



# Board of Adjustment Case Report

City of Raleigh  
Department of City Planning  
One Exchange Plaza  
Raleigh, NC 27601  
(919) 996-2475  
www.raleighnc.gov

**Case File:** A-63-15

**Property Address:** 2403 Kilgore Avenue

**Property Owner:** Kilgore Properties, LLC

**Project Contact:** Matt Cain

**Nature of Case:** A request for an 18' front yard setback variance from the standards set forth in Section 5.4.3.F.12 of the Unified Development Ordinance to allow for the construction of a detached house that would result in a 30' front yard setback on a .12 acre property zoned Residential-10 and Neighborhood Conservation Overlay District.

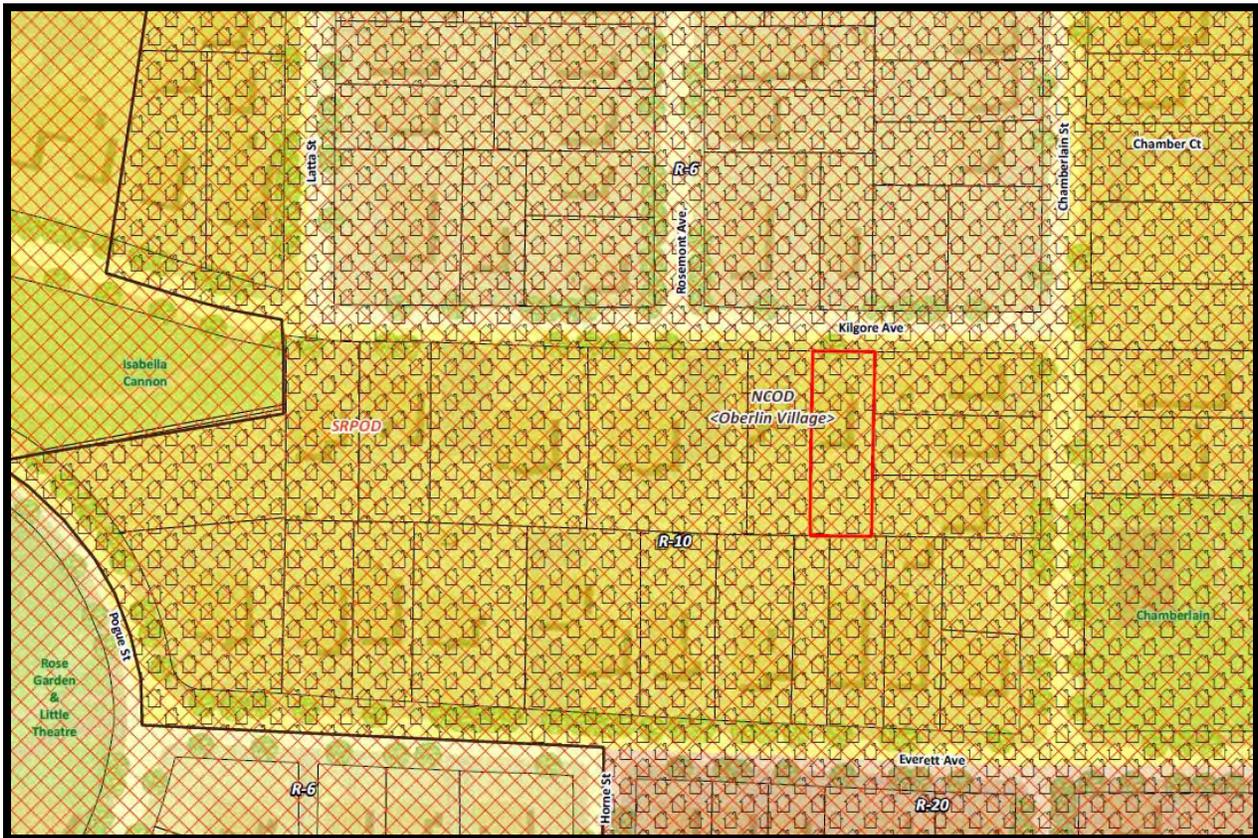


**2403 Kilgore Avenue – Location Map**

To BOA: 8-10-15

Staff Coordinator: Eric S. Hodge, AICP

**ZONING DISTRICTS:** Residential-10 and Neighborhood Conservation Overlay District (Oberlin Village)



**2403 Kilgore Avenue – Zoning Map**

**VARIANCE STANDARDS:** In accordance with UDO §10.2.10 Variance, before a variance request is granted, the Board of Adjustment shall show all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  
2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

3. **The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.**
  
4. **The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.**

**Setback Standards:** The subject property is zoned Residential-10

<b>Yard Type</b>	<b>Minimum Setback</b>
Primary Street	10'
Side Street	10'
Side	5'
Sum of Sides	10'
Rear	20'

**Neighborhood Conservation Overlay District: Oberlin Village**

- a. Minimum lot size: 5,000 square feet.
- b. Maximum lot size: 12,500 square feet.
- c. Minimum lot width: 50 feet.
- d. Front yard setback: Within 10% of the median front yard setback established by buildings on the same side of the block face of the proposed building.  
**(Median front yard setback in this case is 53' with an allowable setback range of: 47.7' – 58.3')**
- e. Building entrance: All buildings shall have a minimum of 1 entrance facing the public street.
- f. Maximum building height: 25 feet or 2 stories.

