



Memorandum

TO: Richard McNabb, Mayor
City Council Members

FROM: Jay Dale, Planner

CC: Stevie Cox, City Manager

DATE: 12/13/2023

REF: Variance Request

Summary

Lot PIN# 7717088835

Mr. Long is requesting a variance for his pre-existing, non-conforming lot of record on Lake Darr Rd (PIN# 7717088835). The variance would grant relief from the requirements of **Article IX Section 9-2 and Article XII Section 12-4** of the Zoning Ordinance of the City of Trinity which requires Mr. Long seek a variance if he is unable to meet the dimensional requirements for his lot. His lot is zoned R-40 and requires 100 ft. at the building line. Mr. Long's lot is 75 feet wide.

Attachments:

- Copy of Variance Application.
- Map of lot PIN 7717088835
- Copy of Article IX Section 9-2
- Copy of Article XII Section 12-4



City of Trinity Variance Application

Date: 12/05/2023

Property Owner Information:

Property Owner: Long Properties LLC

Address: 401 Belgian Dr.

City: Trinity State: North Carolina Zip: 27263

Phone: (home/work) _____ (cell) 336-861-2005

E-mail: chad@onetouchwireless.net

Applicant Information *(note: must show proof as to legally representing property owner):*

Applicant: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: (home/work) _____ (cell) _____

E-mail: _____

Site Information:

PIN# 7717088835

Property Address: Not yet assessed.

Zoning District: R-40 (Residential)

Are there any structures currently on the property? _____ yes X no

List structures: _____

What is the current land use on the property (i.e. commercial, residential, farming, vacant etc.)?

Vacant

Reason for Variance:

Describe situation which prompted the need for a variance, and, if applicable, how much of a variance is needed for from minimum dimensional requirements: Article IX Sec 9-2 of The Zoning Ordinance of the City of Trinity requires nonconforming lots to meet the dimensional requirements of their zoning district. R-40 Zoning requires 100 Ft at the building line. Lot PIN# 7717088835 is 75' wide and would require a variance of 25' to build a single family residential home on the site.

ORDINANCE PROVISIONS FOR GRANTING A VARIANCE:

The Board of Adjustment (Planning & Zoning Board) does not have unlimited discretion in deciding when to grant a variance. Article XIV, Section 16-8 of the City's Zoning Ordinance states:

“When practical difficulties or unnecessary hardships would result from carrying out the strict letter of the zoning ordinance, the board of adjustments shall have the power to vary or modify any of the regulations or provisions of the ordinance so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done. No change in permitted uses may be authorized by variance. Appropriate conditions, which must be reasonably related to the condition or circumstance that gives rise to the need for a variance, may be imposed on any approval issued by the Board.

These regulations may provide that the Board of Adjustments may determine and vary their application in harmony with the general purpose and intent and in accordance with general or specific rules therein contained; provided no change is permitted uses may be authorized by variance.

- (1) Determination that Variance Will Not Violate Other Ordinance Provisions. In considering all proposed variances to this ordinance, the Board shall, before making any finding in a specific case, first determine that the proposed variance will not allow the establishment of a use not otherwise permitted in a district by this ordinance; extend in area or expand a non-conforming use of land; change the district boundaries shown on the zoning map; impair any adequate supply of light and air to adjacent property; materially increase the public danger of fire; materially diminish or impair established property values within the surrounding area; or in any other respect impair the public health, safety, morals, and general welfare.
- (2) Findings. A variance may be granted in an individual case of unnecessary hardship upon a finding by the Board of Adjustment that the following conditions exist:
 - (a). There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.

- (b). Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located.
 - (c). A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.
 - (d). The requested variance will be in harmony with purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
 - (e). The special circumstances are not the result of the applicant.
 - (f). The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
 - (g). The variance is not a request to permit a use of land, building or structure which is not permitted by right or by conditional use in the district involved.
- (3) Conditions. In granting a variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violations of the conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance punishable under Section 18-3 of this ordinance.”

In the space provided below (or on attached sheet), provided a statement(s) addressing each of the required findings of fact. This information and along with your site plan, along your site plan will be presented to the Board to help support your request for a variance:

- (a). There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.

Because the property is a pre-existing non-conforming lot of record and does not have enough width at the building line, 100 feet, the ordinance requires a variance in R-40 zoning.

- (b). Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located.

The Lake Darr Rd. area is an older residential area with many non-conforming lots. I would ask the board to consider there are three residential structures currently on Lake Darr Rd. that are on lots of 50' in width. There are very few that would meet the current R-40 zoning and so with this in mind I do not see any "special privilege" allowed in the granting of this request.

