



**LINCOLNTON BOARD OF ADJUSTMENT
AGENDA
January 21, 2025
4:00 PM**

- 1. Call to Order**
- 2. Roll Call**
- 3. Election of Officers**
- 4. Approval of Minutes**
 - 4a December 17, 2024 meeting minutes**
- 5. Quasi-judicial Hearing**
 - 5a BOA-1-2025 Application from Jerry Fletcher requesting a variance of Section 153.055 of the Unified Development Ordinance. The subject property is located at 627 West Main Street Ext. (Parcel ID 105900).**
- 6. Regular Agenda**
 - 6a BOA-2-2025 Application from DR Horton, Inc. requesting a Temporary Use Permit for the purpose of a Sales Center located in the Clark Creek Landing subdivision. (Parcels 107753, 107754, 107755, 107756)**
- 7. 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; Monte Tyson, Vice Chair, monte@cbdeastmain.com; Kristin Radebaugh, kradebaugh6r6@gmail.com; Trent Mason, trentonbmason@gmail.com; Jerry Hoffman, jlskhoffman@charter.net, Alternates: John Waters, jh2osk@aol.com; Steve Lackey, stevelackey88@gmail.com

Tuesday, December 17, 2024

Present: Greg McBryde, Trent Mason, Kristin Radebaugh, Monte Tyson, Jerry Hoffman

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 November 19, 2024, meeting. The motion is as follows:

Motion:

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

Regular Agenda

BOA-4-2024 Application from Archie Smith, Jr. requesting a variance of Section 153.105 of the Lincolnton Unified Development Ordinance regarding minimum lot requirements and setbacks. The variance would permit the lot (PID 15763) to be subdivided, allowing each existing home to be on its own lot. The subject property is located approximately 270 feet southwest of the intersection of Norville Rd and West NC Highway 150. The property includes 1111 and 1117 West NC Highway 150 and 564 Calvary Church Road.

Jean Derby swore in Ashley Jones and Archie Smith Jr..

Ashley Jones presented the staff report in the agenda packet to the Board regarding BOA-4-2024.

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

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

Motion: Kristin Radebaugh made a motion to approve the second Finding of Fact. Members voted 5-0 in favor of the motion.

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

Motion: Jerry Hoffman made a motion to approve the fourth Finding of Fact. Members voted 5-0 in favor of the motion.

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 5-0 in favor of the motion.

Adjournment

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

Motion: Kristin Radebaugh made a motion to adjourn. Members voted 5-0 in favor of the motion.

Kayla Reep



BOA-1-2025

Application from Jerry Fletcher requesting a variance of Section 153.055 of the Unified Development Ordinance (RELIEF OF FRONT YARD SETBACK FOR CERTAIN DWELLING).

If approved, would allow for the construction of a new dwelling to line up with the two homes on both sides, which would be up to the street right-of-way boundary and not meet the required 15-foot setback.

The subject property is located at 627 West Main Street Ext. (Parcel ID 105900)

DETAILS:

- Applicant: Jerry Fletcher - Fletchco Enterprises, Inc
- Property Location – 627 W Main St Ext
- Current Zoning – Residential-10 (R-10)
- Property Size - 0.878 acres
- Current Use of Property – Vacant
- Adjacent Properties – Single Family Residential



