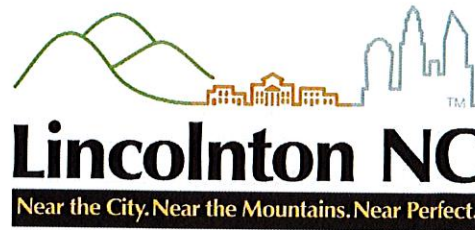


**LINCOLN TON BOARD OF ADJUSTMENT
AGENDA**

March 15, 2022

At 4:00 P.M. in City Council Chambers

1. Roll Call
2. Call to Order
3. Approval of minutes from the February 15, 2022 meeting
4. BOA-2-2022- Application from Morris Long requesting replacement of one nonconforming duplex in the General Business (GB) District. Two older housing units will be removed and replaced with one new duplex. Also as part of this application, a variance is requested from the UDO regarding setbacks in the GB District. The subject property is located at the southeast corner of East Pine Street and North State Street (Parcel ID 20440).
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; Rebecca Abernethy, Vice- Chair, rabernethy21@bellsouth.net; Stephen Silva, (ETJ), soundcity1@ymail.com; Greg McBryde, Gregory.McBryde@gmail.com; Trent Mason, trentonmason@gmail.com; Joy Smith, first alternate, joysmithmsnrn@gmail.com; Monte Tyson, monte@cbdeastmain.com, second alternate

Tuesday, February 15, 2022 Meeting

Present: Gene Poinsette, Rebecca Abernethy, Greg McBryde and Trent Mason

Absent: Steve Silva

Call to Order

Chairman Gene Poinsette called the meeting to order and recognized that Steve Silva, Joy Smith and Monte Tyson were absent.

Approval of Minutes

Chairman Gene Poinsette asked the Board if there were any additions or corrections to the minutes of the January 18, 2022 meeting.

Motion: Greg McBryde made a motion to approve the minutes. Rebecca Abernethy seconded. Motion carried unanimously.

Election of Officers

After some discussion, Chairman Gene Poinsette asked if there was a motion. The motion is as follows:

Motion: Greg McBryde made a motion to nominate Gene Poinsette as Chair of Board of Adjustment. Rebecca Abernethy seconded. Motion carried unanimously.

Trent Mason made a motion to nominate Greg McBryde as Vice-Chair of Board of Adjustment. Rebecca Abernethy 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: Greg McBryde made a motion to adjourn. Rebecca Abernethy seconded. Motion carried unanimously.

Jean Derby

Boa22022minutes

MEMO TO: Lincolnnton Board of Adjustment
FROM: City of Lincolnnton Planning Department
DATE: March 15, 2022
SUBJECT: BOA-2-2022– Morris Long

Property Information

- Property Location – Southeast corner of East Pine Street and State Street (Parcel ID 20440)
- Current Zoning –General Business (GB)
- Property Size - 0.763 acres
- Current Use of Property – Two Duplexes (One Single Family Home and One Duplex removed last month)
- Adjacent Properties – Commercial, multi-family, and Single Family Dwellings

