# Town of Dallas Board of Adjustment Meeting Agenda Thursday, May 19, 2022 To be held at the Fire Station Community Room at 6:30 pm

- 1. Call to Order
- 2. Roll Call of Members Present; Declaring a quorum as present
- 3. Invocation or Moment of Silence
- 4. Pledge of Allegiance
- 5. Announcements/Introductions
- 6. Approval of Agenda with Additions or Deletions
- 7. Approval of Minutes March 17, 2021
- 8. Acknowledgement of any Ex Parte Communication
- 9. Public Hearing
  - a. V-2022-01—Variance request from Sergius Ploshnik of Superior Quality
     Construction
- 10. Board Deliberation and Determination of Findings of Fact
- 11. Adjournment

#### Minutes

#### **Town of Dallas**

#### **Board of Adjustment**

#### Meeting of April 15, 2021

The meeting was called to order at 6:30 pm by Chairman Curtis Wilson

The following members were present: Curtis Wilson – Chairman, John O'Daly, Reid Simms, Tiffany Faro – Alternate, and Thomas Smith – Alternate.

Also Present: Nolan Groce – Development Services Director, Jonny Denton – Town Engineer, Tom Hunn – Town Attorney, Marcus Potter – NAR, David Ledford, RLA, Ryan Rhodes – Denver Construction.

**Approval of Agenda:** A motion was made by John O'Daly to approve the agenda as presented. This was seconded by Reid Simms and approved by all.

**Approval of Minutes:** A Motion was made to approve the minutes from February 13, 2020 by Tiffany Faro. This was seconded by John O'Daly, and approved by all.

#### **New Business:**

#### A) Variance 2021-01

A motion was made by John O'Daly to enter a public hearing. Tiffany Faro seconded the motion and it was adopted unanimously. Chairman Wilson asked Board members if there were any conflicts of interest or ex parte communication amongst members. None were noted. Staff introduced Variance case 2021-01, provided background about the parcel and purpose of the variance request. Staff then read the four findings of fact necessary to grant a variance and provided a staff report related to each finding based on the application submittal. Following the staff report, Nolan Groce, Johnny Denton, Marcus Potter, David Ledford, and Ryan Rhodes were sworn in by Chairman Curtis Wilson in order to provide testimony as part of the public hearing.

David Ledford was the first member to testify. He began by asking if Board members have visited the site or viewed aerials of the site. Testimony followed by noting that numerous municipalities require roadway improvements, but that these were not clearly available. This was later rebuked by Town Staff which affirmed the Street and Traffic Standards Policy is available on the Town website. Mr. Ledford continued citing the necessary improvements in front of the property, being sidewalk, curb and gutter, planter strip, and road widening. He continued by stating that the road had not been developed in the center of the right of way and noted concerns of additional right of way dedication and existing utility infrastructure where improvements would be installed. He followed by stating how the application met the four findings of fact: The property owner would not be able to reasonable use his property based on the additional dedication of right of way, the unique circumstance of the property is based on the mis location of the roadway and existing utilities, the hardship is not a result of the property owners' actions,

because purchasing property with knowledge of circumstances is not a self-created hardship, and that the improvements come at a cost that no other developer along Gibson Ct. has completed, due to the ordinance being adopted after their development. He also noted public safety concerns of the curb being widened only in one section of the roadway. Member Faro then questioned Mr. Ledford's qualifications as an expert witness. He verified that he is a Professional Landscape Architect in the state of North Carolina. There was then concern from the Town attorney regarding factual testimony versus opinions made relating to the existing roadway. No documentation was provided to verify misalignment of the roadway. Member Faro also requested clarification of the specific variance request. Exhibit 1 and 2 were entered into the record by David Ledford. This consisted of site survey and proposed site plan for the project. The exhibits were reviewed by the Board of Adjustment and applicant. Mr. Ledford noted that the site plan shown shows all improvements required by ordinance.

Marcus Potter, property owner, provided testimony following Mr. Ledford. He stated that he was unaware of the improvements necessary when he purchased the property. He was made aware from a conversation with Denver Construction following site plan review. He expressed concerns of widening the road in one area being a safety issue due to previous work on accident scenes. Member Faro questioned the understanding of Town standards as outline in the ordinance. Given the road is an NCDOT maintained road, Mr. Potter was unaware that any improvements would be applicable. He continued by explaining the proposed site plan layout.

