

LINCOLN TON BOARD OF ADJUSTMENT
AGENDA
June 19, 2018
At 4:00 P.M. in City Council Chambers

1. Roll Call
2. Call to Order
3. Approval of Minutes from the May 15, 2018 meeting
 - **BOA-11-2018** – A Variance Application submitted by Dr. Derrick Denman requesting a temporary commercial mobile unit. The property is at **108 Newbold Street (PID 21051)**.
 - **BOA-12-2018** – A Variance Application submitted by Michael Moretz requesting to expand a non conforming use. The property is at **1003 South Grove Street (PID 21196)**.
4. Adjournment



**CITY OF LINCOLNTON
BOARD OF ADJUSTMENT**

PO DRAWER 617, LINCOLNTON, NC 28092

www.ci.lincolnton.nc.us

BOARD MEMBERS: Gene Poinsette, Chair, poinsette@charter.net; Änd Lynn, Vice-Chair, andmyynn@gmail.com; Jamel Farley, afarley2351@gmail.com; Becky Burke, beckyburke940@gmail.com; Jerry Hoffman, jlskhoffman@charter.net;

Tuesday, May 15, 2018 Meeting

Present: Gene Poinsette, Änd Lynn, Becky Burke, Jerry Hoffman, Jamel Farley

Absent: n/a

Call to Order

Chairman Gene Poinsette called the meeting to order and recognized that all members were present for a quorum.

Approval of Minutes

Chairman Gene Poinsette asked the Board if there were any additions or corrections to the minutes of the April 17, 2018 meeting.

Motion: Änd Lynn made a motion to approve the minutes. Jamel Farley seconded. Motion carried unanimously.

BOA-10-2018 – Appeal on BOA-1-2017 enforcement of the Minimum Housing Standards Ordinance at 107 North Grove Street (PID 21000). (Deferred on December 19, 2017 to May 15, 2018).

Jean Derby swore in Tim Carswell, Laura Elam and Brett Hicks.

Brett Hicks addressed the Board, noting the following:

This is a continuance from the December 19, 2017 meeting to give the owners an opportunity to try to sell the property. During the December meeting, the Board agreed to extend the deadline with the following conditions: the owner to proceed with notifying the current tenant to gather his belongings and vacate the premises and to provide a list of actions taken on the property from December until the May 15, 2018 Board of Adjustment hearing.

Mr. Tim Carswell addressed the Board, noting the following:

His legal representation was not present. The property is listed with John Gilleland. Mr. Gilleland has some health issues and has been out of town dealing with his illness. He stated he did not think the property had been marketed properly and is requesting additional 6 months to try to sell the property.

After a lengthy discussion and several clarifications from the Applicant, Chairman Gene Poinsette asked if there was a motion.

Motion: Änd Lynn made a motion to approve a six month extension provided that the owner maintain the grounds. Jerry Hoffman seconded. Motion carried unanimously.

Chairman Gene Poinsette asked the Board if there was any other business to be addressed, to which there was none.