As with all NCOD's, all lots and structures existing at the time that the -NCOD is first applied to the property shall not be deemed nonconforming solely because of this overlay district.





# Planning & Development

Development Services  
 Customer Service Center  
 One Exchange Plaza  
 1 Exchange Plaza, Suite 400  
 Raleigh, North Carolina 27601  
 Phone 919-996-2495  
 Fax 919-516-2685

## Variance Application

*A-63-15*

		OFFICE USE ONLY
Nature of variance request (Submit addendum on separate sheet, if more space is needed.)		Transaction Number
<p>The request is to seek a variance of <sup>10'</sup> <del>10'</del> from the required setback as proposed in the City of Raleigh UDO code section 5.4.3.f.12.d (Oberlin Village Neighborhood Conservation District). See attached addendum for complete summary.</p>		
Provide all previous transaction numbers for Coordinated Team Reviews, Due Diligence Sessions or Pre-Submittal Conferences. If this property was the subject of a previous variance request, provide the case number.		

GENERAL INFORMATION		
Property Address	Date	
2403 Kilgore Avenue, Raleigh NC 27607	7/8/2015	
Property PIN	Current Zoning	
0794931500	R-10	
Nearest Intersection	Property size (in acres)	
Kilgore Avenue / Chamberlain Avenue	.126	
Property Owner	Phone	Fax
Kilgore Properties, LLC 5400 Etta Burke Court, Suite 201 Raleigh, NC 27606	919-291-9217	919-928-5528
	Email	
	mdcain@att.net	
Project Contact Person	Phone	Fax
Matt Cain	919-291-9217	919-928-5528
	Email	
	mdcain@att.net	
Property Owner Signature	Email	
<i>[Signature]</i>	mdcain@att.net	
Notary	Notary Signature and Seal	
Sworn and subscribed before me this <u>8<sup>th</sup></u> day of <u>July</u> , 2015	<i>Vicki M. Gurry</i> 	

It is improper to contact any member of the Board of Adjustment prior to the disposition of a case to discuss the request. A variance application will not be considered complete until all required submittal components listed on the Variance Checklist have been received and approved.



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## Variance Intake Requirements

TO BE COMPLETED BY APPLICANT	COMPLETED BY CITY STAFF				
	YES	N/A	YES	NO	N/A
<b>General Requirements – Variance</b>					
1. I have referenced the <b>Variance Checklist</b> and by using this as a guide, it will ensure that the application is processed in a timely manner	<input checked="" type="checkbox"/>				
2. Variance application review fee (see <b>Development Fee Schedule</b> for rate)	<input checked="" type="checkbox"/>				
3. Completed, notarized application signed by the property owner	<input checked="" type="checkbox"/>				
4. One set of stamped envelopes addressed to all property owners within 100 feet of the subject property	<input checked="" type="checkbox"/>				
5. List of all adjacent property owners	<input checked="" type="checkbox"/>				
6. Plot Plan drawn to scale, containing a north arrow, area of lot, location of all existing improvements and use areas, location of proposed improvements, location of any constraints such as flood plain area, tree conservation area, buffer yards, easements, and sight distance triangles	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
7. If the variance request involves a structure, sign or fence, architectural elevations must be submitted	<input checked="" type="checkbox"/>	<input type="checkbox"/>			
8. If the property has been cited by a Code Enforcement Officer, include a copy of the citation	<input type="checkbox"/>	<input checked="" type="checkbox"/>			
9. Is variance needed to legalize an existing improvement?	<input type="checkbox"/>	<input checked="" type="checkbox"/>			



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## Variance Checklist

TO BE COMPLETED BY APPLICANT	YES	N/A
<b>PRE-SUBMITTAL REQUIREMENTS</b>		
1. Pre-Application Conference with staff	✓	/
2. Completed Variance Intake Requirements sheet	✓	
3. Variance applications shall be submitted to the Zoning Division, 4 <sup>th</sup> floor of One Exchange Plaza		
<b>VARIANCE REQUIREMENTS</b>		
1. The property owner must be the applicant	✓	/
2. A signed, notarized application and submittal fee are required.	✓	
3. The applicant must submit stamped envelopes addressed to the property owners within 100 feet of the subject property. City staff will mail the public hearing notices.	✓	
4. The Board of Adjustment conducts a quasi-judicial hearing. You may not contact the Board members once the application has been filed.	✓	
5. The Board of Adjustment is not empowered to modify zoning lines or grant a use variance.	/	/
6. The Board of Adjustment may attach conditions of approval to a variance to protect surrounding properties.	/	/
7. City Staff will place a public hearing sign on the subject property. The sign must be prominently displayed on the property for at least ten days before the hearing. The property owner is responsible for maintaining the sign during this ten day period. The owner must return the sign to city staff within three days of the hearing. The owner will be charged \$45 for any sign not returned.	✓	/
<b>VARIANCE CONSIDERATIONS</b>		
The Board of Adjustment will review all variance requests against the following showings:	/	
1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made from the property.	/	
2. The hardship results from conditions that are peculiar to the property, such as location, size or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.	/	
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.	/	
4. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved.	/	



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## Pre-Application Conference

This form must be provided at the time of formal submittal.