Street View



Site View



RELEVANT UDO REQUIREMENTS

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

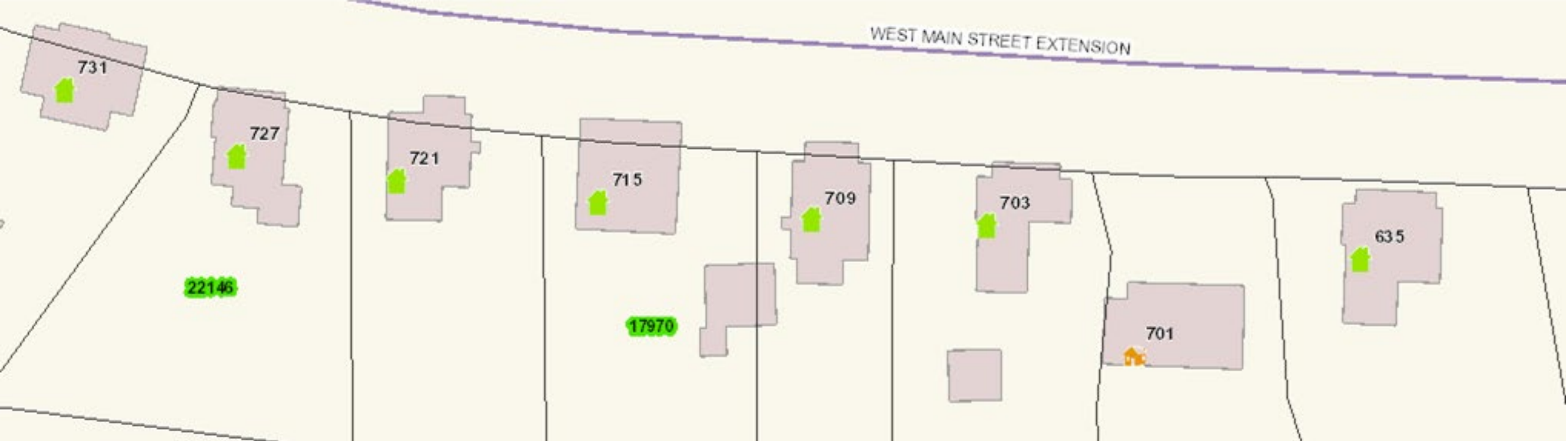
- All principal uses listed as permitted uses in division (A) above: 35 feet.

§ 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

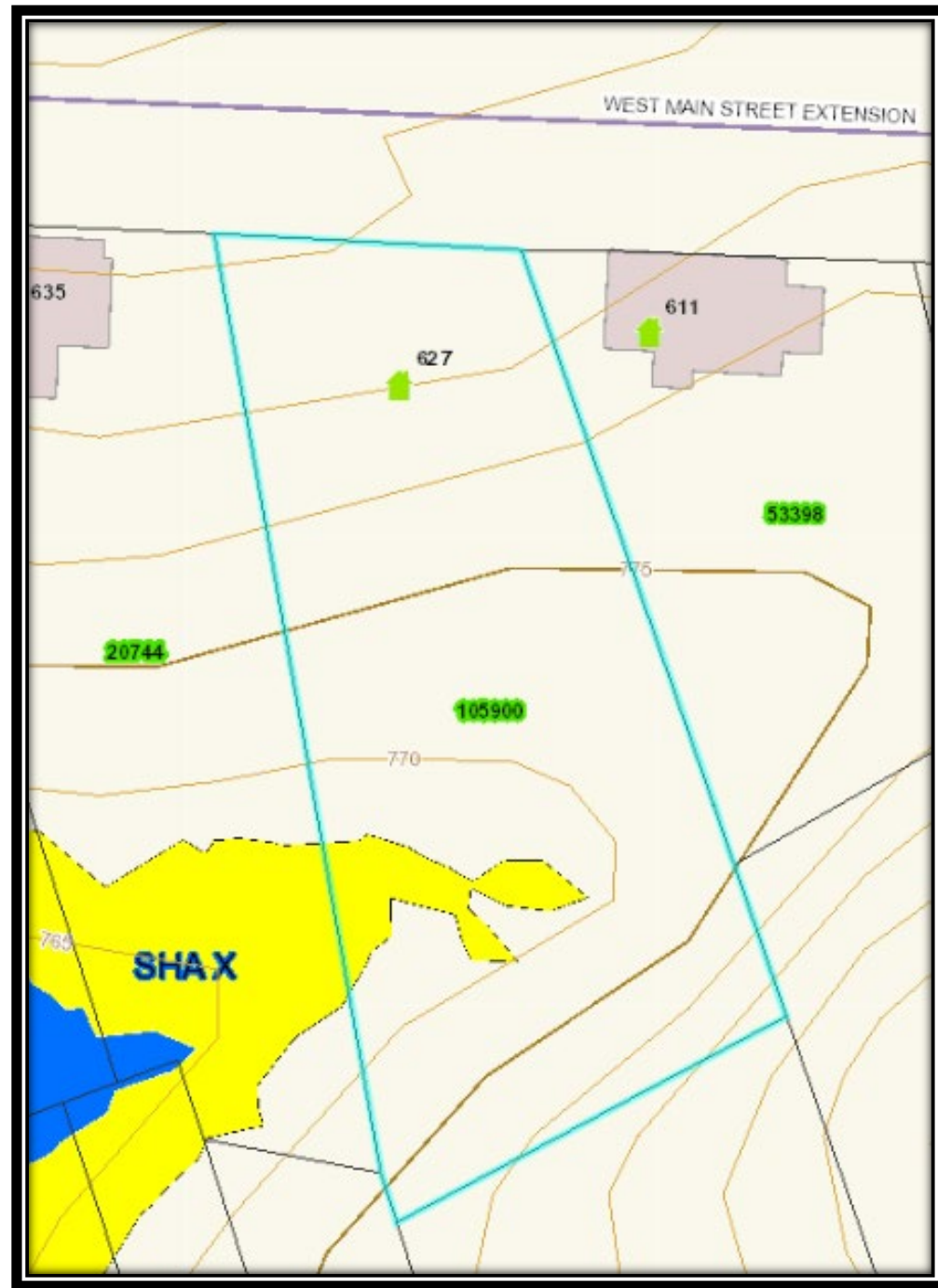
- Although the street is only 17 feet wide, West Water St Ext observes a 90-foot right-of-way. (Front setbacks are measured from the edge of the street right-of-way.)
 - For reference: NCDOT requires 45 feet for local subdivision roads. Collector roads require 50 feet; five-lane highways require 80 feet 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 December using § 153.055 to allow for a front setback of 15 feet.



