



**LINCOLNTON BOARD OF ADJUSTMENT
AGENDA
March 18, 2025
4:00 PM**

- 1. Call to Order**
- 2. Roll Call**
- 3. Approval of Minutes**
 - 3a February 18, 2025 meeting minutes**
- 4. Quasi-judicial Hearing**
 - 4a BOA-3-2025 Application from Brian Kenyon requesting a variance of Section 153.108 (B)(6) of the Lincolnton Unified Development Ordinance. The variance if granted, would allow a subdivision of land that doesn't meet the required lot width requirements for the R-8 District. The subject property is located at 509 Lee Avenue (Parcel ID 00951).**
 - 4b BOA-4-2025 Application from Stanley D. Stokes requesting a variance of Section 153.107 (B) (2) (4) of the Lincolnton Unified Development Ordinance. The variance if granted would allow for encroachment of a new structure upon the front setback and an existing structure upon the rear setback requirement of the R-10 district. The subject property is located at 801 North Grove Street (Parcel ID 17036).**
- 5. Adjournment**



CITY OF LINCOLNTON BOARD OF ADJUSTMENT MINUTES

PO DRAWER 617, LINCOLNTON, NC 28093

www.lincolntonnc.org

BOARD MEMBERS: Monte Tyson, Chair, monte@cbdeastmain.com; John Waters, Vice Chair jh2osk@aol.com; Kristin Radebaugh, kradebaugh6r6@gmail.com; Trent Mason, trentonbmason@gmail.com; Jerry Hoffman, jlskhoffman@charter.net,
Alternates: Steve Lackey, stevelackey88@gmail.com

Tuesday, February 18, 2024

Present: Kristin Radebaugh, Steve Lackey, John Waters, Monte Tyson, Jerry Hoffman

Call to Order

Chair Monte Tyson called the meeting to order and recognized that Trent Mason was absent. Five members were present for a quorum.

Approval of Minutes

Chair Monte Tyson asked the Board if there were any additions or corrections to the minutes of the January 21, 2025, meeting. The motion is as follows:

Motion:

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

Adjournment

Chair Monte Tyson 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-3-2025

Application from Brian Kenyon requesting a variance of Section 153.108 (B)(6) of the Lincolnton Unified Development Ordinance.

If granted, the variance would allow a subdivision of land that doesn't meet the required lot width requirements for the R-8 District.

The subject property is located at 509 Lee Avenue (Parcel ID 00951).

DETAILS:

- Applicant: Brian Kenyon
- Property Location – 509 Lee Ave
- Current Zoning – R-8 Single And Two-family Medium Density Residential District.
- Property Size – 2.321 acres
- Current Use of Property – Office / Warehouse
- Adjacent Properties – Single Family Residential



BACKGROUND INFORMATION

- Both structures existed prior to zoning. Nonconforming uses are allowed to continue with some restrictions.

