LINCOLNTON BOARD OF ADJUSTMENT
AGENDA
July 15, 2025
4:00 PM

1. **Call to Order**

2. **Roll Call**

3. **Approval of Minutes**

   3a June 17, 2025 meeting minutes

4. **Quasi-judicial Hearing**

   4a BOA-8-2025 Application from Ziggy Capital Fund 1 Requesting a variance of Section 153.108 R-8 District of the Lincolnton Unified Development Ordinance regarding minimum lot width. A proposed subdivision of the property into two lots does not meet the minimum 35 feet of dedicated street frontage. The subject property is located at 602/606 West Childs Street (Parcel ID 20771).

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;* Lee Huss *lee@gillelandrealty.com*

Tuesday, June 17, 2025

Present: Monte Tyson, John Waters, Jerry Hoffman, Steve Lackey, and Lee Huss

Call to Order

Chair Monte Tyson called the meeting to order and recognized that Trent Mason and Kristin Radebaugh were absent. Steve Lackey and Lee Huss served as alternates for a quorum.

Approval of Minutes

Chair Monte Tyson asked the Board if there were any additions or corrections to the minutes of the May 20, 2025, meeting. The motion is as follows:

Motion:

John Waters made a motion to approve the minutes.
Members voted 5-0 in favor of the motion.

Quasi-judicial Hearing

BOA-5-2025- Application from Floyd Dean requesting a variance of the Lincolnton Unified Development Ordinance, Section 153.393 (B) (4) (d) panhandle lots. The variance would allow for the front of the dwelling to be constructed within an area of the panhandle lot not meeting the 70-foot lot width requirement. The subject property is located on the west side of North State Street, approximately 100 feet North of the intersection of North State Street and East Sumner Street (Parcel ID 77294).

Jean Derby swore in Ashley Jones.

Ashley Jones presented the staff report in the agenda packet to the Board regarding BOA-5-2025.

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

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

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

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

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

Chair Monte Tyson asked if there was a motion to approve or deny the variance request. The motion is as follows:

Motion: *John Waters made a motion to **approve** the variance request. Members voted 5-0 to approve the motion. Motion granted.*

The variance request for BOA-5-2025 was granted.

BOA-7-2025- Application from Olympia and Wright, LLC requesting a variance of the Lincolnton Unified Development Ordinance, Section 153.050 (Lot to abut a dedicated street). The variance would allow for the creation of a residential lot that does not have frontage on a dedicated street but will be served by a 15-foot private access easement. The subject properties are located at the southeast corner of West Congress Street and Lee Avenue (Parcel ID 54898 and 54899).

Jean Derby swore in Brian Kenyon and Andrew Balogh from Olympia and Wright LLC.

Ashley Jones presented the staff report in the agenda packet to the Board regarding BOA-7-2025.

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

Motion: *John Waters made a motion to **deny** the first Finding of Fact. Members voted 5-0 in favor of the motion.*

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

Motion: *Steve Lackey made a motion to **deny** the third Finding of Fact. Members voted 4-1 in favor of the motion.*

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

Chair Monte Tyson asked if there was a motion to approve or deny the variance request. The motion is as follows:

Motion: *Lee Huss made a motion to **approve** the variance request. Members voted 3-2 in opposition to the motion.*

The variance request for BOA-7-2025 was denied.

BOA-6-2025- Application from Robert Trull requesting a variance of the Lincolnton Unified Development Ordinance, Sections 153.057 A (4) and (5) accessory structure setbacks and 153.049 (A) (1) fences. The variance would allow for a structure to remain on the site that doesn't meet the 10-foot side and rear yard setback, and a fence to be constructed that exceeds six (6) feet in height. The subject property is located at 215 North Laurel Street (Parcel ID 50544).

Ashley Jones swore in Jean Derby, Robert Trull, Brian Sillman, and Dmytro Kubarskyi.

Jean Derby presented the staff report in the agenda packet to the Board regarding BOA-6 -2025.