- (c). A literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.

I am unable to meet the with requirement with my lot but as I have stated many residents in the area currently reside on lots even smaller than what I have proposed.

- (d). The requested variance will be in harmony with purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.

The requested variance would allow me to construct a new single-family home that would be in harmony with current land use patterns in the area and would in no way be "injurious to the neighborhood or to the general welfare".

- (e). The special circumstances are not the result of the applicant.

I would submit that the lot was a pre-existing non-conforming lot of record and not the result of any action of myself.

- (f). The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.

I am asking for no more than I absolutely need to meet the City's requirements.

- (g). The variance is not a request to permit a use of land, building or structure which is not permitted by right or by conditional use in the district involved.

- (h). R-40 is a residential zoning and I wish to build a single-family residential home that in my opinion would benefit the neighborhood and the people of Trinity.

Submittal Requirements:

- **Complete Variance Application**
- **If seeking a variance from a minimum dimensional requirement, a site plan, prepared by a NC Licensed Engineer, Architect or Surveyor. See Exhibit A**
- **\$400 Application Fee**

The below authorize: (1) Submission of the variance application to the City of Trinity's Planning and Zoning Board for consideration; and (2) the Zoning Administrator or designee to entry upon the property to verify application/site plan submittal information.

Ho Chul Long
Applicant Name (PRINTED)

[Signature] Date 12/5/23

Long Properties LLC
Property Owner Name (PRINTED)

[Signature] Date 12/5/23

[Signature]
Zoning Administrator Signature

12/5/23
Date Complete Application Received

Office Use

Date Received: _____

Fees Paid: _____

BOA Hearing Date: _____

Result of BOA Hearing: _____

- Notes:**
- This project is not located within a special flood hazard area per MCFRIS. Map #: 3710717003 Effective Date: 1/1/2008
 - Area calculated by coordinate geometry.
 - All lines surveyed by Survey Carolina, PLLC are indicated by bold lines. All lines not surveyed by Survey Carolina, PLLC are indicated by dashed lines.
 - No attempt was made by this survey to locate all underground utilities nor any other easements that would be revealed by a title search.
 - TAX PK: 2717064515

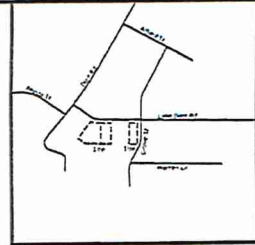
STATE OF NORTH CAROLINA

I, _____ Review Officer of Randolph County, certify that the map or plat to which this certification is affixed meets all statutory requirements for recording.

Date _____ Review Officer _____

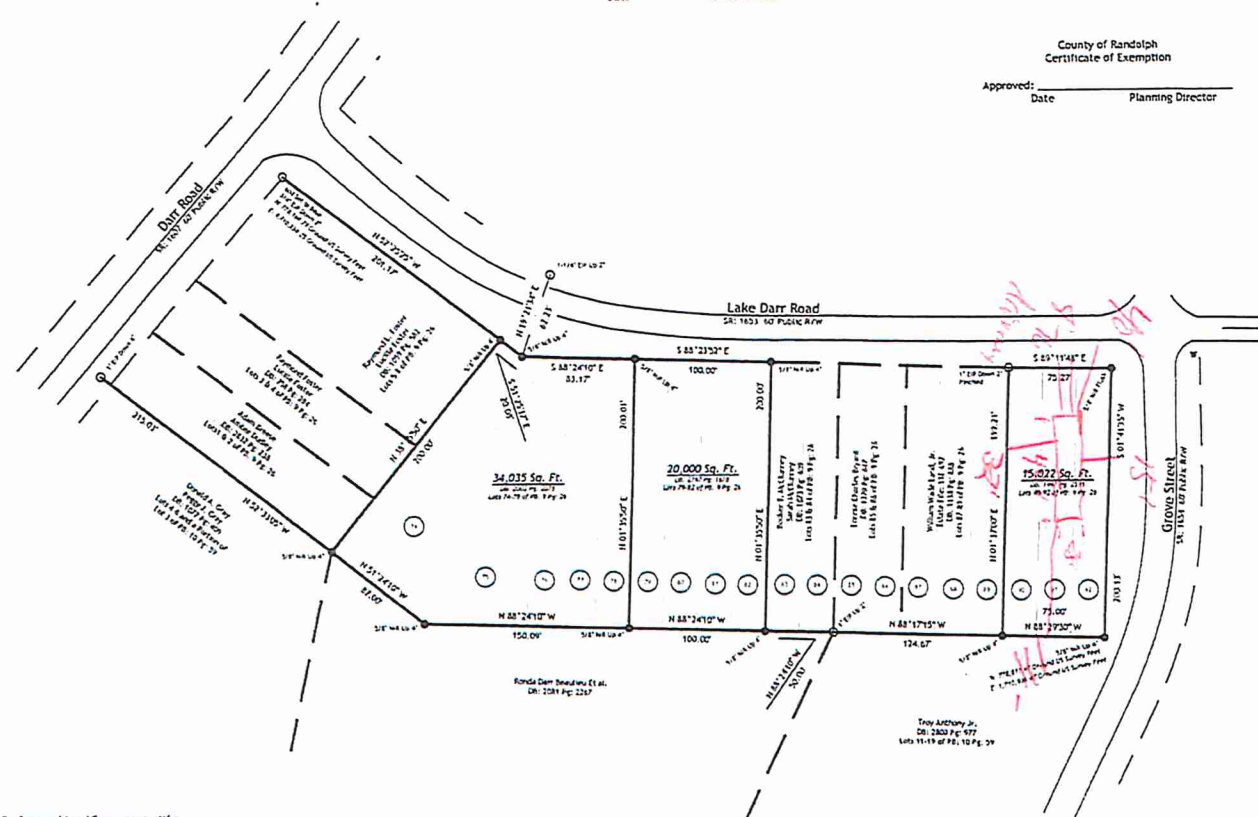
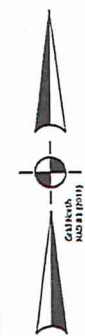
County of Randolph
Certificate of Exemption