Johnny Denton, Town Engineer provided testimony on behalf of the Town. Mr. Denton began by stating that Gibson Court has 4379 linear feet of property frontage within Town limits. 927 feet of frontage currently contains development, leaving 78.8% available. This would mean the Town, if it chose to do so, would only need to install 927 linear feet of sidewalk, curb, and gutter. Mr. Denton continued by noting that in each municipality he has worked in, or for, requires roadway improvements along property frontage. He noted an option rather than installing the necessary improvements would be a payment in lieu of installment. Member Faro asked if a payment in lieu has occurred within the Town previously to which Mr. Denton responded no. Fee in Lieu is based on recent cost estimates provided by project engineers and reviewed at staff level. Mr. Denton's testimony continued by noting the preferred method of improvement installments and noted the existing roadway not being built in the center of the right of way. He noted that additional right of way was dedicated on the 7-Eleven project.

Nolan Groce testified last answering questions from the Board of Adjustment. Member Faro requested traffic count information for this project. Mr. Groce explained that a TIA had not been discussed due to the existing traffic and proposed use of the property. Member Faro then questioned if the existing road width is significant enough to handle to existing and projected traffic. This was followed up by cross-examination from Mr. Ledford questioning if the road is accessible and usable for the intended use of the site, to which, in his professional opinion, Mr. Groce affirmed. Mr. Potter cross-examined by questioning if the roads current with has capacity

to handle the existing traffic. Member Faro questioned staff's capacity to answer this question due to the roadway being maintained by NCDOT and Mr. Groce not being a traffic engineer.

A motion was made to go out of public hearing by Tiffany Faro, seconded by John O'Daly, and approved by all. Town Attorney, Tom Hunn, then reviewed the four findings of fact that must be proven to meet the requirements to approve a variance.

The Board made the following conclusions on the four findings of fact:

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

A motion was made by Tiffany Faro, based on testimony during the variance hearing, that there is not unnecessary hardship from the strict application of the ordinance. This was seconded by John O'Daly, and approved by all. Finding one was not met.

2. The unnecessary hardship does not result from conditions that are peculiar to the property, such as location, size, or topography.

A motion was made by John O'Daly, based on testimony heard and evidence shown during the variance hearing, that the hardship does not result from conditions that are peculiar to the property. The existing road was built off center in the existing right of way and effects each property in the area. This was seconded by Tiffany Faro, and approved by all. Finding two was not met.

3. The hardship does not result from actions taken by the applicant or the property owner.

A motion was made by Tiffany Faro, based on testimony heard during the variance hearing that potential hardship did not result from actions taken by the applicant or property owner. The conditions pre-dated the applicants purchase of the property. This was seconded by John O'Daly, and approved by all. Finding three was met and passed.

4. The requested variance is not consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved.

A motion was made by Tiffany Faro, based on testimony heard during the variance hearing, that the requested variance is not consistent with the spirit, purpose, and intent of the ordinance, because the Planning Board recommended and Board of Aldermen adopted the Development Standards and Street and Traffic Standards Policy to establish consistent standards as the Town grows and granting a variance for this application would not align with this goal, such that public safety is secured and substantial justice is achieved. This was seconded by John O'Daly

Based on three of the four findings not being met, a motion was made by Tiffany Faro to not approve the variance. This was seconded by Reid Simms and approved by all. The variance was denied.

A motion was made to adjourn the Board of Adjustment Meeting by Thomas Smith, seconded by Reid Simms, and approved by all.

The meeting adjourned at 8:06 pm.

Nolan Groce, Development Services Director

Curtis Wilson, Chairman

# TOWN OF DALLAS BOARD OF ADJUSTMENT OPENING STATEMENT

*To be read by the Chair at the start of the meeting.* 

"This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this board must make its decisions. These rules are different from other types of land use decisions like rezoning cases.

This board's discretion is limited. This board must base its decision on competent, relevant, and substantial evidence in the record. A quasi-judicial decision is not a popularity contest. It is a decision limited by standards based on the facts presented at this hearing. If you are speaking as a witness, please focus on the facts as standards, not personal preference or opinion.

This meeting is open to the public. Everyone is welcome to watch. Participation is limited. Only parties with Standing may participate by presenting evidence, calling witnesses and making legal arguments. Parties with Standing are limited to the applicant, local governments and persons who can show that they will suffer special damages.

