

LINCOLNTON BOARD OF ADJUSTMENT
AGENDA
April 16, 2019
At 4:00 P.M. in City Council Chambers

1. Roll Call
2. Call to Order
3. Approval of Minutes from the March 19, 2019 meeting
4. BOA-4-2019 – A Variance Application submitted by Saine Properties requesting a reduction in the front yard setback for a parcel in the G-B (General Business) Zoning District. The property is at 127 Spake Road (PID 55974).
5. Adjournment



**CITY OF LINCOLNTON
BOARD OF ADJUSTMENT**

PO DRAWER 617, LINCOLNTON, NC 28092

www.ci.lincolnton.nc.us

BOARD MEMBERS: Gene Poinsette, Chair, poinsetteg@charter.net; Änd Lynn, Vice-Chair, andmlynn@gmail.com; Jamel Farley, afarley2351@gmail.com; Becky Burke, beckyburke940@gmail.com; Jerry Hoffman, jlskhoffman@charter.net;

Tuesday, March 19, 2019 Meeting

Present: Gene Poinsette, Änd Lynn, Becky Burke, Jamel Farley and Worth Roberts

Absent: Jerry Hoffman

Call to Order

Chairman Gene Poinsette called the meeting to order and recognized that Jerry Hoffman was absent and Worth Roberts was serving as first alternate for a quorum.

Approval of Minutes

Chairman Gene Poinsette asked the Board if there were any additions or corrections to the minutes of the February 19, 2019 meeting.

Motion: Änd Lynn made a motion to approve the minutes. Jamel Farley seconded. Motion carried unanimously.

BOA-2-2019 – A Variance Application submitted by Dan Houser requesting to exceed one-half the heated ground floor area of the principal building that is allowed as the maximum size for an accessory structure on a residential lot. The property is at 530 North Flint Street (PID 53501).

Jean Derby swore in Brett Hicks, Dan Houser and Ann DeShazo.

Brett Hicks addressed the board noting the following:

The property is a single-family residential home at 530 North Flint Street currently zoned R-10.

Relevant UDO Requirement

- The City of Lincolnton Unified Development Ordinance requires the aggregate area of all detached accessory structures on a lot containing a principal residential use to not exceed one-half the heated ground floor area of the principal building.

Background and Variance Request

- The property is developed with a 1,608 square foot house. The ordinance allows detached accessory structure(s) on the property totaling up to 804 square feet.
- The applicant is requesting a variance to allow a 960 square foot accessory building measuring 32 feet by 30 feet.

Additional Applicant Statements

- Applicant is not able to store all of his vehicles in an 800 square foot space.
- The house, constructed in 1926, has the possibility to be listed as a historical structure so the applicant does not wish to attach the accessory structure to the house.

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.

Staff Comments

- Should the Board of Adjustment decide to grant this variance, the following are four suggested conditions:
 1. The accessory structure must be placed on the lot in accordance with the site plan submitted by the applicant, must not be placed closer to E. Alexander Street than the home and is to observe the setbacks noted on the site plan.
 2. The accessory structure must conform/harmonize with the architectural style of the house.
 3. The height of the accessory structure can't exceed the height of the house.

4. Due to the accessory structure being allowed to exceed the allotted size for the property, this would be the only accessory structure allowed on the lot, provided the existing principal structure remains the same size.
- 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.

Ann DeShazo, the owner of the adjacent property directly behind Mr. Houser, spoke against the variance. She was concerned about the appearance of the garage as well as the possibility of it encroaching on her property.

Brett Hicks clarified for Ms. DeShazo that the garage would not encroach on her property and the structure would conform/harmonize with the architectural style of the house.

After a brief discussion, Chairman Gene Poinsette asked if there was a motion.

Motion: Worth Roberts made a motion to approve. Becky Burke seconded. Motion carried unanimously.

BOA-3-2019 – A Variance Application submitted by Alexandra P. Eldridge requesting a reduction in the front yard setback in the R-8 zoning district. The property is at 327 East Dixon Street (PID 20309).

Jean Derby swore in Brett Hicks and Alexandra Eldridge.