RELEVANT UDO REQUIREMENTS

§ 153.108 R-8 SINGLE AND TWO-FAMILY MEDIUM DENSITY RESIDENTIAL DISTRICT

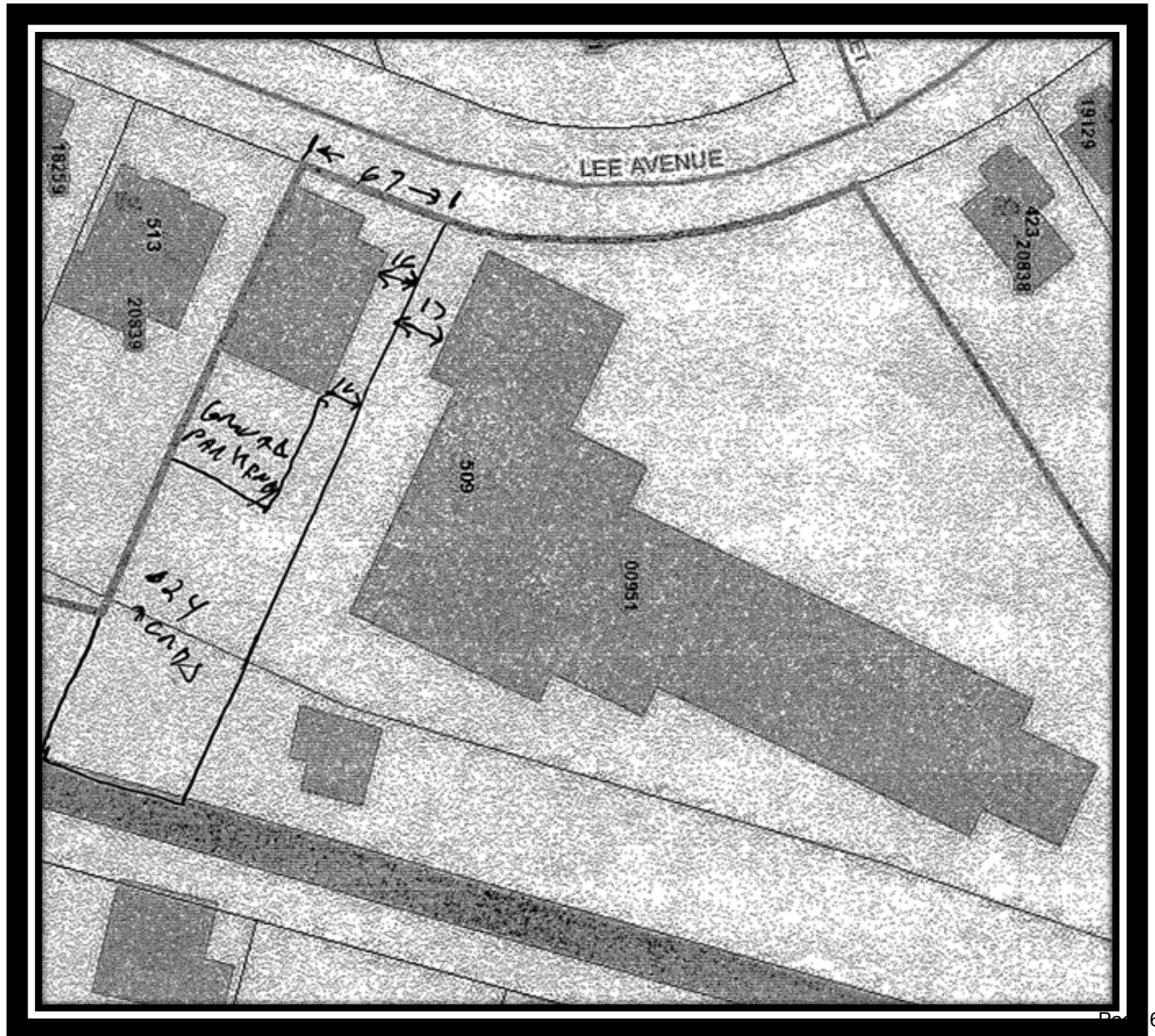
- Since the current uses are no longer permitted in the R-8 zoning district, the yard requirements for “all other uses” are defined as:
 - **Minimum Lot Width** (as measured at the front yard setback): 90 feet except that in no instance shall the lot width measured at the street right-of-way be less than 35 feet.
 - **Minimum side yard setback:** 15 feet

PROPOSAL

(provided by the applicant)

- **Lot width:** approximately 67 feet

Note: Minimum setbacks of 15 feet to the new lot lines and the minimum lot size area requirements must be met.



Street View – Office



Street View



Street View - Warehouse



Street View (Sept 2023)



Staff Notes:

- If granted, the following is required before the final plat could be approved and recorded:
 1. Proof of the separation of utilities
 2. Notation of the variance information on the plat

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 strict application of the front lot width requirements would prevent the property from being subdivided to create functional and legally separate spaces for the warehouse and the office building.
- This would result in an unnecessary hardship by limiting the reasonable use of the property and its potential to accommodate evolving business needs.
- Denying the variance would restrict the economic viability and utilization of the property in a way that is disproportionate to the intent of the ordinance.

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 property's unique shape and dimensions make it impractical to meet the front lot width requirements while maintaining the intended functionality of the subdivided spaces.

- 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 original layout and design of the warehouse were established long before the adoption of the current zoning requirements.
 - The applicant is not seeking the variance due to any actions they have taken, but rather to adapt the property to modern usage in compliance with local business and zoning needs.
- 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.**
- Granting the variance would not negatively impact public safety, as the proposed use and subdivision do not create new hazards or risks.
 - By granting the variance, the city upholds substantial justice by balancing the property owner's rights and the community's interests without compromising the intent of the ordinance.
 - The variance aligns with the ordinance's purpose of promoting reasonable and efficient land use without unnecessary economic burdens on property owners.

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.

