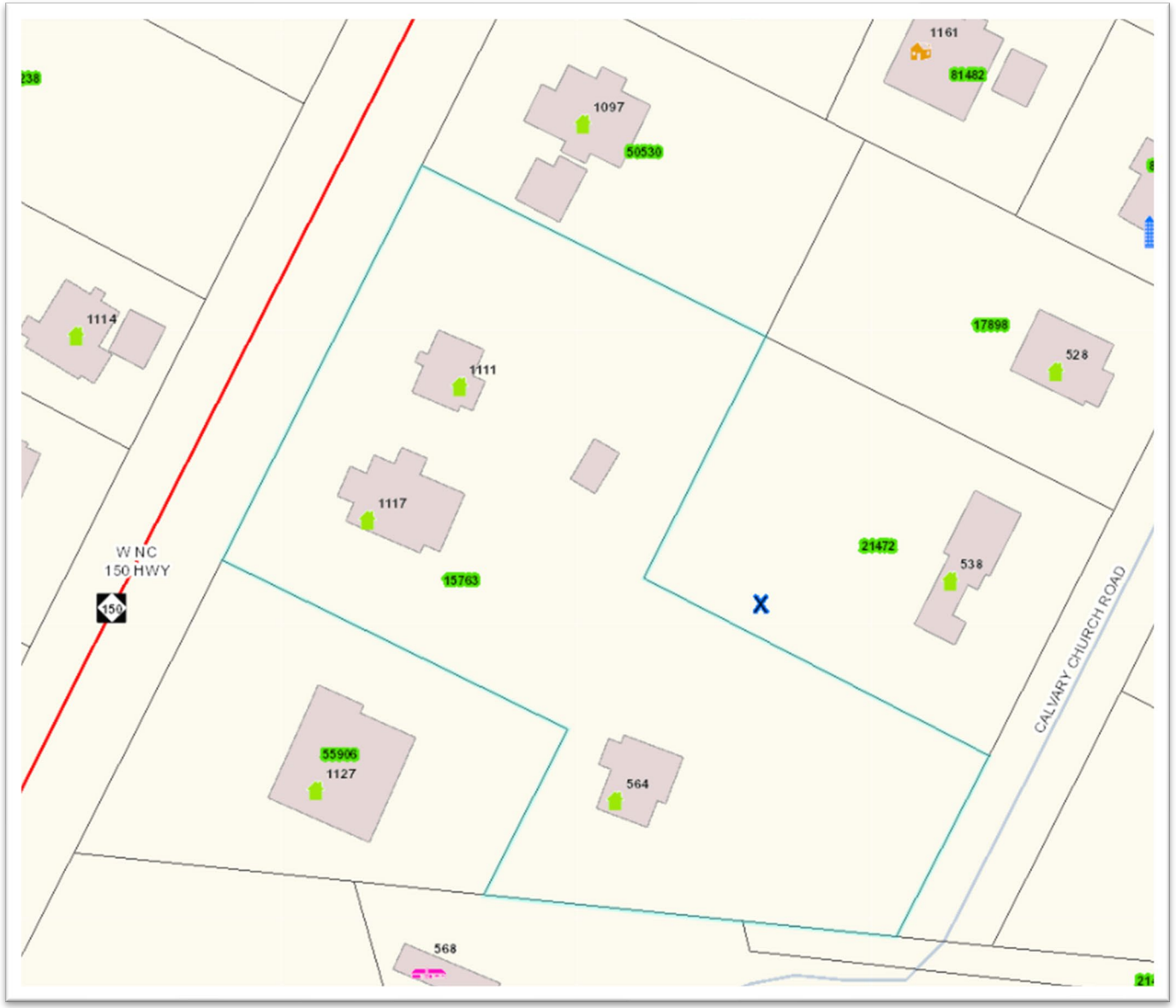
BOA-4-2024

Property Information

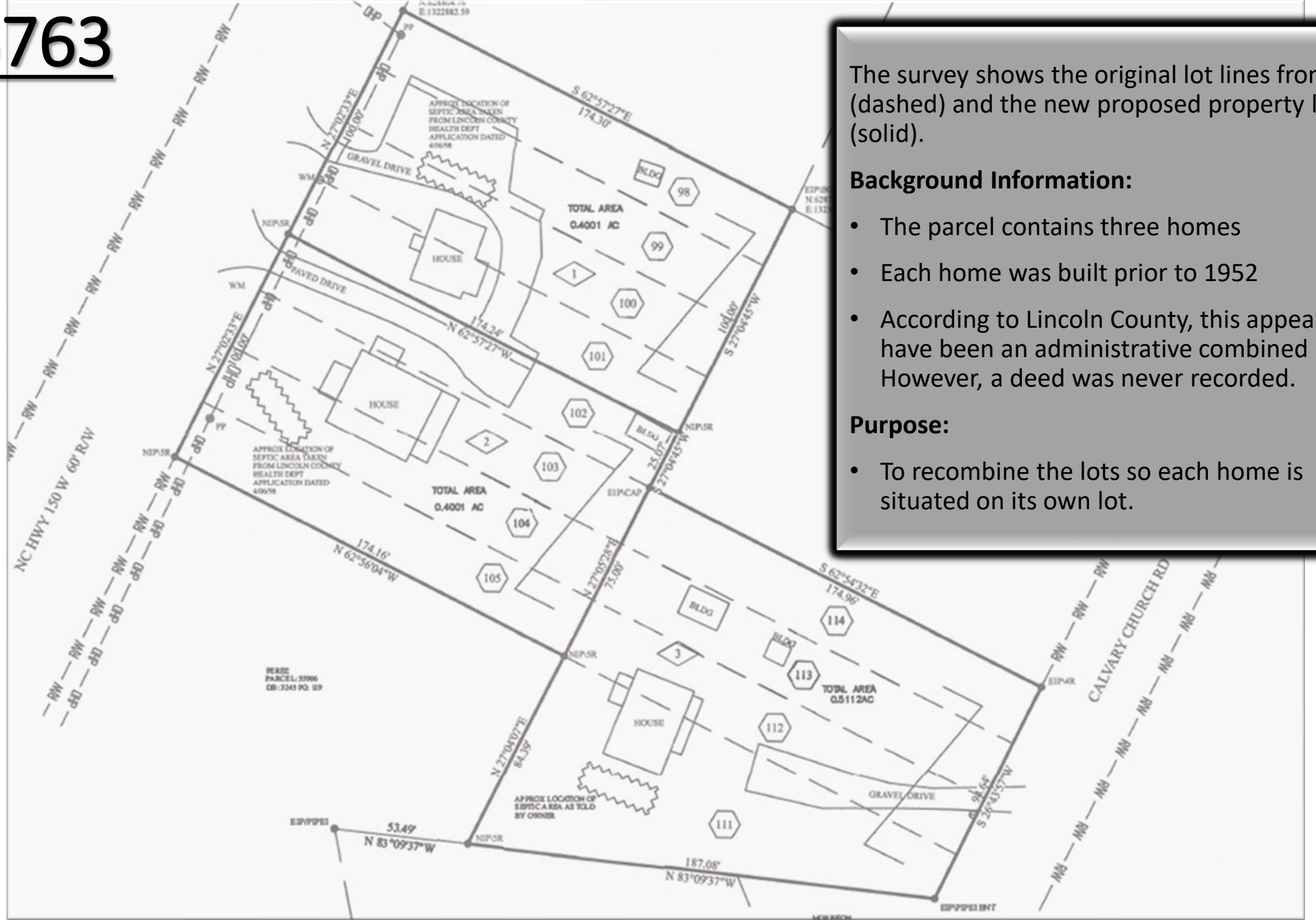
- Property Location - (PID 15763)
- 1111 & 1117 W NC Hwy 150 and 564 Calvary Ch Rd
- Zoning – Residential -25 (R-25)
- Property Size - 1.305 acres
- Adjacent Properties - Single-Family Residential

Variance Request

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.



PID 15763



The survey shows the original lot lines from 1944 (dashed) and the new proposed property lines (solid).

Background Information:

- The parcel contains three homes
- Each home was built prior to 1952
- According to Lincoln County, this appears to have been an administrative combined parcel. However, a deed was never recorded.

Purpose:

- To recombine the lots so each home is situated on its own lot.

MINIMUM UDO REQUIREMENTS:

§ 153.105 R-25 RURAL RESIDENTIAL DISTRICT

Lot size: 35,000 sq ft

Setbacks:

- Front – 35 ft from edge of street r/w
- Sides – 10 ft
- Rear – 40 ft



1111 & 1117 W NC Hwy 150 – Lots 1 & 2
Proposed Lot Sizes: .4001 acres = 17,427 sq ft
Side Setback: Lot 1 – approx. 6 ft



564 Calvary Church Rd
Proposed Lot Sizes: .5112 acres = 22,267 sq ft
Rear Setback: approx. 25 ft

Staff Comments

The Board of Adjustment may only grant a change in non-conformities if:

1. The change will be more suitable and appropriate for the lot(s) on which it is located than the existing situation;
2. The proposed change will have a less harmful effect than the existing situation on the properties surrounding the lot(s) in question; and
3. The decision to grant the change will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise be detrimental to the public welfare.

If Approved

- The plat AND a deed must be recorded with the Register of Deeds within 21 days of approval; otherwise, the approval shall be null and void.

Findings of Fact with responses from the applicant

- **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.**
    - "There is no way to configure the lots any other way based on current homes on the property."