Other individuals may serve as witnesses when called by the Board. Witness testimony is limited to facts, not opinions. For certain topics the Board is required to hear opinions on the impact on property values and increased traffic caused by the proposal. Individuals providing expert opinions must be qualified as experts and provide the factual evidence upon which they base their expert opinion.

Witnesses must swear or affirm their testimony. Witnesses must be recognized by the Chair, and begin their testimony with their name and address. The secretary will use the recording to make the minutes.

# TOWN OF DALLAS, NORTH CAROLINA

# REQUEST FOR BOARD ACTION

REQUEST FOR BOTHER HOTTE	711
DESCRIPTION: Variance Request for Front Setback Reduction	and Required Sidewalk
AGENDA ITEM NO. 9.a	MEETING DATE: 05/19/2022
BACKGROUND INFORMATION:	
Sergius Ploshnik of Superior Quality Construction has submitted from 152.073.B and 152.074.H of the Subdivision Ordinance in Parcel 221049, located at 4020 Hereford Lane. The variance requires	order to develop Gaston County
The Variance request seeks the following relief from Section 73. Setback of 35' in R-10 zone, as measured from the Right of Way and rear yard setback is 25'. The Variance request seeks the following sidewalks shall be required in order to promote the free flow of safety to pedestrians." The request is to waive the sidewalk required and existing sidewalk is complete and located on the opposite sidewalk.	y." The requested allowed front owing relief from Section 74.H: f vehicular traffic and to provide irement for the subject property.
The attached application and supporting documents show the consurrounding parcels.	nditions of the lot as well as the
STAFF RECOMMENDATION: Staff analysis will be presented	l during the meeting
BOARD ACTION TAKEN:	

#### **TOWN OF DALLAS**

### **SUBDIVISION VARIANCE APPLICATION**

In the spaces provided, indicate the <u>facts</u> that you intend to show and the arguments that you intend to make to convince the Board it can properly reach each of the required findings. Attach additional pages as needed.

	The existence of a flood zone is not the creation of the
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.  Allowing the variance will protect presonal and can property of citizens of the town and is consistent with other lots in the neighborhood.
	ange in permitted uses may be authorized by variance. Appropriate conditions may posed on any variance, provided that the conditions are reasonably related to the ace.
	fy that all the information presented by me in this application is accurate to the best knowledge, information and belief.
	O.Locust

## TOWN OF DALLAS

## SUBDIVISION VARIANCE APPLICATION

Application No	Date:
To the Town of Dallas Board of Ad	ljustment:
Section 152.073. B of the reason(s): 152.073. H	, hereby request a variance to the requirements of Dallas Subdivision Ordinance for the following
The setback lines of 35'	are inconsistent with neighboring lots and le of the Street Nave Stick wealths. The estitance of the lots requires consideration of ward of the 35' setback to protect 1. fe + paperty.
Street Address/location of the sub	ject property: O Hereford Lane
Parcel ID #:_ 321049	· · · · · · · · · · · · · · · · · · ·
	Current Use of the Property: Vacant R-10
Property Owner: Juper 196	Quality Construction Inc.
Address of the property owner: 4	340 Hornyak Dr. Monroe, NC 28110
	4-7997 Email: Superior Quality 21@gmail.com
Applicant: Sergius N P/	oshnik
Applicant Address: Same as	s above
Applicant Contact Telephone:	email:
Relation to Property Owner:	
reason(s) you have for the reques	subdivide the hots and build homes  35' setback + side wilk cognirement is inconsistent

# State of North Carolina Department of the Secretary of State

ARTICLES OF INCORPORATION

SOSID: 2258808 Date Filed: 8/27/2021 10:08:00 AM Elaine F. Marshall North Carolina Secretary of State

C2021 236 00404

Pursuant to §55-2-02 of the General Statutes of North Carolina, the undersigned does hereby submit these Articles of Incorporation for the purpose of forming a business corporation.

1. The name of the corporation is:

Superior Quality Construction, Inc.