SITE

POTENTIAL CHALLENGES:

- Topography – Slope
- Flood area



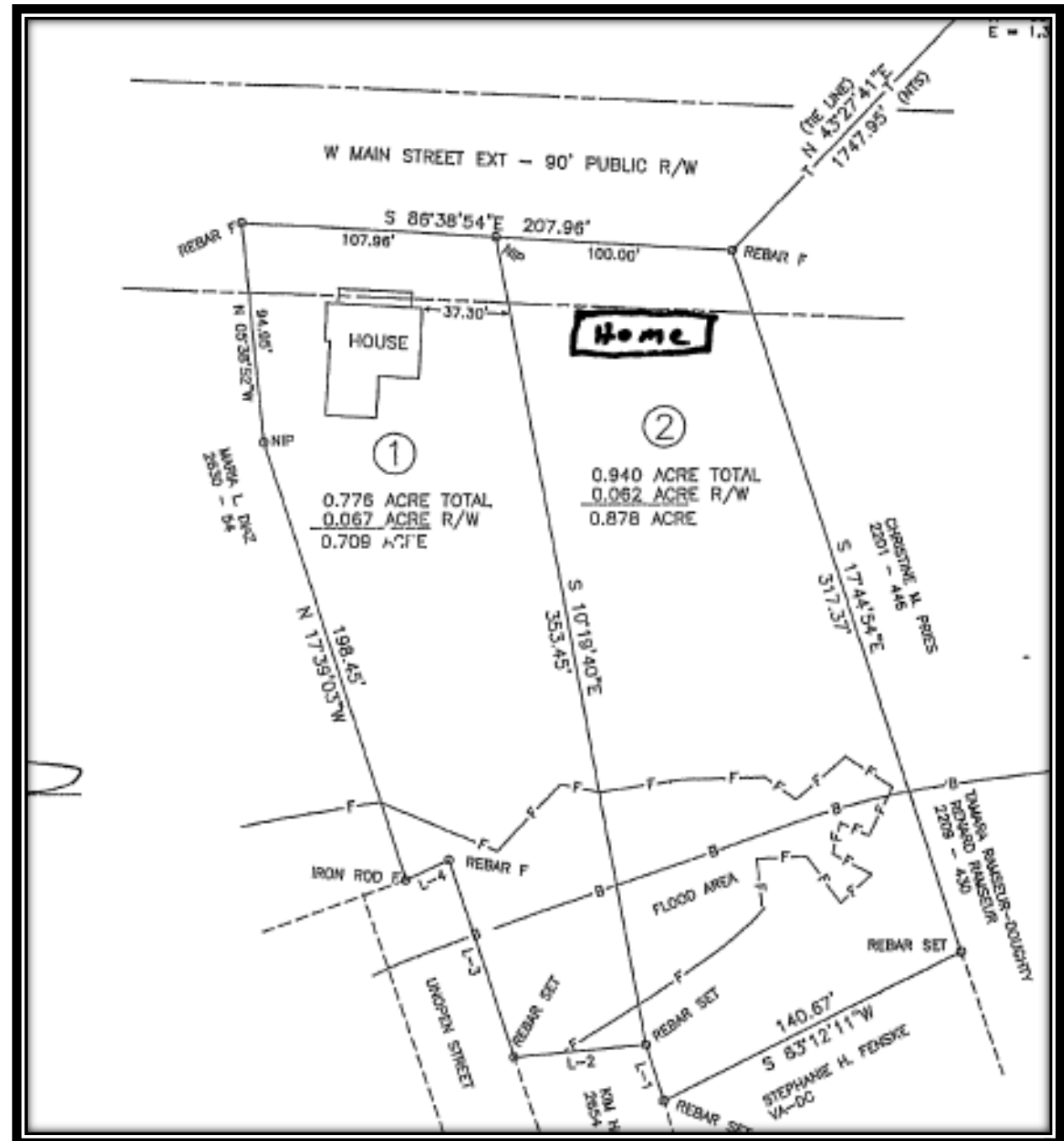
SKETCH

The property owner's proposed location shows the front of the home up to the street right-of-way.

DESCRIPTION

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

"Like to line up new home even with two homes on both side of property. I think it will look better in line rather than staggering them. And only asking for 15 feet or up to the right of way even with other homes on street.



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 hardship is having home 15ft back will (require) a longer driveway and much more grading and would look better in line with the other homes on the 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 general public, may not be the basis for granting a variance.

- “The lot has a drop off or sloping as going to the back of lot. If I can move the home up I would have less slope in the backyard.”

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 90 ft right of way is very large and unreasonable compared to other streets of 40 & 45 feet. Being most homes on street is up to right of way line.”

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.

- “No safety issue from having home placed up to right of way.”

Chair requests individual motions and votes on each of the following four findings of fact.

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.
Motion, and then all those in favor say aye....all those opposed say no.
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.
Motion, and then all those in favor say aye....all those opposed say no.
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.
Motion, and then all those in favor say aye....all those opposed say 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.
Motion, and then all those in favor say aye....all those opposed say no.

(Note: If the motion is to deny the request, Board should substantiate potential denial of the request by voting no on at least two of the findings of fact.)

