Lincolnton NC

Near the City. Near the Mountains. Near Perfect.

BOA-10-2025

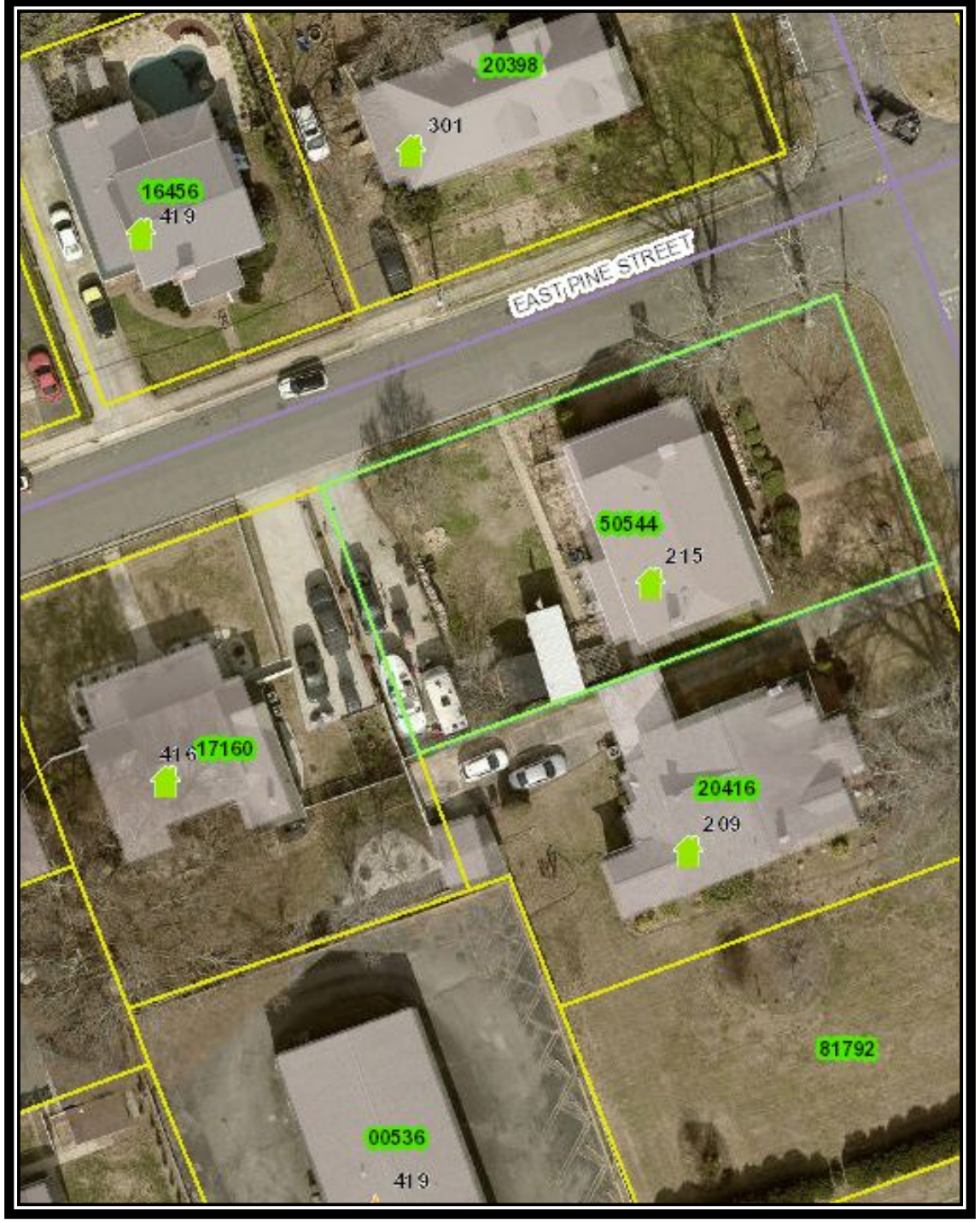
Application from Robert Trull requesting a variance of Section 153.057 A(2) and(3) of the Lincolnton Unified Development Ordinance.

If granted, the variances would allow three accessory structures to be within the side setback.