### Process Type

- Board of Adjustment (Contact: Eric Hodge)
- Comprehensive Plan Amendment (Contact: Dan Becker)
- Rezoning (Contact: DeShele Sumpter)
- Site Review\* (Contact: Stacy Barbour)
- Subdivision (Contact: Christine Darges)
- Subdivision (Exempt) (Contact: Peggy Goodson)
- Text Change (Contact: Travis Crane)

\* Optional conference

### GENERAL INFORMATION

Date Submitted 7/8/15  
Applicant(s) Name Kilgore Properties LLC  
Phone 919-291-9217  
Email mdcain@att.net  
Property PIN # 0794931500  
Site Address / Location 2403 Kilgore Avenue Raleigh NC 27607  
Current Zoning R-10  
Additional Information (if needed) -

### FOR OFFICE USE ONLY

Transaction # \_\_\_\_\_  
Date of Pre-Application Conference \_\_\_\_\_  
Staff Signature \_\_\_\_\_

2403 Kilgore Avenue Board of Adjustment Application Addendum

To Whom it Concerns,

The enclosed request is to seek a variance of 18' from the required building setbacks as required by section 5.4.3.F.12.d of the City of Raleigh's UDO. The proposed setback of the new single family residence at 2403 Kilgore is proposed at 30' from the front property line. Section 5.4.3.F.12.d of the UDO "requires that front yard setbacks be within 10% of the median front yard setback established by buildings on the same side of the block face of the proposed building."

Due to the unusually long nature of the 2400 block of Kilgore Avenue (due to Isabella Cannon Park located along Kilgore Avenue) there are 5 buildings located along the same side of the block face as 2403 Kilgore (3 single family and 2 apartment buildings) and these properties span a distance of 360' along Kilgore Avenue. The property with the median setback is located at 2525 Kilgore Avenue. This property is located 53' back from the front property line. +/- 10% of this setback creates a range of 47.7'-58.3'. The proposed setback at 2403 is 30' thus a variance of 18' ( $47.7' - 30' = 17.7'$ ) is requested.

The intent of our request is locate the property at 2403 Kilgore within a setback distance we believe is within the character of the neighborhood. The attached "Exhibit A" is a color coded map showing all the properties within a 360' radius of 2403 Kilgore (same distance as our median property at 2525 Kilgore). As you can see there are approximately 56 properties located within this distance and of those the following approximate setbacks exist (as measured on the Wake County GIS system):

0 to 35' = 47 properties

36'to 45' = 6 properties

46' and greater = 3 properties

Section 5.1.D.3.c "District Intent Statement" of the UDO states: "By respecting the context of existing built environmental characteristics, the -NCOD reduces conflicts between new construction and existing development, and it encourages compatible infill development." In this case we believe the attached exhibit demonstrates a setback distance of 30' is more consistent with the "existing built environmental characteristics" of the neighborhood than the 47.7' proposed by the current zoning code.

Additionally, the new homes proposed location is within 2' of the home previously located on the lot in an effort to maintain the existing character of the neighborhood and compatibility with the home immediately adjacent to it (2405 Kilgore Avenue).

Our intent with this project has always been to be compatible and within character of the existing neighborhood. We hope the information provided in this document is evident of this.

Thank you for your consideration of this variance request.

Regards,

Matt Cain

Kilgore Properties, LLC

SCALE:  
1" = 30'