Brett Hicks addressed the board noting the following:

The property is a single-family residence at 327 East Dixon Street currently zoned R-8.

Relevant UDO Requirement

- The City of Lincolnton Unified Development Ordinance requires a 30 foot front yard setback as measured from the edge of the street right-of-way line in the R-8 zoning district.

Background and Variance Request

- The house on this property is approximately 10 feet from the edge of the right-of-way line.
- The applicant is requesting the variance to allow the addition of a covered porch to the front of the house.
- The proposed covered porch will be 24 feet wide, 8 feet deep and 8 feet high.
- The front of the covered porch will begin approximately 13.5 feet from the edge of the curb and outside of the street right-of-way.

Additional Applicant Statements

- The current entry into the home is not adequate to safely open the front door because the brick pad is not large enough and there are no railings. The porch is so small that it is impossible to open the storm door and occupy the steps at the same time. The Applicant is afraid she will fall without an expansion and railings.
- The Applicant was not aware of how hazardous the situation was until after living there.
- The front of the house is completely unprotected from the elements which have caused structural damage (now repaired).
- The construction of the home predates zoning and the required setbacks extend into the structure.
- The proposed construction will be very similar to other homes in the area and will add significant value to the property.
- The home across the intersection is very similar in design. However, the Applicant's proposed improvement will not be as grand.
- A contractor has been secured and can begin construction upon approval of the variance.

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.

Staff Comments

- The majority of the homes along East Dixon Street predate zoning and are closer to the street than the required setback.
- The location and character of the proposed addition appear to be consistent with nearby properties.
- Should the Board of Adjustment decide to grant this variance, the following are two suggested conditions:
 1. The covered porch must be constructed in accordance with the attached plans and conform to the architectural style of the house.
 2. The covered porch will not extend any further towards the East Dixon Street right-of-way than shown on Exhibit F and no part of the addition may be located within any right-of-way.

- 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.

After a brief discussion, Chairman Gene Poinsette asked if there was a motion.

Motion: And Lynn made a motion to approve. Jamel Farley seconded.
Motion carried unanimously.

Chairman Gene Poinsette asked the Board if there was any other business to be addressed, to which there was none.

Adjournment

Motion: And Lynn made a motion to adjourn. Jamel Farley seconded.
Motion carried unanimously.

Jean Derby

Boa32019minutes

MEMO TO: Lincolnnton Board of Adjustment

FROM: City of Lincolnnton Planning Department

DATE: April 16, 2018

SUBJECT: BOA-4-2019

APPLICANT: Saine Properties

Property Information

- Property Location - 127 Spake Road (PID 55974)
- Current Zoning - General Business (G-B)
- Property Size – 1.79 acres
- Current Use of Property - Commercial
- Adjacent Properties - Commercial and Residential



Relevant UDO Requirement

The City of Lincoln Unified Development Ordinance includes the following requirements:

- The G-B district requires a 40 foot setback as measured from the edge of the street right-of-way.
- No accessory structure shall be located in any required front or side setback within the G-B district.

Background and Variance Request

- The applicant is requesting a variance to allow the construction of an accessory structure within the 40 foot setback along Hershel Lackey Road near its intersection with Spake Road.
- The accessory structure will be located approximately 16 feet from the right-of-way along Hershel Lackey Road.
- The accessory structure will measure approximately 32 feet by 77 feet, totaling approximately 2,464 square feet.

