



**LINCOLNTON BOARD OF ADJUSTMENT
AGENDA
November 21, 2023
4:00 PM**

- 1. Roll Call**
- 2. Call to Order**
- 3. Approval of Minutes**
 - 3a October 17, 2023 meeting minutes**
- 4. Public Hearing**
 - 4a BOA-7-2023 Application from James Ball requesting a variance from Section 153.107 (R-10 District) and 153.110 (R-O District) of the Lincolnton UDO**
 - 4b BOA-8-2023 Application from M&B Property Holding, LLC requesting a variance of Section 153.050 (Lot to abut a dedicated street) of the Lincolnton UDO**
 - 4c BOA-9-2023 Application from Keith Heavner Construction Inc., requesting a variance to Section 153.107 (Front setback requirements) of the Lincolnton UDO**
- 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, October 17, 2023

Present: Greg McBryde, Trent Mason, Monte Tyson, Kristin Radebaugh, John Waters

Absent: Becky Shaw

Call to Order

Chair Greg McBryde called the meeting to order. It is to be noted that Becky Shaw was absent, and John Waters would serve as alternate for a quorum.

Approval of Minutes

Chair Greg McBryde asked the Board if there were any additions or corrections to the minutes of the September 19, 2023, meeting.

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

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

Adjournment

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

Ashley Jones

MEMO TO: Lincolnnton Board of Adjustment
FROM: City of Lincolnnton Planning Department
DATE: November 21, 2023
SUBJECT: BOA-7-2023 –James Ball

Property Information

- Property Location – 314 S. Cedar and 336 East Church Street (Parcel ID 22087).
- Current Zoning – Residential-10 (R-10) and Residential-Office (R-O)
- Property Size – 0.355 acres
- Current Use of Property – Single Family Dwelling & Warehouse Storage
- Adjacent Properties – Residential and Warehousing

Variance Request

BOA-7-2023-Application from James Ball requesting a Variance of Section 153.107 (R-10 District) and Section 153.110 (R-O District) of the Lincolnnton UDO to adjust the right side property boundary over one foot and create a new nonconforming lot for the warehouse located on the property. The subject property is located at 336 East Church Street and 314 South Cedar Street (Parcel ID 22087).

Relevant UDO Requirement

- 153.107 R-10 SINGLE-FAMILY MEDIUM DENSITY RESIDENTIAL DISTRICT. *Minimum side yard setback* (a) Single-family dwellings: ten feet.
- 153.110 R-O RESIDENTIAL OFFICE DISTRICT. *Minimum lot size. 8,000 square feet*

Background Information

- The applicant is requesting permission to adjust the right side (As facing the house from Cedar Street) property line for the single-family dwelling portion of the property so that the neighboring property owner's fence would be the new property line. The fence has been there for a number of years and the applicant would like to adjust the property line over approximately nine inches. This would cause the property line to be 9.11 feet from the house instead of the required 10 feet. It will continue to taper off and follow the fence line of the neighboring property as shown on the survey plat.
- Also, the property in question currently has one single-family dwelling and one warehouse storage structure on the property. The Single Family Dwelling portion of the property is zoned R-10 and the Warehouse portion of the property is zoned R-O. The property was once two separate lots and for tax purposes was recombined into one lot. The applicant is asking that the warehouse portion of the property be allowed to be converted back to a separate lot as it originally was used. With this subdivision, the property size for the warehouse would be .041 acres or 1,786 square feet. The minimum lot size for R-O is 8,000 square feet which would make the lot nonconforming.

See the Survey below for all dimensions.