DATE:  
08 JUNE 2015

FILE NAME:  
Fairground Park Lot 38.dwg

TOWNSHIP:  
RALEIGH

LOT 38 SECTION \_\_\_ BLOCK \_\_\_ PHASE \_\_\_

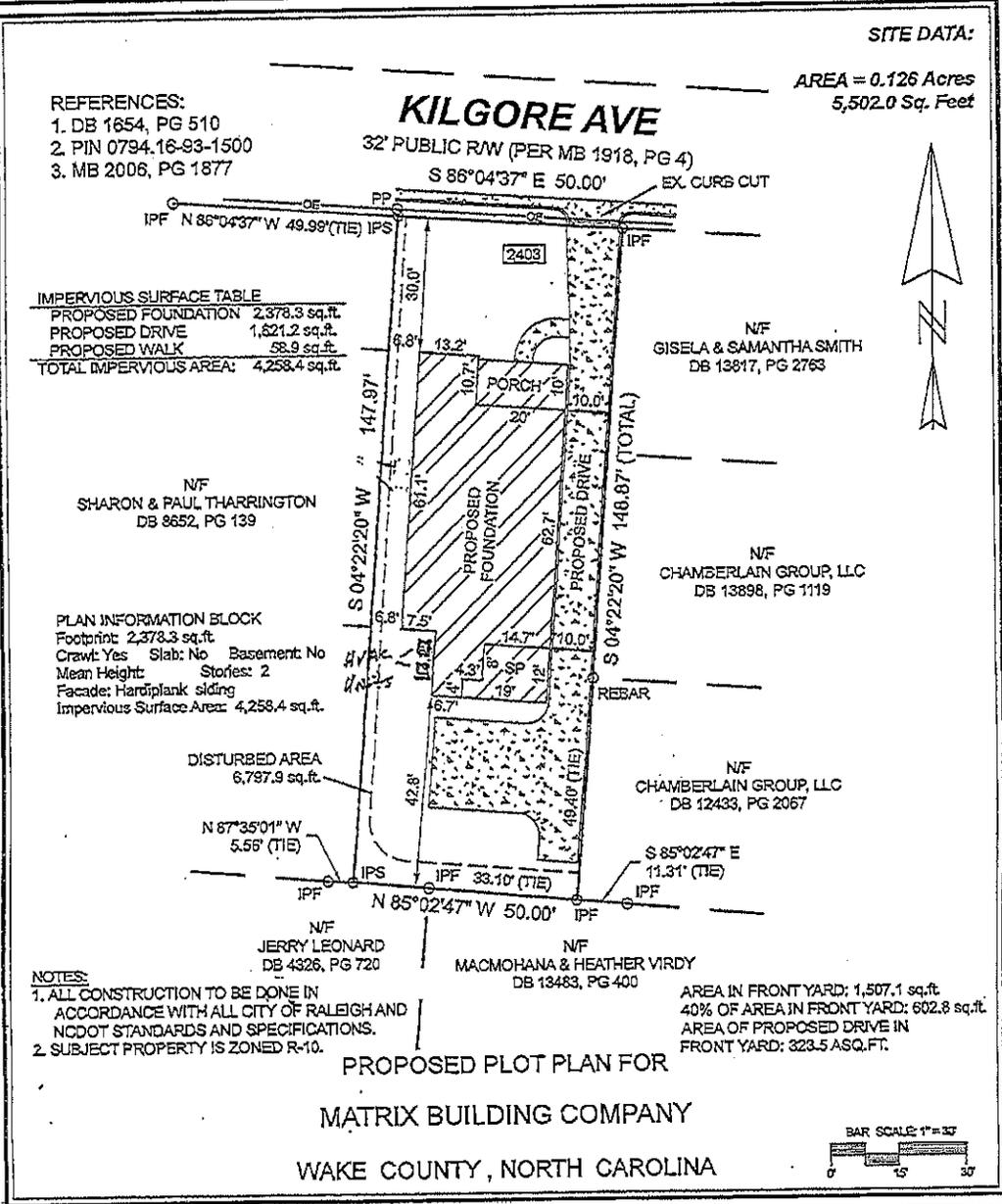
SUBDIVISION FAIRGROUND PARK AS

RECORDED IN MAP BOOK 1918 PAGE 4

WAKE COUNTY REGISTRY.

NOTES:  
1. ALL AREAS ARE BY COORDINATE GEOMETRY.  
2. ALL DISTANCES ARE HORIZONTAL GROUND UNLESS OTHERWISE NOTED.  
3. NORTH ARROW IS PER RECORDED MAP OR DEED LISTED ABOVE UNLESS OTHERWISE NOTED.

LEGEND:  
IPF = IRON PIPE FOUND  
IPS = IRON PIPE SET  
CP = COMPUTED POINT  
□ = CONCRETE MONUMENT  
D = DECK  
P = PORCH  
E = ELECTRIC TRANSFORMER  
PK = MASONRY NAIL  
LP = LIGHT POLE  
PP = POWER POLE  
O-E = OVERHEAD ELECTRIC LINE  
F = FENCE  
SP = SCREEN PORCH  
S = STOOP