Adjournment

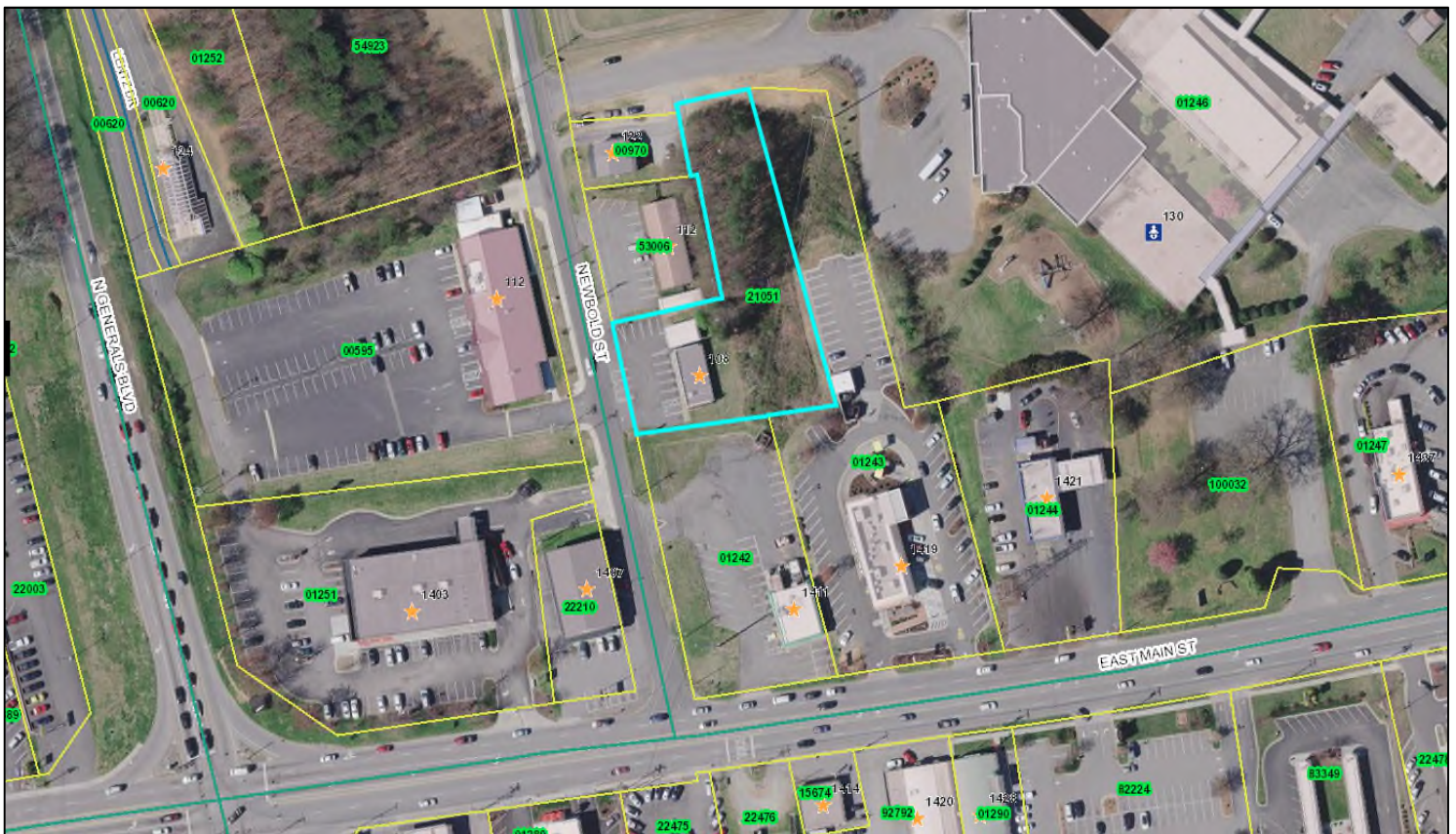
Motion: Jamel Farley made a motion to adjourn. Änd Lynn seconded. Motion carried unanimously.