Final: Chair requests a motion to approve or deny the request.

Motion, and then all those in favor say aye....all those opposed say no.



Application for Variance

Description of Request:

Asking For a variance or Relief
 OF Setback on the Front OF Property
 to Line up Home with the Two Homes
 on Both sides. To go up to the Rightaway.

Applicant information:

Name: Jerry Fletcher - Fletcher Enterprise inc.
 Address: 107 Garland RD
 City: MOORESVILLE State: NC Zip: 28115
 Telephone: 704-458-9542 Email: JPROS@HOTMAIL.COM

Property owner information (if different from applicant)

Name: same
 Address: _____
 City: _____ State: _____ Zip: _____
 Telephone: _____ Email: _____

Property location and description

Address: 627 W. MAIN St EXT.
 Tax parcel no. (five-digit): 105900 Current zoning classification: P-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: 153.055 Relief
Of front yard setback of 153.107 R-10

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

Like to line up new Home even with
Two Homes on both side of Property.
I think it will look better in line
Rather than staggering them. And
Only asking for 15 feet or up to right
of way even with other Homes on
Street.

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 Hardship is Having Home 15ft Back will
a longer Drive way + much more grading
AND would Look Better inline with
Other Homes on Street.

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 Lot Has a Drop off or Sloping
as going to Back of Lot if I can move
Home up would Have less slope in Back
YARD.

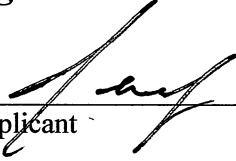
3) The hardship did not result from actions taken by the applicant or the property owner. (NOTE: The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. This statement is based upon the following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

The 90 ft Rightaway is very large
and unreasonable compared to other
Streets of 40 + 45 Foot. Being most Homes
on Street is up to Rightaway Line.