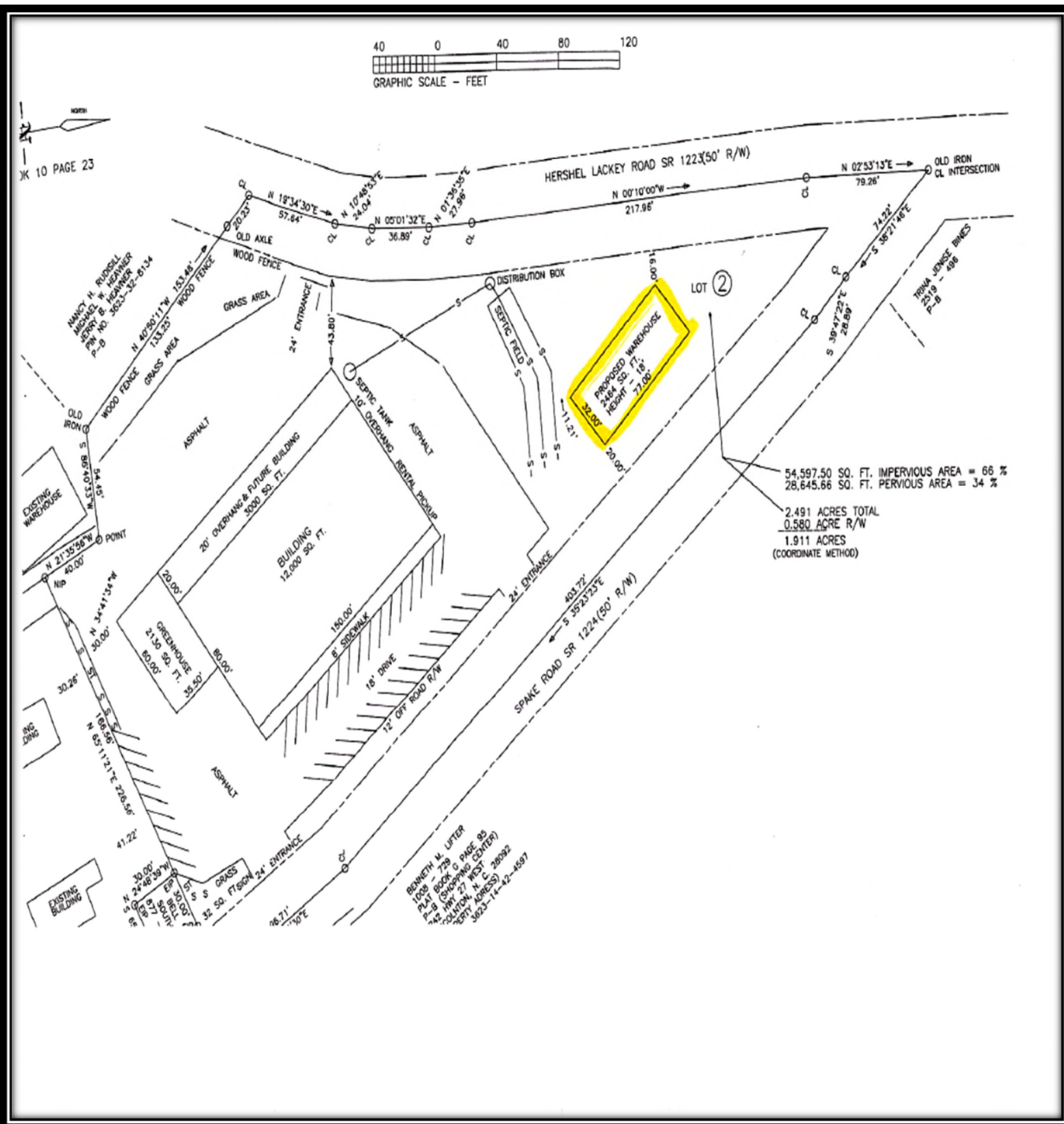
Site of Proposed Accessory Structure







The site plan submitted by the Applicant is below with the proposed accessory structure highlighted in yellow.



Additional Applicant Statements (See Attached Application)

- The need for warehouse space is to expand and protect merchandise on pallets such as mulch, soil, fertilizer, and gravel from weather damage. It will also protect customer's equipment from weather damage while being repaired.
- We only have a small point of the lot available between the two roads, Spake Road and Hershel Lackey Road. The request for a variance will let us position the building in only one spot without being on septic lines.

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.

Staff Comments

- The area of the lot on which the proposed accessory structure is to be located is severely impacted by the required 40 foot setback along Hershel Lackey Road and the required 20 foot side yard along Spake Road.
- The irregular shape of the lot adds to the negative impact of the required setbacks on the usability of the property.
- Should the Board of Adjustment decide to grant the variance, the following are two suggested conditions:
 1. The accessory structure is to be constructed in accordance with the attached site plan submitted by applicant and generally conform to the architectural style of the principal structure.
 2. The accessory structure will not extend any further toward the Hershel Lackey Road or Spake Road rights-of-way than shown on the site plan and no part may be located within any right-of-way.
 3. The trailer currently being used on the site for storage will be removed once the new space is completed.
- 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.

