



**Board of Adjustment
June 18, 2019**

Staff Report

TO: Board of Adjustment
FROM: Ryan Lipp – Senior Planner
SUBJECT: Case# BOA-2019-04: 289 James Street

Request for variance from the provisions of Article 4, Table 4.7-1 of the Unified Development Ordinance (UDO) to allow the subdivision of the subject property with lot depths less than the 100-foot minimum for lots in the Residential Village (RV) Zoning District.

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 and Order for Approval

B. Required Votes to Pass Requested Action

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

C. Background

The applicant, Greg Lafferty, is requesting a variance from Article 4, Table 4.7-1 of the Unified Development Ordinance, which requires minimum lot depth of 100-feet in the Residential Village (RV) zoning district. Mr. Lafferty is proposing to subdivide his property into 4 lots. In order to approve the subdivision, Public Works/Engineering staff is requiring that Mr. Lafferty dedicate right-of-way to the city leaving him with insufficient lot depth to meet the minimum requirements. With the required right-of-way dedication, the applicant's request for a four-lot subdivision will result in the following lot depths (please also see attached site plan):

- Lot 1 = 60.69 feet
- Lot 2 = 74.57 feet
- Lot 3 = 84.94 feet
- Lot 4 = 94.81 feet

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 subject property has been in existence since 1948. The owner of the property is requesting the variance in order to subdivide the property into 4 parcels. Without the proposed variance, the City would be unable to approve the subdivision because no lots would meet the minimum lot depth. Without this variance, the applicant would be able to construct a single-family dwelling, a duplex or a triplex on this property.
- The hardship results from conditions that are peculiar to the property, such as location, size, or topography.**

The lot depth of the property has not changed since 1948. The required dedication of right-of-way would further reduce the depth of the existing non-conforming lot.
- 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 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.

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. Site Plan
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: New Life Developers, LLC Owner: Greg Lafferty

Address: 2310 Concord Lake Rd Address: _____
Kannapolis, NC 28083

Telephone: (704) 454-7700 Telephone: _____

Email: info@newlifedevelopers.com Email: _____

Legal relationship of applicant to property owner: _____

Property Location/Address: 1.290 Acres at the SW intersection of Hudson and James streets

Tax Parcel Number: 5613868568 Zoning District: RV Acreage of Site: 1.290 Ac.

New Life Developers, LLC Greg Lafferty
Applicant Name (Print) Property Owner Name (Print)

Applicant Signature & Date 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: _____ Receipt # _____

Application No.: _____ Date Submitted (Complete): _____



KANNAPOLIS

CITY OF KANNAPOLIS PLANNING DEPARTMENT

APPLICATION FOR A VARIANCE

I, Greg Lafferty of New Life Developers, LLC, 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 Dimensional and Density Standards,

Minimum Lot Depth (100 feet) for Zoning district : RV

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:

See attached sketch plan.

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.)

The current "minimum lot depth" requirement in this zoning district greatly diminishes the division options of this narrow but sizable town lot. If granted a variance, 4 desirable & affordable house lots would be possible as apposed to only 2.

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.)

~~_____

_____~~

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.)

The hardship originates with the lot being a remnant lot.

Blk "C" - "CENTERVIEW EXT. NO 2" MBK 8, PG. 67.

See highlighted lot on attached plat of record.

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.)

~~_____

_____~~

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

Greg Lafferty

Applicant Name (Print)

