



CITY OF LINCOLN BOARD OF ADJUSTMENT

PO DRAWER 617, LINCOLN, NC 28092

www.ci.lincolnton.nc.us

BOARD MEMBERS: Thomas Hawk, Chair, thomasrhawk@aol.com; Anita McCall, Vice-Chair, a.mccall@bellsouth.net; Becky Burke, beckyburke@charter.net; Jerry Hoffman, jlskhoffman@charter.net; Kathryn Yarbrow, kathryny@charter.net

Tuesday, December 20, 2016 Meeting

Present: Thomas Hawk, Anita McCall, Kathryn Yarbrow and Becky Burke with Gene Poinsette sitting in as second alternate

Absent: Jerry Hoffman, And Lynn

Call to Order

Chair Thomas Hawk called the meeting to order and recognized Jerry Hoffman and And Lynn were absent and all other members were present.

Approval of Minutes

Chair Thomas Hawk asked the Board if there were any additions or corrections to the minutes of the November 15, 2016 meeting.

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

BOA- 9-2016

Application from Derrick Denman requesting a variance regarding rear setback and lot size requirements in the Planned Business (PB) District. The subject property is located at 108 Newbold Street and vacant lot to the east. (Parcel ID 21051 and 17734).

Mark Carpenter addressed the Board noting the following:

The applicant owns the property on which the chiropractor's office is located and is purchasing the vacant property adjacent to the site. The applicant needs to keep the two properties separate for several years due to financing reasons.

During this time an expansion of the office will be constructed approximately 1000 square feet in size with the new building being approximately 10 feet off the rear property line. The rear setback requirement is 30 feet in the PB District. Not meeting the setback requirement requires approval of a variance from the Board.

At some point in the future the vacant property, which has a Duke Energy right of way located on it, will be subdivided. The rear portion of the lot will be combined with the office property and the applicant will then meet the 30 foot setback requirement. The front portion of the newly subdivided property, which does not have the Duke Energy right of way located on it, will not meet the one acre lot size requirement. Because the one acre lot size requirement would not be met a second variance would need to be approved.

Findings of Fact

- 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.

Conclusions

- 1) The variances should not have any effect on the on the neighboring properties.
- 2) The vacant property in the rear is mostly unbuildable due to the Duke Energy Right of way. A parking lot could potentially be built there with Duke Energy approval.
- 3) The front part of the vacant property which would not meet the one acre lot size requirement could potentially be sold to the neighboring property owner or be developed with a small business.
- 4) The applicant will need to provide additional information, at the meeting, regarding how the four findings of fact are met in order for the Board of Adjustment to grant the variance.

There is discussion between the Board and Staff regarding variance and right-of-way questions.

Dr. Denman speaks to explain the reasoning behind his requests.

Motion: Gene Poinsette made a motion to approve. Anita McCall seconded. Motion carried unanimously.

Adjournment

Motion: Anita McCall made a motion to adjourn the meeting. Kathryn Yarbrow seconded. Motion carried unanimously.

Becky Shaw

Boa12202016 minutes