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

Motion: *Steve Lackey made a motion to **approve** the first Finding of Fact. Members voted 3-2 in opposition to the motion.*

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

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

Motion: *John Waters made a motion to **approve** the fourth Finding of Fact. Members voted 4-1 in favor of the motion.*

Chair Monte Tyson asked if there was a motion to approve or deny the variance request. The motion is as follows:

Motion: *John Waters made a motion to **deny** the variance request. Members voted 3-2 in opposition to the motion.*

Chair Monte Tyson asked if there was a motion for each of the four Findings of Fact for the variance request for the fence. The motion is as follows:

Motion: *John Waters made a motion to **deny** the first Finding of Fact. Members voted 5-0 in favor of the motion.*

Motion: *Lee Huss made a motion to **deny** the second Finding of Fact. Members voted 4-1 in favor of the motion.*

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

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

Chair Monte Tyson asked if there was a motion to approve or deny the variance request. The motion is as follows:

Motion: *Lee Huss made a motion to **deny** the variance request. Members voted 3-2 in opposition to the motion. Motion failed.*

Variances require a four-fifths vote to approve. Neither the accessory structure or the fence received a four-fifths vote for denial. Therefore, Chair Monte Tyson asked for a clean vote of approval.

Motion: *John Waters made a motion to* **approve** *the variance request BOA-6-2025.*
Members voted 3-2 in opposition to the motion. Motion failed.

The variance request for BOA-6-2025 was denied.

Other Business

Jean asked the Board if they preferred printed packets as opposed to just the screen. The Board prefers the printed copies without the minutes.

Jerry Hoffman asked if the applicant would be able to reapply. Jean explained the options available to the applicant.

Adjournment

Chair Monte Tyson asked if there was a motion to adjourn. The motion is as follows:

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

_____

Kayla Reep

Lincolnton NC

Near the City. Near the Mountains. Near Perfect.

BOA-8-2025

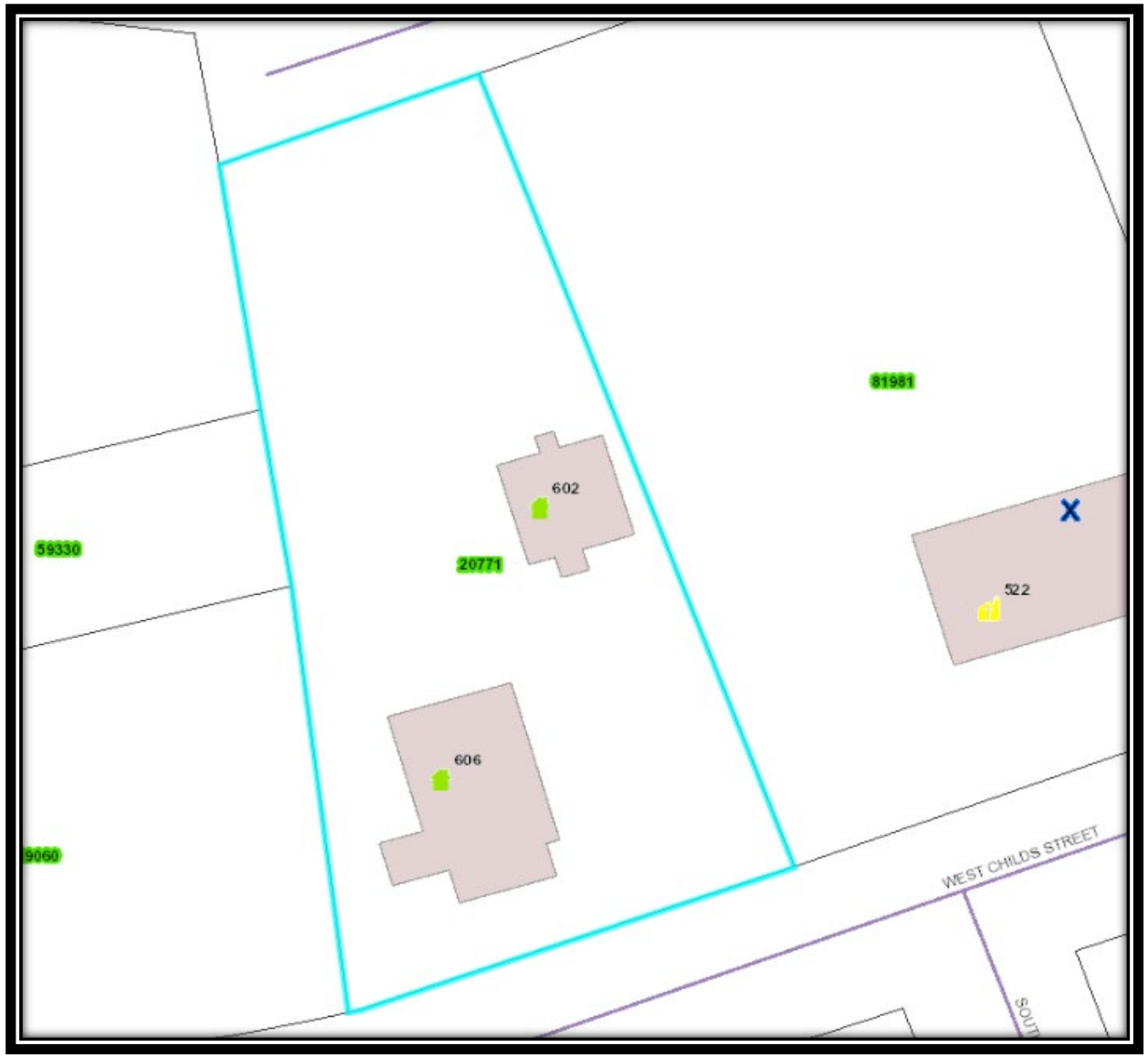
Application from Ziggy Capital Fund 1 Requesting a variance of Section 153.108 R-8 District of the Lincolnton Unified Development Ordinance regarding minimum lot width.