Date



Applicant Signature

5/7/19

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

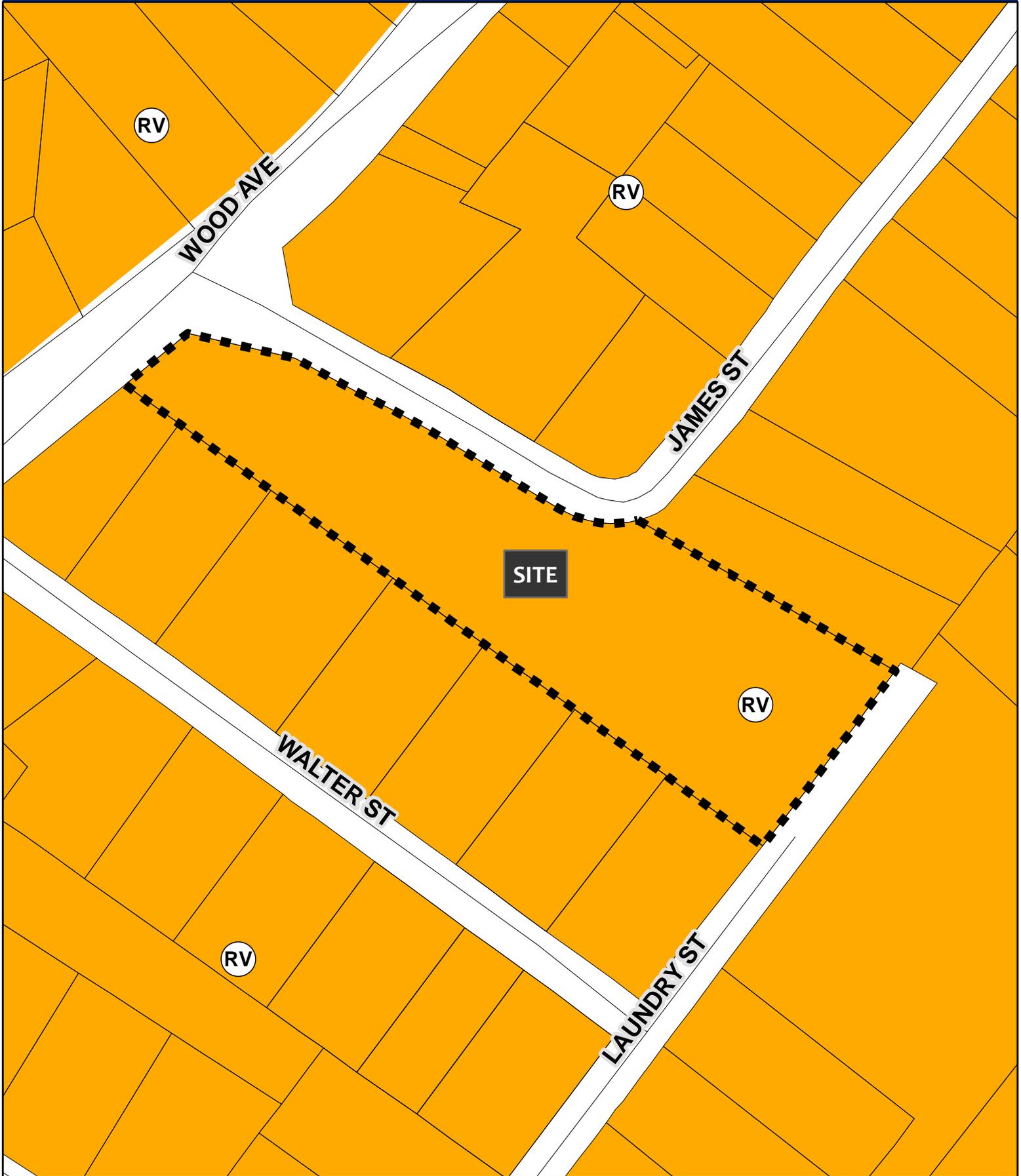
Case Number: BOA-2019-04
Applicant: New Life Developers, LLC
James St.





Kannapolis Current Zoning

Case Number: BOA-2019-04
Applicant: New Life Developers, LLC
James St.





Kannapolis 2030 Future Land Use Map

Case Number: BOA-2019-04

Applicant: New Life Developers, LLC

James St.