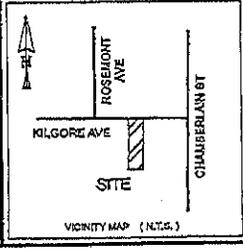


6900 FIELD HILL ROAD  
RALEIGH, NORTH CAROLINA - 27603

**CHANCE SURVEYING COMPANY, P.A.**

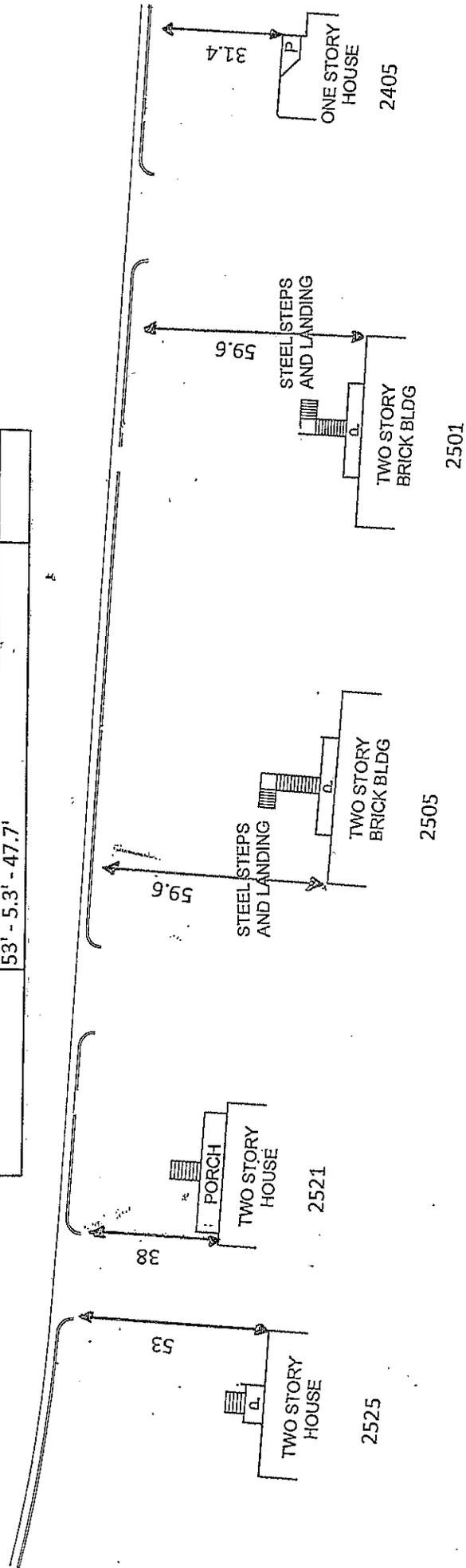
LICENSE NO. C-2964

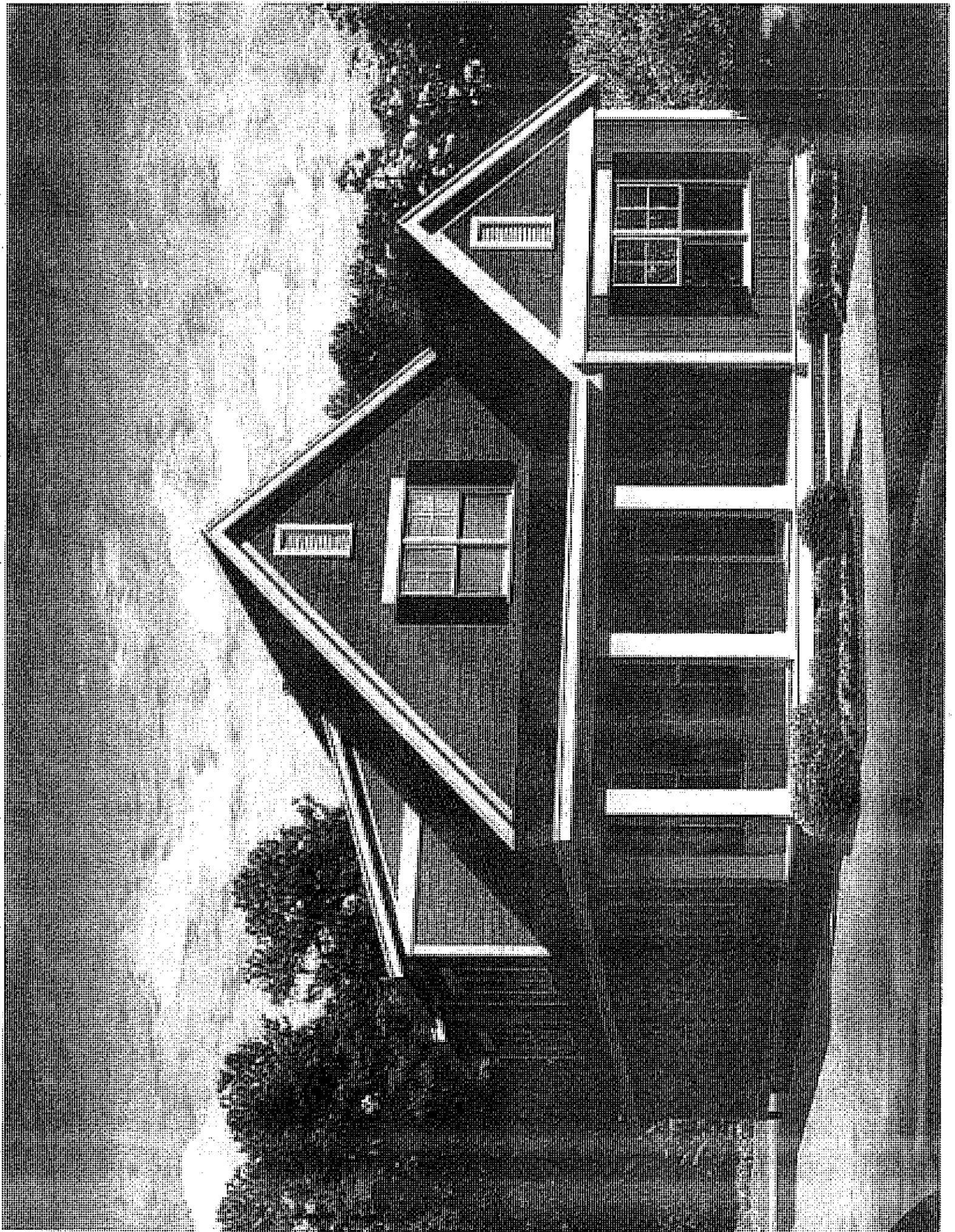
www.chancesurvey.com  
PHONE (919) 329-5795  
EMAIL: kchance@nc.surve.com