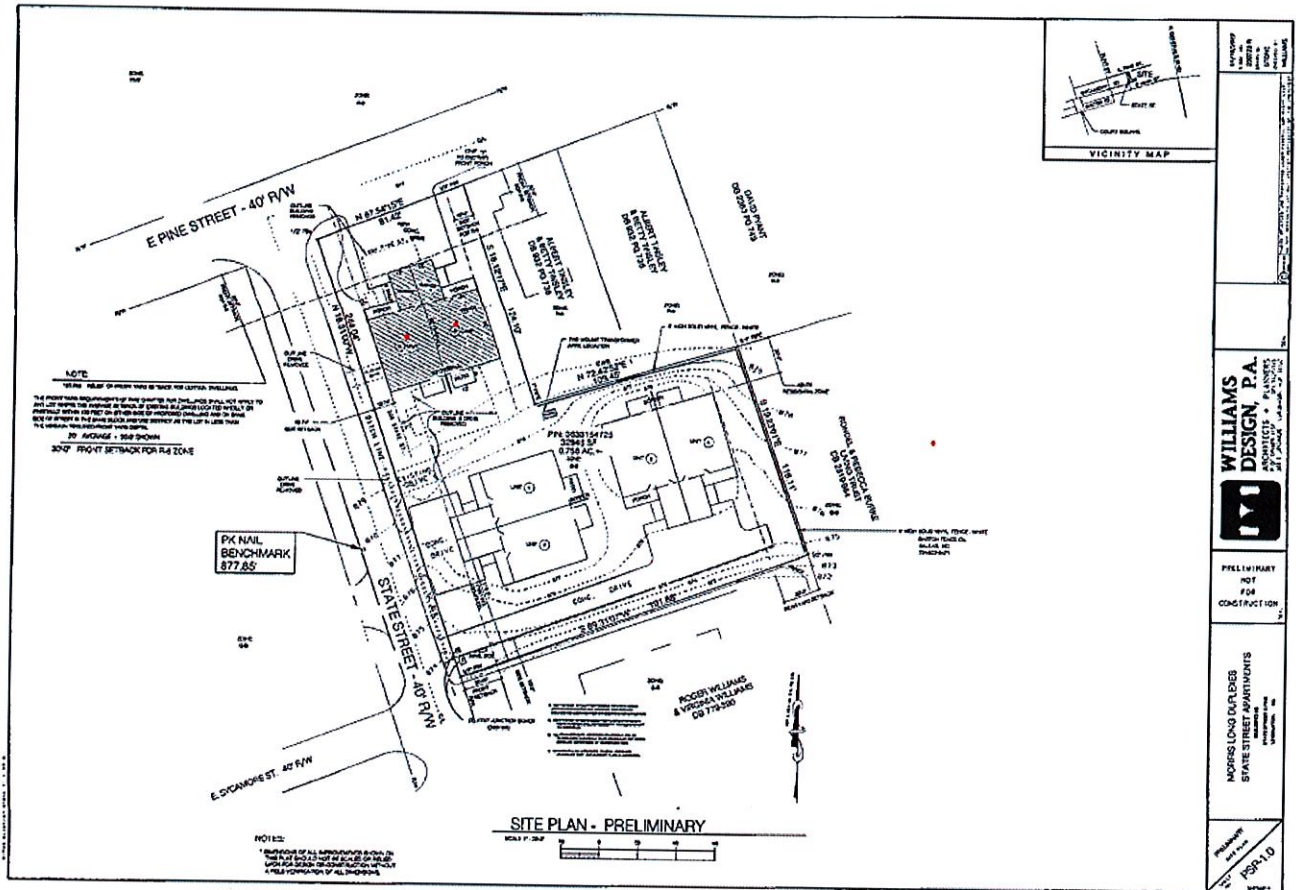
BACKGROUND

In 2020, the Board of Adjustment granted a change in nonconforming use to demolish two duplexes and build two more duplex units on this property. The property is in the GB District and Duplexes are a nonconforming use.

Those two duplexes are now under construction and the property owner has demolished an old single family house and duplex and wishes to replace it with one duplex. The two recently demolished structures are shown below circled in red.

