



**Board of Adjustment
March 19, 2019**

Staff Report

TO: Board of Adjustment
FROM: Gretchen Coperine, AICP – Senior Planner
SUBJECT: Case# BOA-2019-01: 911 West B Street & 910 King Avenue Variance

Request for variance from the provisions of Article 4, Table 4.7-1 of the Unified Development Ordinance (UDO) for minimum lot size

A. Actions Requested by Board of Adjustment

1. Motion to accept the City's exhibits into the record
2. Motion to approve/revise Findings of Fact proposed by Planning Staff
3. Motion to approve (approve with conditions) (deny) the issuance of the variance

B. Required Votes to Pass Requested Action

Six votes are required to approve or deny the requested actions.

C. Background

The applicant, Faye Hollar Anderson, is requesting a variance from Article 4, Table 4.7-1 of the Unified Development Ordinance, in order to subdivide one (1) parcel into two (2) parcels located at 911 West B Street and 910 King Avenue, further identified as Rowan County Parcel 148-103.

The applicant is requesting a variance in order to subdivide the subject property into two parcels. Two homes currently occupy the lot. Without the variance, the City is unable to approve the subdivision of the lot. The Residential Village (RV) zoning district requires a minimum lot size of 7,500 square feet. The current parcel is approximately 12,423 square feet, and once subdivided, each parcel will be approximately 6,211 square feet. Both homes have existed on the current lot since 1930s.

D. Fiscal Considerations

None

E. Policy Issues

Staff Findings of Fact - Based on application review

Yes No

Unnecessary hardship would result from the strict application of the ordinance.

The property contains two homes that have been on the property since the 1930s. The owner of the property is requesting the variance in order to subdivide the lots. Without the proposed variance, City would be unable to approve the subdivision as it would violate the minimum lot size requirement for the RV zoning district.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

The subject property contains 2 homes which were inherited by the applicant's spouse. The properties have been in existence since the 1930s and have not changed with respect to layout on the subject parcel.

The hardship did not result from actions taken by the applicant or the property owner.

There is no record of any actions of the owner that caused the hardship. The homes have been on the parcel since the 1930s.

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 and will preserve its spirit.

The variance is consistent with the spirit, purpose, and intent of the UDO. Furthermore, the variance will allow the applicant to place each home on its own individual lot, eliminating the nonconformity of more than one home on a lot.

Board's Findings of Fact - Based on application review and public hearing.

In order to determine whether a variance is warranted, the Board members must decide that each of the four criteria as outlined below has been met. If the Board members concur completely with the findings of the staff, no additional findings of fact are necessary and the staff findings should be approved as part of the decision. However, if the Board members wish to approve different findings (perhaps as a result of additional evidence or testimony presented at the public hearing), alternate findings need to be included as part of the four criteria below. Should a variance be approved, the Board members may impose such reasonable conditions as will ensure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

Yes No

Unnecessary hardship would result from the strict application of the ordinance.

The hardship results from conditions that are peculiar to the property, such as location, size, or topography.

The hardship did not result from actions taken by the applicant or the property owner's own actions.

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.

F. Legal Issues

None

G. Recommendation

Based on the above findings, staff recommends **approval** of the variance. However, the Board of Adjustment should consider all facts and testimony after conducting the public hearing and render a decision accordingly.

H. Attachments

1. Variance Application
2. Vicinity Map
3. Zoning Map
4. 2030 Future Land Use and Character Map
5. Preliminary Plat
6. List of Notified Properties
7. Notice to Adjacent Property Owners
8. Posted Public Notice

I. Issue Reviewed By:

Planning Director	X
City Manager	X
City Attorney	X



**Planning and Zoning Commission and Board of Adjustment
General Application Form
(Not for Site Plan Review Submittals)**

Type of Action Requested (Check One):

- | | | | |
|------------------------|-------------------------------------|----------------------------------|-------|
| Variance | <input checked="" type="checkbox"/> | SIA Application | _____ |
| Conditional Use Permit | _____ | Nonconformity Adjustment | _____ |
| Subdivision Exception | _____ | Watershed Boundary Modification | _____ |
| Zoning Text Amendment | _____ | Zoning Map Amendment | _____ |
| Appeal | _____ | Conditional Zoning Map Amendment | _____ |

Applicant: FAYE HOLLAR ANDERSON Owner: SAME

Address: 910 KING AVE Address: _____
KANNAPOLIS NC 28081

Telephone: 704.938.5742 Telephone: _____

Email: _____ Email: _____

Legal relationship of applicant to property owner: owner

Property Location/Address: 910 KING AVE & 911 WEST B ST.