100

1.	The name of the corporation is:
2.	The number of shares the corporation is authorized to issue is: 100
3.	These shares shall be: (check either a or b)
	a. All of one class, designated as common stock; or
	b. Divided into classes or series within a class as provided in the attached schedule, with the information required by N.C.G.S. Section 55-6-01.
4:	The name of the initial registered agent is: Sergius Ploshnik
5.	The North Carolina street address and county of the initial registered office of the corporation is:
	Number and Street 4340 Hornyak Dr
	City Monroe State NC Zip Code 28110 County Union
6.	The mailing address, if different from the street address, of the initial registered office is:
	Number and Street
	CityState_NCZip CodeCounty
7.	Principal office information: (must select either a or b.)
	a. The corporation has a principal office.
	The principal office telephone number:
	The street address and county of the principal office of the corporation is:
	Number and Street
	CityStateZip CodeCounty
	The mailing address, if different from the street address, of the principal office of the corporation is:
	Number and Street
	CityStateZip CodeCounty_
	The composition does not have a principal office

BUSINESS REGISTRATION DIVISION (Revised July 2017)

P.O. BOX 29622

RALEIGH, NC 27626-0622 (Form B-01)

Name	Address		
Sergius Ploshnik	4340 Hornyak Dr., Monroe, NC 281		
	icers (See instructions on why this is impo		
Name	Address	Title	
		Presiden	
Name	Address	Presiden	
Name Oleksandr Zavgorodniy	Address 4340 Hornyak Dr., Monroe, NC 28110	Presiden	
Name Oleksandr Zavgorodniy	Address 4340 Hornyak Dr., Monroe, NC 28110 4340 Hornyak Dr., Monroe, NC 28110	Presiden	

Sergius Ploshnik, Incorporator

Type or Print Name and Title

NOTES:

This the 24

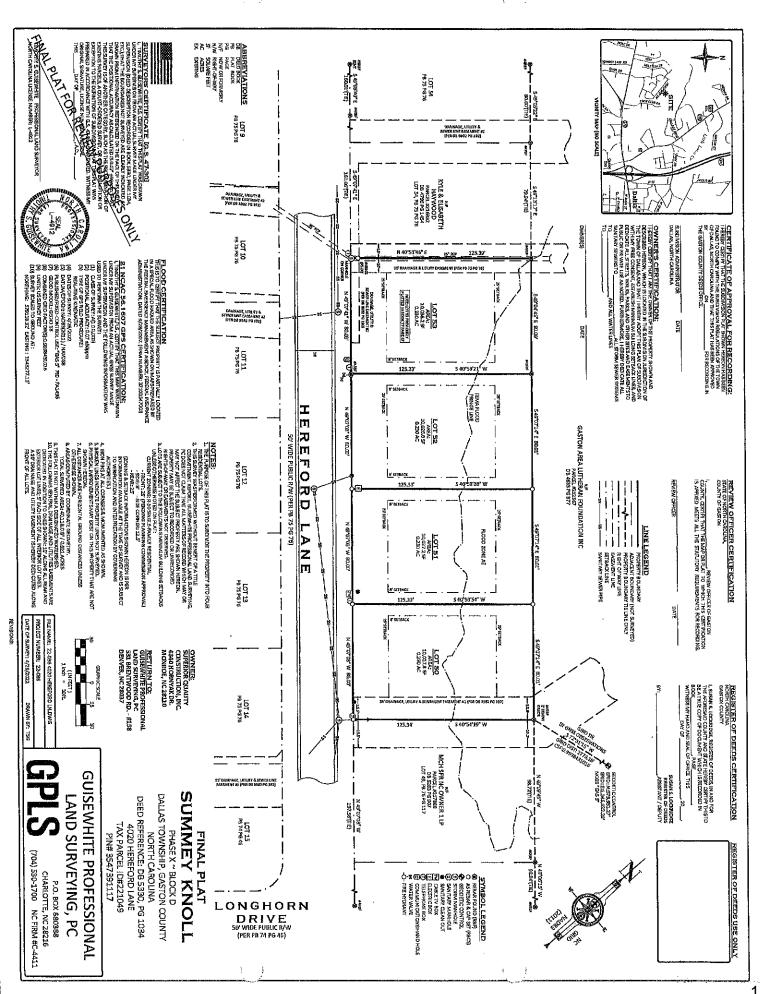
1. Fiting fee is \$125. This document must be filed with the Secretary of State.