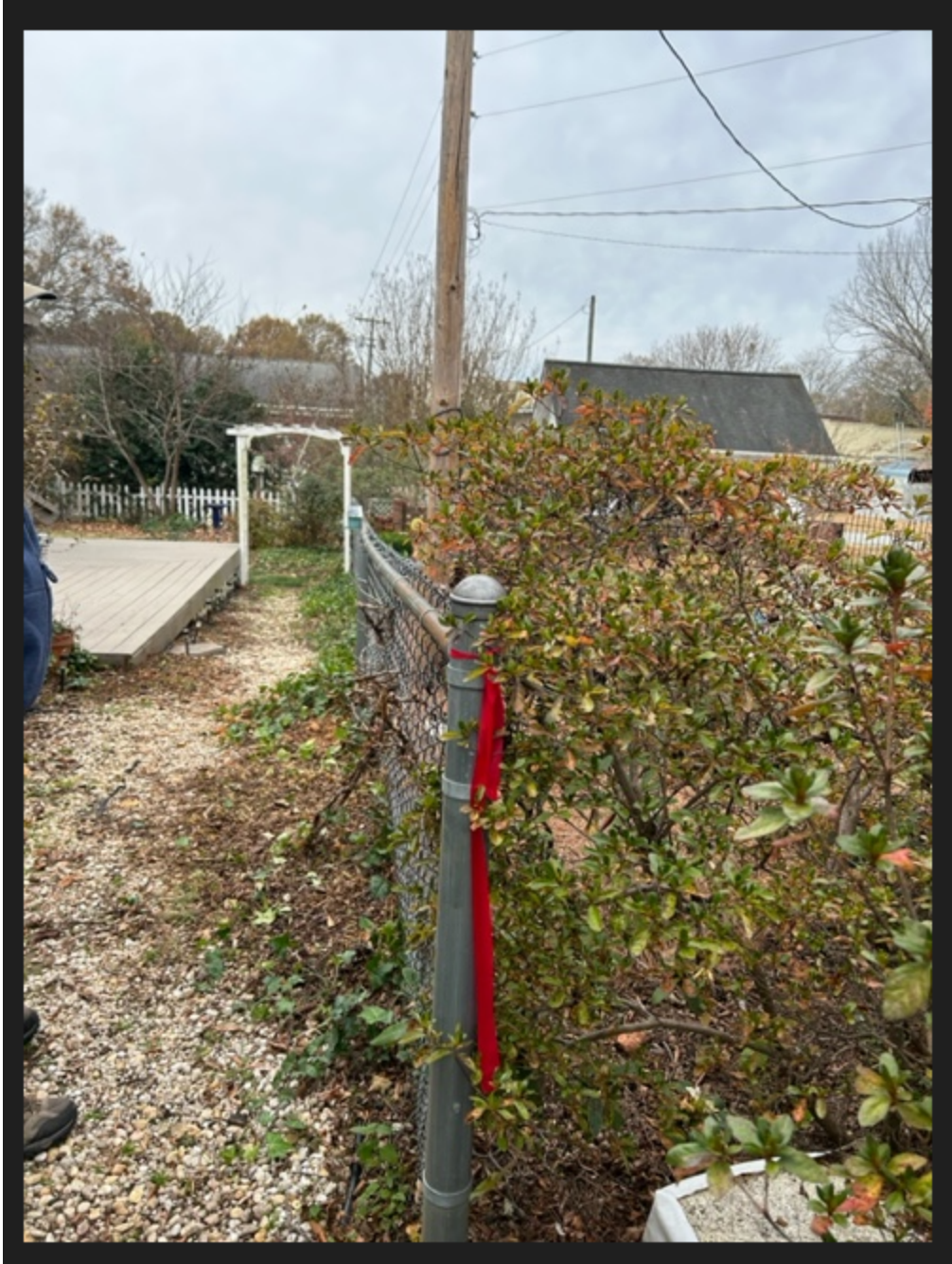
GIS MAP AND ZONING DISTRICTS













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.
- No physical changes will be made to the property only property line adjustments. All building locations and use of the property would remain the same.
- 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. (SEE ATTACHED APPLICATION)

Findings of Fact (See attached application Sheets for Owner Responses)

- 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 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 the 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.**

Because there are two separate requests these items should be voted on Separately

1. Request to adjust the property line between neighbors
2. Request to create a new lot for a warehouse building.

BoA-7-23

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: _____

① To return 336 E. Church St. to stand alone parcel, and ② To make the fence line (of 40 yrs.) the new property line between 314 S. Cedar and 310 S. Cedar

Applicant information:

Name: James M. Ball

Address: 314 S. Cedar

City: LINCOLNTON State: NC Zip: 28092

Telephone: 704-472-8911 Email: jamesmball@msn.com
704-473-2521

Property owner information (if different from applicant)

Name: Mary Whisonant

Address: 310 S. Cedar St.