PLANNING DEPARTMENT

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



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

Application for Variance

Description of request: REQUEST TO SUBDIVIDE THE
BUILDING (OFFICE) FROM LARGER PARCEL
COMMONLY KNOWN AS 509 LEE AVENUE.

Applicant information:

Name: BRIAN KENYON

Address: 208 LABANS LANE

City: LINCOLNTON State: NC Zip: 28092

Telephone: 704-258-6466 Email: KENYON_homes@yahoo.com

Property owner information (if different from applicant)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Email: _____

Property location and description

Address: 509 LEE AVENUE

Tax parcel no. (five-digit): 00951 Current zoning classification: R8

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: 153.100

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

SUB R FACT #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.

1) Unnecessary hardship would result from the strict application of the ordinance.

Reason(s):

- The strict application of the front lot width requirements would prevent the property from being subdivided to create functional and legally separate spaces for the warehouse and the office building.
 - This would result in an unnecessary hardship by limiting the reasonable use of the property and its potential to accommodate evolving business needs.
 - Denying the variance would restrict the economic viability and utilization of the property in a way that is disproportionate to the intent of the ordinance.
-

2) The hardship results from the conditions that are peculiar to the property, such as location, size, or topography.

Reason(s):

- The property's unique shape and dimensions make it impractical to meet the front lot width requirements while maintaining the intended functionality of the subdivided spaces.
-

3) The hardship did not result from actions taken by the applicant or the property owner.

Reason(s):

- The original layout and design of the warehouse were established long before the adoption of the current zoning requirements.
 - The applicant is not seeking the variance due to any actions they have taken, but rather to adapt the property to modern usage in compliance with local business and zoning needs.
-

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.

Reason(s):

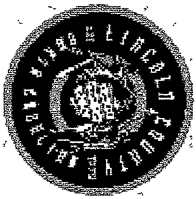
- Granting the variance would not negatively impact public safety, as the proposed use and subdivision do not create new hazards or risks.
- By granting the variance, the city upholds substantial justice by balancing the property owner's rights and the community's interests without compromising the intent of the ordinance.
- The variance aligns with the ordinance's purpose of promoting reasonable and efficient land use without unnecessary economic burdens on property owners.

Signatures

Ben Hays 02/01/25
Applicant Date

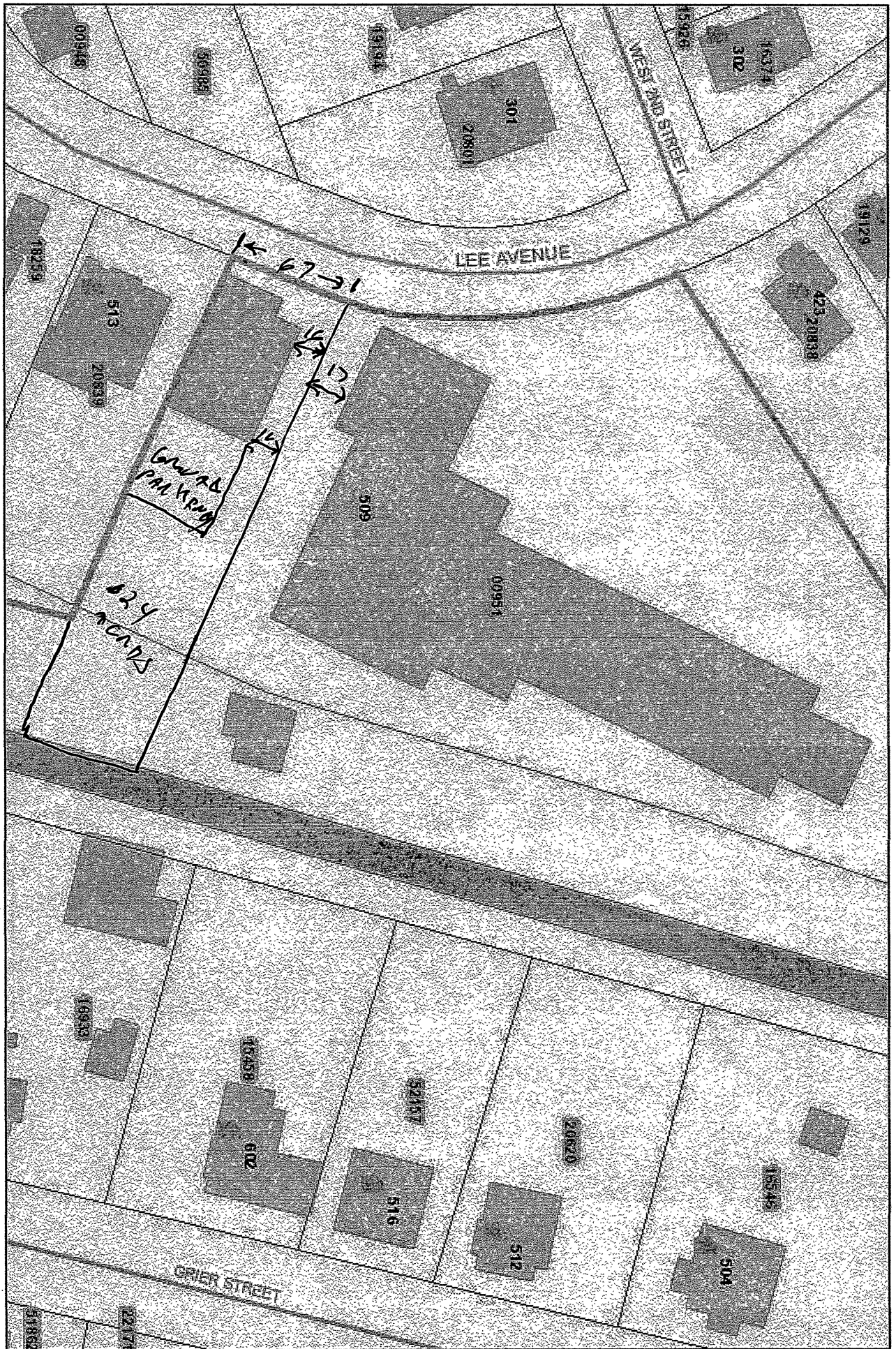
Property Owner, If Different From Applicant Date

