

MEMO TO: Lincolnnton Board of Adjustment
FROM: City of Lincolnnton Planning Department
DATE: July 18, 2023
SUBJECT: BOA-4-2023 –Shane Huss

Property Information

- Property Location – 1946 Indian Trail (PID 25846)
- Current Zoning – Residential-25 (R-25)
- Property Size - 14.8 acres
- Current Use of Property – Single Family Dwelling
- Adjacent Properties – Residential and Atrium Health

Variance Request

Application from Wesley Shane Huss requesting a variance of section 153.050 of the Unified Development Ordinance, Lots to Abut a Dedicated Street. The variance would allow the creation of a new residential lot which does not have access to a dedicated street but would be served by a 45 foot private access easement. The subject property is located at 1946 Indian Trail (Parcel ID 25846).

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.

(A) A lot not having 35 feet of dedicated street right-of-way frontage may be created if located entirely within a planned shopping center or office park.

(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

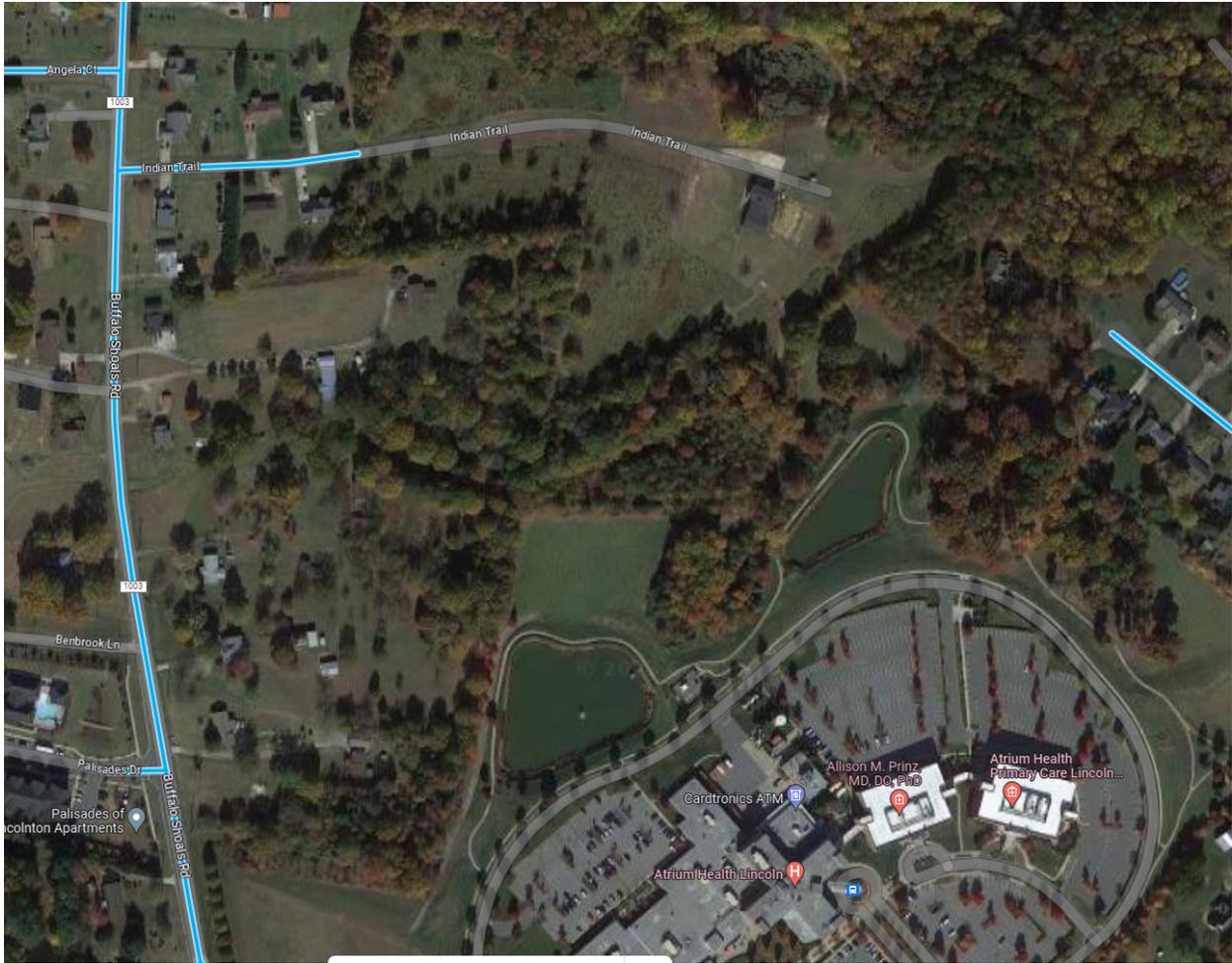
The applicant is requesting a variance to add one additional three (3) acre lot from the existing 14.8 acre tract. In June of 2021 the property, 22 acres, was subdivided into three vacant lots using the following section of the UDO:

3. The entire area of the tract or parcel to be divided is greater than five acres;
4. After division, no more than three lots result from the division; and
5. After division, all resultant lots comply with all of the following:
 - A. Any lot dimension size requirements of the applicable land use regulations, if any;
 - B. The use of the lots is in conformity with the applicable zoning requirements, if any; and
 - C. A permanent means of ingress and egress is recorded for each lot.

This section of the ordinance only allows three (3) lots to be created without having 35 feet of dedicated street frontage. The applicant wants to divide a fourth lot for a family subdivision. The lot will be served by a 45 foot private easement. Currently there is a single family dwelling on the property.







Additional Applicant Statements (See Attached Application)

- Three (3) lots were granted per the ordinance, the maximum number that could be done. I have four kids and an additional lot is needed so that each one can have a parcel of land.
- The 14 acre parent lot was subdivided through the county ordinance prior to City Zoning in the area.
- Large lots are not typical in the City
- The variance would not create any harm, threat, or danger to the public. The purpose is to provide one additional lot so each family member will have a place to build.

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's request should not affect the neighborhood negatively in any way. The variance request should be consistent with the spirit, purpose, and intent of the ordinance.
- The applicant will need to address, at the meeting, how the four findings of fact are met in order for the Board of Adjustment to grant the variance.