment of metal building over side setback line on the south;
 - (f) Power lines crossing the southwestern portion of the Land
10. M&M Lien filed by BP Infrastructure Services, LLC against Wayne E. Phillips, in the amount of \$40,676.02, dated 7/8/2019, recorded 7/9/2019, at Lien Book 2201, Page 514, aforesaid records.
11. M&M Lien filed by Thomas Concrete of Georgia, Inc. against Wayne E. Phillips, in the amount of \$12,928.68, dated 7/9/2019, recorded 7/9/2019 at Lien Book 2202, Page 102, aforesaid records.



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Property Owner(s) Notarized Certification

The owner and petitioner acknowledge that this variance application form is correct and complete. By completing this form, all owners of the subject property certify authorization of the filing of the application for variance(s), and authorization of an applicant or agent to act on their behalf in the filing of the application including all subsequent application amendments.

VARIABLE STEEL UNLIMITED, LLC

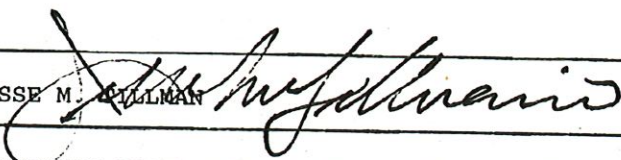
Property Owner	Signature: <i>[Handwritten Signature]</i>	Date: 11/10/2021		
	Address: 985 BROWN STORE RD, STE A	City, State: ACWORTH, GA	Zip: 30101	
	Phone: 404-624-6785			
	Sworn to and subscribed before me this 1ST day of NOVEMBER, 20 21			
Property Owner (if Applicable)	Notary Public: <i>[Handwritten Signature]</i>			
	Signature:	Date:		
	Address:	City, State:		Zip:
	Phone:			
Property Owner (if Applicable)	Sworn to and subscribed before me this _____ day of _____, 20 _____			
	Notary Public:			
	Signature:	Date:		
	Address:	City, State:	Zip:	
Property Owner (if Applicable)	Phone:			
	Sworn to and subscribed before me this _____ day of _____, 20 _____			
	Notary Public:			



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Campaign Disclosure Statement

