



**LINCOLNTON BOARD OF ADJUSTMENT
AGENDA
September 19, 2023
4:00 PM**

- 1. Roll Call**
- 2. Call to Order**
- 3. Approval of Minutes**
 - 3a August 15, 2023 minutes**
- 4. BOA-6-2023**
 - 4a** Application from Tracy Calhoun requesting a variance of UDO Section 153.186 (B) (Driveways) for the purpose of constructing a new commercial driveway less than 24 feet in width. The subject property is located at 502 North Aspen Street (Parcel ID 20243).
- 5. Adjournment**



CITY OF LINCOLNTON BOARD OF ADJUSTMENT MINUTES

PO DRAWER 617, LINCOLNTON, NC 28093

www.lincolntonnc.org

BOARD MEMBERS: Greg McBryde, Chair, Gregory.McBryde@gmail.com; Becky Shaw, Vice-Chair beckygreer82@gmail.com; Trent Mason, trentonbmason@gmail.com; Monte Tyson, monte@cbdeastmain.com; Kristin Radebaugh, kradebaugh6r6@gmail.com; John Waters, jh2osk@aol.com; Steve Lackey, stevelackey88@gmail.com

Tuesday, August 15, 2023

Present: Greg McBryde, Trent Mason, Becky Shaw, Monte Tyson, Kristin Radebaugh

Absent: N/A

Call to Order

Chair Greg McBryde called the meeting to order and recognized that all members were present for a quorum.

Approval of Minutes

Chair Greg McBryde asked the Board if there were any additions or corrections to the minutes of the July 18, 2023, meeting.

*Motion: Trent Mason made a motion to approve the minutes.
Members voted 5-0 in favor of the motion.*

BOA-5-2023- Application from Debbie Carpenter requesting a variance of section 153.136 (G) of the Unified Development Ordinance. The subject property is located at 104 Turner St (Parcel ID 89498).

Ashley Jones swore in Jean Derby and Debbie Carpenter.

Jean Derby presented the staff report included in the agenda packet to the Board regarding BOA-5-2023.

After presentation and discussion, Chair Greg McBryde asked if there was a motion for each of the four Findings of Fact. The motion is as follows:

Motion: Monte Tyson made a motion to approve the first Finding of Fact. Members voted 5-0 in favor of the motion.

*Motion: Trent Mason made a motion to approve the second Finding of Fact. Members voted 3-2 in favor of the motion. **Motion failed due to not receiving a four-fifths vote.***

Motion: Becky Shaw made a motion to approve the third Finding of Fact. Members voted 5-0 in favor of the motion.

*Motion: Trent Mason made a motion to approve the fourth Finding of Fact. Members voted 3-2 in favor of the motion. **Motion failed due to not receiving a four-fifths vote.***

Chair Greg McBryde asked if there was a motion to approve the request. The motion is as follows:

*Motion: Trent Mason made a motion to approve the request with staff recommendations.
Members voted 3-2 in favor of the motion. **Motion failed due to not receiving a four-fifths vote.***

Chair Greg McBryde asked the Board if there was any other business to be addressed, to which there was none.

Adjournment

*Motion: Becky Shaw made a motion to adjourn.
Members voted 5-0 in favor of the motion.*

Ashley Jones

MEMO TO: Lincolnton Board of Adjustment
FROM: City of Lincolnton Planning Department
DATE: September 19, 2023
SUBJECT: BOA-6-2023 –Tracy Calhoun

Property Information

- Property Location – 502 North Aspen Street (Parcel ID 20243).
- Current Zoning – Residential-Office Conditional District (R-O CD)
- Property Size – 0.565 acres
- Current Use of Property – Single Family Dwelling & Office
- Adjacent Properties – Residential and Residential-Office

Variance Request

BOA-6-2023- Application from Tracy Calhoun requesting a variance of UDO Section 153.186 (B) (Driveways) for the purpose of constructing a new commercial driveway less than 24 feet in width. The subject property is located at 502 North Aspen Street (Parcel ID 20243).