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):

NO SAFETY issue From Having Home
Placed up to Rightaway.

Signatures

 12-10-24
Applicant Date

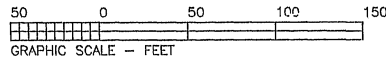
same
Property Owner, If Different From Applicant Date

 12-10-24
Zoning Administrator Date

Applications, plat and/or drawings may be returned by mail, email or in person to:
City of Lincolnton Planning Department
114 West Sycamore Street (PO BOX 617) Lincolnton, NC 28093
Email: zoningpermits@lincolntonnc.org
Phone: 704-736-8930
Office Hours: Monday-Thursday – 8:30 a.m. to 5:00 p.m.

NC GRID

EIP	Existing Iron Pin
IRS	Iron Rod Set
R/W	Right of Way
CL	Center Line
NTS	Not To Scale
UP	Utility Pole
P	Porch
IPS	Iron Pipe Set
IPF	Iron Pipe Found
F	FOUND
S	SET
— T — T —	TIE LINE
— B — B —	BRANCH
— F — F —	FLOOD AREA
— R/W —	R/W



I, MARK CARPENTER, Review Officer
of Lincoln County, certify that the
map or plat to which this certification is
affixed meets all statutory requirements
for recording.

8-15-22 me
Date 08.10.22 Review Officer

This is to certify that this survey
creates a subdivision of land within
the area of a County or Municipality
that has an ordinance that Regulates
Parcels of Land, this 05 of

JULY 2022

Forst E. Ross Jr
P. L. S.

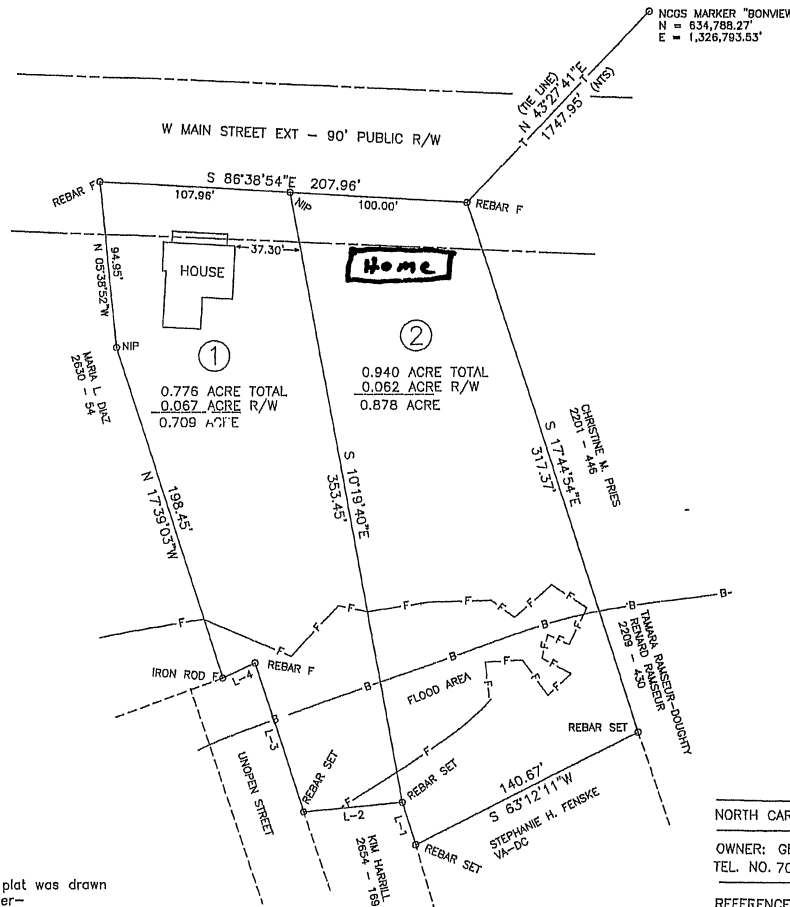
I, FOREST E. ROSS, JR., certify that this plat was drawn
under my supervision from (an actual survey made under my super-
(deed description recorded in Book 3089, page 578;
etc.) (other); that the boundaries not surveyed are clearly indicated
as drawn from information found in Book _____; that
the ratio of precision as calculated is 1:10,000; and that this
plat was prepared in accordance with G. S. 17-330 as amended. Wit-
ness my original signature, registration number and seal this 05
day of JULY, A.D., 2022.