Approved: _____
Date _____ Planning Director _____



Location Map
(Not to Scale)

- | | |
|---------------------------------|--------------------------|
| Hand-drawn Tree | Catch Basin |
| Evergreen Tree | Field Point |
| Stone | Storm Sewer Manhole |
| APM - Right of Way Monument | AJUNCTION BOX |
| ABS - Railroad Spike | Drain Inlet |
| MIL - New Iron Road | Impervious Control Valve |
| MP - New Iron Pipe | Blank Flow Transmitter |
| WGS Monument | Water Valve |
| EW - Existing Well | Water Manhole |
| EP - Existing Iron Pipe | Water Meter |
| ES - Existing Storm Road | Fire Dept. Connection |
| EC - Existing Concrete Monument | Fire Hydrant |
| ES - Existing Storm Road | Utility Pole |
| ES - Existing Storm Road | Telephone Pedestal |
| ES - Existing Storm Road | Telephone Pole |
| ES - Existing Storm Road | Transformer |
| ES - Existing Storm Road | Communications Manhole |
| ES - Existing Storm Road | SS - Sanitary Sewer |
| ES - Existing Storm Road | SS Manhole |
| ES - Existing Storm Road | SS Culvert |
| ES - Existing Storm Road | SS Power Box |
| ES - Existing Storm Road | Power Pole |
| ES - Existing Storm Road | Light Pole |
| ES - Existing Storm Road | Gas Pole |
| ES - Existing Storm Road | Gas Valve |
| ES - Existing Storm Road | Gas Meter |
| ES - Existing Storm Road | Electric Meter |
| ES - Existing Storm Road | Electric Manhole |
| ES - Existing Storm Road | 2.2.2.2. Soil Elevation |



I, Dan W Tanner II, Professional Land Surveyor, certify:

In accordance with NC General Statute 47-30(f)(1)c.1, that the survey is of an existing parcel or parcels of land or one or more existing easements and does not create a new street or change an existing street. For the purpose of this subsection, an "existing parcel" or "existing easement" is an area of land described in a single, legal description or legally recorded subdivision that has been or may be legally conveyed to a new owner by deed in its existing configuration.

I, Dan W Tanner II, certify that this plat was drawn under my supervision from an actual survey made under my supervision (deed description recorded in:

Book 2002, page 2075; Book 2797, page 1678;
Book 1997, page 2555.

that the boundaries not surveyed are clearly indicated as drawn from information found in Book See, page Notes; that the ratio of precision or positional accuracy as calculated is 1:10000+; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, license number and seal this the 3rd day of July, A.D., 2023.