The subject property is located at 215 North Laurel Street (Parcel ID 50544).

DETAILS:

- Applicant: Robert Trull
- Property Location – 215 N. Laurel Street
- Current Zoning – R-10 Single Medium Density Residential District
- Property Size – .2731 acres
- Current Use of Property – Single Family Residential
- Adjacent Properties – Single Family Residential



Street View



Street View



Street View



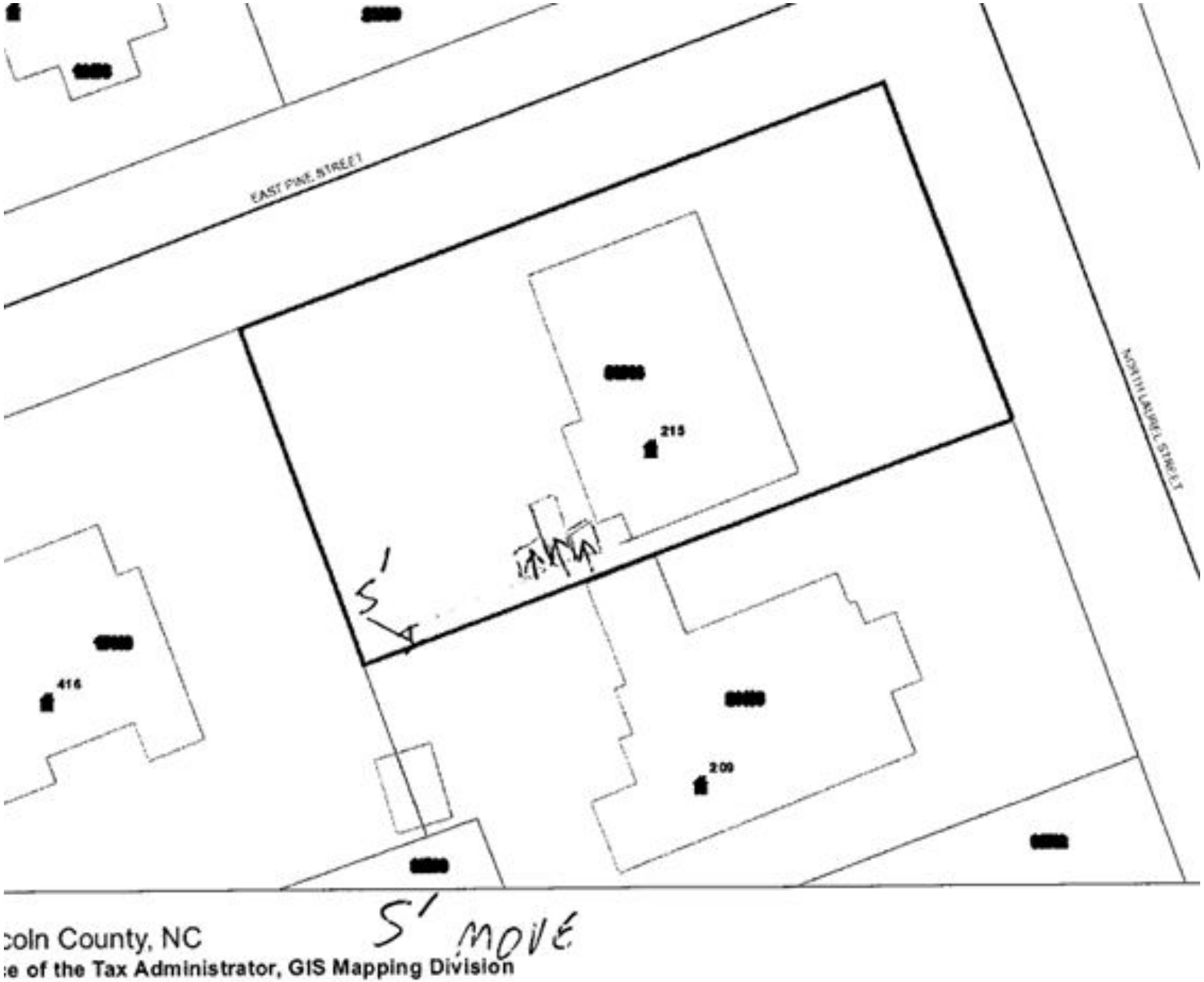
Aerial View

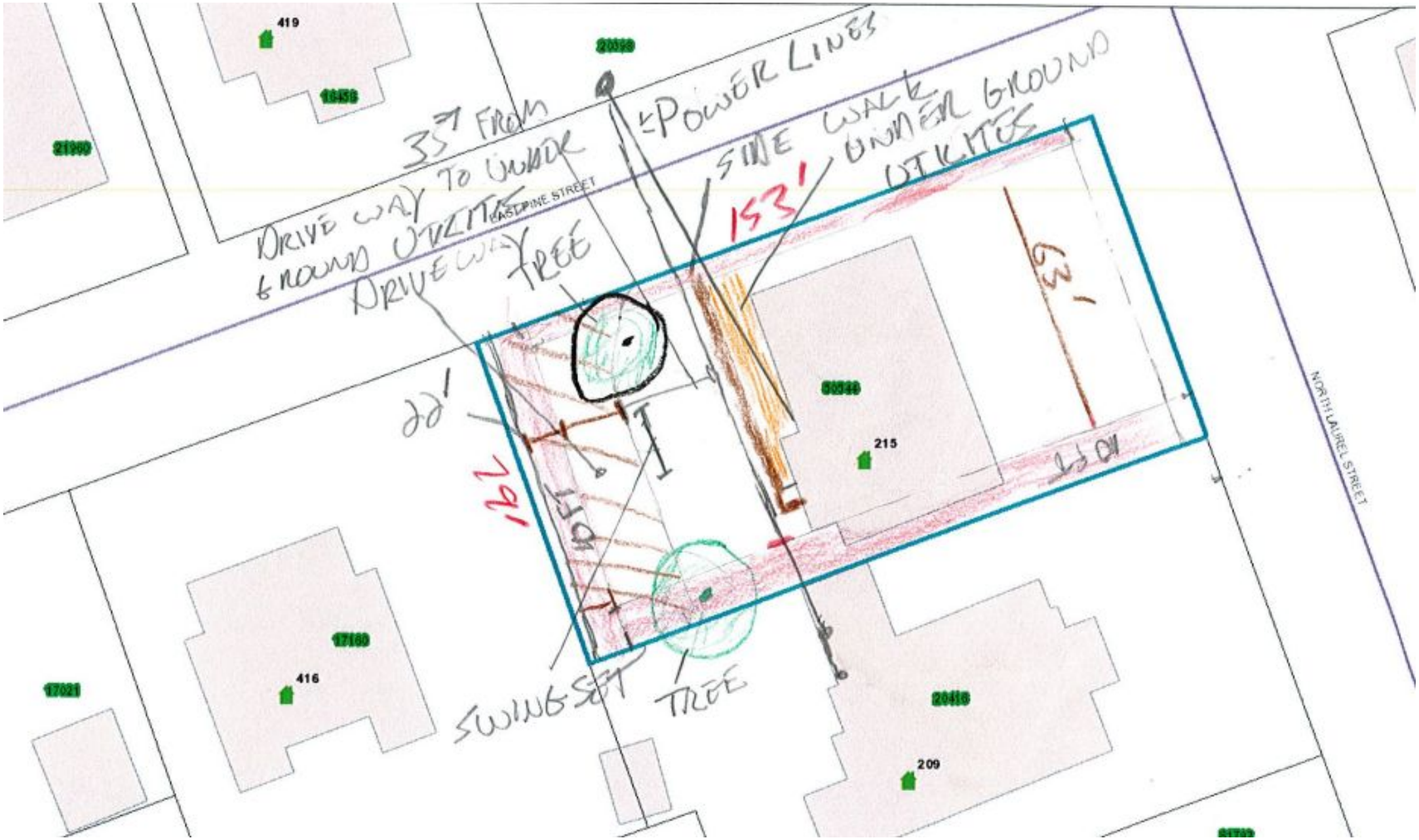


PROPOSAL

(provided by the applicant)

- to allow a reduction of side setback for his 3 accessory structures. Accessory structures should be located 10’ off the side property line.
- Applicant is requesting a reduction to 5’ off the property line.