A proposed subdivision of the property into two lots does not meet the minimum 35 feet of dedicated street frontage.

The subject property is located at 602/606 West Childs Street (Parcel ID 20771).

DETAILS:

- Applicant: Ziggy Capital Fund 1
- Property Location – PID 20771
  602 & 606 W Childs Street
- Current Zoning – Residential-8 (R-8)
- Property Size - 0.372 acres
- Current Use of Property – Residential
- Adjacent Properties – Residential and Neighborhood Business



RELEVANT UDO REQUIREMENTS

Lot 1 – meets all of the R-8 requirements.
Lot 2 – does not meet the 35 feet minimum lot width requirement.

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

- **Minimum lot width** - 70 feet at front yard setback; 35 feet at street right-of-way.

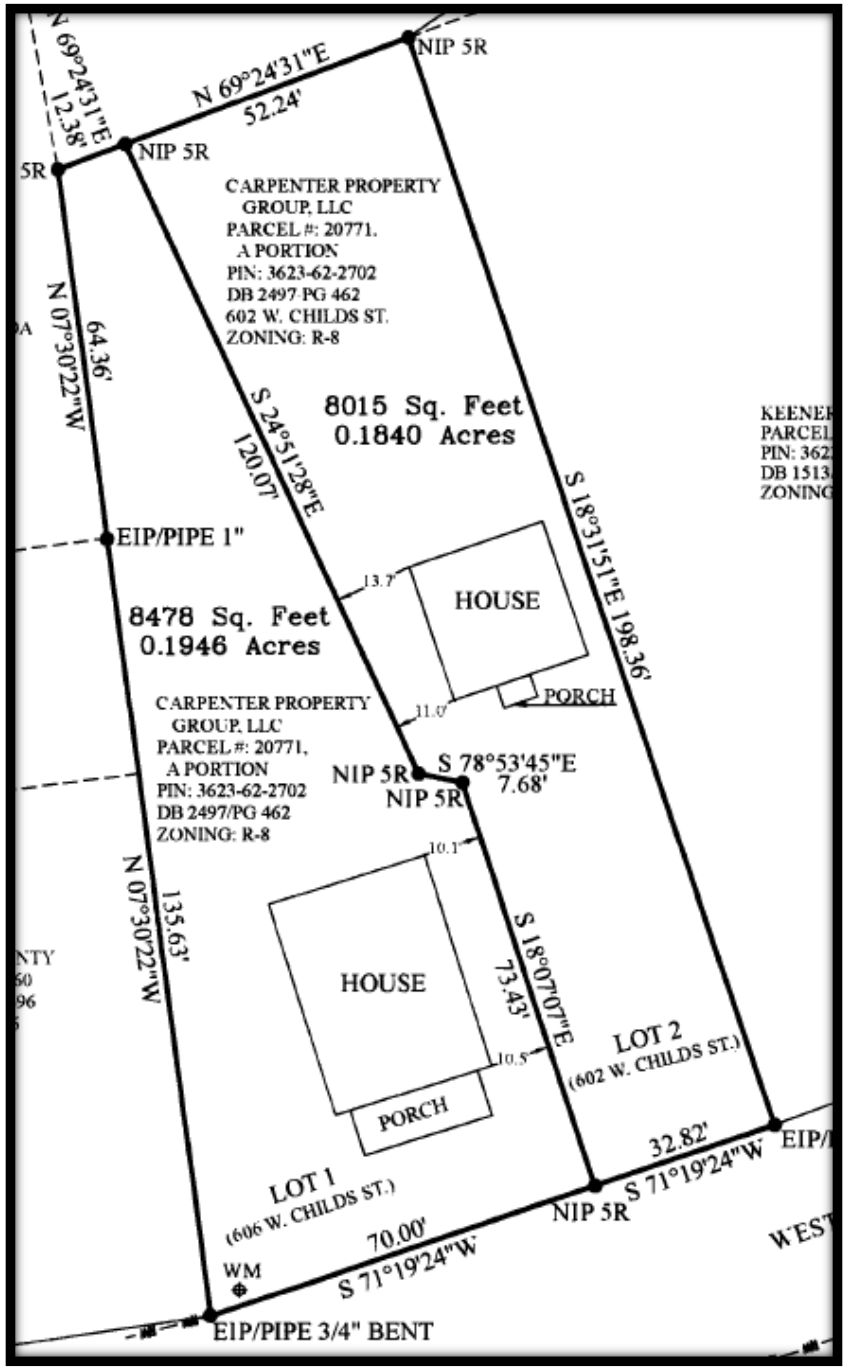
VARIANCE REQUEST

Applicant's description of request:

"Would like to return 606 and 602 W Childs St to previous subdivision as 2 separate single family properties"

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

"Subdivision back to previously approved lot lines would allow to homes to sell separately which provides a more attractive price point to multiple owners."



Street View

Property View

BACKGROUND INFO

- Variance BOA-4-2021 was approved in August 2021, allowing the same subdivision shown today. (Carpenter Property Group)
    - The purpose was to separate the properties so they could be appraised separately. Then the beneficiaries could fairly and equally distribute the properties.
- Variance BOA-13-2022 was approved in December 2022, allowing the lots to be recombined. The deed was recorded, finalizing the recombination. (Ziggy Capital)
    - At that time, the reason to recombine was for financial purposes. Lenders would not consider 602 W Childs St as a property that qualified for financing.

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.

- "Homes were previously subdivided. Return to this subdivision provides affordable home options for the community."

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.

- "By subdividing the lot, we allow for two single family properties at a mire adorable price, therefore helping more families find housing."

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.

- "Current economic parameters make home ownership difficult with high borrowing costs. The above economic parameters were not caused by the property owner."

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 subdivision of the homes increases the number of single family homes for sale in the region and creates more affordable price points for the buyer."

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 a variance, no reasonable use can be made of the property.

Chair: Entertains a motion for approval. 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 of granting a variance.

Chair: Entertains a motion for approval. 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.

Chair: Entertains a motion for approval. 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.

Chair: Entertains a motion for approval. All those in favor say aye; all those opposed say no.

Final Motion

Chair: Entertains a motion for approval. All those in favor say aye; all those opposed say no.