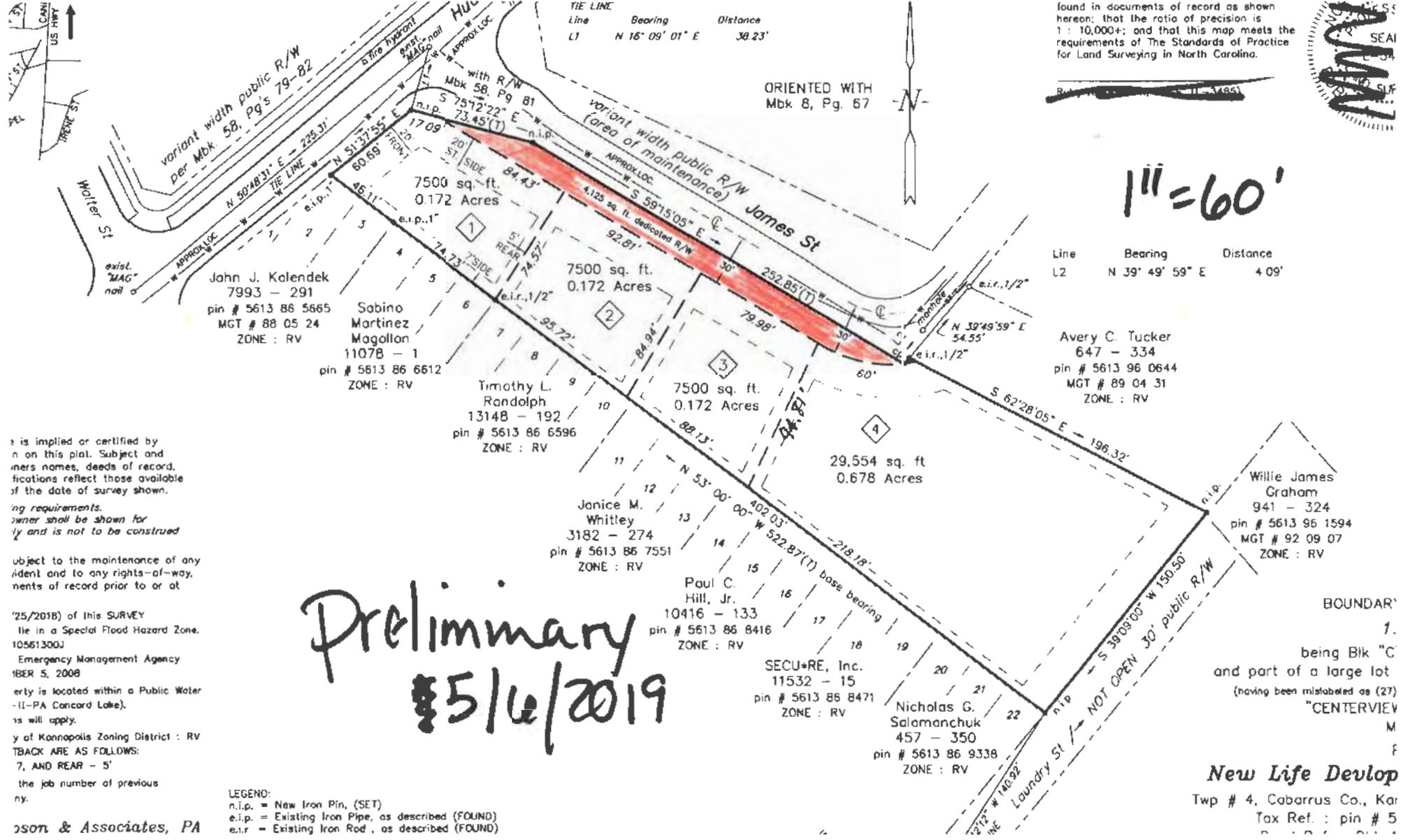
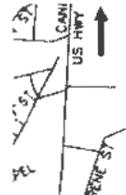
Book 8
Pg. 167

CENTERVIEW EXI NO 2
 PROPERTY OF
B. W. DURHAM
KANNAPOLIS N. C.
 No 4 TOWNSHIP CABARRUS CO N. C.
 SEPT 1948
 Geo. L. Barrier



OFFICE REGISTER OF DEEDS
 CABARRUS COUNTY, N. C.
 Filed for registration on the
 11th day of September 1948
 at the office of the Register of Deeds
 and registered in record of
 Book 8, Page 167

SURVEY BY
 GEO. L. BARRIER



Line	Bearing	Distance
L1	N 16° 09' 01" E	30.23'

found in documents of record as shown hereon; that the ratio of precision is 1 : 10,000+; and that this map meets the requirements of The Standards of Practice for Land Surveying in North Carolina.



ORIENTED WITH Mbk 8, Pg. 67

1" = 60'

Line	Bearing	Distance
L2	N 39° 49' 59" E	4.09'

Avery C. Tucker
647 - 334
pin # 5613 96 0644
MGT # 89 04 31
ZONE : RV

Willie James Graham
941 - 324
pin # 5613 96 1594
MGT # 92 09 07
ZONE : RV

Preliminary
5/6/2019

is implied or certified by n on this plat. Subject and mers names, deeds of record, fications reflect those available of the date of survey shown.

ing requirements. owner shall be shown for ly and is not to be construed

subject to the maintenance of any ident and to any rights-of-way, nents of record prior to or at