Graphics submitted by Applicant



Graphics submitted by Applicant

Staff Notes:

- If variance is granted for the accessory structures, the following is required:
  1. Zoning Permit from the City of Lincolnton for the 10’ x 24’ structure
  2. Building Permit from Lincoln County for the 10’ x 24’ structure

Note: By right they are allowed 592.50 SF in accessory structures, the total square footage of these 3 structures is 440 SF. They do have less square footage than the maximum they are allowed.

UDO REQUIREMENTS

§ 153.057 ACCESSORY STRUCTURES

(A) Within any Residential (R) District, accessory structures shall be located as follows.

(2) Accessory structures are allowed in any side yard, provided they observe a setback of 10 foot side yard from any side yard lot line.

(3) Accessory structures are allowed in any rear yard provided that all accessory structures observe a 10 foot setback from any rear lot line.

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 zoning ordinance of the 10-foot setback on 2 sides of my property and the roadbed easement on the third side takes away usefulness of my property which I pay taxes and a mortgage with interest for that land, that I cannot use that will benefit my property or my family in a manner I should be allowed to. The placement of structures near the road could also interfere with repairs of the Duke Energy natural gas distribution line that runs close to the road curb that borders my property. GSA shows my property 153' x 79' The backyard measures L35’ x W79’ and with the 2 10ft setback and the roadbed easement I lose L35’ x W 63’ of usable property. The use of the property within the 10ft setback for structures will not and has not affected property value. But placement to be in full compliance, could possibly cause property value issues due to structures being visible and my property will definitely lose curb appeal. I am requesting the board to accept my appeal of a movement of my structures to 5ft off the property line from where they are.

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.**

   Due to the topography of the property placement if structures on the north or west side of the back yard will cause a major drainage problem forcing the property to hold rainwater and flood my cellar and crawl space during heavy rains. On the east side of the back yard which backs up the house, I cannot place structures due to need of access for utilities for repair or general maintenance such as the natural gas line, line of site communications, water supply line and electrical. That leaves me with only the property on the south side in my backyard to place structurers. The current location of my structures has never posed any safety risk for the general public or my neighbor who shares my property line and a 5ft adjustment off the property line will still not be a safety risk.

Findings of Fact with responses from the applicant

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.

When we bought our home the two 10 ft setbacks and road easement were not disclosed during the sale of the property by the local real estate company which would have impacted my decision to buy the property. Due to proximity of downtown, Pine St. which very is heavily traveled not just by citizens of Lincolnton but by our vagrancy population. The antique wrought iron fence that is older than the house offers zero privacy and zero protection. So, privacy and safety were a major factor in buying the pergola so we could hang outdoor privacy blinds and enjoy our hot tub without being watched but even now that has changed for the worse. Since my last appearance the harassment we have been facing has increased to keep pressure on us, making it extremely difficult for us to even bring this appeal for movement of my structures. They have recently installed a 2nd surveillance camera on the second floor that gives notifications, starts recording when movement is detected or sound is detected, has night vision, and has the ability to zoom in. This has violated my reasonable expectation of privacy of my use of the hot tub and my downstairs bathroom even with the newly installed privacy fence installed at 20' and 2" from center of the road. The protective order that has been filed is already being violated at this time. My wife could not even do gardening without verbal harassment. There is no North Carlina State law or city ordinances that protect citizens from this invasion of privacy until the privacy fence is installed. The extra height for the privacy fence that the board denied was a serious blow to our privacy and safety as the police report(s) will show unequivocally their aggressiveness, their ability to do harm not just physically harm but the ability to do harm to one's reputation with slandering within the community. We are still dealing with the total blockage of our driveway making delivers extremely difficult or impossible.

