Lincolnton NC

Near the City. Near the Mountains. Near Perfect.

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

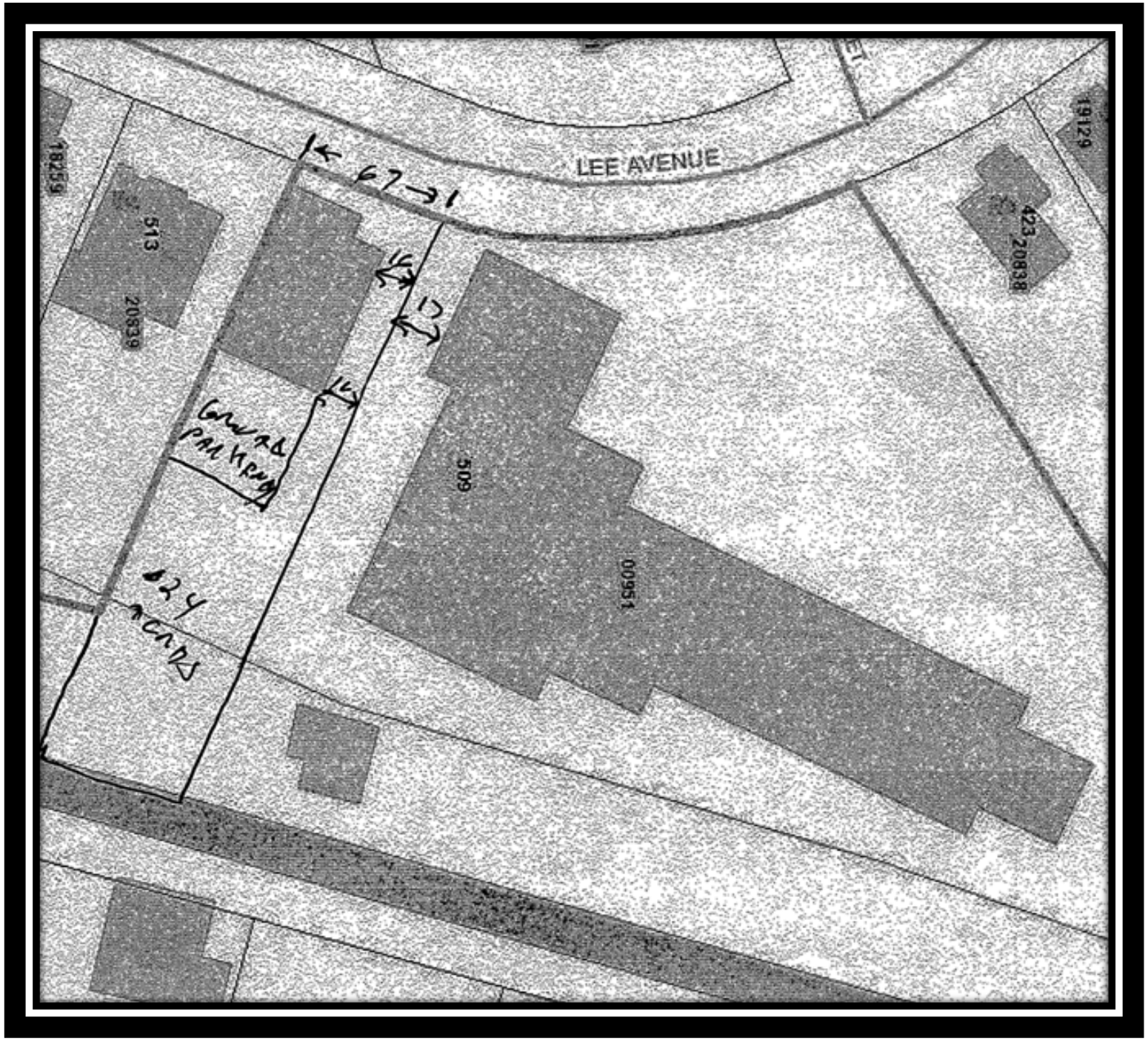
- Since the current uses are no longer permitted in the R-8 zoning district, the yard requirements for “all other uses” are defined as:
  - **Minimum Lot Width** (as measured at the front yard setback): 90 feet except that in no instance shall the lot width measured at the street right-of-way be less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

Lincolnton NC
Near the City, Near the Mountains, Near Perfect

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: 153.109

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

SEE 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.

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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.

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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.