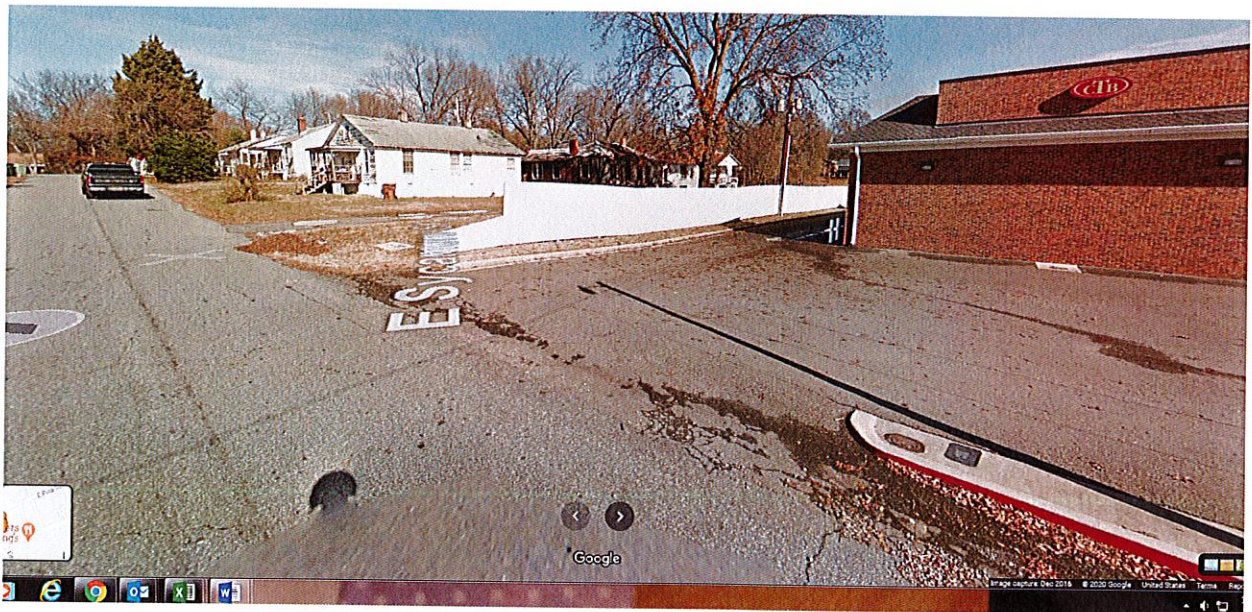


PROPOSED DUPLEX PLAN



PHOTOS OF DEMOLISHED UNITS





CURRENT PHOTO OF SITE



ORDINANCE REQUIREMENTS FOR CHANGE OR REPLACEMENT OF NONCONFORMING USE

(B) The Board of Adjustment may only grant a change in nonconforming use, replacement of a nonconforming use which has been destroyed, or change in location of a nonconforming use of land after having first held a public hearing and having determined that:

(1) (a) The change will be more suitable and appropriate for the lot(s) on which it is located than the existing situation;

(b) The proposed change will have a less harmful effect than the existing situation on the properties surrounding the lot(s) in question; and

(2) The decision to grant the change will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise be detrimental to the public welfare.

(C) The Board of Adjustment, in granting the changes, may prescribe appropriate conditions and safeguards in conformity with this chapter in order to conform with divisions (B)(1) and (B)(2) above. Violation of the conditions and safeguards when made a part of the terms upon which the change was granted, shall be deemed a violation of this chapter and shall be punishable as prescribed in § 153.999 of this chapter.

Staff and Applicants Comments

Staff feels that the replacement of the two older structures with one duplex will be suitable and appropriate for the property. They should be in harmony with the spirit and intent of the ordinance and not injurious to the neighborhood or detrimental to the public welfare.

The applicant states in his application that this will be a serious upgrade to the residences and improvement to the neighborhood. The duplex units will have a garage, additional square footage, with central heating and air. They will look better and improve the value of the property.

VARIANCE REQUEST

The applicant is also asking that a variance for the front and corner side setbacks in the GB District be granted allowing the duplex to be constructed in a similar manner as the previous one on site. The front setback will be 30 feet instead of the required 40 foot front setback for the GB District. The side setback will be 10.74 feet from the right of way of State Street instead of the required 20 feet in the GB District.

The unit will be located in a similar location as the old one on site and will sit further back from the property line on the front than the adjacent house. The lot is narrow along East Pine Street with a frontage of approximately 81.42 feet.

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 applicant's request should not affect the neighborhood negatively in any way. The variance request should be consistent with the spirit, purpose, and intent of the ordinance.
- The applicant will need to address, at the meeting, how the four findings of fact are met in order for the Board of Adjustment to grant the variance.

This will require two separate votes of the Board of Adjustment.

1. Approval or Denial of the request for a replacement of a nonconforming use
2. Approval or Denial of the request for variance of the Front and Corner Side Setbacks in the GB District.