Findings of Fact with responses from the applicant

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 is my appeal for partial use of the 10 ft set back, I am definitely guilty of not filing for the permit for go over the 10x10 size on the outdoor kitchen, which would have triggered the 10ft setback zoning ordinance. Since neither the pergola nor the shed needed a permit that would have triggered the 10ft setback It didn't even cross my mind to check. The outdoor kitchen just kind of morph from 10x10 due to ideas from neighbors to include the picnic table and a swing. The movement of my structures will not interfere with air flow, doesn't interfere with Mark's property getting sunlight, does not interfere with Mark's privacy, it does not produce any noise, my structures are not a fire hazard or a safety hazard of any kind and there are no utilities between Mark's and my property and a 5ft property line adjustment will not interfere with any utilities. I also paid in full for and replaced the chain link fence with a 6-foot privacy fence between Mark and I so he and I could have privacy. Marks carport was grandfathered in on this 10 ft setback as was my house. We both have a total of 20 feet of unusable property for both of us due to the 10 ft setback. My family and I have already paid an extremely heavy toll monetarily, mentally and physically and will be paying for it for a very long time if not granted. The only reason it was reported was out of cruelty, spite, envy, and control. I am begging the board to approve this variance and save what neighbors built, keeping the curb appeal of my home and making it to where my structures will not be in the way of renovations of our home. This variance will also allow continuance of our community gatherings and show the spirit of what makes Lincolnton a great place to live.

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.

- Requires a $4/5^{th}$ vote in favor of the motion in order to be considered valid

Final Motion

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

** Requires a $4/5^{th}$ vote in favor of the motion in order to be considered valid.*

PLANNING DEPARTMENT

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

RECEIVED
By: JD Date: 8.1.25

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

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

Application for Variance

Description of request: I am requesting to move 5 Feet of all my structures on my property because otherwise it will create unnecessary hardships for my family, financially, and safety. Structure movement will create a safety issue, will cause an unsightly look in my back yard and effecting the aesthetics of the community.

Applicant information:

Name: Robert Trull

Address: 215 North Laurel Street

City: Lincolnton State: NC Zip: 28092

Telephone: 832-353-5280 Email: robert.trull@duke-energy.com

Property owner information (if different from applicant)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Email: _____

Property location and description

Address: 215 North Laurel St. Lincolnton NC 28092

Tax parcel no. (five-digit): 50544 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:

10 foot set back of rear of property

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

Without the use and access of the 10 ft set back, it will limit the use of my small land parcel. I am very limited on where I can place structures due to access of utilities such as gas, water, sewer, electrical, power lines to the neighbor's house and my house. Our home was built in 1913 and during a bad installation of the HVAC system way before I brought the house, a contractor cut the beams in multiple locations to fit the duct work causing the house to sag in multiple locations. To correct this issue, access to the back of the property needs no obstructions for heavy equipment to enter the property from the front and the rear of our home, this will be a massive undertaken due to the scope of work. I am hoping to start renovations in the next few years and add the house to historical registration. The property does not have a garage and would be limited on its size as well due to zoning regulations. A garage would also be facing two 10ft setback issues due to the small size of the property within the city limits, 500 sq ft is what I am allowed, which would not even fit my vehicles. The current driveway would have to be demolished and re-poured to be compliance to have a garage this would shrink my backyard even more compared to what I have now. Total movement of the structures would also limit the security surveillance of my property and create blind spots for criminal activity and the safety of my children playing in their yard. One tree on the northwest corner also limits locations of buildings due to size and if cut down it would cause another privacy issue and make the property unsightly for the community.

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 zoning ordinance of the10-foot setback on 2 sides of my property and the roadbed easement on the third side takes away usefulness of my property which I pay taxes and a mortgage with interest for that land, that I cannot use that will benefit my property or my family in a manner I should be allowed to. The placement of structures near the road could also interfere with repairs of the Duke Energy natural gas distribution line that runs close to the road curb that borders my property. GSA shows my property 153' x 79 '. The backyard measures 135'X79' and with the 2 10ft setback and the roadbed easement I lose 135 X 63' of usable property. The use of property within the10ft setback for structures will not and has not affected property value. But placement to be in full compliance, could possibly cause property value issues due to structures being visible and my property will definitely lose curb appeal. I am requesting the board to accept my appeal of a movement of my structures to 5ft off the property line from where they are.

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structures due to need of access for utilities for repair or general maintenance such as the natural gas line, line of site communications, water supply line and electrical. That leaves me with only the property on the south side in my backyard to place structurers. The current location of my structures has never posed any safety risk for the general public or my neighbor who shares my property line and a 5ft adjustment off the property line will still not be a safety risk.