\_\_day of August 20 21

BUSINESS REGISTRATION DIVISION (Revised July 2017)

P. O. BOX 29622

RALEIGH, NC 27626-0622 (Form B-01)





# **Order Confirmation**

Not an Invoice

Account Number:	516581
Customer Name:	Town of Dallas
Customer Address:	Town of Dallas 210 N Holland ST Dallas NC 28034-1625
Contact Name:	Shannon Whittle
Contact Phone:	704-922-3176
Contact Email:	swhittle@dallasnc.net
PO Number:	

Date:	05/03/2022
Order Number:	7252451
Prepayment Amount:	\$ 0.00

Column Count:	1.0000
Line Count:	63.0000
Height in Inches:	0.0000

Print			
Product	#Insertions	Start - End	Category
GAS The Gaston Gazette	2	05/05/2022 - 05/12/2022	Public Notices
GAS gastongazette.com	2	05/05/2022 - 05/12/2022	Public Notices

# **Ad Preview**

#### NOTICE OF EVIDENTIARY HEARING Town of Dallas

The public will take notice that the Board of Adjustment for the Town of Dallas will hold a public hearing on Thursday, May 19th at 6:30pm in the Fire Hall Community Room, 209 West Main Street, Dallas NC 28034.

This hearing will be for a Variance request filed by Sergius Ploshnik of Superior Quality Construction. The Variance request seeks relief from the Town of Dallas Subdivision Code, Chapter 152, Section 73, Subsection B: "Lot Dimensions" and Section 74, Subsection H: "Sidewalks."

The subject property is Gaston County Parcel #221049, located at 4020 Hereford Lane, as described in Deed Book 5330 at page 1034. The Variance request seeks the following relief from Section 73.B: "Front and Rear Yard Setback of 35' in R-10 zone, as measured from the Right of Way." The requested allowed front and rear yard setback is 25'. The Variance request seeks the following relief from Section 74.H: "Sidewalks shall be required in order to promote the free flow of vehicular traffic and to provide safety to pedestrians." The request is to waive the sidewalk requirement for the subject property. An existing sidewalk is complete and located on the opposite side of the street.

All interested persons are invited and encouraged to attend. For those persons requiring special assistance, please contact Town Hall at 704-922-3176, at least 48 hours prior to the commencement of the meeting.

For questions or further information, please contact Brian Finnegan at (704) 922-3176 x 264 or email bfinnegan@dallasnc.net. May 5, 12, 2022 7252451

James White Jr	Timothy & Carissa McGinnis	Arnold & Andrea Armstrong
1020 Ayrshire Ln	1013 Ayshire Ln	1012 Ayrshire Ln
Dallas, NC 28034	Dallas, NC 28034	Dallas, NC 2834
Randy Miller	Ryan Lingholm and Melissa Sandoval	Eric & Donna Wood
111 Guernsey Ct	3048 Hereford Ln	3052 Hereford Ln
Dallas, NC 28034	Dallas, NC 28034	Dallas, NC 28034
Superior Quality Construction Inc	Lauren & Taylor Sisk	Scott & Yamileth MacDonald
4340 Hornyak Drive	4033 Hereford Ln	4005 Hereford Ln
Monroe, NC 28110	Dallas, NC 28034	Dallas, NC 28034
Johnnie & Stephanie Harris	Michael & Veronica Etters	MCH SFR NC Owner 1 LP
121 Guernsey Ln	4028 Hereford Ln	14355 Commerce Way
Dallas, NC 28034	Dallas, NC 28034	Miami Lakes, FL 33016
Cynthia Harris & Carol Robertson	Toe River Capital, LLC	Joshua Freeman
2016 Longhorn Dr	207 E 3 <sup>rd</sup> Avenue	4044 Hereford Ln
Dallas, NC 28034	Gastonia, NC 28052	Dallas, NC 28034
Harry Waller III	Robert & Nancy Brown	John & Helen O'Daly Life Estates
4013 Hereford Ln	13192 Dunwoody Ln	112 Brahman Ct
Dallas, NC 28034	Carmel, IN 46033	Dallas, NC 28034
Christopher & Heather Key	Cary & Doris Craig	Dana & Justin Ayers
2353 Hampton Meadows Ln	1001 Ayshire Ln	1017 Ayshire Ln
Cramerton, NC 28032	Dallas, NC 28034	Dallas, NC 28034
Patrick & Mary McDonald	Michael & Ursula Reed	Amanda & Calvin Byers
1025 Ayrshire Ln	2020 Longhorn Drive	108 Brahman Ct
Dallas, NC 28034	Dallas, NC 28034	Dallas, NC 28034
Daniel Bumgardner 2017 Longhorn Dr Dallas, NC 28034	Anthony & Terry Wentz 1008 Ayrshire Ln Dallas, NC 28034	Terry & Sheila Whitaker Shannon Whitaker 4029 Hereford Ln Dallas, NC 28034
David Albright	Charles & Ashlee White	Rachel & Ronald Powell
104 Brahman Ct	913 Ayrshire Ln	3045 Hereford Ln
Dallas, NC 28034	Dallas, NC 28034	Dallas, NC 28034