PLANNING DEPARTMENT

Laura Elam – Planning Director
Bren Hicks – Zoning Administrator



TELEPHONE 704-736-8930
FAX 704-736-8939

planning@ci.lincolnton.nc.us
www.ci.lincolnton.nc.us/planning.html

Application for Variance

Description of request: Reduce right-of-way from zoning of 40' setback
down to 20' setback

Applicant information:

Name: Saine Properties (Saine Hardware and Garden Center)

Address: 127 Spake Road

City: Lincolnton State: NC Zip: 28092

Telephone: (704) 735-3911 Email: sainectr@bellsouth.net

Property owner information (if different from applicant)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Email: _____

Property location and description

Address: 127 Spake Road Lincolnton, NC 28092

Tax parcel no. (five-digit): ~~17379~~ Current zoning classification: G-B

55974

A sketch of the property including the following information shall accompany this application: lot dimensions, setback dimensions for existing structures, location of all existing structures, other topographical features (bodies of water, significant stands of trees, etc.). Based on the nature of the application, the Zoning Administrator shall have the authority to request additional necessary information and/or waive one or more of these items.

Variance Request Description

Section(s) of the Unified Development Code requesting relief from: _____

Applicant's description of why a variance from the terms of these provisions is needed: _____

Due to the location of our septic lines as per the drawing, there is only small point of the lot available between the two roads, Hershel Lackey Road and Spake Road. The side setback of 20' can be met along Spake Road, however we are requesting a variance to reduce the front setback along Hershel Lackey Road to 13' so that we may position the building without it being placed on septic tank lines.

The Board of Adjustment, after having held a public hearing to consider the variance request, will address each of the following findings of fact and draw the following conclusions in order to render their decision:

1. Unnecessary hardship would result from the strict application of the ordinance. (NOTE: 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 the conditions that are peculiar to the property, such as location, size or topography. (NOTE: 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. (NOTE: 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); and,
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.

The applicant is asked to address each of these findings as they pertain to their variance request. Please use additional sheets if necessary. In order to grant a variance, each of the findings must be found in the affirmative by the Board of Adjustment by a 4/5 majority of the Board's membership.

Request for Variance

1) Unnecessary hardship would result from the strict application of the ordinance. (NOTE: It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. This statement is based upon the following reason(s):

The shape of lot does not leave room for
building with the 40 foot setback.

2) The hardship results from the conditions that are peculiar to the property, such as location, size or topography. (NOTE: 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.); This statement is based upon the following reason(s):

The shape of lot does not leave room
for building with the 40 foot setback.

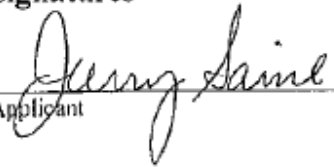
3) The hardship did not result from actions taken by the applicant or the property owner. (NOTE: The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. This statement is based upon the following reason(s):

No

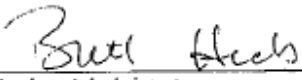
4) The requested variance is consistent with the spirit, purpose and intent of the ordinance such that public safety is secured and substantial justice is achieved. This statement is based upon the following reason(s):

I believe so

Signatures

 3-5-19
Applicant Date

Property Owner, If Different From Applicant Date

 3-5-19
Zoning Administrator Date

*Saine Ace Hardware
127 Spake Road
Lincolnton, North Carolina 28092*

704-735-3911

Owners: Jerry and Terry Saine

The need for warehouse space is to expand, and protect merchandise which is palletted goods (mulches, soils, fertilizers, gravel) from weather damage. It will also protect customer's equipment from weather damage while being repaired.

This building size will be 24' x 81' on a concrete pad of 32' x 81'. This will allow for an 8' pad to have an 8' overhang. This overhang will provide protection for customer's equipment while being repaired.