Jean Derby

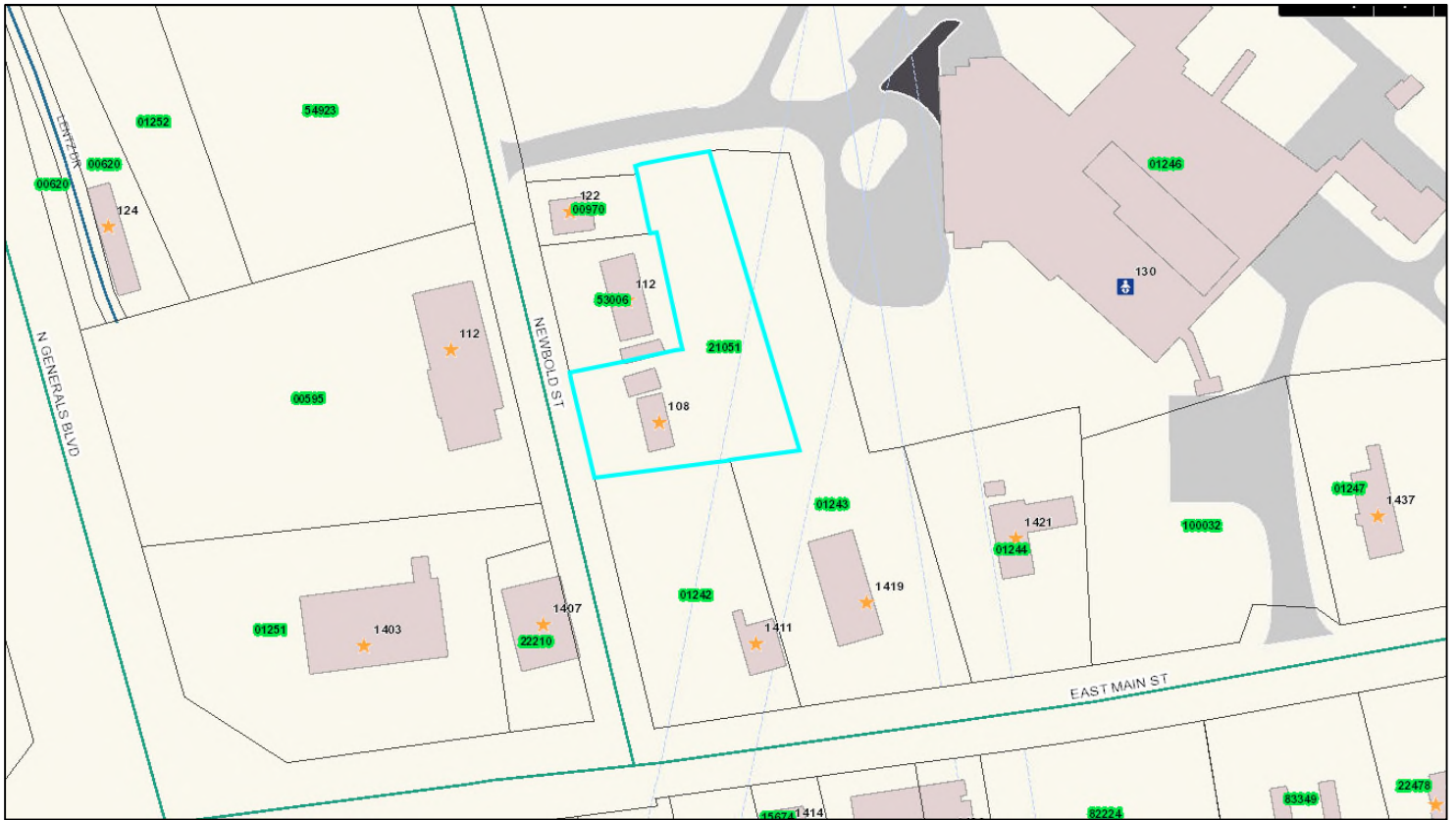
MEMO TO: Lincolnnton Board of Adjustment
FROM: City of Lincolnnton Planning Department
DATE: June 19, 2018
SUBJECT: BOA-11-2018 – Dr. Derrick Denman request

Property Information

- Property Location- 108 Newbold Street (PID 21051)
- Current Zoning-Planned Business (P-B)
- Property Size- Approximately 0.84 acres
- Current Use of Property: Commercial Business (Chiropractic Office)
- Adjacent Properties- Commercial Businesses







Relevant UDO Requirement

153.060 Uses of Manufactured Homes and Similar Structures

The Ordinance has a provision entitled “Use of Manufactured Homes and Similar Structures” that states that manufactured homes may only be used as principal residential structures, except when serving as a manufactured home sales office, or pursuant to a temporary permit issued in accordance with Section 153.053(C), (D), or (E).

