

**APPEAL:  
Long Properties, LLC.  
Board of Adjustment  
City of Trinity, North Carolina**

**IN THE MATTER OF THE APPEAL FROM A FINAL ADMINISTRATIVE  
DECISION IN REFERNCE TO THE CITY OF TRINITY ZONING  
ADMINISTRATOR DENIAL OF PERMITS TO ALLOW CONSTRUCTION  
OF DUPLEXES ON NON-CONFORMING LOTS WITHIN THE CITY OF  
TRINITY**

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THIS THE FINAL DECISION contains the findings, conclusions, and Order adopted by the City of Trinity Board of Adjustment (the “BOA”) in response to the Appeal of the City Zoning Administrator/Planner decision by Chad Long, Long Properties, LLC. The Appeal was heard during a Public Hearing conducted on October 10, 2023. The decision of the BOA was entered at the next duly called regular meeting on November 13, 2023. Having considered all competent evidence and argument, the BOA on the basis of competent, material, and substantial evidence, hereby enters the following:

**Findings of Fact**

1. On July 18, 2023, Chad Long on behalf of Long Properties, LLC., filed an Appeal from a final administrative decision of the City of Trinity Planning Director and Zoning Administrator Jay Dale (“Zoning Administrator”) that was placed into writing on August 17, 2023.
2. The administrative decision reflected the Zoning Administrator’s decision to deny permits to allow construction of duplexes on non-conforming lots within the City on lots PIN# 7717099160 Lake Darr Road and PIN #7718005511.
3. Mr. Chad Long President of Long Properties, LLC., on appeal contends that the administrative decision of Mr. Dale was in error in interpreting the ordinances, including Art. IX Sections 9-1 & 9-2 of the Trinity Zoning Ordinance which state:

Section 9-1 Purpose and Intent If, within the districts established by this ordinance, or by amendments that may later be adopted, there exist lots, structures and use of land and structures which were lawful before this ordinance was passed or amended, but which would be prohibited under the terms of this ordinance, it is

the intent of this ordinance to permit these nonconformities to continue until they are removed but not to encourage their continuance. Such nonconformities are declared by this ordinance to be incompatible with permitted uses in the districts in which they are located. It is further the intent of this ordinance that nonconformities shall not be enlarged upon, expanded or used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Section 9-2 Nonconforming Lots of Record Single Lots of Record When a lot has an area which does not conform to the dimensional requirements of the district where they are located, but such lot was of record at the time of adoption of this Ordinance or any subsequent amendment which renders such lot nonconforming, then such lot may be built upon if compliance is achieved with regard to setback dimensions, width, and other requirements, regardless of lot area. Lots that cannot meet the setback, width, and/or buffering requirements of this Ordinance may seek a variance from the Board of Adjustments.

4. The City Zoning Administrator testified that the lots in question are smaller and well below what the City requires now for even a site-built home; thus, they are non-conforming lots of record. Under the City's current zoning placing a duplex on R-40 zoned lot would require an area of Fifty Thousand (50,000) square feet. This Ten Thousand (10,000) additional square footage is more than is needed for a single-family residential structure. The extra lot would serve as a buffer to set duplexes apart from single family residential. The Trinity zoning ordinance states that if you are unable to meet these requirements, the property owner needs to go before the BOA and ask for a variance to place a duplex on the land. To do otherwise, any owner of a substandard lot in the City that is zoned R-40 could request permits to build a duplex on it, and the City would have to issue the permits. That scenario did not seem to make sense to the Zoning Administrator.

It was noted that the City had previously allowed Mr. Long a duplex on a twenty-five thousand (25,000) square foot lot. The Zoning Administrator acknowledged that early in the process, there may have been one or two approved permits that were done erroneously and he would honor them.

5. It was noted by the City Zoning Administrator that none of the lots in question met the size requirements. The City Zoning Administrator informed the BOA that this was an older neighborhood. They used twenty-five (25) foot lots to determine the size of lot to be sold. As a result, there are numerous twenty-five (25) foot "leftover" lots in the City. Duplexes are allowed in R-40, RA, and RM zoning

districts in the City. The Zoning Administrator opined that the City zoning ordinance does seem to note duplexes are geared towards larger lots.

6. Mr. Long stated in his opinion several lots were deemed incorrect applications of the City zoning ordinance by City Staff related to non-conforming duplex lots. Further, he is appealing incorrect application of three lots regarding the requirement and would be asking for a variance [which is not before the BOA in this Order] of combining adjoining non-conforming lots.

Mr. Long further stated that he was making three different arguments because he had been denied for three different reasons and a fourth if buffering is counted.

The City Zoning Administrator clarified that the lots in question were non-conforming lots and did not meet the definition of a legal building lot in the City.

7. Further, Trinity Zoning Ordinance Article IX Section 5-3 Lot of Record Single Lots of Record states: When a lot has an area or width which does not conform to the dimensional requirements of the district where they are located, but such lot was of record at the time of adoption of this Ordinance or any subsequent amendment which renders such lot nonconforming, then such lot may be built upon if compliance is achieved with regard to setback dimensions and other requirements, except lot area or width. Lots that cannot meet the setback and buffering requirements of this Ordinance may seek a variance from the Board of Adjustments.
8. The resolution of this case depends on the interpretation of the ordinance language in conjunction with the status of the non-conforming lots not meeting the definition of a legal building lot in the City and the issue whether Sec. 9-1 & 9-2 conflict with Sec. 5-3 of the City Zoning ordinance.
9. The City zoning ordinance does make a provision for non-conforming lots of record, but for duplexes the ordinance requires additional requirements.
10. THEREFORE, it is the BOA conclusion that the Zoning Administrator denial of the duplex permits is based upon the following:
  - a) WHEREAS, the subject properties are located in a low density (R-40) District; and;

- b) WHEREAS, duplex apartments are allowed in the R-40 District subject to other requirements, including lot size; and
- c) The City Zoning Administrator denied the permits for the duplexes since the non-conforming lots did not meet the definition of a legal building lot in the City.

THEREFORE, IT IS ORDERED that the Appeal herein is DENIED and decision of the Zoning Administrator/Interim Planner in this matter is hereby AFFIRMED.

Ordered this the 13th day of November, 2023.

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Trinity Board of Adjustment Vice Chairman

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Clerk