Tax Parcel Number: 148103 Zoning District: RV Acreage of Site: _____

FAYE HOLLAR ANDERSON
Applicant Name (Print)

FAYE HOLLAR ANDERSON
Property Owner Name (Print)

x Faye Hollar Anderson
Applicant Signature & Date

x Faye Hollar Anderson
Property Owner Signature & Date

The agenda deadline is the first day of the month preceding the month of the meeting. To be considered for placement on the next meeting agenda, the signed application, application fee, and five (5) copies of any required site plans for staff review must be submitted by the deadline. However, to remain on the next meeting agenda, fifteen (15) copies of such plans, determined by staff to conform to all ordinance standards, must be submitted at least ten (10) days before the meeting date. All fees are nonrefundable and help to cover administrative and notification costs.

For Staff Use Only:

Filing Fee: \$325.00

Receipt # M-11167

Application No.: BOA 2019.01

Date Submitted (Complete): 2/15/2019



CITY OF KANNAPOLIS PLANNING DEPARTMENT

APPLICATION FOR A VARIANCE

I, FRYE HOLLIE ANDERSON, hereby petition the Board of Adjustment for a Variance from the literal provisions of the Unified Development Ordinance because, under the interpretation given to me by the Planning Administrator, I am prohibited from using the parcel of land described in the attached form (General Application Form) in a manner shown by the plot plan attached to that form. I request a Variance from the following provisions of the ordinance (cite paragraph numbers): TABLE 4.7-1

MINIMUM LOT SIZE

so that the above-mentioned property can be used in a manner indicated by the plot plan attached to the General Application Form or, if the plot plan does not adequately reveal the nature of the Variance, as more fully described herein:

variance for minimum lot size to subdivide into 2 lots; already existing homes.

Factors Relevant to the Issuance of a Variance

The Board of Adjustment does not have unlimited discretion in deciding whether to grant a Variance. Under the State Enabling Act, the Board is required to reach four conclusions before it may issue a Variance: (1.) that unnecessary hardship would result from the strict application of the ordinance; (2.) that the hardship results from conditions that are peculiar to the property, such as location, size, or topography; (3.) that the hardship did not result from actions taken by the applicant or the property owner; 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. In the spaces provided below, indicate the *facts* that you intend to show and the *arguments* that you intend to make to convince the Board that it can properly reach these four required conclusions.

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. [It is *not* sufficient that failure to grant the Variance simply makes the property less valuable.] (State facts and arguments in support of this conclusion.)

Homes are existing; variance would allow
subdivision of parcel for conveyance/sale.

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. (State facts and arguments to show that the Variance requested represents the least possible deviation from the letter of the ordinance that will allow a reasonable use of the land and that the use of the property, if the Variance is granted, will not substantially detract from the character of the neighborhood.)

parcel has double frontage on King Ave and west B Street; The existing homes are occupied and will continue to be used as SR residences

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. (State facts and arguments in support of this conclusion.)

This is an inheritance property. Husband of owner inherited property with the 2 homes already built. Homes built approximately 1930s.

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.** (State facts and arguments to show that, on balance, if the Variance is denied, the benefit to the public will be substantially outweighed by the harm suffered by the applicant.)

Yes

I certify that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.

<u>FRYE HOLLAR ANDERSON</u> Applicant Name (Print)	<u>2-15-19</u> Date
<u>x Faye Hollar Anderson</u> Applicant Signature	<u>2-15-19</u> Date

Note: The Board may impose reasonable conditions upon the granting of any Variance to ensure that the public health, safety, and general welfare shall be protected and substantial justice has been done.

Calls or conversations with Board of Adjustment members prior to the meeting may disqualify members from participation at the Board meeting. For the testimony of supporters not to be considered hearsay, they must be present at the meeting. Petitions and written consent may be accepted by the Board, but cannot be used as a basis for decision.

Fee: Please refer to fee schedule to determine applicable fees. All fees are nonrefundable and help to cover administrative and notification costs.



Vicinity Map

Case Number: BOA-2019-01
Applicant: Faye Hollar Anderson
910 King St./911 West B St.





Kannapolis Current Zoning

Case Number: BOA-2019-01
Applicant: Faye Hollar Anderson
910 King St./911 West B St.





