MEMO TO: Lincolnton Board of Adjustment

FROM: City of Lincolnton Planning Department

DATE: January 16, 2024

SUBJECT: BOA-1-2024 – Halie Cantrell

Property Information

- Property Location – Henry Rhodes Rd (PID 59121)
- Current Zoning – Residential-25 (R-25)
- Property Size - 1.113 acres
- Current Use of Property – Vacant
- Adjacent Properties – Single Family Residential

Variance Request

BOA-1-2024 Application from Halie Cantrell requesting a variance of Section 153.050 of the Lincolnton Unified Development Ordinance in regards to lots abutting a dedicated street. The variance would allow the lot (Parcel ID 59121) to be served by a 20-foot easement to construct a single-family home. The subject property is located approximately 203 feet northeast of Henry Rhodes Road and behind the property at 773 Henry Rhodes Road (Parcel ID 21428).

Relevant UDO Requirement

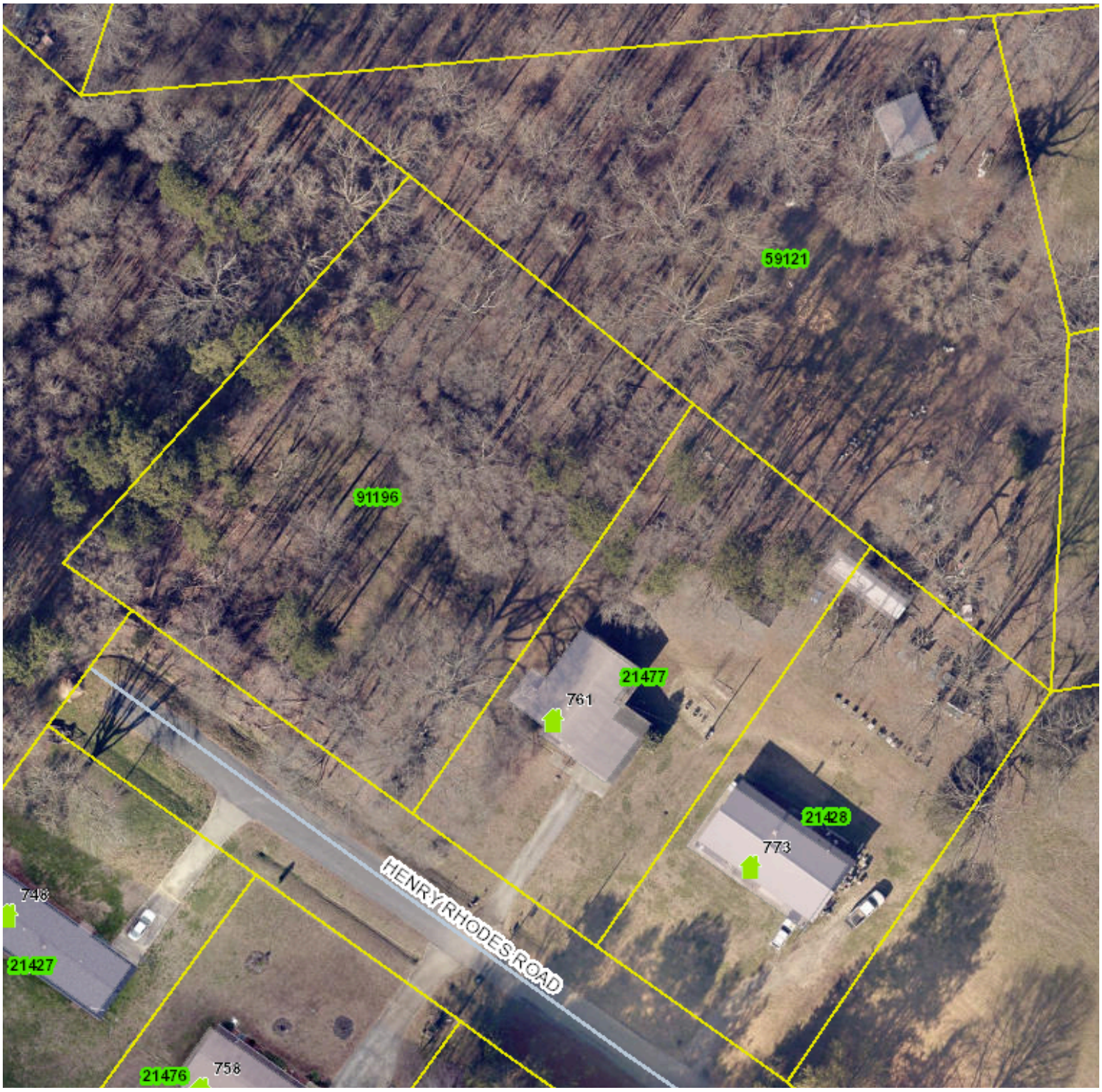
§ **§ 153.050 LOT TO ABUT A DEDICATED STREET.**
No lots may be created after the effective date of this chapter that do not have at least 35 feet of dedicated street right-of-way frontage except as follows.