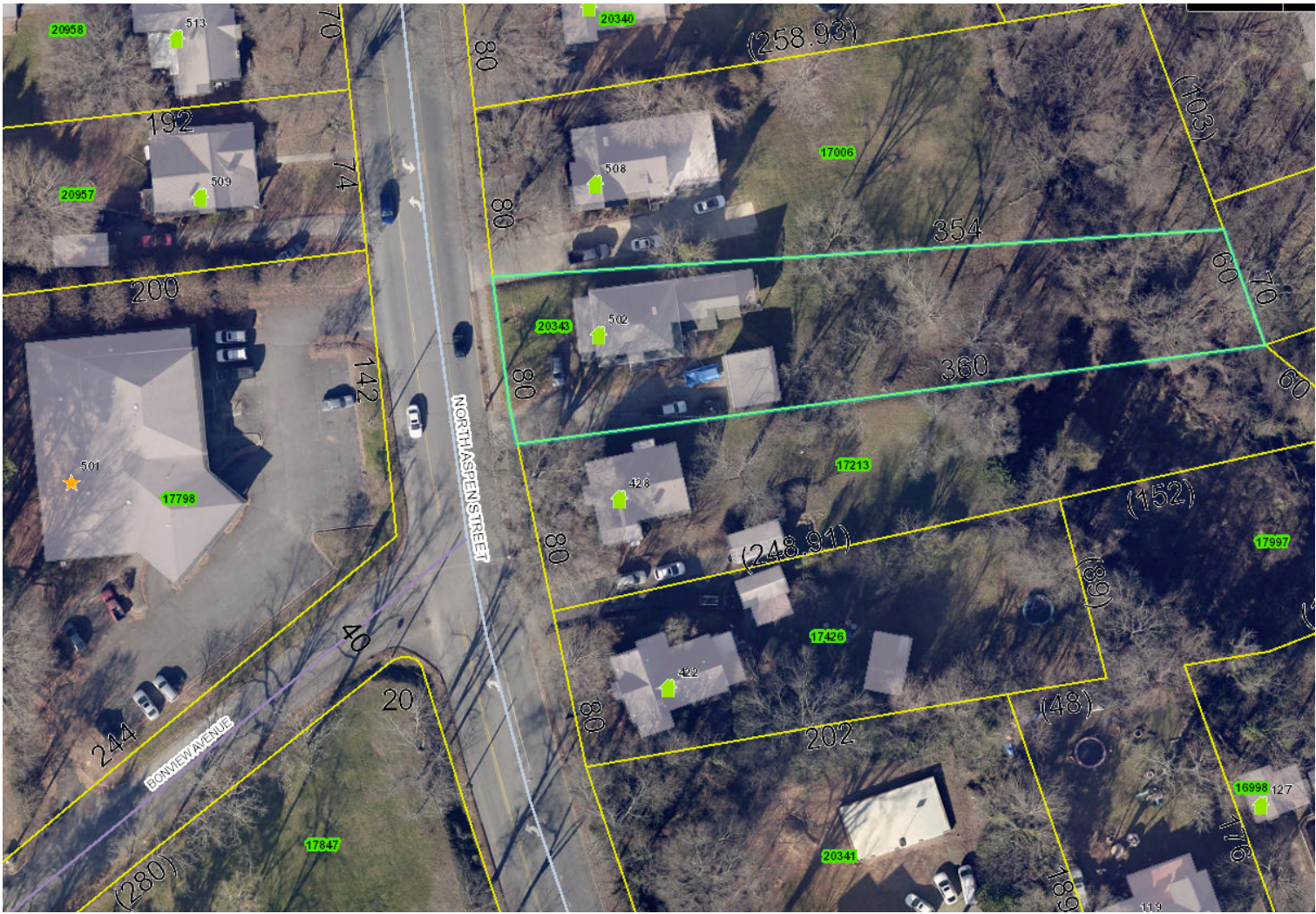
Relevant UDO Requirement

§ 153.186 DRIVEWAYS FOR ALL USES OTHER THAN ONE OR TWO-FAMILY RESIDENTIAL.

(B) Each driveway access shall be at least 24 feet in width but not greater than 36 feet in width.

Background Information

This property was rezoned from Residential to Residential-Office at the August City Council Meeting to be used as the applicant's home and law office. Due to the UDO requirements of the new zoning, the applicant is requesting a variance to allow the commercial driveway to be less than 24 feet in width. The applicant removed the column to allow more space. The current 21 ft driveway cannot be widened anymore due to the location of the existing utility pole and fire hydrant.







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.

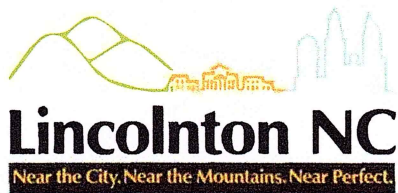
Findings of Fact with responses from the applicant

- 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.**
 - *A power pole as well as a meter & hydrant limit the driveway width to 20' and moving these obstructions would be prohibitively burdensome.*
- 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 public, may not be the basis for granting a variance.**
 - *Please see above.*
- 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.**
 - *The hardship has been present for many years, certainly before the previous owner purchased the property.*
- 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.**
 - *Public safety is not negatively impacted by the variance, as only four feet would be eliminated from the driveway exit, as only one vehicle may enter or exit at a time. Traffic in and out of The Law Firm is minimal and the variance would also serve the intent, purpose & spirit of the ordinance, as well as achieving substantial justice for the reasons described herein.*

B04-6-23

PLANNING DEPARTMENT

Jean Derby – Planning Director
Mark Carpenter – Zoning Administrator
Ashley Jones – Planning Technician



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

www.lincolntonnc.org/planning
zoningpermits@lincolntonnc.org

Application for Variance

Description of request: Variance From 24' Wide Driveway Required by Ordinance

To Allow 20' Wide Driveway

Applicant information:

Name: Tracy Calhoun

Address: 502 N Aspen St

City: Lincolnton State: NC Zip: 28092

Telephone: 980-429-0784 Email: tracy.calhoun@calhounlawpc.com

Property owner information (if different from applicant)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Email: _____

Property location and description

Address: 502 N Aspen St

Tax parcel no. (five-digit): 20343 Current zoning classification: R-8

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. Application fee \$400.00.

Variance Request Description

Section(s) of the Unified Development Code requesting relief from: 3.5

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

Please See Response to #1

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):

A Power Pole as well as a Meter & Hydrant Limit the Driveway Width to 20' and moving
these Obstructions Would Be prohibitively Burdensom

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):

Please See Above

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):

The Hardship Has Been Present For Many Years, Certainly Before the
Previous Owner Purchased The Property

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):

Public Safety Is Not Negatively Impacted By The Variance, as Only Four Feet
Would Be Eliminated From The Driveway Exit, As Only One Vehicle May Enter
or Exit at A Time. Traffic In and Out of The Law Firm Is Minimal and The Variance
Would Not Create a Public Safety Issue. The Minimal Space Requested By The Variance
Would Also Serve The Intent, Purpose & Spirit of The Ordinance, As Well as achieving
Substantial Justice For the Reasons Described Herein

Signatures

Applicant



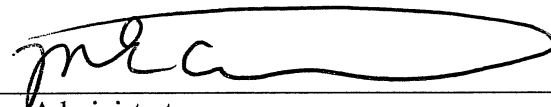
8-14-23

Date

Property Owner, If Different From Applicant

Date

Zoning Administrator



8-21-23

Date