City: LINCOLNTON State: NC Zip: 28092

Telephone: 843-812-5074 lv.msq. Email: marywhis1@yahoo.com
704-735-7138 " "

Property location and description

Address: 336 East Church St.

Tax parcel no. (five-digit): 22087 Current zoning classification: residential

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.

Lot 153.107

Property Line between:

310 S Cedar

314 S Cedar

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):

Our neighbor, Mary Whisonant has been concerned that fence is on our property. We determined the best decision would be to survey the fence line thereby making it the new property line.

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 fence was installed 30+ years ago. Trees were blocking the property line and fence was erroneously installed on property of 314 S. Cedar.

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):

Fence was present when 314 S. Cedar St. was purchased by James & Rose Mary Bae in 2008.

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):

The Baes wish to amicably ^{re-}define the property line to allay Mrs. Whisonant's concerns and to avoid property line disputes should either owner desire to sell

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):

Owners are considering the sale of
314 S. Cedar and would like to keep
this building for storage and
truck parking.

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):

60+ year old lot lines

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):

This lot was purchased as a
second property from Jean
Cloninger in 2008, when house was bought.
Was changed to simplify utilities and
taxes.

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):

Request will not impact safety of area.
No change in traffic pattern
No visual change.

Variance Request Description

Section(s) of the Unified Development Code requesting relief from: RO - R10

Lot size required

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

Lot 153.110 - changing building to stand
alone property.

Lot 153.107 - address concerns of Mrs. Mary
(310 Cedar) Whisonant, neighbor and -
firm up property line to eliminate
questions or concerns if either property
should be sold

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.

Signatures

James M. Bell 10-6-2023
Applicant Date

Mary Whisonant 10-6-23
Property Owner, If Different From Applicant Date

MAC 10-6-23
Zoning Administrator Date

Signatures of adjoining property owners

Charles & Paulette Randall 10-09-23
318 S. Cedar St.

John H. C. A 10/11/2023
330 E. Church St.

contacted John LiVecchi by phone 10-09-23
315 E. Church St. Glenburn Ventures, LLC

MEMO TO: Lincolnnton Board of Adjustment
FROM: City of Lincolnnton Planning Department
DATE: November 21, 2023
SUBJECT: BOA-8-2023 –M & B Property Holding LLC

Property Information

- Property Location – 117 Chavis Lane (Parcel ID 81802).
- Current Zoning – Residential Multi-Family (RMF)
- Property Size – 0.54 acres
- Current Use of Property – Three Single-Wide Manufactured Homes (Manufactured Home Park as defined by the UDO)
- Adjacent Properties – Single-Family and Two-Family Dwellings

Variance Request

BOA-8-2023-Application from M&B Property Holding, LLC requesting a Variance of Section 153.050 (Lot to abut a dedicated street) of the Lincolnnton UDO. The lot would be used as a two-family dwelling, a permitted use in the district, but does not have the required 35 feet of road frontage. The subject property is located at 117 Chavis Lane (Parcel ID 81802)

Relevant UDO Requirement

153.050 LOT TO ABUT A DEDICATED STREET.

No lots may be created after the effective date of this chapter that do not have at least 35 feet of dedicated street right-of-way frontage except as follows.

(A) A lot not having 35 feet of dedicated street right-of-way frontage may be created if located entirely within a planned shopping center or office park.

(B) A one-family residence may be constructed on a lot that existed at the effective date of this chapter which does not abut a dedicated street right-of-way provided the lot is given access to a dedicated street by an easement at least 12 feet in width for the use of the dwelling established on the lot and further provided that the easement is maintained in a condition passable for automobiles and service and emergency vehicles. This easement may not be extended to provide access to any other lots or to any other residence not having frontage on a dedicated street.

Background Information

This property has an existing three-lot manufactured home park located on it. The new owner would like to remove the three manufactured homes, which are in disrepair, and replace them with one Two-Family Dwelling (Duplex). The ordinance would not permit this because the property is landlocked and is served only by a ten-foot easement across 1571 South Aspen Street (Parcel ID 21358) which is also owned by the applicant. The easement could be expanded to 12 feet and one single-family dwelling could be constructed however the owner feels that a two-family dwelling would better serve the area and also reduce the number of units on the property by one.