mgjow 2-17-25
Zoning Administrator Date



Lincoln County, NC
Office of the Tax Administrator, GIS Mapping Division

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BOA-4-2025

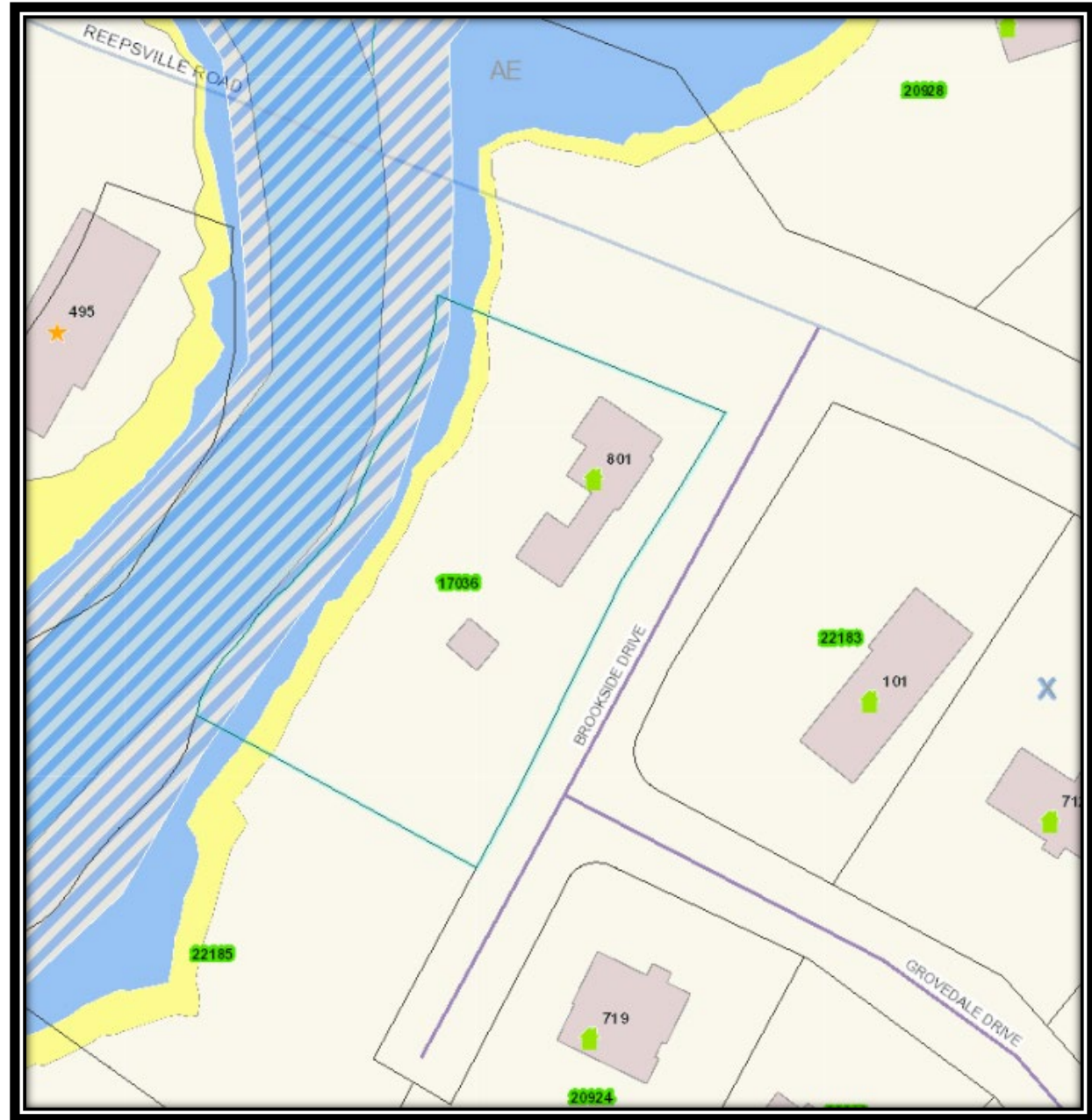
Application from Stanley D. Stokes requesting a variance of Section 153.107 (B) (2) (4) of the Lincolnton Unified Development Ordinance.