Forest E. Ross
Surveyor
L - 3720
Registration Number



The _____ GELCREW, LLC _____ Subdivision,
to the best of my knowledge, lie within the _____ WS-IV _____
of the _____ CATAWBA, SOUTH FORK _____ as designated by
the North Carolina Division of Environmental Management and
as appears on the Watershed Protection Map of Lincoln County.

8-15-22 _____ Malcolm
Date Subdivision Administrator



COURSE	BEARING	DISTANCE
L-1	N 17°48'12"W	25.00'
L-2	S 84°27'18"W	56.00'
L-3	N 18°04'33"W	88.82'
L-4	S 64°54'46"W	20.24'

CITY of LINCOLTON ON 8-15-22
FOR RECORDATION IN THE LINCOLN COUNTY DEEDS OFFICE
Mar. Conner DATE 8-15-22
SUBDIVISION ADMINISTRATOR
CITY OF LINCOLNTON, NORTH CAROLINA

I hereby certify that I am the owner of the property shown and described hereon, which is located in the Planning Jurisdiction of the City of Lincoln and that I hereby adopt this plan of Subdivision with my free consent and establish minimum lot size and building setbacks as noted.

Yard Requirements:

Min. Front Setback from Street R/W -	35'
Min. Side Setback -	10'
Min. Rear Setback -	25'

Owner
HARRY G. PETREY
FOR GLENN, LL

8-15-22
Date

Lincoln County, State of North Carolina
I, a Notary Public of the county and state aforesaid, certify that
Karen C. Perry owner(s), personally appeared before me this
day and acknowledged the execution of the foregoing instrument.
WITNESS my hand and official stamp or seal, this
1st day of August, 20 02.

Daphne A. Chapman 5-27-2026
Notary Public Comm. Expires

BK 22 PG 77 - 77 (1)

This document presented and filed:
08/15/2022 11:51:55 AM

PLAT
Fee \$21.00

656401

Lincoln County North Carolina
 Danny R. Hester, Register of Deeds

GELCREW, LLC

NORTH CAROLINA LINCOLN COUNTY LINCOLNTON TOWNSHIP

OWNER: GELCREW, LLC
TEL. NO. 704-460-5064 2540 ARMSTRONG CIRCLE, GASTONIA, N. C. 28054

REFERENCE DEED: BOOK 3089 PAGE 578
FLOOD MAP: SEE BELOW

TOTAL ACRES 1.716 OUTPARCEL ACRES WATERSHED: WS-IV
 NO. LOTS CREATED: PROPOSED USE: RESIDENTIAL
 ZONED: R-10 SCALE: ONE INCH = 50 FEET
 ZONING SETBACKS: FRONT 35' FROM ROAD R/W/ REAR 25' SIDES 10'
 10' RESERVED ON ALL SIDE LINES, REAR, AND ROAD R/W FOR DRAINAGE & UTILITIES
 DATE OF SURVEY: 06-21-2022 PLAT PREPARED ON: 06-23-2022
 ROSS SURVEYS, P.A. GEN. ROSS PROFESSIONAL SURVEYOR # L-855
 FOREST E. ROSS, JR. PROFESSIONAL SURVEYOR L-3720
 1181 WEST HWY. 27, LINCOLNTON, N. C. 28092 TEL. NO. 704-735-6032
 FIRM LICENSE NO. C-4587

FLOOD MAP: X - 3710362300, SHA X - 3710362300, AE - 3710362300 (8/16/2007)



