

LINCOLNTON BOARD OF ADJUSTMENT
AGENDA
June 16, 2020
At 4:00 P.M. in City Council Chambers

1. Roll Call

2. Call to Order

3. Approval of minutes from the February 18, 2020 meeting

4. BOA-2-2020- Application from Jose Rodriguez Manjarrez requesting a variance of the 25 foot rear yard setback in the Residential-8 (R-8) zoning district for the purpose of making and addition to the rear of the dwelling. The subject property is located at 1118 E. Lincoln Street (Parcel ID 20564)

5. Adjournment



**CITY OF LINCOLNTON
BOARD OF ADJUSTMENT**

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BOARD MEMBERS: Worth Roberts, Chair, worth.roberts@charter.net; Gene Poinsette, Vice-Chair, poinsetteg@charter.net; Änd Lynn, Chair, andmlynn@gmail.com; Jerry Hoffman, (ETJ), jlskhoffman@charter.net; Stephen Silva, (ETJ), soundcity1@ymail.com; Jamel Farley, first alternate, afarley2351@gmail.com; Rebecca Abernethy, second alternate, rabernethy21@bellsouth.net; Greg McBryde, third alternate, Gregory.Mcbryde@gmail.com;

Tuesday, February 18, 2020 Meeting

Present: Gene Poinsette, Worth Roberts, Änd Lynn, Jerry Hoffman and Stephen Silva

Absent: N/A

Call to Order

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

Approval of Minutes

Chairman Worth Roberts asked the Board if there were any additions or corrections to the minutes of the January 21, 2020 meeting.

Motion: Gene Poinsette made a motion to approve the minutes. Änd Lynn seconded. Motion carried unanimously.

BOA-1-2020- Application from Darin W. Groom and Tammy Martin requesting approval from the zoning Board of Adjustment to change a nonconforming use from a service station to a used cars sales lot in the Central Business Transitional (CBT) District. The subject property is located at 503 East Main Street (Parcel ID 00515).

Mark Carpenter addressed the board noting the following:

The subject property is located at 503 East Main Street and is currently zoned Central Business Transitional. Darin Grooms and Tammy Martin are requesting

UDO Requirements

The City of Lincolnton Unified Development Ordinance states a nonconforming use may not be changed to a different nonconforming use except in accordance with a permit issued by the Board of Adjustment after having followed certain procedures and having made certain findings as set forth in the ordinance.

Background and Change in Nonconforming Use Request

- The property has been operating for years as a variety of uses including- Service Station, Fuel Sales, Consignment Auto Sales, Vehicle Washing, Consignment Retail Store. Some uses are conforming and some are nonconforming.
- The applicant is requesting a change to a full time used car sales lot which is a nonconformity in the CBT District. Some used car sales have taken place over the years but it was an accessory use to the primary use of the property
- The applicant has stated that no additions will be made to the structure and that the structure would be upgraded along with the property.
- Planning staff feels that the change to full time used car sales would need to be reviewed by the Board of Adjustment to determine if it is suitable and appropriate for the property.

UDO Requirement for Changing a Nonconforming Use

The Board of Adjustment may only grant a change in nonconforming use, after having first held a public hearing and having determined that:

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.
4. The Board of Adjustment, in granting the changes, may prescribe appropriate conditions and safeguards in order to conform. Violation of the conditions and safeguards when made a part of the terms upon which the change was granted, shall be deemed a violation of this chapter and shall be punishable as prescribed in the Unified Development Ordinance.

Staff Comments

- The applicant will be responsible for proving that the application meets the requirements for a change to a used car sales lot.
- Should the Board of Adjustment decide to grant this change, the following are suggested conditions of approval:
 1. The number of used vehicles sold on the property shall be limited to ten (10) vehicles.
 2. No wrecked or junked vehicles shall be sold on the premises.
 3. Adequate ingress and egress shall be maintained.
 4. Adequate parking for customers and staff shall be marked and made available on site. Parking is not permitted within rights-of-way.
 5. The mobile building on the site shall be removed from the property prior to issuance of a certificate of occupancy.

6. The existing detached pole sign is to be removed prior to issuance of a certificate of occupancy.
7. Any changes to the building and any proposed new signage will need to meet all CB and CBT Design standards and should conform/harmonize with the architectural style of the historical downtown.
8. Any future expansion of the building must be approved by the Board of Adjustment.

Speakers for approval of the application included the applicant, Darrin Grooms; Louise Mahoney, property owner and BJ Mohoney. They spoke about surrounding properties, the improvements that would be made to 503 East Main Street if approved and the past history of the parcel.

Marsha Jordon, an adjacent property owner and realtor, spoke against the approval.

After some discussion, Chairman Worth Roberts asked if there was a motion. The motion is as follows:

Motion: And Lynn made a motion to deny the application. Gene Poinsette seconded. Majority voted to approve the motion, however Board or Adjustment member Hoffman voted against the motion.

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

Adjournment

Motion: And Lynn made a motion to adjourn. Gene Poinsette seconded. Motion carried unanimously.

Jean Derby

MEMO TO: Lincolnnton Board of Adjustment
FROM: City of Lincolnnton Planning Department
DATE: June 16, 2020
SUBJECT: BOA-2-2020– Jose Rodriguez Manjarrez

Property Information

- Property Location – 1118 East Lincoln Street (PID 20564)
- Current Zoning –Residential-8 District (R-8)
- Property Size - 0.089 acres
- Current Use of Property – Single Family Residential
- Adjacent Properties – Single Family and Two Family Residential



UDO Requirements

The City of Lincolnton Unified Development Ordinance requires Single Family Residential structures and additions to be 25 feet from the rear property line.

Background and Variance Request

- The applicant is requesting a variance to construct an addition to the rear of the current single family dwelling.
- The addition will encroach into the required twenty five (25) foot rear yard setback.
- The current structure is nonconforming. It is approximately 15 feet from the rear property line.
- The proposed addition is shown to be 13 feet in depth and 25 feet in width. The 13 feet addition will only leave approximately two (2) feet from the rear property line.
- The proposed structure will meet all other zoning requirements.

Current views

GIS Tax Photo



Google Map Street Views (Older Photos)



Rear View of Property from Catawba Street



Plan Submitted by Applicant



Additional Applicant Statements (See Attached Application)

- Requesting a reduction in setbacks. Very small house set at an angle on a very small lot.
- The lot is small. The position of the house makes it impossible to add an addition.
- Variance would allow for home with size more consistent with neighborhood.

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 lot is 50 feet wide and 75 feet deep and only 3,750 square feet in size. The Minimum lot size in the R-8 district currently is 6,000 square feet.
- If a new home were to be constructed on the lot and meet the current setbacks the home could only be 30 feet wide and 20 feet in depth approximately 600 square feet.
- If a variance is granted, Staff will need a survey of the property to ensure that the structure with an addition does not encroach onto adjacent properties.
- 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.