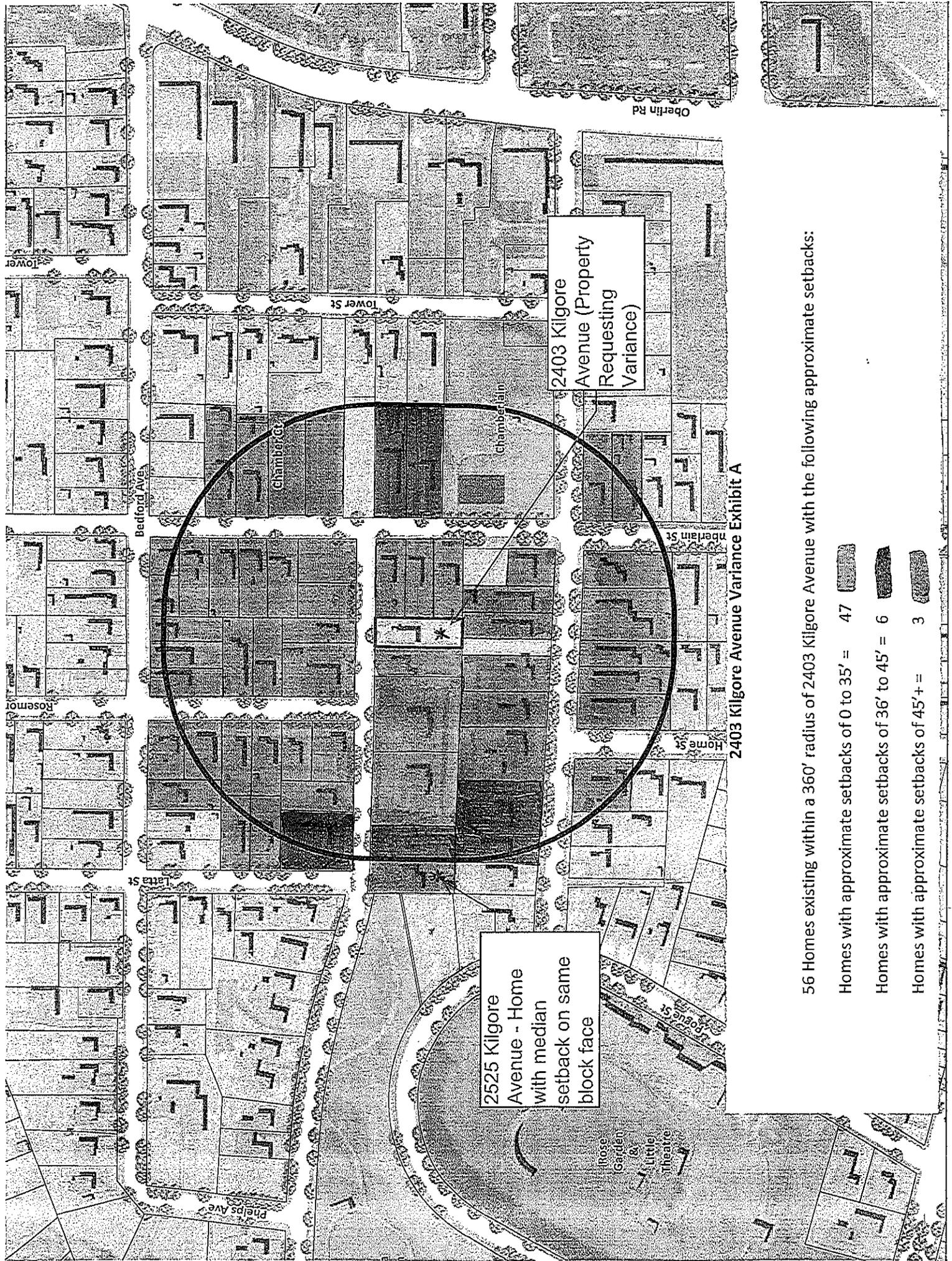


2403 Kilgore Avenue Front Yard Setbacks for Adjacent Properties

Address	Setback Distance From Front Property Line
2405 Kilgore Avenue	31.4
2521 Kilgore Avenue	38
2525 Kilgore Avenue	53 ** Median
2501 Kilgore Avenue	59.6
2505 Kilgore Avenue	59.6
Setback Calculation	
53' x 10% =	5.3'
Allowable Range	53' + 5.3' = 58.3' 53' - 5.3' = 47.7'