153.053 Temporary Structures and Uses

This provision outlines specific circumstances in which temporary structures and uses are allowed and the conditions for their use. Allowed temporary structures include the following:

- 153.053(A) Construction trailers used in connection with construction projects;
- 153.053(B) Carnivals, circuses, etc with limited time duration. The Ordinance notes that the BOA may authorize conditions regarding duration of the use, hours of operation, signage, lighting etc and these conditions shall be made part of the permit issued by the Administrator;

- 153.053(C) Manufactured homes for use during the reconstruction of a dwelling after a disaster. There is a time limit of 6 months and potential renewal by the BOA provided that construction is proceeding in a diligent manner;
- 153.053(D) Temporary structures used as sales offices in a subdivision with a time limit of one year and potential renewal by the BOA provided the development is actively being marketed. After completion of sales, the temporary structure is to be removed, and
- 153.053 (E) Manufactured homes used as an accessory use on a residential lot for a medically related need for proximate care of an immediate family member and subject to BOA approval for no more than one year with potential renewal for an additional year. The manufactured home is to be located in the rear yard and no closer than 20 feet from any property line or if it is not feasible to locate the manufactured home in the rear yard, then it is to be located in the non-required side yard behind the front building line of the principal dwelling and no closer than 20 feet from the principal dwelling. The Ordinance notes that the BOA may impose reasonable conditions, restrictions, and safeguards as considered necessary to protect public health, safety, and general welfare.

Variance Request

- The applicant wishes to install a temporary, self-contained, 440 square foot trailer on the property until the existing building is expanded in early 2019.
- The application indicates that there is a need for the addition of another doctor but no space capacity until the building is expanded. The trailer would accommodate the new doctor until the building expansion is completed.
- The zoning regulations do not permit mobile units for the proposed purpose.

Additional Applicant Statements (See Attached Application)

- Without the variance, business growth would be stifled impacting the ability to generate additional income for expansion
- Size of existing structure is impeding business growth
- Hardship did not result from actions of the applicant
- Expansion will provide beneficial services to residents and the temporary structure will meet all setbacks and secured handicap ramp will be provided.

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.
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.
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.
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.

Staff Comments

- In the event that the Board elects to grant the variance, a suggested condition of the variance is that the proposed temporary unit not be placed in front of the existing building. The Board might also consider a time frame in which the temporary unit must be removed. One potential time frame condition could be a limit of two years with potential renewal by the BOA provided that construction has proceeded in a diligent manner.
- The applicant will need to provide additional information, at the meeting, regarding how the four findings of fact are met in order for the Board of Adjustment to grant the variance.