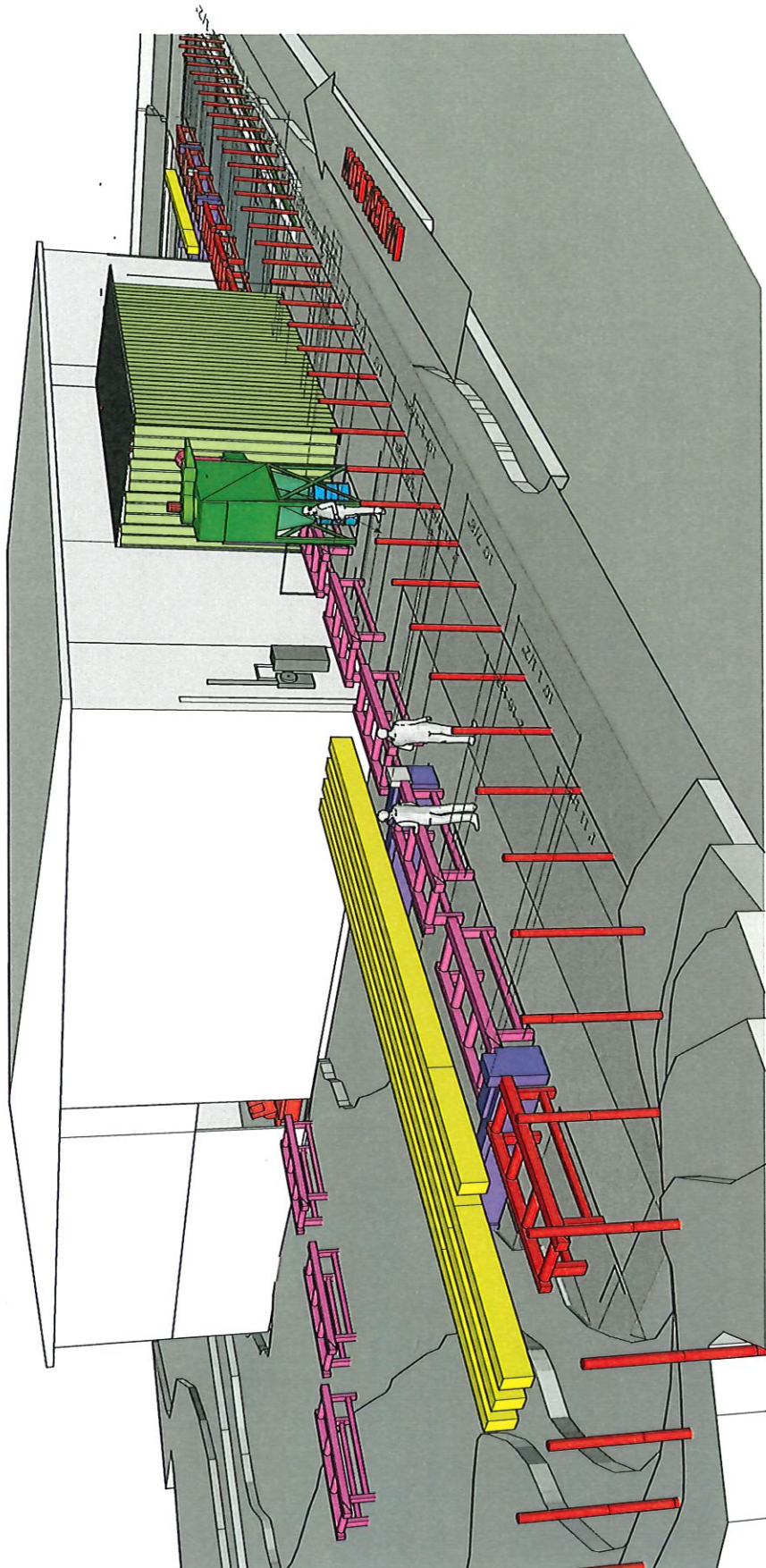
Have you, within the two years immediately preceding the filing of this application, made campaign contributions aggregating \$250.00 or more to a member of the City of Stonecrest City Council or a member of the City of Stonecrest Planning Commission? YES NO

Applicant / Owner	Signature:	JESSE M. WILLMAN 
	Address:	985 BROWN STORE ROD, SUITE A, ACWORTH, GA 30101
	Date:	NOVEMBER 1ST, 2021

If the answer above is yes, please complete the following section:

Date	Government Official	Official Position	Description	Amount

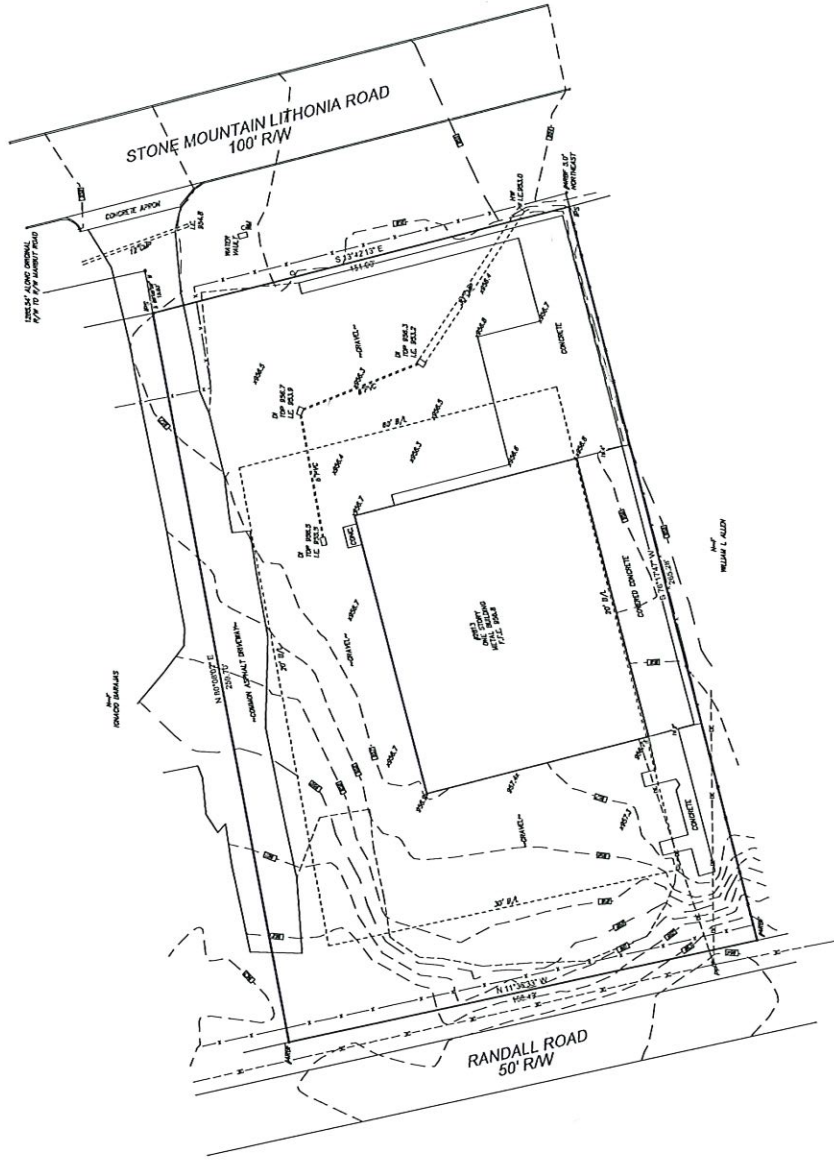
Attachment 2 - Concept Drawing, Plat and Conceptual Site Plan



REPRODUCED FROM THE RECORD OF COURTESY

LEGEND AND CONVENTIONS

- 1. 1/8" = 100' Scale
- 2. 1/4" = 200' Scale
- 3. 1/2" = 400' Scale
- 4. 3/4" = 600' Scale
- 5. 1" = 800' Scale
- 6. 1 1/4" = 1000' Scale
- 7. 1 1/2" = 1200' Scale
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- 198. 49 1/4" = 39400' Scale
- 199. 49 1/2" = 39600' Scale
- 200. 49 3/4" = 39800' Scale
- 201. 50" = 40000' Scale



AREA
41,807 SQ. FT.
0.96 ACRES

1. The field data upon which this plan is based was a regular and accurate survey of the land shown hereon.

2. The field data upon which this plan is based was a regular and accurate survey of the land shown hereon.

3. The field data upon which this plan is based was a regular and accurate survey of the land shown hereon.

4. The field data upon which this plan is based was a regular and accurate survey of the land shown hereon.

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9. The field data upon which this plan is based was a regular and accurate survey of the land shown hereon.

10. The field data upon which this plan is based was a regular and accurate survey of the land shown hereon.

DATE	7/27/21
PROJECT	BOUNDARY & TOPOGRAPHIC SURVEY
PREPARED FOR	VARIABLE STEEL UNLIMITED, LLC
LOCATION	LOCATED IN LAND LOT 135
SECTION	DEKALB COUNTY, GEORGIA
SHEET #	1 OF 1