Two-Family Dwellings are a permitted use in the RMF District.

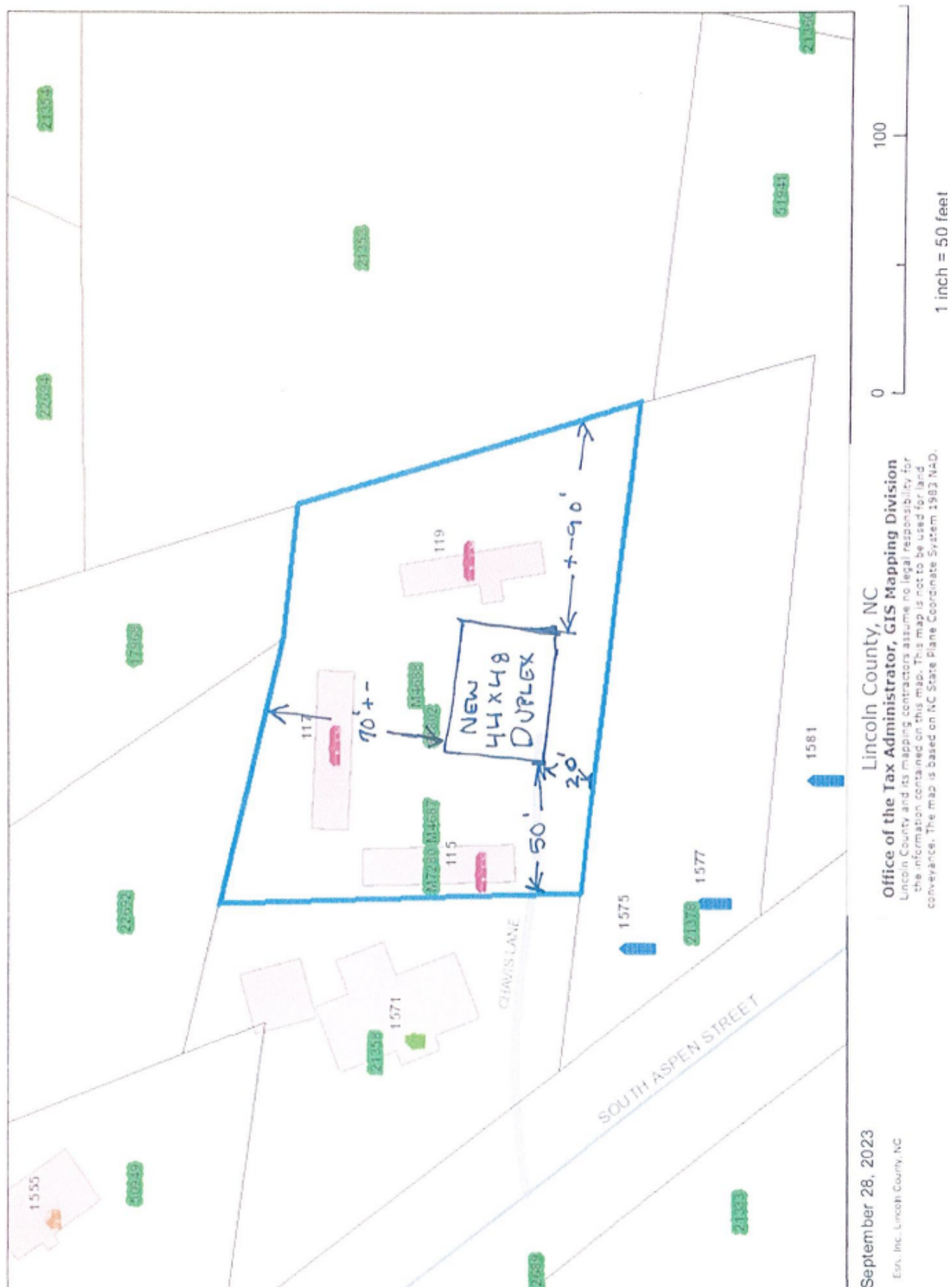












Staff Comments

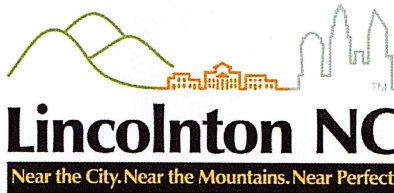
- The applicant's request should not affect the neighborhood negatively in any way. The variance request should be consistent with the spirit, purpose, and intent of the ordinance.
- The removal of the three nonconforming manufactured homes and replacing them with a two-family dwelling (A permitted use) makes this more suitable for the property.
- The ten-foot easement is a recorded easement and would provide suitable access to the site just as a normal driveway would.
- 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.**
 - *There is no way to achieve 35 foot of road frontage due to the private road being close to 1571 South Aspen Street*
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.**
 - *The location of the lot limits the road front access.*
3. **The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.**
 - *The lot was created prior to 1990 prior to the ordinance making it a nonconforming lot*
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.**
 - *If the lot had 35 feet of road frontage a duplex would be allowed by right. In granting this variance it would allow two new units increasing the available affordable housing in Lincolnton.*

PLANNING DEPARTMENT

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



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 FAX 704-736-8939

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

Application for Variance

Description of request: _____

Seeking variance to construct duplex without meeting
the 35 foot road front requirements.

Applicant information:

Name: Christian Beasley / MEB Property Holding LLC

Address: 57 Union Street Suite 1032

City: Concord State: NC Zip: 28025