- **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 homes existed on the property before zoning."

- **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 homes existed on the property before zoning. It was previously part of a homestead"

- **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.**
    - "It is consistent."

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.

BOA-4-2024

PLANNING DEPARTMENT

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

Lincolnton NC
Near the City. Near the Mountains. Near Perfect.

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

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

Application for Variance

Description of request: VARIANCE FROM EXISTING R-25 LOT SIZES & SETBACKS

Applicant information:

Name: Archie Cecil Smith Jr

Address: 1117 West Hwy 150

City: Lincolnton State: NC Zip: 28092

Telephone: 704-349-3959 Email: acsmithonline@gmail.com

Property owner information (if different from applicant)

Name: same

Address:

City: State: Zip:

Telephone: Email:

Property location and description

Address: 1117 WEST NC 150 HWY, LINCOLNTON, NC 28092

Tax parcel no. (five-digit): 15763 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: 153.105.CA

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

I'm seeking relief from the square footage requirements. Sideyard setback on Lot 1. I am seeking to divide the property to give each home a separate lot.

*Also rear setback, Lot 3

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):

There is no way to configure the lots any other way based on current homes on 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.); This statement is based upon the following reason(s):

The homes existed on this property before zoning.

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 homes existed on this property before zoning. It was previously part of a family homestead.

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):

It is consistant.

Signatures

Applicant — Date

Property Owner, If Different From Applicant — Date

Zoning Administrator — 11-15-24 Date