- I, Dan W Tanner II, certify that this map was drawn under my supervision from an actual GPS/GNSS survey made under my supervision and the following information was used to perform the survey:
- (1) Class of survey: Class A
 - (2) Positional accuracy: ±0.10'
 - (3) Type of GNSS field processor: Real-Time Kinematic Networks
 - (4) Date of survey: June 14, 2023
 - (5) Datum/EPOCH: NAD83(2011) / 2010.00
 - (6) Published/Field-control user: North Carolina Real Time Network
 - (7) GNSS model: Trimble R12
 - (8) Combined grid factor(s): 0.9999942
 - (9) GPS/GNSS Scale Point: N: 278,643.91 E: 1,711,200.95 Z: 829.12
 - (10) Units: US Survey Feet

Owners:
Long Properties, LLC
401 Belgian Drive
Archdale, NC 27263

Survey For:
Chad Long

City of Trinity
Trinity Township
North Carolina
Deed Book:2002 Pg:2075
Deed Book:2797 Pg:1678
Deed Book:1997 Pg:2555
Plat Book:9 Pg:26
Scale: 1" = 60 US Survey Feet

Randolph County
July 3, 2023



SURVEY CAROLINA, PLLC
154 S. Fayetteville St., Suite B, Asheboro, NC 27203
Phone Number: 336 625-8000
Email: mail@surveycarolina.com

Firm #: P-1110
Dan W Tanner II L-4787

© 2023 Survey Carolina, PLLC Job #: 15022

ARTICLE IX

NONCONFORMITIES

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.

Section 9-3 Nonconforming Uses of Land

- 1) Extensions of Use. Nonconforming uses of land shall not be enlarged or extended in any way unless otherwise stated in this section.
- 2) Change of Use. When a non-conforming use of land has been changed to a conforming use, it shall not thereafter be used for any nonconforming use.
- 3) Nonconforming Residential Uses of Land - In the case of a residence that is a nonconforming use of land in a commercial or industrial zone, such residence may be repaired, rebuilt or added to as long as the dimensional requirements of the district are met. Minor variances in setbacks due to lot size may be presented to the Board of Adjustment for consideration. This policy is adopted in the interest of maintaining an adequate stock of housing in Trinity.
- 4) Manufactured Homes as Nonconforming Residential Uses - Manufactured homes on individual zoning lots, are a nonconforming use in Trinity. However, in the interest of maintaining an adequate housing stock in the community, existing manufactured homes are allowed to continue and in certain instances may be replaced.
 - (a) Continuation of a Manufactured Home on An Individual Lot – A manufactured home on an individual lot may be continued, provided that within six months from the date of adoption of this Ordinance it shall be tied down to resist overturning in the event of high winds. All tie downs shall be in accordance with the State of North Carolina Regulations for Manufactured Homes.

Section 12-4

Yard, Area and Height Requirements

Table 12-4 AREA, YARD & HEIGHT REQUIREMENTS						
District	Minimum Lot Size, (Sq. ft.)	Min. Lot Width at Bldg. Line (ft.)	Min. Front Yard Setback (ft.)	Min. Side Yard Setback (ft.)	Min. Rear Yard Setback (ft.)	Max Height (ft.)
<u>RA Residential Agricultural</u>						
Single Family	2.5 acres	100	40	10 ^(a)	25 ^{(e)(g)}	35
Two Family		100	40	10 ^(a)	25 ^{(e)(g)}	35
<u>R-40 Residential</u>						
Single-Family	40,000	100	40	10 ^(a)	25 ^{(e)(g)}	35
Two-Family	50,000	100	40	10 ^(a)	25 ^{(e)(g)}	35
<u>R-20 Residential</u>						
Single-Family	20,000	80	30	10 ^(a)	25 ^{(e)(g)}	35
<u>R-12 Residential (3 units/acre)</u>						
Single-Family	12,000	75	30	10 ^(a)	25 ^{(e)(g)}	35
<u>R-10 Residential (4 units/acre)</u>						
Single-Family	10,000	60	30	10 ^(a)	25 ^{(e)(g)}	35
<u>RM Mixed Residential</u>						
Single Family	10,000 (4 units/acre)	60	30	10 ^(a)	25 ^{(e)(g)}	35
Two Family(1)	20,000	80	30 ^(d)	10 ^(a)	25 ^{(e)(g)}	35
Multi Family (Special use)(1)	12,000+	N/A	N/A	10 ^(a)	25 ^{(e)(g)}	35
	3,000 for each unit over 2					
Townhomes	Same as multi-family	N/A	15	10' between buildings	25 ^{(e)(g)}	35
<u>RM-U Mixed Residential Urban</u>						
Single Family	10,000 (4 units/acre)	N/A	10	10 ^(a)	25 ^{(e)(g)}	35
Two Family(1)	20,000			10 ^(a)	25 ^{(e)(g)}	35
Multi Family (Special use)(1)	12,000+			10 ^(a)	25 ^{(e)(g)}	35
	3,000 for each unit over 2					
Townhomes	Same as multi-family		15	10' between buildings	25 ^{(e)(g)}	35
Non-Residential	N/A					