(B) A one-family residence may be constructed on a lot which 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

- The property was gifted to the applicant by a family member.
- The lot was created in 1993, therefore it is not considered a lot of record.
- The property deed confirms a 20 ft easement through the extension of the existing driveway serving 773 Henry Rhodes Rd.

AERIAL VIEW:


59121
91196
21477
761
21428
773
HENRY RHODES ROAD
748
21427
758
21476

SKETCH:



Notes

- The property is landlocked. For her to build a home on this property, a variance would need to be granted.

DRIVEWAY / EASEMENT LOCATION:



RECORDED EASEMENT:

EXHIBIT "A"

Being all that piece, parcel or lot of land lying and being in the Lincolnton Township, Lincoln County, North Carolina, and being bounded by the land of S. Ralph Smith, Wilma R. Rhodes, Hoyt W. Chapman, and other lands of William H. Crouse and being more particularly described by metes and bounds in accordance with a plat and survey by Gene Ross, Registered Surveyor, dated June 22, 1993, as follows:

BEGINNING at an existing iron pin, the old corner of Wilma R. Rhodes and William H. Crouse and runs thence with the old William H. Crouse line, North 51 deg. 54 min. 18 sec. West 100.10 feet from an existing iron pin, a corner with Hoyt W. Chapman, thence with Hoyt W. Chapman, then Wilma R. Rhodes North 52 deg. 02 min. 06 sec. West 199.94 feet to and existing iron pin in the Wilma R. Rhodes old line; thence continuing with Wilma R. Rhodes, North 51 deg. 42 min. 12 sec. West 115.02 feet to an existing iron pin corner with S. Ralph Smith; thence two lines with the old S. Ralph Smith property, North 85 deg. 43 min. 48 sec. East 91.75 feet to an existing iron pin; **thence North 84 deg. 59 min. 18 sec. East 222.62 feet to a new iron pin** marking the old corner with Bobby Leatherman; thence with old Bobby Leatherman line, South 14 deg. 06 min. 27 sec. East 145.89 feet to a new iron pin marking the old Bobby Leatherman corner; thence South 08 deg. 56 min. 14 sec. West 142.56 feet to the place and point of BEGINNING, containing 1.111 acres, more or less.

Grantor also grants Grantee a non-exclusive, permanent, perpetual, and appurtenant 20-foot easement along the existing driveway extending to the Northeast corner of the property currently owned by Grantor for egress, ingress and regress to Henry Rhodes Road (S.R. 1443).

See Deed Book 3256 at Page 574, Lincoln County Public Registry.

Lincoln County Parcel No. 59121

Staff Comments

- The applicant's request should not affect the neighborhood negatively in any way.
- Staff recommends the driveway be expanded to 12 ft wide and made of gravel or asphalt.
- 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 property does not and cannot have road frontage due to it being landlocked. I do have a 20' easement to access the property. This is family land that was gifted to me to build a home for my family."

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.**
    - "See above."

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.**
    - "See above."

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.**
    - "See above."

~~BOA-1-24~~

BOA-1-24

PLANNING DEPARTMENT

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

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

www.lincolntonnc.org/planning
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Application for Variance

Description of request: Variance to allow construction of single family home on parcel #59121. Property has a 20' easement through the existing driveway. Deed is attached.

Applicant information:

Name: Halie Cantrell

Address: 773 Henry Rhodes Rd.

City: Lincolnton State: NC Zip: 28092

Telephone: 704-740-8339 Email: Haliellong97@gmail.com

Property owner information (if different from applicant)

Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Email: _____

Property location and description

Address: TBD Henry Rhodes Rd, Lincolnton, NC 28092

Tax parcel no. (five-digit): 59121 Current zoning classification: R-25

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:

The property was sub-divided in the past leaving this parcel land-locked with an easement to access; however, there is no road frontage. The property does not currently meet the zoning requirements (35' road frontage and a 12' easement)

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 property does not and cannot have road frontage due to it being land locked. I do have a 20' Easement to access the property. This is family land that was gifted to me to build a home for my family.

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):

See above

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):

See above

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):

See above

Signatures

Halie Cantrell — 12/5/2023

Applicant — Date

Property Owner, If Different From Applicant — Date

[signature] — 12/5/23

Zoning ~~Administrator~~ Official — Date