Lincolnton NC
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PLANNING DEPARTMENT
TELEPHONE 704-736-8930
FAX 704-736-8939

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

Application for Variance

Description of request: Would like to return 606 and 602 W Childs St to previous subdivision as 2 separate single family properties

Applicant information:

Name: Ziggy Capital Fund 1

Address: 3495 Governors Island Dr

City: Denver State: NC Zip: 28037

Telephone: 2152059861 Email: brendananzalone@aol.com

Property owner information (if different from applicant)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Email: _____

Property location and description

Address: 606 and 602 Childs St Lincolnton NC

Tax parcel no. (five-digit): 20771 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: _____

_____

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

Subdivision back to preivously approved lot lines would allow to homes to sell separately

which provides a more attactive price point to multiple owners.

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):

Homes were previously subdivided. Return to this subdivision provides affodable home options for the community.

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):

By subdividng the lot, we allow for two single family properties at a more affordable price, therfore helping more families find housing.

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):

Current economic parameters make home ownership difficult with high borrowing costs.

The above economic parameters were not caused by the property owner.

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 subdivision of the home increases the number of single family homes for sale in the region and creates more affodable price points for the buyer.

Signatures

6/14/2025

Applicant | Date

Property Owner, If Different From Applicant | Date

6/16/2025

Planning Staff | Date

Certificate of Survey and Accuracy

I, T. Riley Casey, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in Book 2497, Page 462) ; that the boundaries not surveyed are clearly indicated as drawn from information found in as shown Book ___, Page ___ ; that the ratio of precision as calculated is 1:10,000 + ; that this plat was prepared in accordance with G.S. 47-30 as amended.

Witness my original signature, registration number and seal this 30th day of May A.D., 2022.

T. Riley Casey P.L.S. L-4896

SURVEYOR'S CERTIFICATE AS TO THE LAND USE REGULATIONS

That the survey creates a subdivision of land within the area of a county or municipality that has an ordinance that regulates parcels of land.

T. Riley Casey P.L.S., L-4896

CERTIFICATE OWNERSHIP AND DEDICATION

I-We hereby certify that I/we are all of the owners of the property shown and described hereon, which is located in the planning jurisdiction of the City of Lincolnton and that I/we hereby adopt this plan of subdivision with my/our free consent and establish minimum lot size and building setback lines as noted.

R-8 ZONING SETBACKS:
Front - 30'
Rear - 25'
Side - 10'

MINIMUM LOT SIZE: 6,000 SQ. FT.
MINIMUM LOT WIDTH: 70' AT FRONT YARD SETBACK:
35' AT STREET/RIGHT-OF-WAY

Owner Date

North Carolina
Lincoln County

I, William T. Russ Jr
a Notary Public for said County and State, do hereby certify that
Joel Lynn
personally appeared before me this day, and acknowledged that he/she is the Managing Member
of Carpenter Property Group, a LLC and that he/she, as Managing member being authorized to so so, executed the foregoing on behalf of the LLC.

Witness my hand and official seal, this 2nd day of June, 20 22.