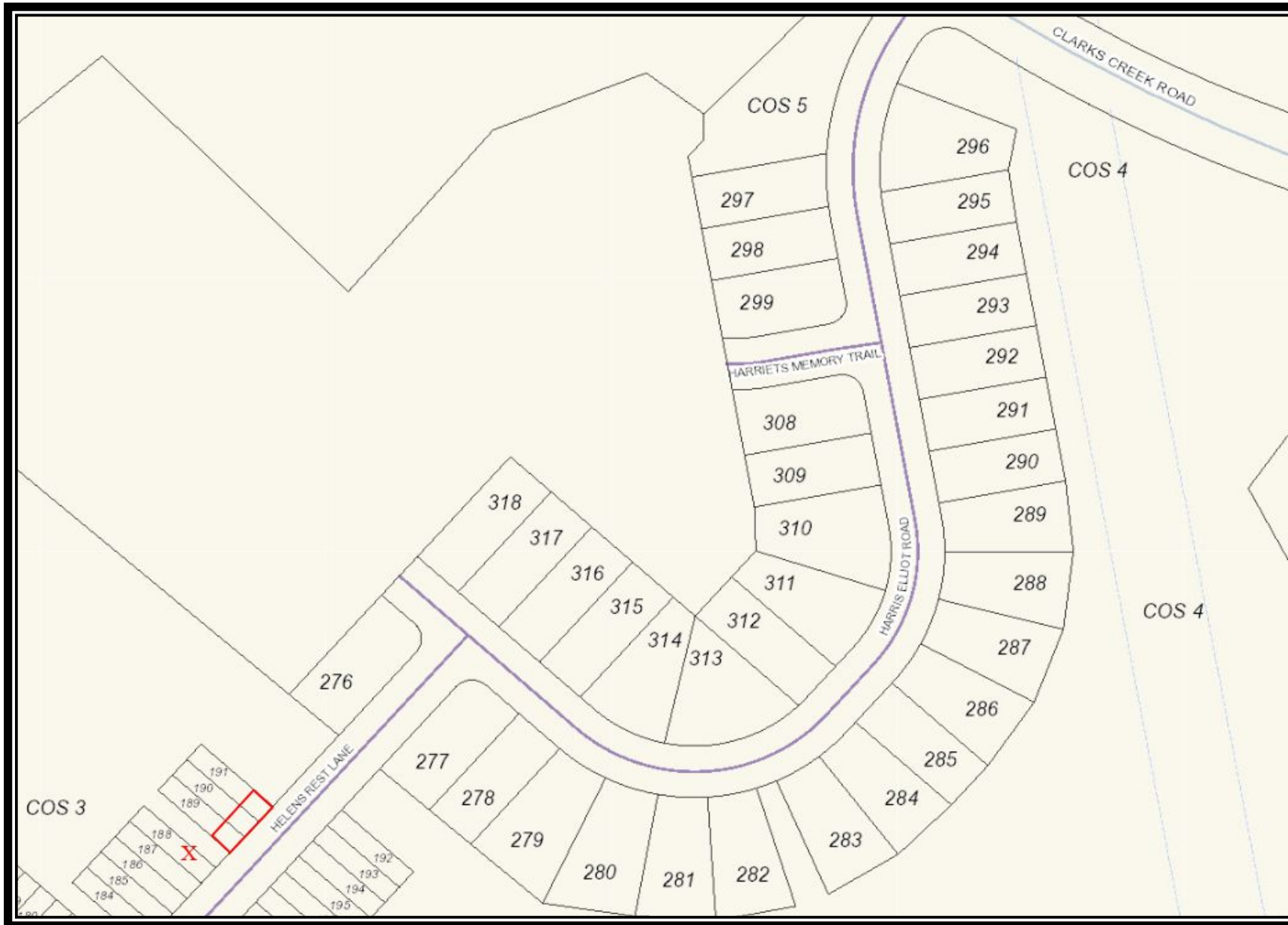
BOA-2-2025

BOA-2-2025 Application from DR Horton, Inc. requesting a Temporary Use Permit for the purpose of a Sales Center located in the Clark Creek Landing subdivision.
(Parcels 107753, 107754, 107755, 107756)

Ordinance:

• § 153.053 TEMPORARY STRUCTURES AND USES.

(D) Structures, whether temporary or permanent, located in a subdivision, and used as sales offices for the subdivision development are permitted. **The permits shall be issued by the Board of Adjustment for a period of one year**, and are renewable for a period of time to be determined by the Board of Adjustment, provided the development is being actively marketed. At the completion of the sales in a tract or upon expiration of the permit, whichever occurs first, the temporary structure(s) shall be removed, and any permanent structure(s), temporarily used as a sales office shall be used only for a purpose otherwise permitted in that district.