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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):

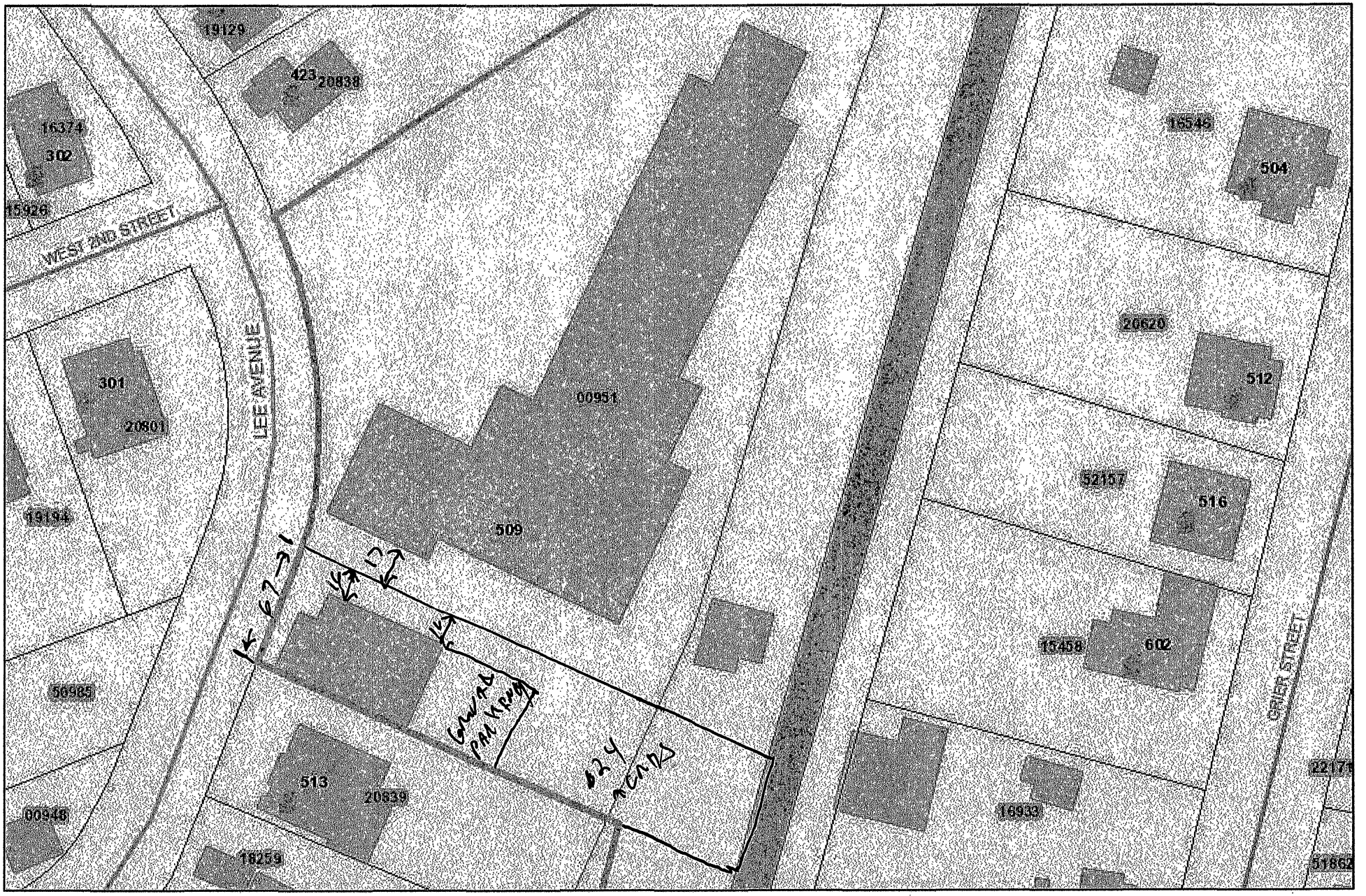
- Granting the variance would not negatively impact public safety, as the proposed use and subdivision do not create new hazards or risks.
- By granting the variance, the city upholds substantial justice by balancing the property owner's rights and the community's interests without compromising the intent 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

Applicant — Date: 02/04/25

Property Owner, If Different From Applicant — Date

Zoning Administrator — Date: 2-17-25



Lincoln County, NC

Office of the Tax Administrator, GIS Mapping Division

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February 17, 2025

0 50 100 Feet

1 inch = 57 feet

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