Notary Public

My Commission Expires: September 3, 2023

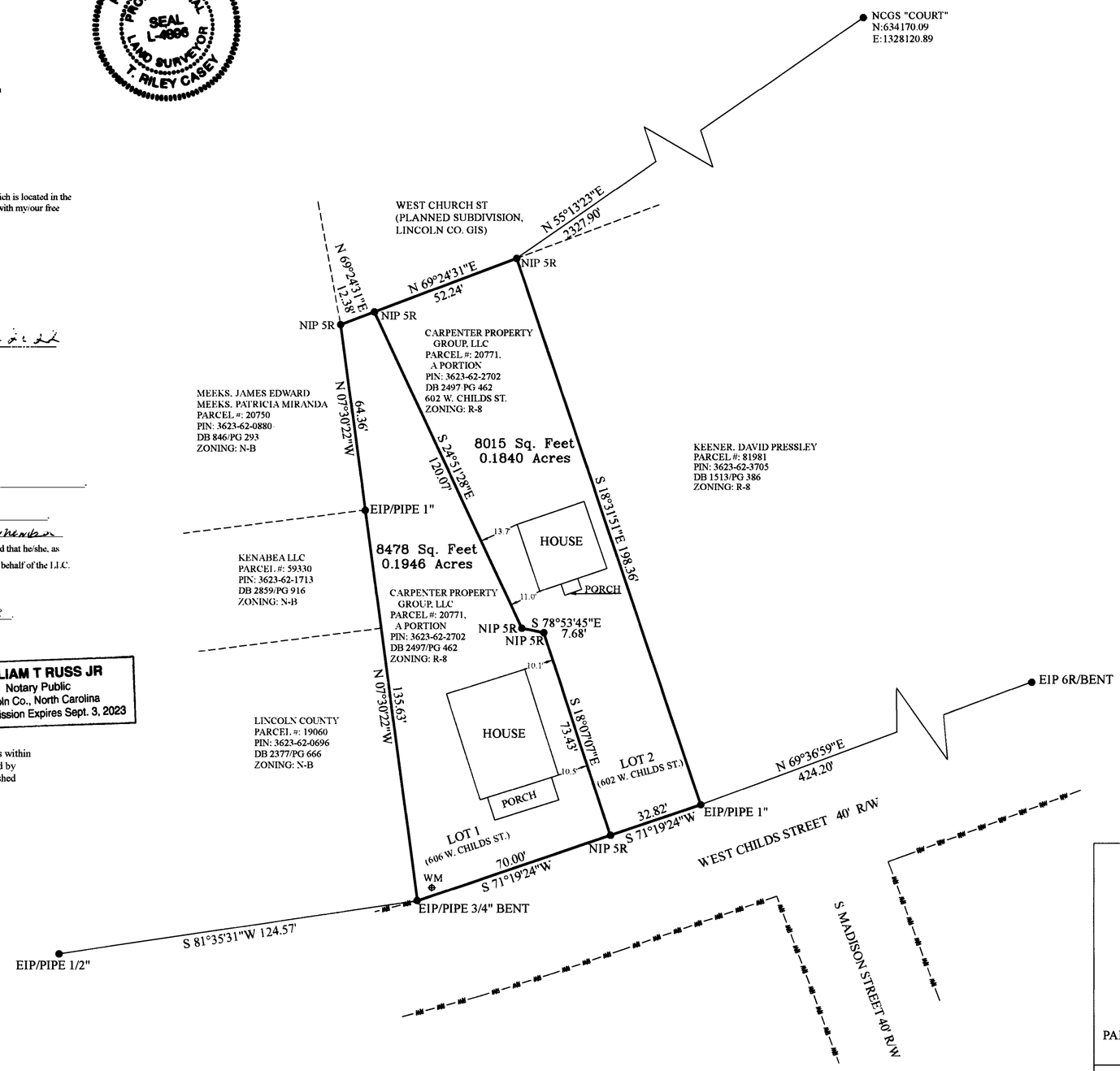
WILLIAM T RUSS JR
Notary Public
Lincoln Co., North Carolina
My Commission Expires Sept. 3, 2023

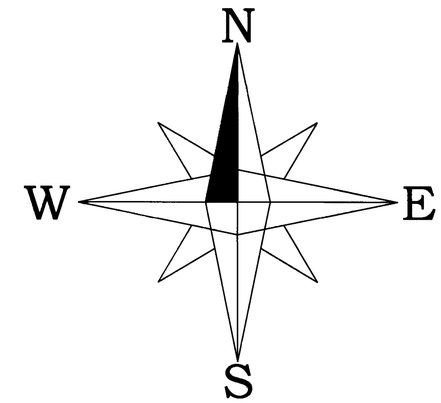
Watershed Certificate

The Carpenter Property Group LLC Minor Subdivision, to the best of my knowledge, lies within the WS-IV, Protected Area, of the South Fork Catawba River (High Shoals) as designated by the North Carolina Division of Environmental Management and as appears on the Watershed Protection Map of Lincoln County.