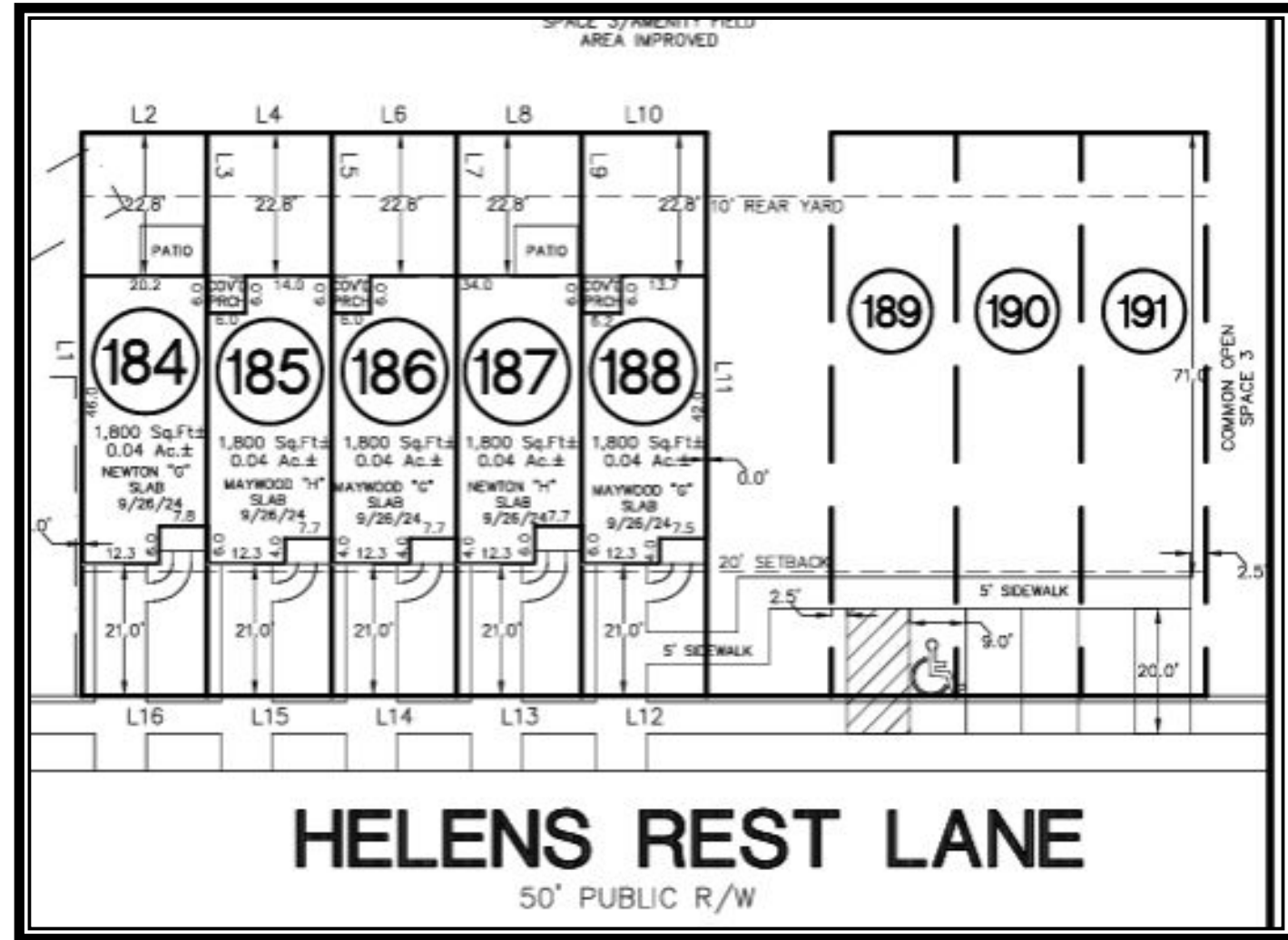


Lot 188: Sales Office

- It will serve as the sales office until it is no longer needed. Then, it will be sold as a single-family residence.

Lots 189-191: Parking

- The front portion of the lots will serve as the parking for the sales office until it is no longer needed. Single-family homes to be constructed.



BOA-2-2025 is not a quasi-judicial decision.

Board Action:

- a motion to approve or deny**
- Majority vote**