Telephone: (828) 850-2968 Email: mbpropertyholdingllc@gmail.com

Property owner information (if different from applicant)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Email: _____

Property location and description

Address: 117 Chavis Ln, Lincolnton, NC 28092

Tax parcel no. (five-digit): 81802 Current zoning classification: RMF

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: 153.050

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

Variance is needed to construct a duplex. The
pre existing subdivision of the land provides access to
the lot through a private road. The private road
currently has a 10 foot easement. The position of the lot
allows no way to satisfy the 35 feet of road frontage. If granted,
we plan to remove the 3 mobile homes on the property
and build a duplex.

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):

There is no way to achieve 35 feet of road frontage due to the ^{Private} road being close to 1571 S Aspen St. The property in its current condition is uninhabitable.

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 location of the lot limits the road front access. Access to the property is limited to a private road that has a current 10 foot easement.

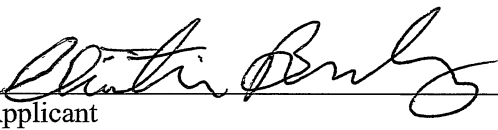
3) The hardship did not result from actions taken by the applicant or the property owner. (NOTE: The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. This statement is based upon the following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

The lot was created prior to 1990 before the ordinance, 153.050. Making it a non conforming lot.

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):

If the lot had 35 feet of road frontage a duplex would be allowed by right. In granting this variance it would allow 2 new units, increasing the available affordable housing in Lincolnton.