6-8-22
Date Subdivision Administrator

DATA:
Total Area: 0.3786 ACRES
PID #: 20771
PIN #: 3623-62-2702
Zoning: R-8
Proposed Use: Residential

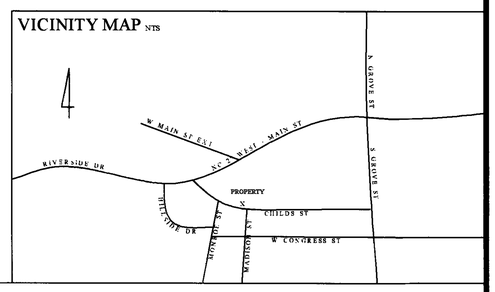




NORTH REFERENCE
NAD 83

BK 22 PG 39 - 39 (1)
This document presented and filed:
06/08/2022 10:07:54 AM
PLAT
Fee $21.00
653365
Lincoln County North Carolina
Danny R. Hester, Register of Deeds

VICINITY MAP NTS



MINOR SUBDIVISION OF THE CARPENTER PROPERTY GROUP, LLC PROPERTY

PARCEL #: 20771
DIVISION OF PIN: 3623-62-2702

PARCEL ADDRESS: 602 & 606 WEST CHILDS ST., LINCOLNTON, NC 28092

LINCOLNTON TOWNSHIP	LINCOLN COUNTY, NC
REFERENCE DEED BOOK 2497; PAGE 462	SCALE: 1" = 30'
DATE OF SURVEY: 05-14-2021	DATE OF DRAWING: 05-30-2022
T. RILEY CASEY, P.L.S. L-4896	
OWNER: CARPENTER PROPERTY GROUP, LLC PO BOX 62 LINCOLNTON, NC 28093	CASEY LAND SURVEYING, PLLC PO BOX 195 LINCOLNTON, NC 28093 (704) 308-0701

JOB FILE: WESTCHILDS05142021

LEGEND:

NIP	New Iron Pin
EIP	Existing Iron Pin
CIP	Control Iron Pin
PT	Point
RW	Right-of-way
PP	Power Pole
PL	Power Line
OHU	Overhead Utility
PED	Utility Pedestal
CO	Clean Out
WV	Water Valve
LP	Light Pole
PKS	PK Nail Set
PKF	PK Nail Found
WM	Water Meter
YI	Yard Inlet
IV	Irrigation Valve
MH	Manhole
PB	Power Box

NOTES:

LINCOLNTON BOA ISSUED A VARIANCE ON 8/17/2021 GRANTING PERMISSION FOR LOTS TO BE SUBDIVIDED

THE PURPOSE OF THIS PLAT IS A MINOR SUBDIVISION OF PARCEL 20771 (PIN 3623-62-2702, DEED BOOK 2497; PAGE 462) TO CREATE TWO LOTS

PROPERTY MAY BE SUBJECT TO RECORDED OR UNRECORDED RIGHTS OF WAYS OR EASEMENTS NOT OBSERVED

OWNER TO VERIFY ALL SETBACKS AND ZONING REGULATIONS PRIOR TO ANY PLANNING OR CONSTRUCTION

PARCEL # 20771 IS NOT LOCATED WITHIN A VOLUNTARY AGRICULTURAL DISTRICT (VAD).

A DRAINAGE & UTILITY EASEMENT OF NOT LESS THAN (10) FEET IN WIDTH SHALL BE PROVIDED ALONG EACH SIDE & REAR LOTS LINES ON EITHER SIDE OF THE LOT LINE.

LOTS 1 AND 2 OF THE CARPENTER PROPERTY GROUP, LLC MINOR SUBDIVISION ARE NOT LOCATED IN A 100 YEAR FLOOD PLAIN AS DESIGNATED BY FIRM PANEL 3710362300J, EFFECTIVE DATE 8-16-2007.

Review Officer Certification
State of North Carolina
City of Lincolnton

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

Review Officer MN 06-06-2022 Date 6-8-22

Certificate of Approval For Recording

I hereby certify that the subdivision plat shown hereon has been found to comply with the subdivision regulations of the City of Lincolnton, North Carolina and that this plat has been approved by CITY OF Lincolnton on 6-8-22 for recordation in the Lincoln County Deeds Office.

Administrator Date 6-8-22

30 0 30 60 90
GRAPHIC SCALE – FEET