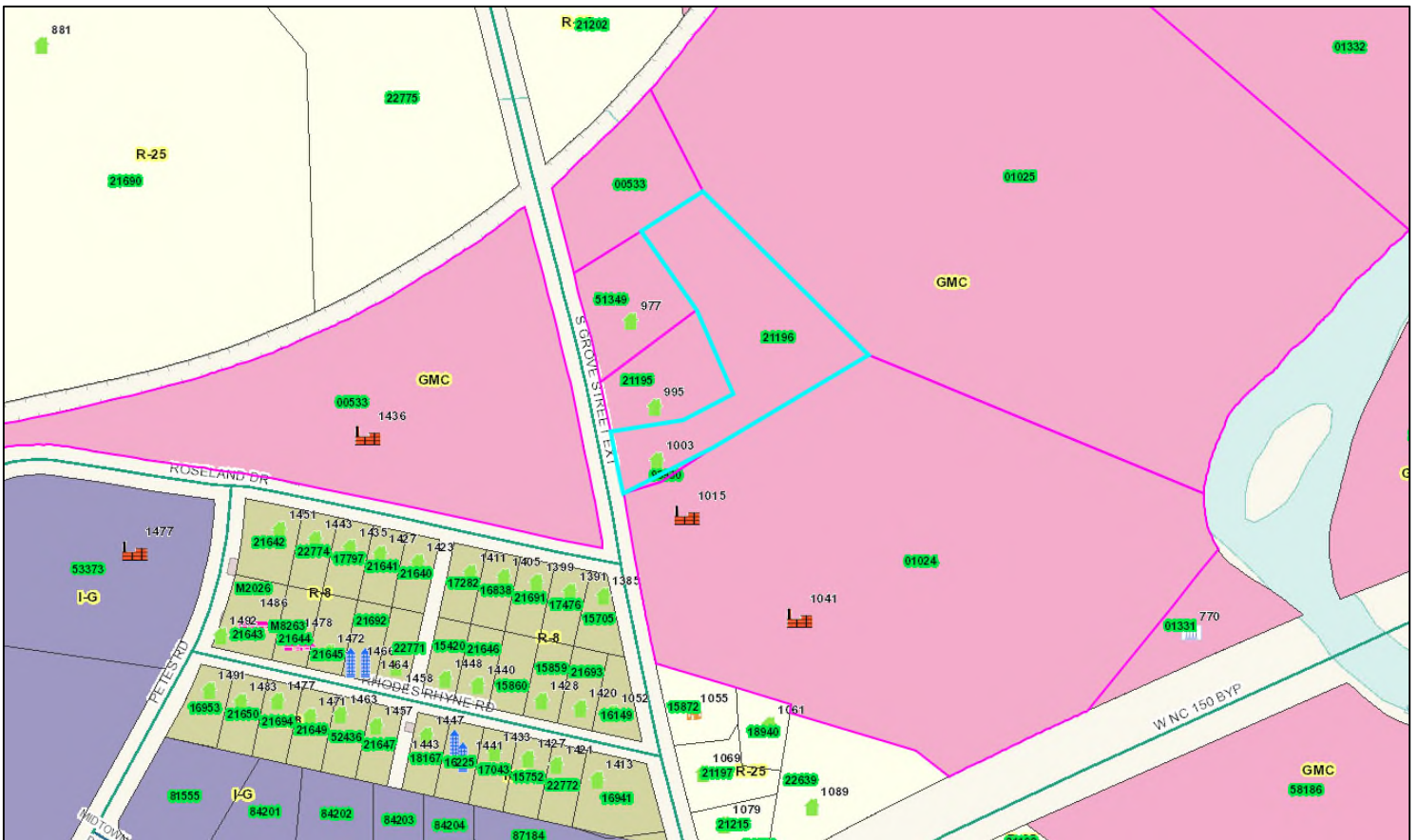
*See included maps and application for additional information.

