



CITY OF LINCOLN BOARD OF ADJUSTMENT

PO DRAWER 617, LINCOLN, NC 28092

www.ci.lincolnton.nc.us

BOARD MEMBERS:

Worth Roberts, Chair, worth.roberts@charter.net; Thomas Hawk, Vice-Chair, thomasrhawk@aol.com;
Anita McCall, a.mccall@bellsouth.net; Becky Burke, beckyburke@charter.net; Jerry Hoffman, jlskhoffman@charter.net

Tuesday, August 18, 2015 Meeting

Present: Becky Burke, Jerry Hoffman and Worth Roberts with Kathryn Yarbrow sitting in as first alternate and Lynn sitting in as second alternate.

Absent: Tom Hawk and Anita McCall.

Call to Order

Chair Worth Roberts called the meeting to order and recognized that three (3) regular members were present and Kathryn Yarbrow was sitting in as first alternate and Lynn as second alternate.

Approval of Minutes

Chair Worth Roberts asked the Board if there were any additions or corrections to the minutes of the July 21, 2015 meeting.

Motion: Lynn made a motion to approve the minutes. Becky Burke seconded. Motion carried unanimously.

BOA-3-2015

BOA-3-2015 Application from Keith Cook requesting a variance to allow a driveway 14 feet in width instead of the required 24 feet in width in the R-O district at 526 South Aspen Street. (Parcel ID 20866).

Mark Carpenter addressed the Board stating that the applicant is requesting a variance in order to construct a driveway 14 feet in width instead of the required 24 feet in width in the Residential-Office (R-O) District. The subject property is located at 526 South Aspen Street. The property is on the west side of South Aspen Street approximately 50 feet north of the intersection of South Aspen Street and East Rhodes Street. The property was formerly a single family dwelling and the applicant would like to use the property for a beauty salon or other use permitted in the R-O

District. Because the property would be a nonresidential use the driveway has to meet the requirements as outlined in the ordinance for commercial uses. Parking on this property would need to be in the rear and the only way to access the rear is by a 14 foot wide driveway. There are no options for relocating the driveway elsewhere on the site. The property is located between a commercial use to the north, Gaston College parking lot to the south, CSX Railroad to the west, and Gaston College to the east.

The Ordinance requires that the following findings be determined in order to grant the variance:

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.

Mr. Carpenter noted that in staff's view the request meets the findings as follows:

1. The hardship would result from the application of the ordinance. A 24 foot wide driveway is required. The amount of available space would allow for only a 14 foot wide driveway.
2. The hardship results from conditions that are peculiar to the property. The property has an older single family dwelling located on it which was built in 1920 and is located on a lot which is only 60 feet wide. Because of this situation there is no additional room available on the property to place the driveway anywhere else on the property.
3. The hardship did not result from actions taken by the applicant. This situation has been in place for many years.
4. The granting of the variance will result in only minor deviation in the dimensional requirements of the driveway. There should be no issue that would negatively affect the public safety and welfare.

Because the driveway will be accessed from South Aspen Street, an NCDOT maintained street, a driveway permit will be required. In talking with NCDOT engineers, the applicant will be required to widen the driveway access out wider at the street to ensure that one car can enter the site and one can exit. There is enough room at the street to allow for a driveway connection wider than 14 feet. NCDOT will review the site plan when submitted and must approve the driveway at the connection point.

Mr. Carpenter stated that Staff is of the opinion that, due to the case made by the applicant, the four findings of fact required to issue a variance have been met.

Mr. Keith Cook addressed the Board stating that his daughter plans to use the building for a salon and parking will be provided in the rear yard.

Motion: And Lynn made a motion to approve the variance. Kathryn Yarbro seconded. Motion carried unanimously.

BOA-4-2015

BOA-4-2015 Application from B & K Carnival Company requesting a temporary permit to operate a carnival on the premises of Sentry Drug Shopping Center, 2622 East Main Street, from September 2 – 5, 2015.

Mark Carpenter addressed the Board stating that B & K Carnival Company, Inc. is requesting a temporary permit to operate a carnival on the premises of Sentry Drug Shopping Center. The Unified Development Ordinance requires authorization by the Board of Adjustment for a temporary use of this type. The Board, in approving such a use, may authorize conditions regarding the use. Those conditions, if authorized, will be made a part of the permit issued by the Zoning Administrator.

B & K intends to set-up approximately 10-15 rides. Porta-Johns and dumpsters will be provided. Hours of operation will be Wednesday through Friday from 5:00 p.m. until 11:00 p.m. and Saturday from 1:00 p.m. until 11:00 p.m. All rides will be inspected by the Department of Labor prior to opening.

Mr. Carpenter noted that Staff recommends approval with the following conditions:

- (1) Period of activity shall be from September 2-5, 2015
- (2) Hours of operation shall be:
 - (a) 5:00 p.m. until 11:00 p.m. Wednesday through Friday
 - (b) 1:00 p.m. through 11:00 p.m. on Saturday
- (3) The applicant must maintain a valid certificate of liability insurance in the amount of \$5,000,000 during the activity's operation.
- (4) Porta-Johns will be on-site for use by the public.
- (5) Dumpsters will be placed on-site for trash disposal. Trash must be removed from property immediately after event by the owner.
- (6) State and local inspections shall be completed and approved prior to opening the carnival.
- (7) Fire Inspection and Fire Permit must be issued by City Fire Inspector.
- (8) The City of Lincolnton shall not provide water, sewer, or electrical utilities to the site.
- (9) Security officers must be employed during carnival operation.

Motion: And Lynn made a motion to adjourn the meeting. Becky Burke seconded. Motion carried unanimously.

Adjournment

Motion: And Lynn made a motion to adjourn the meeting. Kathryn Yarbrow seconded. Motion carried unanimously.

Laura Elam, Secretary

Boa081815 minutes