'25/2018) of this SURVEY lie in a Special Flood Hazard Zone. 10561300J Emergency Management Agency IBER 5, 2008 erty is located within a Public Water -II-PA Concord Lake). is will apply. y of Kannapolis Zoning District : RV TBACK ARE AS FOLLOWS: 7, AND REAR - 5' the job number of previous ny.

son & Associates, PA

LEGEND:
n.i.p. = New Iron Pin, (SET)
e.i.p. = Existing Iron Pipe, as described (FOUND)
e.i.r. = Existing Iron Rod, as described (FOUND)

BOUNDAR'
1.
being Blk "C"
and part of a large lot
(having been mislabeled as (27)
"CENTERVIEW"
M
F

New Life Develop
Twp # 4, Cabarrus Co., Kar
Tax Ref. : pin # 5

AcctName1	MailAddr1	MailCity	MailState	MailZipCod
SECU*RE INC	119 N SALISBURY ST	RALEIGH	NC	27603
ROBERT EDDLEMAN C/O KAREN CLOWNEY	1249 POPLAR GLEN DR	KANNAPOLIS	NC	28083
NEW LIFE DEVELOPERS LLC	1500 NEW GATE CT NW	CONCORD	NC	28027
CAROLINA'S FINEST PROPERTIES LLC	157 GLENWOOD DR SW	CONCORD	NC	28025
TONY KNOX LESTER KNOX	209 SHARPE AVE	KANNAPOLIS	NC	28083
SHARON S CHAMBERS TAKERA C SHEELOR	247 JAMES ST	KANNAPOLIS	NC	28083
RAFAEL ROSEL	248 JAMES ST	KANNAPOLIS	NC	28083
AVERY & JOHNSIE TUCKER	249 JAMES STREET	KANNAPOLIS	NC	28081
LURA STEEPLTON RICHARD WILLIS	269 ESTHER CIR	KANNAPOLIS	NC	28083
SCOTT MCNEILLY	2826 HAMPTON GLEN CT	MATTHEWS	NC	28105
JANICE M WHITLEY	286 HERONWOOD RD	STATESVILLE	NC	28677
STEFAN & AMY RUCKER	305 HILL ST	COMMERCE	GA	30529
JAMES & ELIZABETH ABERNATHY	465 PARKS FIELD DRIVE	KANNAPOLIS	NC	28081
GRAYLING BROWN	467 HEILIGTOWN RD	SALISBURY	NC	28144
RACHEL MCCULLOUGH C/O BERTHA JOHNSON	509 SOUTH ST	WINCHESTER	VA	22601
PAUL & LUCY HILL	544 WILHELM PL NE	CONCORD	NC	28025
GEORGE LENTZ SR	553 COOK ROAD	ELON COLLEGE	NC	27244
BRITTANY PORTER	600 WALTER ST	KANNAPOLIS	NC	28083
SABINO MARTINEZ MAGALLON	603 WALTER ST	KANNAPOLIS	NC	28083
ESTATE OF NANCY DOSS C/O CLYDE L DICKENSON	604 WALTER ST	KANNAPOLIS	NC	28083
TIMOTHY L RANDOLPH	605 WALTER ST	KANNAPOLIS	NC	28083
KATHLEEN MEADOWS C/O TRENTON MEADOWS	608 WALTER ST	KANNAPOLIS	NC	28081
NICHLOAS G SALAMANCHUK	613 WALTER ST	KANNAPOLIS	NC	28081
WILLIE GRAHAM	616 WILSON ST	KANNAPOLIS	NC	28083
ESTATE OF ALICE GRAHAM SHAUNTA A SPATES	618 LAUNDRY ST	KANNAPOLIS	NC	28083
JOURNEY CAPITAL LLC ATTN: JOHN SEARS	6220 HUDSPETH RD	HARRISBURG	NC	28075
PURSER INVESTMENTS LLC	8215 HOOD RD	CHARLOTTE	NC	28215
JOHN J KALENDEK	822 GUILFORD AVE	BALTIMORE	MD	21202
OLD TOWNE DEVELOPMENT CORPORATION	8312 CALDWELL RD	HARRISBURG	NC	28075
PERKINS COVE APARTMENTS INC	PO BOX 1962	CONCORD	NC	28026



May 28, 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, June 18, 2019 at City Hall, located at 401 Laureate Way, for the following case:

BOA-2019-04 - Variance – 289 James 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 depth of 100-feet for property located in the Residential Village (RV) zoning district. The subject property is approximately 1.27 +/- acres and is more specifically identified as Cabarrus County Parcel Identification Number 5613-86-8568. **(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,