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Closing Statement

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Signatures

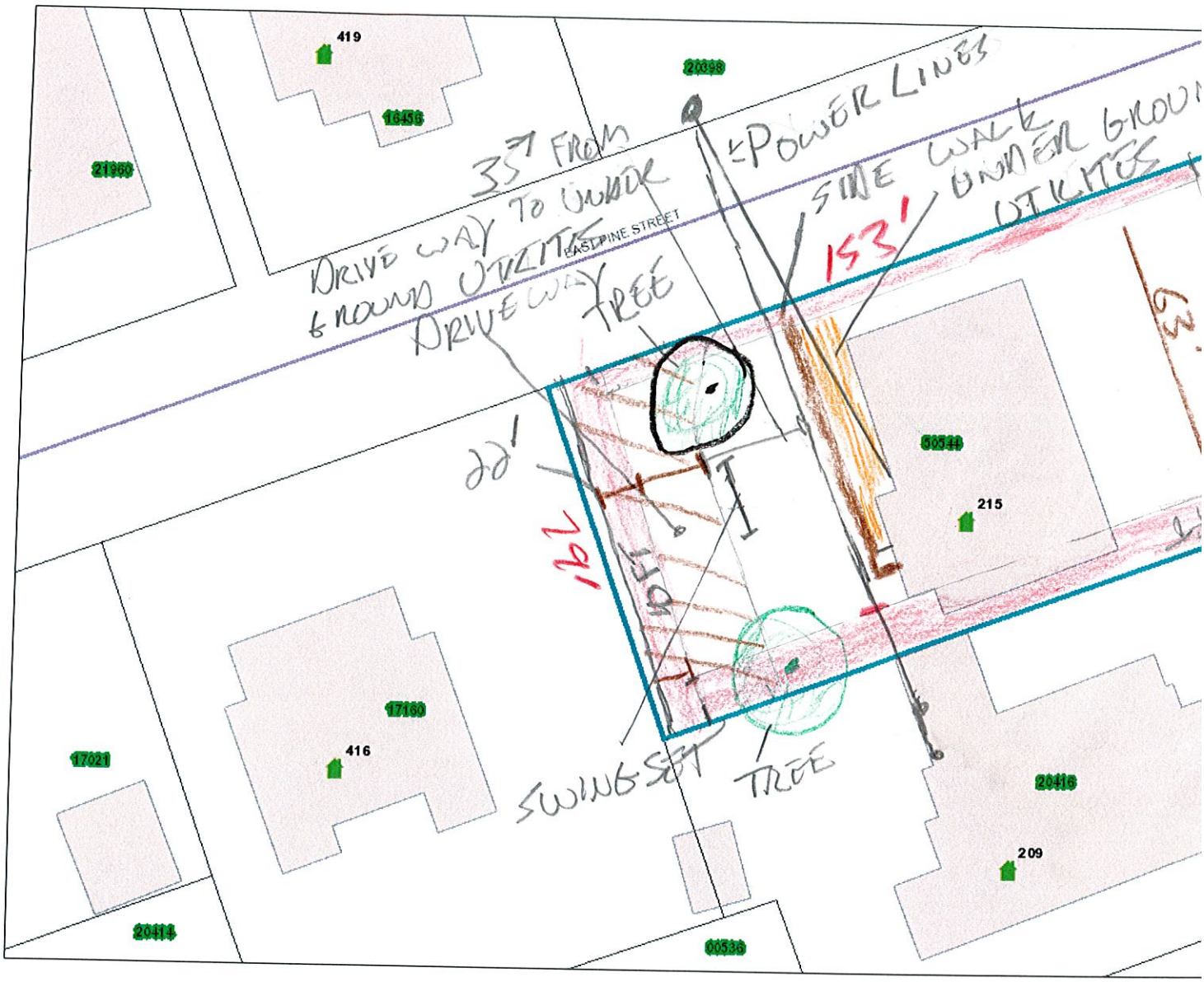


1-Aug 2024

Applicant Date

Property Owner, If Different From Applicant Date

Zoning Administrator Date

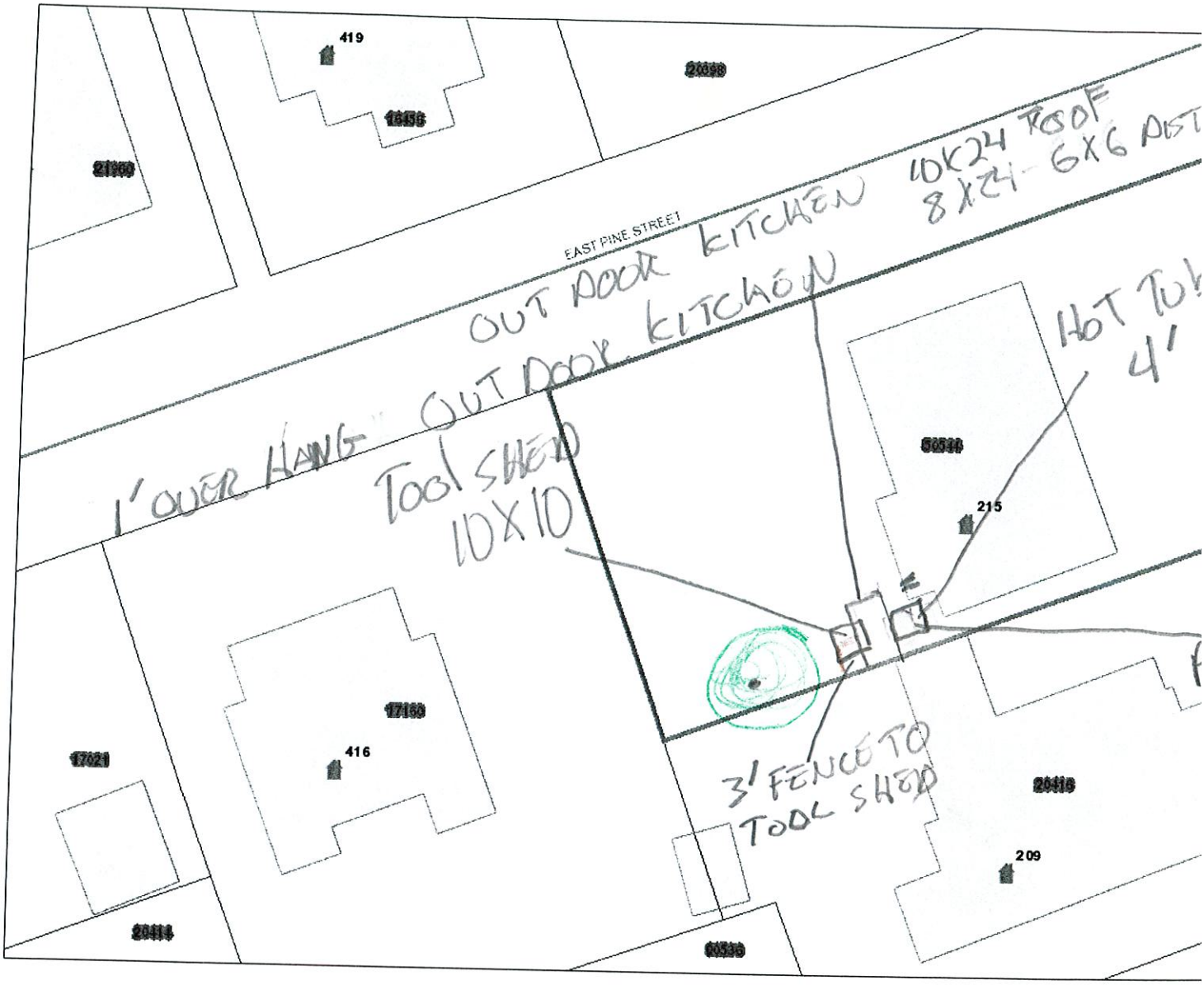


Lincoln County, NC

Office of the Tax Administrator, GIS Mapping Division

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June 28, 2025



Lincoln County, NC

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June 28, 2025



Lincoln County, NC 5' MOVE

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June 28, 2025