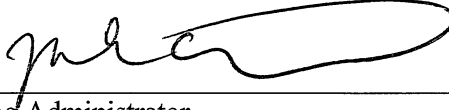
Signatures


Applicant

10/23/23
Date

Property Owner, If Different From Applicant

Date


Zoning Administrator

10/23/23
Date

MEMO TO: Lincoln Board of Adjustment

FROM: City of Lincoln Planning Department

DATE: November 21, 2023

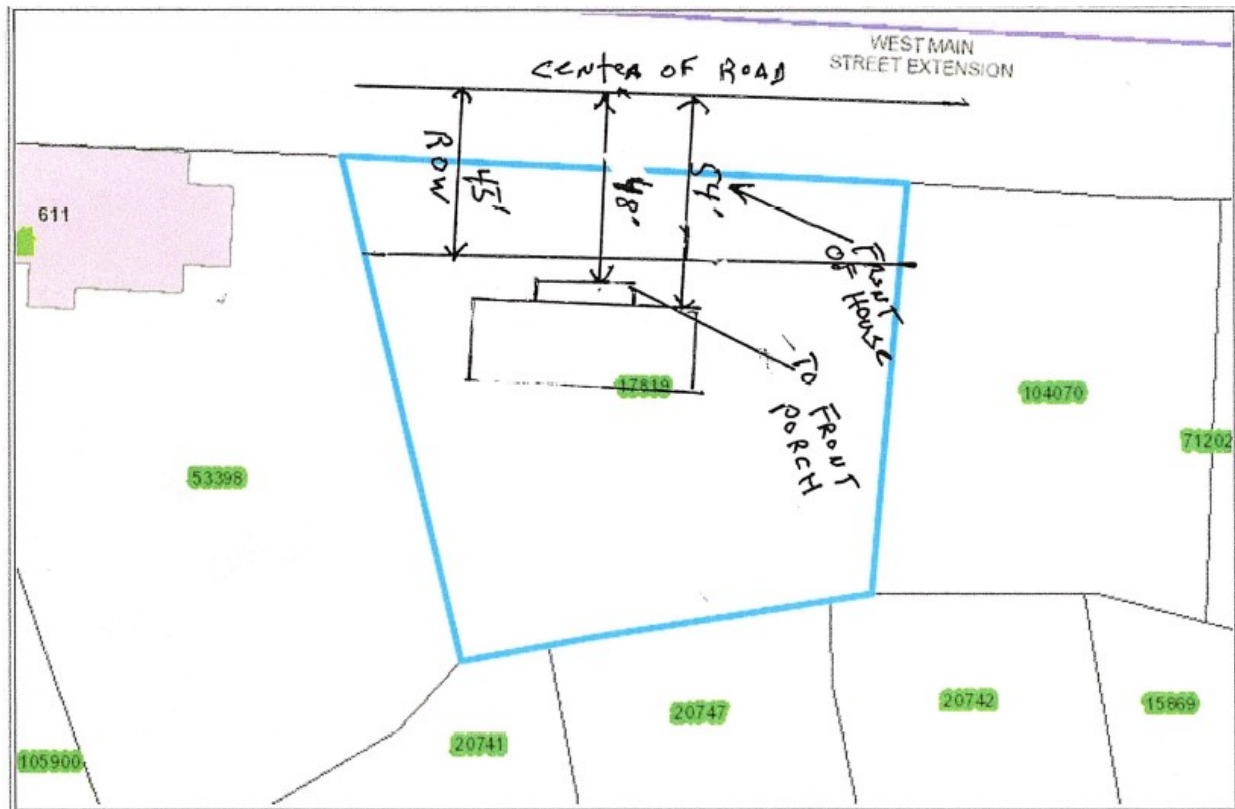
SUBJECT: BOA-9-2023 – Keith Heavner Construction, Inc.

Property Information

- Property Location – 607 W Main St Ext (PID 17819)
- Current Zoning – Residential-10 (R-10)
- Property Size - 0.41 acres
- Current Use of Property – Vacant
- Adjacent Properties – Single Family Residential

Variance Request

Application from Keith Heavner Construction Inc., requesting a variance Section 153.107 (2) (Front Setback Requirements of the Lincoln UDO) to construct a new single-family dwelling that does not meet the minimum front setback requirements of the R-10 district. The applicant is requesting a reduction to the front setback to 3 feet to construct a single-family home.



Relevant UDO Requirement

§ 153.107 R-10 SINGLE-FAMILY MEDIUM DENSITY RESIDENTIAL DISTRICT.