1. The field data upon which this plan is based was a regular and accurate survey of the land shown hereon.

2. The field data upon which this plan is based was a regular and accurate survey of the land shown hereon.

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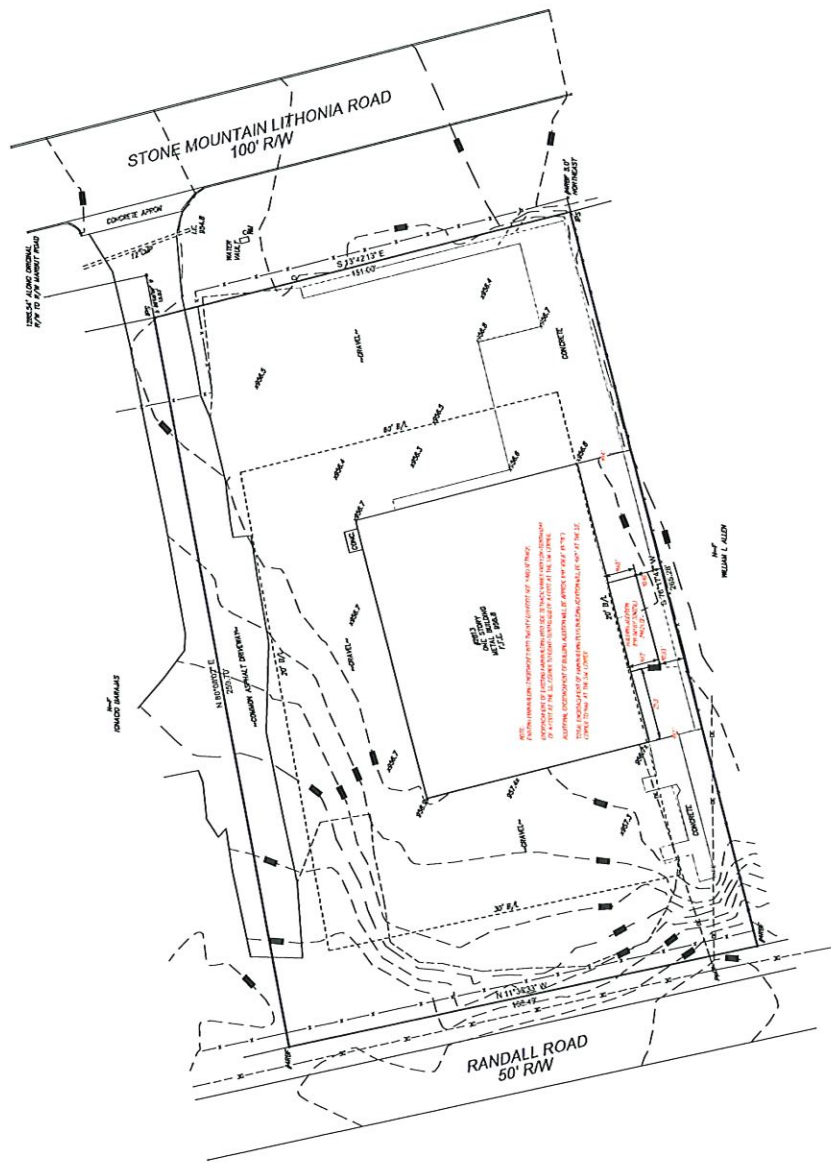
9. The field data upon which this plan is based was a regular and accurate survey of the land shown hereon.

10. The field data upon which this plan is based was a regular and accurate survey of the land shown hereon.

CONCEPTUAL SITE PLAN FOR VARIANCE APPLICATION

LEGEND AND SYMBOLS LIST:

- 1. Proposed Building Footprint
- 2. Proposed Driveway
- 3. Proposed Parking Area
- 4. Proposed Access Road
- 5. Proposed Utility Lines
- 6. Proposed Stormwater Management
- 7. Proposed Landscaping
- 8. Proposed Fencing
- 9. Proposed Signage
- 10. Proposed Security Features
- 11. Proposed Site Amenities
- 12. Proposed Site Constraints
- 13. Proposed Site Boundaries
- 14. Proposed Site Easements
- 15. Proposed Site Setbacks
- 16. Proposed Site Access Points
- 17. Proposed Site Circulation
- 18. Proposed Site Orientation
- 19. Proposed Site Context
- 20. Proposed Site Integration



AREA
41,897 SQ. FT.
0.96 ACRES

DETAILS AND NOTES:

- The user of this plan shall be responsible for obtaining all necessary permits and approvals from the appropriate agencies.
- The user of this plan shall be responsible for obtaining all necessary permits and approvals from the appropriate agencies.
- The user of this plan shall be responsible for obtaining all necessary permits and approvals from the appropriate agencies.