2525 Kilgore Avenue - Home with median setback on same block face

2403 Kilgore Avenue (Property Requesting Variance)

2403 Kilgore Avenue Variance Exhibit A

56 Homes existing within a 360' radius of 2403 Kilgore Avenue with the following approximate setbacks:

- Homes with approximate setbacks of 0 to 35' = 47
- Homes with approximate setbacks of 36' to 45' = 6
- Homes with approximate setbacks of 45'+ = 3



2403 Kilgore Avenue



0794931500  
KILGORE PROPERTIES LLC  
5400 ETTA BURKE CT STE 201  
RALEIGH NC 27606-1696

0794839365  
SATTERWHITE THOMAS, BILLIE JEANNE  
2410 EVERETT AVE  
RALEIGH NC 27607-7218

0794839561  
HUNTLEY, VIRGINIA R  
2705 BEDFORD AVE  
RALEIGH NC 27607-7113

0794930336  
LEONARD, JERRY  
1907 PARK DR  
RALEIGH NC 27605-1614

0794930376  
LEONARD, JERRY  
1907 PARK DR  
RALEIGH NC 27605-1614

0794930551  
THARRINGTON, SHARON THARRINGTON,  
PAUL WIEDMER  
2317 RIDGE RD  
RALEIGH NC 27612-5112

0794930659  
SERXNER, JONATHAN C  
2412 KILGORE AVE  
RALEIGH NC 27607-7336

0794931315  
VIRDY, MACMOHANA VIRDY, HEATHER  
2404 1/2 EVERETT AVE  
RALEIGH NC 27607-7218

0794931355  
DUNNE, MICHAEL C DUNNE, CAROLYN W  
2404 EVERETT AVE  
RALEIGH NC 27607-7218

0794931485  
CHAMBERLAIN GROUP LLC  
102 HOUNSLOW CT  
CARY NC 27518-9069

0794931591  
CHAMBERLAIN GROUP LLC  
102 HOUNSLOW CT  
CARY NC 27518-9069

0794931607  
WILLIAMS, ELLA E  
116 RIDGEVIEW RD  
POUGHKEEPSIE NY 12603-4264

0794931656  
WALLER, DOUGLAS C WALLER, JUDITH B  
2404 KILGORE AVE  
RALEIGH NC 27607-7336

0794932301  
PEARCE, WYNN M  
3521 MORNINGSIDE DR  
RALEIGH NC 27607-3024

0794932319  
CHAMBERLAIN GROUP LLC  
102 HOUNSLOW CT  
CARY NC 27518-9069

0794932505  
SMITH, GISELA E SMITH, SAMANTHA A  
116 WASHINGTON PL  
ROCKY MOUNT NC 27801-3521

0794932626  
SHAW, GEORGE B SHAW, CARA A  
2400 KILGORE AVE  
RALEIGH NC 27607-7336



Real Estate ID 0078054

PIN # 0794931500

Account Search

Location Address  
2403 KILGORE AVE

Property Description  
LO38 FAIRGROUND PK

[Pin/Parcel History](#) [Search Results](#) [New Search](#)