Aliene Patterson	Jessica Carpenter	Elisabeth & Kyle Haywood
PO Box 276	4021 Hereford Ln	4024 Hereford Ln
Dallas, NC 28034	Dallas, NC 28034	Dallas, NC 28034
Gaston Area Lutheran FND Inc 916 S Marietta St Gastonia, NC 28054	FKH SFR Propco A LP c/o First Key Homes LLC 1850 Parkway Place Suite 900 Marietta, GA 30067	Lisa Cunningham 1016 Ayrshire Ln Dallas, NC 28034
Dennis & Cecelia Kuykendall	Timothy & Hollie Parrish	Tracy & Argerie Beaver
3031 Hereford Ln	1721 Eden Glen Dr	2012 Longhorn Dr
Dallas, NC 28034	Dallas, NC 28034	Dallas, NC 28034
SFR JV -1 2020-1 Borrower LLC c/o Tricon American Homes LLC 1508 Brook Hollow Dr Santa Ana, CA 92705	Gladys & Sean Setzer 4036 Hereford Ln Dallas, NC 28034	Michael & Dana Everhart 4009 Hereford Ln Dallas, NC 28034
Christopher Johnson	AMH NC Properties Two LP	Francisca Dorantes
1009 Ayrshire Ln	23975 Park Sorrento 3 <sup>rd</sup> Floor	3725 Sand Wedge Dr
Dallas, NC 28034	Calabasas, CA 91302	Gastonia, NC 28056
William & Christina Bowen	Brian & Carmen Powers	Sherry & Joseph Sharpe
1711 Eden Glen Dr	1005 Ayrshire Ln	125 Guernsey Ct
Dallas, NC 28034	Dallas, NC 28034	Dallas, NC 28034
David & Sylvia Moore 3044 Hereford Ln Dallas, NC 28034	Hospice of Gaston County ATTN John Brock Smith PO Box 3984 Gastonia, NC 28054	Carlos & Etna Jorge 3035 Hereford Ln Dallas, NC 28034
RS Rental II LLC	Howard Sigmon	Christopher & Allison Cotton
31 Hudson Yards	4040 Hereford Dr	1021 Ayrshire Ln
New York, NY 10001	Dallas, NC 28034	Dallas, NC 28034
Roger & Wendy Blanton 4017 Hereford Ln Dallas, NC 28034	2017-2 IH Borrower LP c/o Invitation Homes 1717 Main St Ste 2000 Dallas, TX 75201	SFR Investments V Borrower 1 LLC P O Box 4090 Scottsdale, AZ 85261
Jeannie Jones	Brian & Shellie Lindler	David Beane
100 Guernsey Ct	1707 Eden Glen Dr	4045 Hereford Ln
Dallas, NC 28034	Dallas, NC 28034	Dallas, NC 28034

Danya Gorgei	Billy & Julia Stockton	Dennis & Vickie Crosby
4025 Hereford Ln	100 Brahman Ct	3039 Hereford Ln
Dallas, NC 28034	Dallas, NC 28034	Dallas, NC 28034
Thomas & Anita Dimauro	William & Patricia Arrowood	Alan Harker
3056 Hereford Ln	2013 Longhorn Dr	4048 Hereford Ln
Dallas, NC 28034	Dallas, NC 28034	Dallas, NC 28034
Connie & Danny Skutt	Brenda Boring	James & Christina Carroll
4041 Hereford Ln	1719 Eden Glen Dr	2024 Longhorn Dr
Dallas, NC 28034	Dallas, NC 28034	Dallas, NC 28034

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Hereford Lane Floodplain



Hereford Topography