CONCEPTUAL SITE PLAN
FOR VARIANCE APPLICATION
V-21-004
PREPARED FOR
VARIABLE STEEL UNLIMITED, LLC
1000 W. LITHONIA ROAD
LITHONIA, GA 30058
SPALDING COUNTY, GEORGIA

DATE: 02/20/21
DRAWN: JH-2021
CHECKED:
REVISIONS:

SHEET # 1 OF 1



Attachment 3: Memo from City Engineer about the drainage situation
at 2813 S Stone Mountain Lithonia Road

Ten 10th Street, NW, Suite 1400
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United States
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F +1.404.978.7660
www.jacobs.com

Subject	Drainage Issues at Variable Steel	Project Name	Stonecrest, Georgia
	2813 S Stone Mountain Lithonia Rd, Stonecrest, GA 30058		
Attention	Jim Summerbell, Planning and Zoning Director		
From	Tom Udell, City Engineer		
Date	December 21, 2021		

Description:

I made a site visit to assess the drainage issues with the above property based on complaints from the property owner as well as the neighboring property to the south. 2813 Stone Mountain Lithonia Rd. is located between Stone Mountain Lithonia Rd. to the east and Randall Rd. to the west. Stone Mountain Lithonia Rd. is a two lane paved road with curb and gutter. There is no stormwater facility along the road other than a discontinuous ditch and culvert system that is severely silted and the 12" culvert under the subject property driveway is buried and carrying little if any water. Randall Rd. is a narrow two lane road with rural shoulders and no ditch evident. There is a sag located at the northwest corner of the subject property. At the time of the site visit there was evidence of water erosion on the bank along Randall Rd. there were also several puddles indicating excessive water flowing across the property from both streets as well as the property to the north. The property to the south has built a berm to direct the water from the front of the subject property to the east. On the property itself there is a series of drains that have been installed to carry the water to the east of the property. They appeared to be silted in and not working well. The owner said he is working to get the issue resolved.

Assessment:

The subject property is one of a series of properties that are dealing with excessive runoff due to substandard drainage facilities. Storm water runs off the streets as well as from the northern properties to the south. There needs to be a study of the overall drainage in the area and mitigation measures need to be taken to direct the storm water away from the properties and beyond the buildings.

SURVEYOR'S REPORT

THIS IS TO CERTIFY, that on January 12, 2022, I made an accurate observation of the premises standing in the name of Variable Steel Unlimited, LLC, situated at 2813 South Stone Mountain Lithonia Road, DeKalb County, GA, Parcel I.D. # 16 135 02 008, and shown on the accompanying plat of Boundary and Topographic Survey Prepared for Variable Steel Unlimited, LLC, dated August 20, 2019 by Foothills Land Surveying, LLC, certified by John C. Groves, Jr., Georgia RLS #3237 (hereinafter, "FLS Plat").

I made a careful inspection of said premises and of the buildings and concrete slab areas located thereon on January 12, 2022 (hereinafter the "Inspection"), and at the time of such Inspection I found Variable Steel Unlimited, LLC to be in possession of said premises as owner. I further certify to the existence or non-existence of the following at the time of such Inspection:

1. The "one story metal building" as noted on the FLS Plat,

The "one story metal building" as shown on the FLS Plat still exist as shown on the FLS Plat.

2. The "concrete" slab areas as noted on the FLS Plat.

The "concrete" slab areas as shown on the FLS Plat still exist as open and exposed concrete slab areas.

3. The "covered concrete" area as noted on the FLS Plat.

a. There is no structure of any type, covered or non-covered, in the area shown as "covered concrete" on the FLS Plat.

b. The area shown as "covered concrete" on the FLS Plat is an open and exposed, non-covered concrete slab.



Grant Houston 01/12/22

(Your signature, certification, &c.)