Ryan Lipp.
Senior Planner

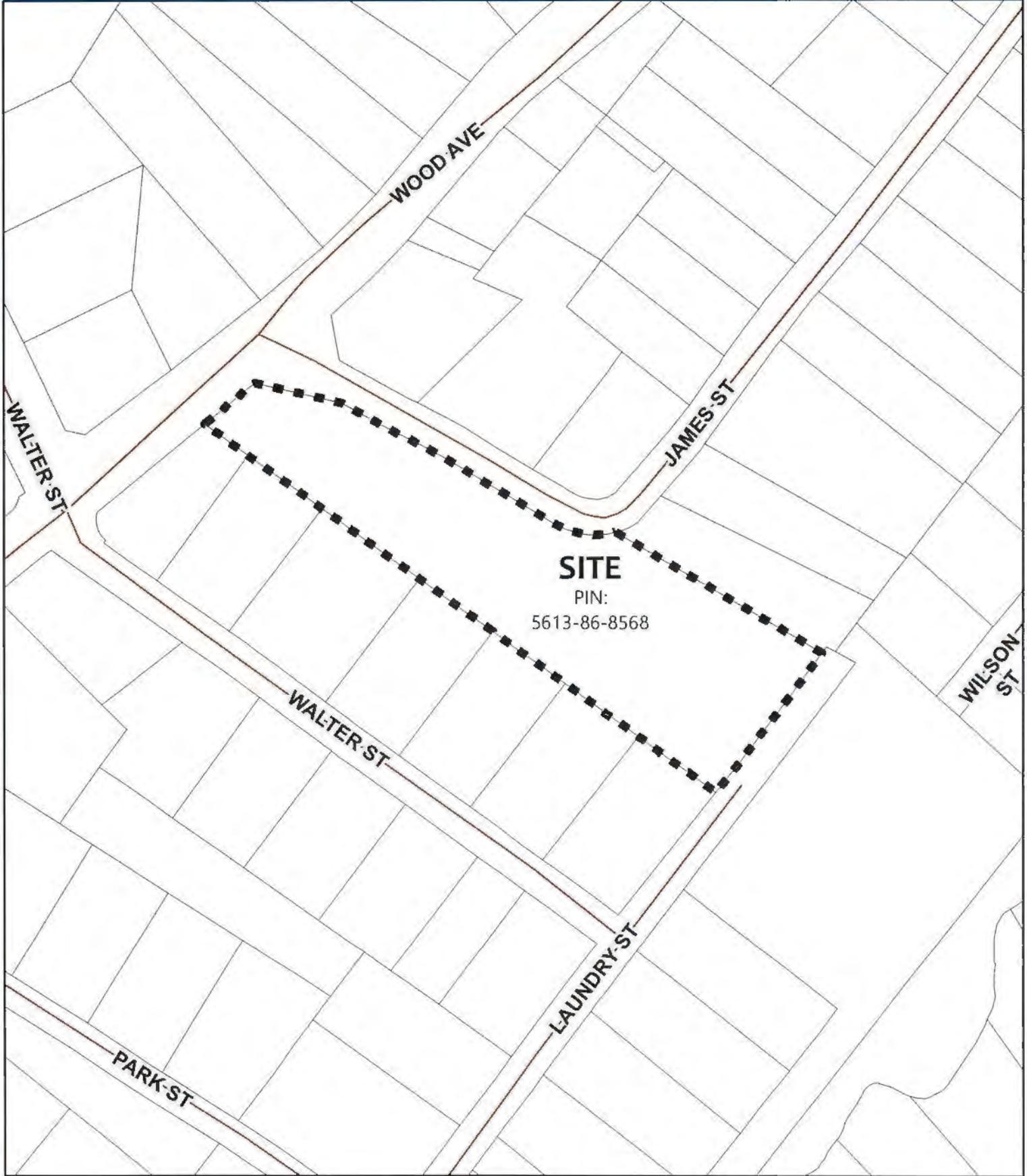
Enclosure

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- Corner of James and Wood

Case Number: BOA-2019-04
Applicant: New Life Developers, LLC
James St.



 James St
299

James St


TRAFFIC SIGNAL
STOP HERE ON RED
ARROW



S 29

BOARD OF
ADJUSTMENT
PUBLIC HEARING
INFORMATION
CALL 704-370-4350
CASE #

Charlotte, N.C.