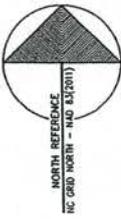
Kannapolis 2030 Future Land Use Map

Case Number: BOA-2019-01

Applicant: Faye Hollar Anderson

910 King St./911 West B St.





- I, RILEY O. GOBBLE, JR., CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL GPS SURVEY MADE UNDER MY SUPERVISION AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:
1. CLASS OF SURVEY: C
 2. POSITIONAL ACCURACY: 0.016 METERS (95% CONFIDENCE)
 3. TYPE OF FIELD PROCEDURE: OPUS/RAPID STATIC
 4. DATE OF SURVEY: 1.11.19
 5. DATUM: NAD 83(2011) EPOCH: 2010.0000
 6. PUBLISHED/FIXED-CONTROL USE: HICKORY CORN (NCH, MONROE CORN (NMR))
 7. GEOID MODEL: GEOID12B
 8. COMBINED GRID FACTOR: 0.99985229
 9. UNITS: U.S. SURVEY FEET

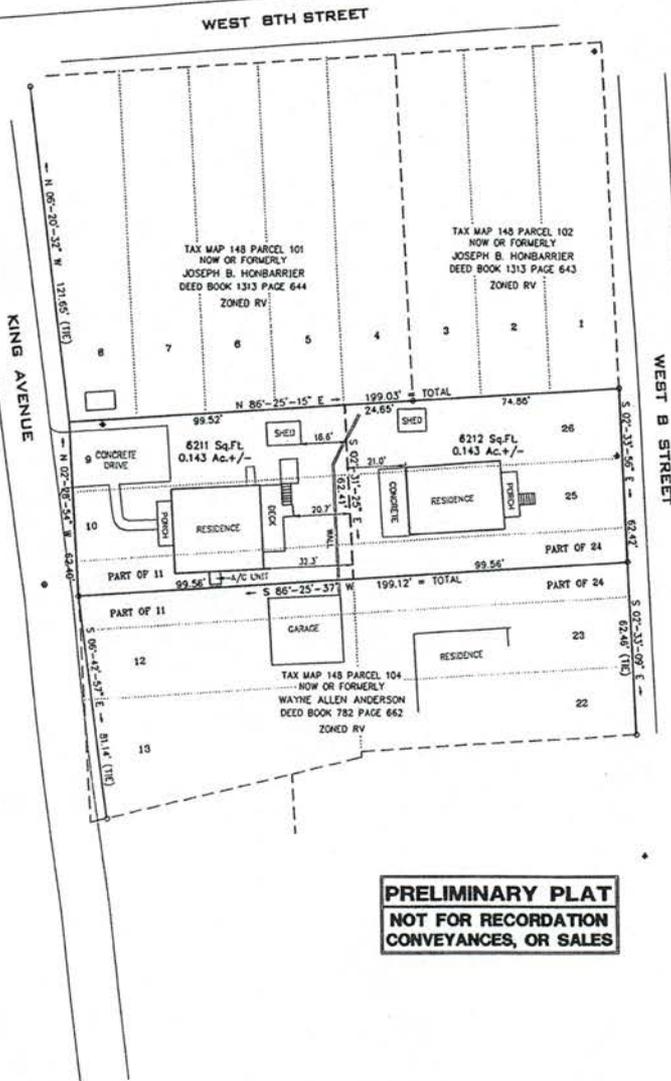
PROFESSIONAL LAND SURVEYOR L-3750

VICINITY MAP
Not To Scale

ROWAN COUNTY
Filed for registration at _____ o'clock _____ M
_____, 2019 and registered
in Map Book 9995 Page _____
J. E. BRINDLE, REGISTER OF DEEDS
BY: _____ ASST/DEPUTY

STATE OF NORTH CAROLINA
COUNTY OF ROWAN
I, _____, REVIEW
OFFICER OF ROWAN COUNTY, CERTIFY THAT THE MAP OR PLAT
TO WHICH THIS CERTIFICATE IS AFFIXED MEETS ALL STATUTORY
REQUIREMENTS FOR RECORDING.

DATE _____ REVIEW OFFICER _____



GPS CONTROL NAIL
NAD83(2011) COORDINATES
NORTHING (Y) = 843553.02'
EASTING (X) = 1514018.60'
ELEVATION = 733.1' NAVOBS

GPS CONTROL NAIL
NAD83(2011) COORDINATES
NORTHING (Y) = 861377.87'
EASTING (X) = 1513731.10'
ELEVATION = 782.5' NAVOBS

RV IS THE ZONING CLASSIFICATION FOR THE SUBJECT PARCEL BY THE CITY OF KANNAPOLIS.
MINIMUM SETBACK REQUIREMENTS FOR SINGLE FAMILY USE
RV DISTRICT
FRONT : 7' 1'
FRONT CORNER : 7' 1'
SIDE : 7' 1'
REAR : 7' 1'

PROPERTY IS LOCATED IN A FLOOD ZONE "X" (AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) PER FLOOD INSURANCE RATE MAP COMMUNITY PANEL NUMBER 3710561400K, DATED NOVEMBER 16, 2018.