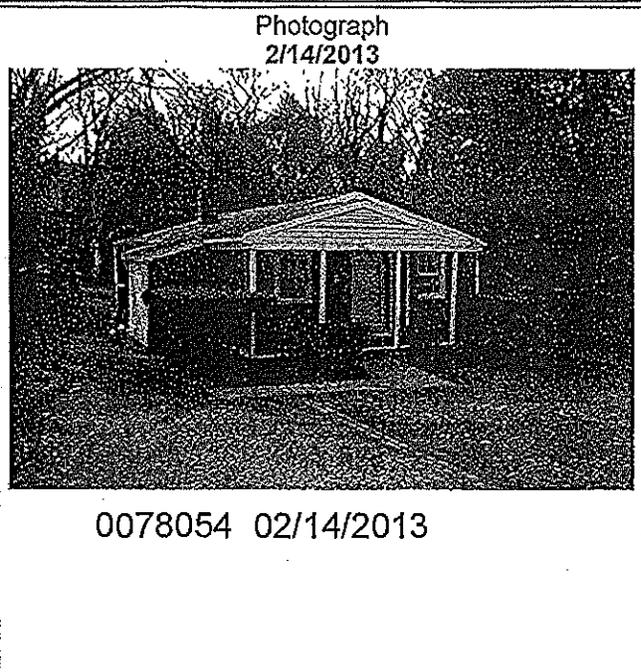
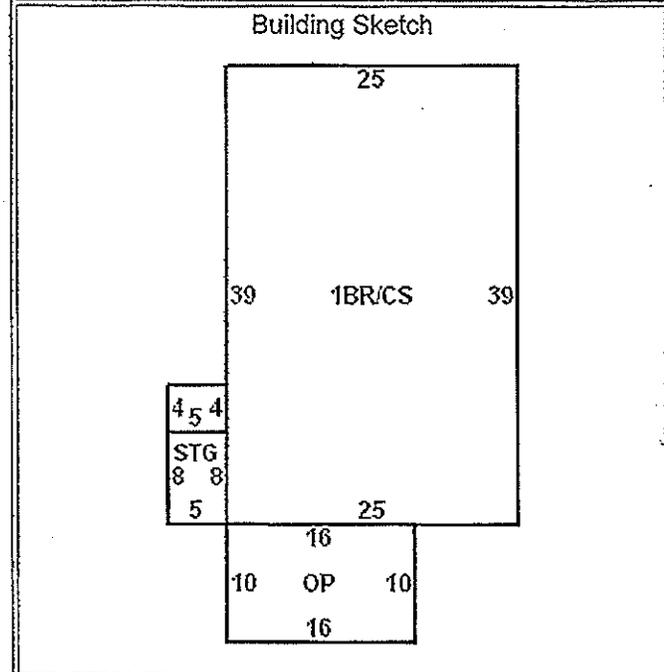
[Account](#) | [Buildings](#) | [Land](#) | [Deeds](#) | [Notes](#) | [Sales](#) | [Photos](#) | [Tax Bill](#) | [Map](#)



Building Location Address 2403 KILGORE AVE	Building Description 01RA296	Card 01 Of 01
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Bldg Type 01 Single Family	Year Blt 1959 Eff Year 1959	Base Bldg Value \$87,380
Units 1	Addns Remod	Grade C-10 90%
Heated Area 975	Int. Adjust.	Cond % C 61%
Story Height 1 Story	Other Features	Market Adj. F 120%
Style Conventional		Market Adj. Accrued % 73%
Basement Crawl Space		Incomplete Code
Exterior Brick		Card 01 Value \$57,566
Const Type		All Other Cards
Heating Central		Land Value Assessed \$140,400
Air Cond No Air		Total Value Assessed \$197,966
Plumbing 1 BATH		

Main and Addition Summary					Other Improvements					
Story	Type	Code	Area	Inc	Units	DesItem	Code	Year	% Inc	Value
M	1	BR/CS	975							
A		STG	40							
B		STP	20							
C		OP	160							
D										
E										
F										
G										
H										



2403 Kilgore Avenue 100' Radius

CASORSO, MARTHA T

601 ROSEMONT AVE

RALEIGH NC 27607-7205

SATTERWHITE THOMAS, BILLIE JEANNE

2410 EVERETT AVE

RALEIGH NC 27607-7218

HUNTLEY, VIRGINIA R

2705 BEDFORD AVE

RALEIGH NC 27607-7113

LEONARD, JERRY

1907 PARK DR

RALEIGH NC 27605-1614

LEONARD, JERRY

1907 PARK DR

RALEIGH NC 27605-1614

THARRINGTON, SHARON THARRINGTON, PAUL WIEDMER

2317 RIDGE RD

RALEIGH NC 27612-5112

SERXNER, JONATHAN C

2412 KILGORE AVE

RALEIGH NC 27607-7336

VIRDY, MACMOHANA VIRDY, HEATHER

2404 1/2 EVERETT AVE

RALEIGH NC 27607-7218

DUNNE, MICHAEL C DUNNE, CAROLYN W

2404 EVERETT AVE

RALEIGH NC 27607-7218

CHAMBERLAIN GROUP LLC

102 HOUNSLOW CT

CARY NC 27518-9069

KILGORE PROPERTIES LLC

5400 ETTA BURKE CT STE 201

RALEIGH NC 27606-1696

CHAMBERLAIN GROUP LLC

102 HOUNSLOW CT

CARY NC 27518-9069

WILLIAMS, ELLA E

116 RIDGEVIEW RD

POUGHKEEPSIE NY 12603-4264

WALLER, DOUGLAS C WALLER, JUDITH B

2404 KILGORE AVE

RALEIGH NC 27607-7336

PEARCE, WYNN M

3521 MORNINGSIDE DR

RALEIGH NC 27607-3024

CHAMBERLAIN GROUP LLC

102 HOUNSLOW CT

CARY NC 27518-9069

SMITH, GISELA E SMITH, SAMANTHA A

116 WASHINGTON PL

ROCKY MOUNT NC 27801-3521

SHAW, GEORGE B SHAW, CARA A

2400 KILGORE AVE

RALEIGH NC 27607-7336