If granted, the variance would allow for encroachment of a new structure upon the front setback and an existing structure upon the rear setback requirement of the R-10 district.

The subject property is located at 801 North Grove Street (Parcel ID 17036).

DETAILS:

- Applicant: Stanley Stokes
- Property Location – 801 N Grove St
- Current Zoning – Residential-10 (R-10)
- Property Size - 0.709 acres
- Current Use of Property – Single Family Residential (previously a duplex until the use was abandoned)
- Adjacent Properties – Single Family Residential & GMC across Clark's Creek



Street View- N Grove St (Sept 2023)



Street View- N Grove St / Brookside Dr (Sept 2023)



Street View- N Grove St / Brookside Dr



Street View – Brookside Dr (Sept 2023)



Street View – Brookside Dr



Street View – Intersection of Brookside Dr & Grovedale Dr (Sept 2023)



Street View – Intersection of Brookside Dr & Grovedale Dr (Sept 2023)



SITE

POTENTIAL CHALLENGES:

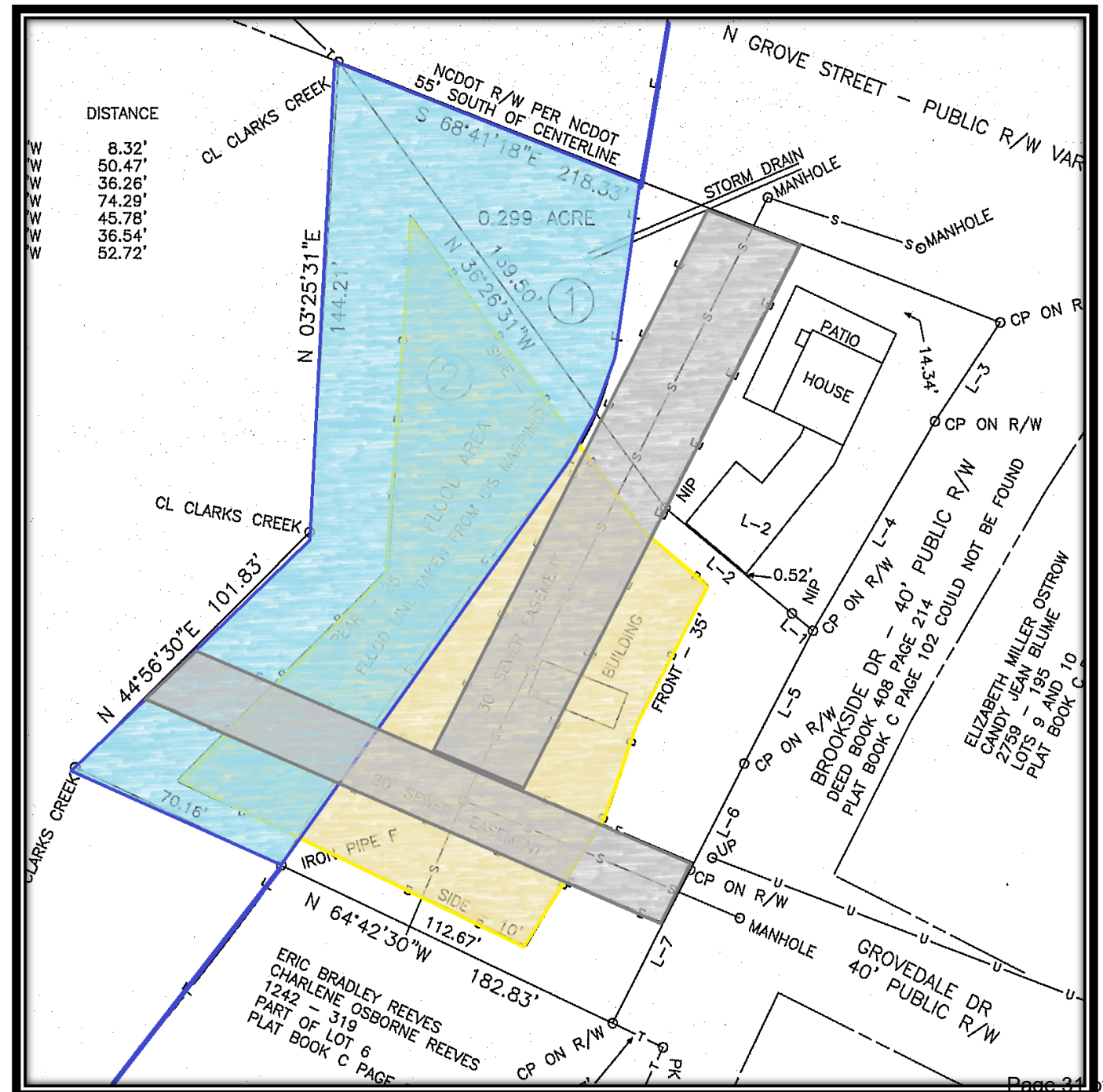
- Flood area
- Existing utility easements
- Property slopes from Brookside Dr

LEGEND:

- Yellow: the “buildable area” based on R-10 minimum yard requirements.
- Blue: flood area
- Gray: active existing utility easements

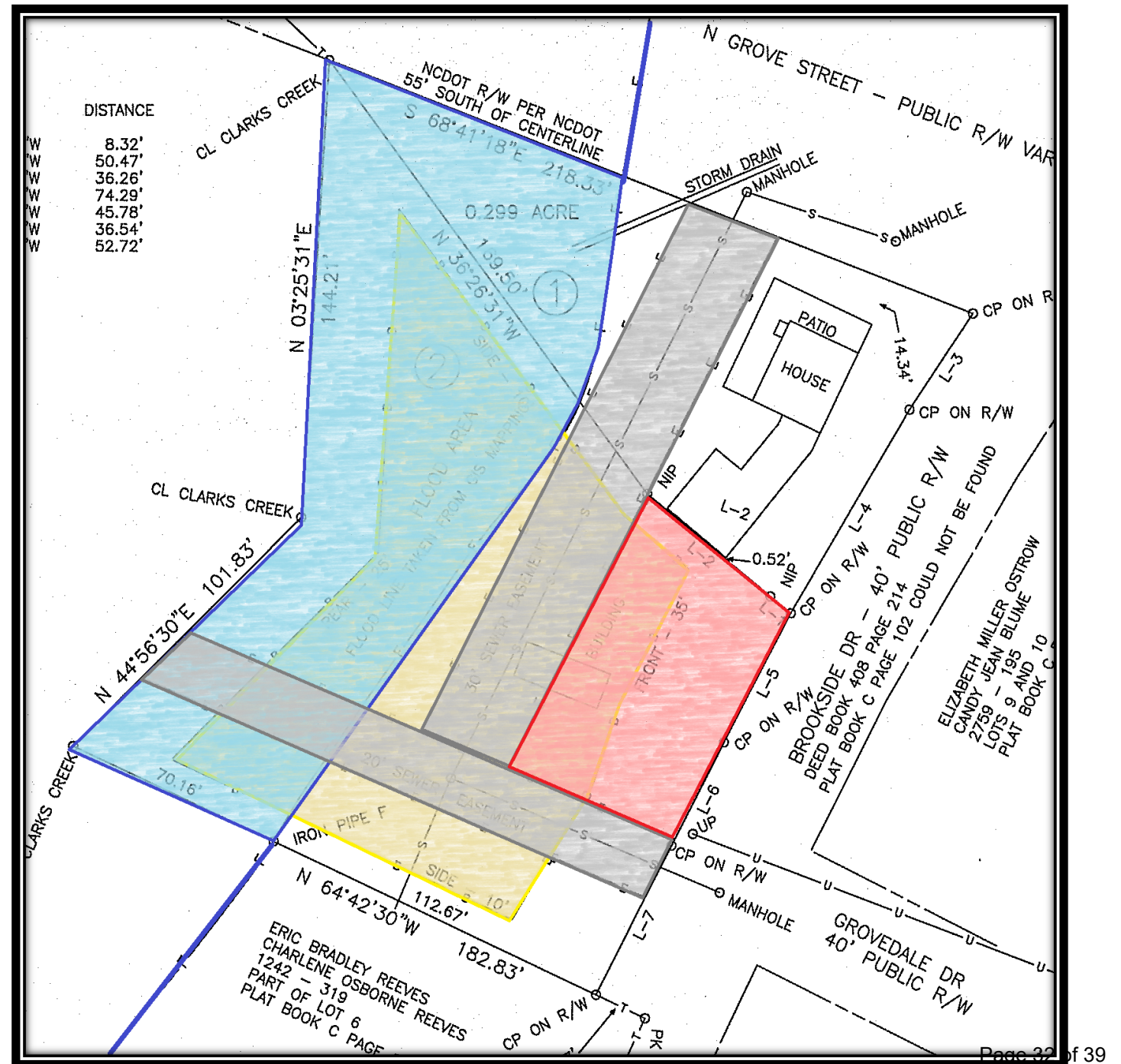
HISTORY:

- Existing home was previously used as a duplex. The use was abandoned and is not allowed to re-establish in the R-10 district



SITE

This would leave a buildable area of
approximately 80 feet wide and 60 feet deep
(shown in red).



Staff Notes:

- **If granted, the following is required before the final plat could be approved and recorded:**
 1. The building shown on Lot 2 must be removed - per § 153.031 Definitions:
ACCESSORY STRUCTURE. A structure detached from the principal structure on the same lot and customarily incidental and subordinate to the principal structure.
 2. If the building is moved to Lot 1, it must meet all location requirements. However, the current location is within a sewer easement.
 3. Notation of the variance information on the plat.
- **Whether the variance is granted or denied, the existing home can only be used as a single-family home. Duplexes are not allowed in R-10.**

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 variance would be necessary to subdivide the lot which would allow us to build a one-story house on the new lot.”

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 variance is necessary because of the flood plain and utility easements.”

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.

- “These were existing when I bought 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.

- “No danger to public safety.”

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.

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: TO SUB DIVIDE LOT ON
801 N GROVE STREET IN ORDER TO
BUILD A ONE STORY HOME ON LOT 2
REQUESTING VARIANCE FOR SETBACKS

Applicant information:

Name: STANLEY D. STOKES
 Address: 801 N GROVE ST
 City: LINCOLNTON State: NC Zip: 28092
 Telephone: 540-974-1262 Email: STANSTOKES@GMAIL.COM

Property owner information (if different from applicant)

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

Property location and description

Address: 801 N GROVE ST LINCOLNTON N.C. 28092
 Tax parcel no. (five-digit): 170 36 Current zoning classification: R10

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: SETBACKS

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

LOT 1: VARIANCE FOR EXISTING
STRUCTURE TO ENCRDACH REAR SETBACK

LOT 2: VARIANCE FOR NEW STRUCTURE
TO ENCRDACH FRONT SETBACK AND
BE IN LINE WITH STRUCTURE ON
LOT 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):

The Variance would be necessary to subdivide the lot which would enable us to build a one story house on new lot.

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 Variance is necessary because of the flood plain & utility 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):

These were existing when I bought 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):

No danger to public safety

Signatures

Stanley O Stokes 02/12/25
Applicant Date

Property Owner, If Different From Applicant Date

amgown 2-17-25
Zoning Administrator Date

PAID

FEB 17 2025
CK# 10034
CITY OF LINCOLNTON
PLANNING & ZONING