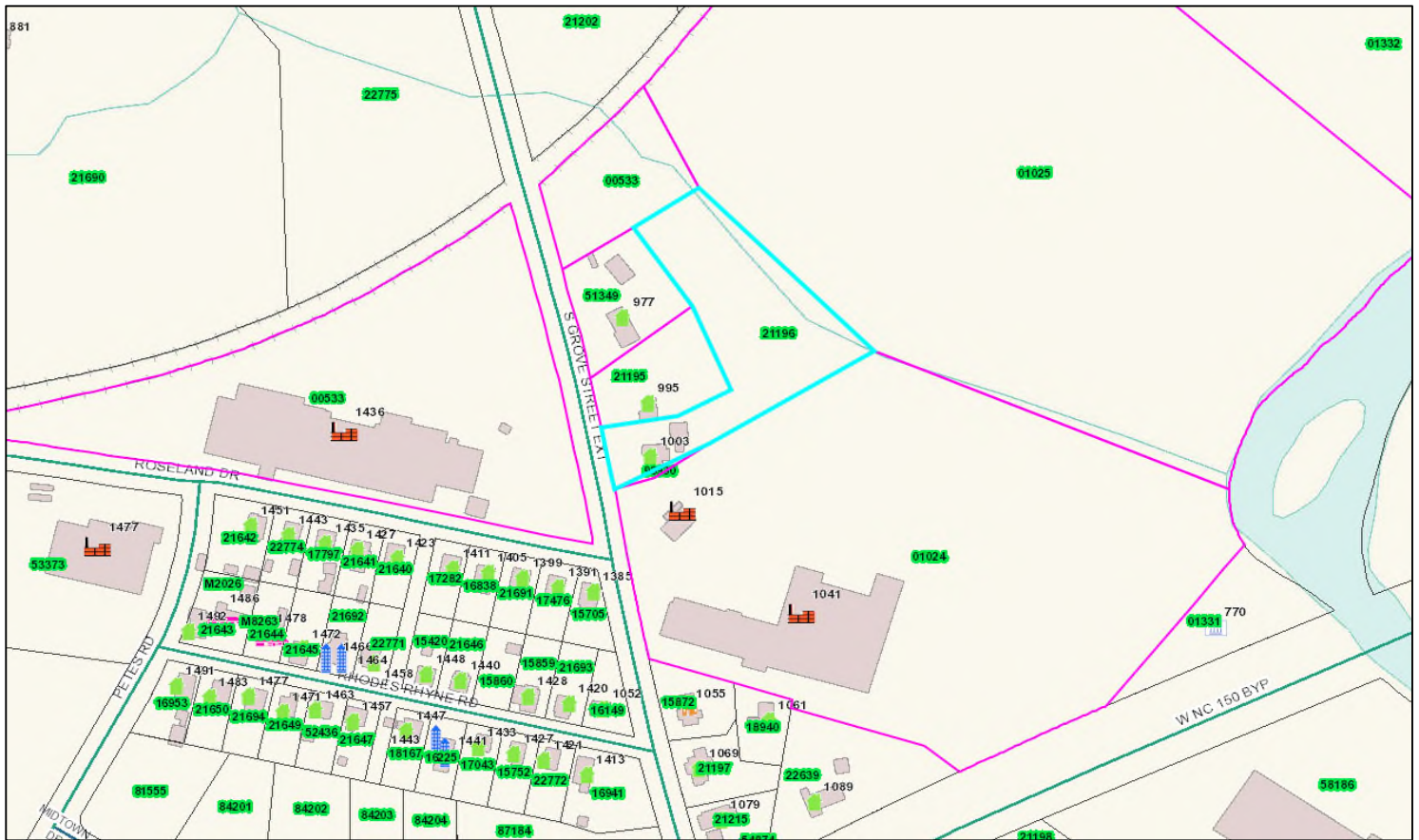
MEMO TO: Lincolnnton Board of Adjustment
FROM: City of Lincolnnton Planning Department
DATE: June 19, 2018
SUBJECT: BOA-12-2018 – Michael Moretz request

Property Information

- Property Location- 1003 South Grove Street, Ext. (PID 21196)
- Current Zoning-General Manufacturing and Commercial (GMC)
- Property Size- Approximately 2.622 acres
- Current Use of Property: Single Family
- Adjacent Properties- Residential and Commercial Businesses







Relevant UDO Requirement

- 153.137 (Non Conforming Uses)
- **The GMC (General Manufacturing and Commercial) zoning district does not permit residential uses. The single family home on the property predates zoning so it is legally non-conforming. The zoning regulations do not allow expansion of non-conforming uses.**

Variance Request

- The applicant seeks a variance to allow an approximately 303 square foot addition to the home.

Additional Applicant Statements (See Attached Application

- Applicant is seeking a variance to allow an expansion to the existing single family dwelling
- If they cannot add the addition they would need to relocate to another residence
- They purchased the dwelling to make a home and they purchased based on information from their realtor that they would be able to expand as their family grew
- Hardship did not result from actions of the applicant
- The current use is a single family dwelling and the owners intend to continue the use

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.
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.
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.
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.

Staff Comments

- The applicant will need to provide additional information, at the meeting, regarding how the four findings of fact are met in order for the Board of Adjustment to grant the variance.

*See included maps and application for additional information.

BOA1218 - Report