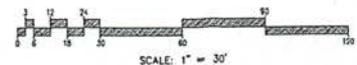
THIS PROPERTY MAY BE SUBJECT TO RIGHTS AND EASEMENTS NOT SHOWN THAT MIGHT HAVE BEEN REVEALED BY A COMPLETE AND THOROUGH TITLE SEARCH.

THIS SURVEY CREATES A SUBDIVISION OF LAND WITHIN THE AREA OF A COUNTY THAT HAS AN ORDINANCE THAT REGULATES PARCELS OF LAND.

I, RILEY O. GOBBLE, JR., CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION (RECORDED DEED DESCRIPTION FOUND IN BOOK 782, PAGE 661); THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AS DRAWN FROM INFORMATION FOUND ON THE FACE OF THE PLAT OR IN "REFERENCES"; THAT THE RATIO OF PRECISION AS CALCULATED IS 1 : 10,000 +/-; THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED, WITNESS MY ORIGINAL SIGNATURE, REGISTRATION NUMBER AND SEAL THIS 11 TH DAY OF JANUARY, A.D., 2019.

PROFESSIONAL LAND SURVEYOR L-3750

**PRELIMINARY PLAT
NOT FOR RECORDATION
CONVEYANCES, OR SALES**



SURVEY FOR:
FAYE H. ANDERSON

CITY OF KANNAPOLIS
CHINA GROVE TOWNSHIP
ROWAN COUNTY, NORTH CAROLINA
SURVEY BY: RILEY O. GOBBLE, JR., PLS L-3750
635 ROWAN MILL ROAD, SALISBURY, NC 28147
PHONE: 704.633.0744
SCALE: 1" = 30' DWG: RC
FB P FILE "ANDRSH-F"
DATE: JANUARY 11, 2019

REFERENCES :
TAX MAP 148 PARCEL 103
DEED BOOK 782 PAGE 661

OWNNAME	TAXADD1	CITY	STATE	ZIPCODE
KENNETH SR & JANICE UPRIGHT	1001 W B ST	KANNAPOLIS	NC	28081-2019
MACK N KING FAMILY LMTD PARTNERSHIP	199 KINGS FARM DR	ROCKWELL	NC	28138-6813
MARK PARRISH	4811 PINE NEEDLE TRL	MINT HILL	NC	28227-8839
HARGETT INVESTMENT PROP LLC	425 AUTUMN DR	HARRISBURG	NC	28075-0000
KENNETH JR & PHILLIS UPRIGHT	913 W A ST	KANNAPOLIS	NC	28081-2009
FAYE ANDERSON	910 KING AVE	KANNAPOLIS	NC	28081-2041
WAYNE & JEAN ANDERSON	5335 ENOCHVILLE SCHOOL RD	CHINA GROVE	NC	28023-6570
PANSY KING ETAL	1030 WOODFIELD DR	KANNAPOLIS	NC	28081-0000
ATLANTIC AMERICAN PROPERTIES	210 OAK AVE	KANNAPOLIS	NC	28081-4329
MARGARET KELLER	901 W B ST	KANNAPOLIS	NC	28081-2017
LARRY & BARBARA CLINE	909 W A ST	KANNAPOLIS	NC	28081-2009



February 26, 2019

Dear Property Owner,

Please be advised that the City of Kannapolis Board of Adjustment will conduct a quasi-judicial public hearing at 6:00 PM on Tuesday, March 19, 2019 at City Hall, located at 401 Laureate Way, for the following case:

BOA-2019-01 - Variance – 911 West B Street

This public hearing is to consider a request for a variance from Article 4, Table 4.7-1. of the Unified Development Ordinance, which requires a minimum lot size of 7,500 sf for property located in the Residential Village (RV) zoning district. The subject property is approximately .28 +/- acres and is more specifically identified as Rowan Parcel Identification Number 148-103. **(Please see reverse side of this letter for vicinity map showing the location of this property.)**

As an adjacent property owner, you are being notified of this public hearing in accordance with the requirements of the Kannapolis UDO; and are invited to attend the public hearing and present testimony, should you desire, to the Board of Adjustment.

Should you have any questions about the public hearing or request, please do not hesitate to call the Planning Department at 704.920.4350

Sincerely,

Gretchen Coperine, AICP
Senior Planner

Enclosure

The meeting is accessible to people with disabilities. To request special accommodation in advance, contact the City's ADA Coordinator at 704.920.4302.



Variance- 910 King St.

Case Number: BOA-2019-01
Applicant: Faye Hollar Anderson
910 King St./911 West B St.





KANNAPOLIS
BOARD OF
ADJUSTMENT
PUBLIC HEARING
INFORMATION
CALL 704-920-4350
CASE # ~~2019-01~~ 19 01



BOARD OF

ADJUSTMENT

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CASE # 2019-01