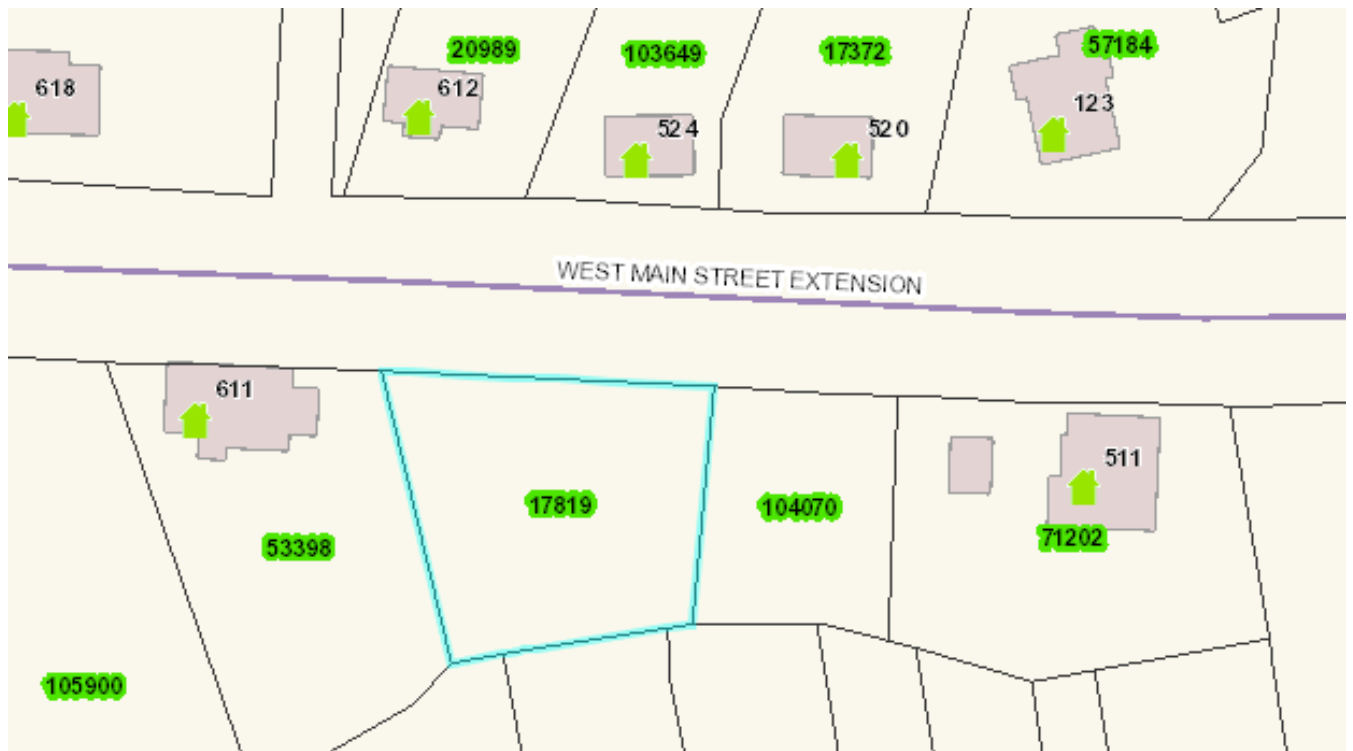
(2) All principal uses listed as permitted uses in division (A) above: 35 feet.

§ 153.055 RELIEF OF FRONT YARD SETBACK FOR CERTAIN DWELLINGS.

The front yard requirements of this chapter for dwellings shall not apply to any lot where the average setback of existing buildings located wholly or partially within 100 feet on either side of the proposed dwelling and on the same side of the street in the same block and use district as the lot is less than the minimum required front yard depth. In that case, the front yard on those lots may be less than the required front yard but not less than the average of the existing front yard on the aforementioned lots, or a distance of 15 feet from the edge of the street right-of-way, whichever is greater.

Background Information

- Although the street is only 17 feet wide, W Water St Ext observes a 90-foot right-of-way. (Front setbacks are measured from the edge of the street right-of-way.)
 - For reference: NCDOT requires 45 feet for local subdivision roads. Collector roads require 50 feet; five-lane highways require 80 feet and cul-de-sacs must have a 50-foot right-of-way radius.
- The majority of the homes on the same side of the street are on or over the right-of-way line.
- The property owner received a Single-Family New Construction Permit in October using § 153.055 to allow for a front setback of 25 feet.
- During the construction process, Lincoln County informed the applicant of a possible soil issue and was advised to move the structure forward on the lot. The minimum allowable front setback, using 153.055, is 15 feet. Anything closer than 15 feet requires a variance from the Board of Adjustment. In this case, three feet.



Aerial Views:



Street View



Facing W Main St Ext

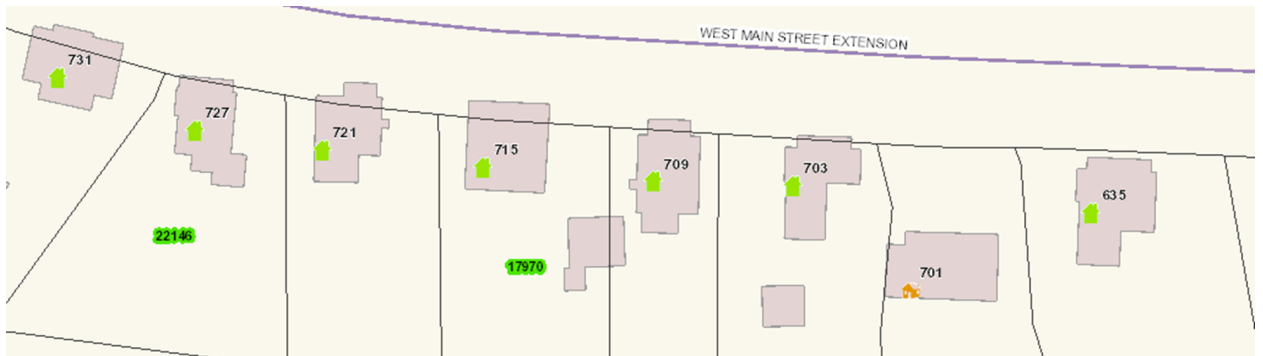


Notes

- The reduction of the front setback still positions the home further back than the existing homes on the same side of the street.
- Although the requested setback is 3 feet, the home will be approximately 39 feet from the edge of the street



Neighboring Properties:



Staff Comments

- The applicant's request should not affect the neighborhood negatively in any way.
- The applicant will need to address how the four findings of fact are met for the Board of Adjustment to grant the variance.

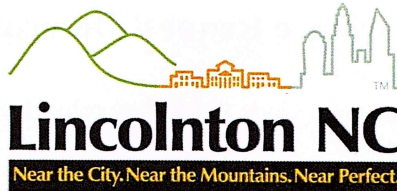
Findings of Fact with responses from the applicant

- 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.**
 - The soil in the rear of the property is not suitable for footings. If not approved, it is unlikely that a home could be constructed.
- 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.**
 - Although the existing homes adjacent to the property are on or closer to the right-of-way, new construction must observe the right-of-way width of 90 ft.
- 3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with the knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.**
 - It wasn't until the footings were inspected that we were informed of the soil issues.
- 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 new single-family home would not be closer to the road than the home on the adjoining property and others around it.

Bo A-9-23

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: Relief from front setback for a single-family home.

Applicant information:

Name: Keith Heavner Construction Inc
Address: 358 Guy Heavner Rd
City: Lincolnton State: NC Zip: 28092
Telephone: 704-913-7358 Email: kwheavner@gmail.com

Property owner information (if different from applicant)

Name: Floyd Dean - Deans Investments
Address: PO Box 579
City: Lincolnton State: NC Zip: 28092
Telephone: 704-473-6232 Email: deansappraisal@bellsouth.net

Property location and description

Address: 607 W Main St Ext
Tax parcel no. (five-digit): 17819 Current zoning classification: R-10

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: _____

153.107 (2)

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

Lincoln County Building Inspectors determined the soil was not suitable in the original construction location on the property. Advised that the footings could be relocated closer to the front of the lot. Any closer to the road would not allow the home to meet the required front setback due to the right of way.

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 soil in the rear of the property is not suitable for footings.

If not approved, it is unlikely that a home could be constructed.

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):

Although the existing homes adjacent to the property are on or closer to the right-of-way, new construction must observe the right-of-way width of 90 ft.

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):

It wasn't until the footings were inspected that we were informed of the soil issues.

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):

The new single-family home would not be closer to the road than the home on the adjoining property and others around it.

Signatures

Keith Heaner 10/20/23
Applicant Date

Alfred Dean 10/20/23
Property Owner, If Different From Applicant Date

MAC 10/23/23
Zoning Administrator Date

Lincoln County

Planning & Inspections
115 W. Main St.
Lincolnton, NC 28092

Phone: (704)736-8434
Fax:

Building Inspection Report

Permit: RSNW23-05026

OWNER: DEANS INVESTMENTS INC

Site Address: 607 W MAIN ST EXT , NC 28092

Inspection Type: FOOTING - BUILDING

Inspection Date: 10/24/2023 08:30 AM

Result: FAIL

Remarks:

Notes: Footing is full of water (possibly unground spring will engineer soil test)

*This is the footing on BACK WALL
THAT HAS WATER. Need to move
Forward*

If you have any questions regarding this inspection please contact the inspector listed below .Inspector phone numbers can be found at www.lincolncounty.org/inspections

Todd Stroupe

Inspector