



Lenoir Board of Adjustment

Agenda • October 21, 2024

Meeting Information

Location

City /County Meeting Room
905 West Avenue
Lenoir, NC 28645

Time

5:30 p.m.

Board Members

Sharon Bryant, Chairperson

Leah Hamilton, Vice-Chair

Curtis Baker

Kyle Case

Tim Scobie

Lucy McCarl

Michael Careccia (alternate)

Dontrell Parson (alternate)

Welcome!

We are glad you have joined us for tonight's meeting. The Lenoir Board of Adjustment is a quasi-judicial board comprised of citizen members appointed by the City Council in accordance with G.S. 160A-388. The Board of Adjustment is tasked with hearing variance requests and appeals of land development decisions by administrative officials.

In order to grant a requested variance, a 4/5 majority of the Board must find that the requested variance satisfies four related standards established by state statutes – competent, material, and substantial evidence in the record must support findings that:

1. The ordinance creates an unnecessary hardship
2. The hardship is peculiar to the property
3. The hardship is not self-created, and
4. The requested variance meets the intent of the ordinances, upholds public safety, and achieves substantial justice.

Each decision of the Board will be reduced to writing and be signed by the Chair, and shall become effective upon delivery of the signed decision to the applicant, property owner, and to any person who has submitted a written request for a copy.

Every quasi-judicial decision shall be subject to review by the superior court by proceedings in the nature of certiorari pursuant to G.S. 160D-1402. A petition for review shall be filed with the Clerk of Superior Court within 30 days of the effective date of the board's decision.

General Rules of Order

If you wish to appear before the Board, please fill out an Appearance Request Form and give it to the Recording Secretary. Anyone who wishes to appear before the Board must be sworn in prior to delivering testimony or entering other evidence into the record. When the Chairperson recognizes you, state your name and address and speak directly into the microphone. ROBERT'S RULES OF ORDER govern the conduct of the meeting.

OPENING SESSION

- Determination of a Quorum
- Call to Order
- Consideration of April 22, 2024 Minutes

REGULAR AGENDA

1. Off Lee Roy Lane (NCPIN 2768135978)

Applicant: Ronald Trivett

Owner: Roland Trivett and Joseph Greer

Location: **NCPIN 2768135978 East side of Lee Roy Lane**

V# 2-24 A variance to Section 800, Table A in the R-20 zoning district for a 5 ft. variance to the street frontage standards.

Recommended Action: Staff recommends approval of the variance request, subject to the conditions in the staff report.

2. 117 Main Street NW - current site of Hogwaller stage

Applicant: Janet Huntsinger

Owner: Heart of Lenoir LLC

Location: **117 Main Street NW**

V# 3-24 A variance to Section 1112.1 of the sign zoning ordinance for the B-3 district for 100 SF of permanent wall signage where 50 SF is allowed, and 50 SF of event/band promotional signage in the form of various banners.

Recommended Action: Staff recommends denial of the variance request, subject to the conditions in the staff report.

3. 312 Morganton Blvd SW-Beach Bingo business

Applicant: Amanda Moser & Rochelle Dula

Owner: R&R Enterprises

Location: **312 Morganton Blvd SW**

AP# 1-24 A appeal to Section 611 of the zoning ordinance for Adult Gaming Establishments.

Recommended Action: Staff recommends denial of the appeal request.

Order of Proceedings:

- Swearing in of applicant, staff, and all others who wish to provide testimony.
- Staff summary of request, opportunity for cross examination
- Testimony by applicant, opportunity for cross examination
- Testimony by others, opportunity for cross examination
- Closing of the Evidentiary Hearing/Board deliberation (discussion of four standards)/entertainment of motions
- Call for a vote

ADJOURNMENT

MINUTES
BOARD OF ADJUSTMENT MEETING
April 22, 2024
5:30 PM

LOCATION:
City /County Meeting Room
905 West Avenue

MEMBERS PRESENT:
Curtis Baker, Sharon T. Bryant, Michael Careccia, Kyle Case, Tim Scobie

MEMBERS ABSENT:
James Bradshaw, Leah Hamilton, Lucy McCarl

STAFF PRESENT:
Hannah Williams, Lauren Hartley, Matt Duchan

A quorum was established and Chairperson Bryant called the meeting to order.

MINUTES:
Board Member Scobie moved approval of the meeting minutes of July 24, 2023. Board Member Baker seconded the motion, which was voted upon and passed by unanimous vote.

NEW BUSINESS:
1. 340 Finley Ave NW

Applicant: Equity Trust Co.

Owner: Equity Trust Co.

Location: 340 Finley Ave NW

V# 1-24 A variance to Section 800, Table A in the R-6 zoning district for requesting a 32-foot variance to the front setback, a 7-foot variance to the side setback, and a 22-foot variance to allow development.

Recommended Action: Staff recommends approval of the variance request, subject to the conditions in the staff report.

Matt Duchan, Daniel Fisher and Latoya Taylor were placed under oath.

This item was presented by Planner, Matt Duchan using a PowerPoint presentation. The request is for 340 Finley Ave NW. The applicant is requesting a variance for a 32 foot front setback, a 7 foot side setback, and a 22 foot rear setback to allow development.

The property is zoned R-6/S-2 and is in the North Main Street overly district. The lot size is 1,880 square feet, which is far below the minimum required area of 6,000 square feet. The lot is very narrow at 42 feet wide, and narrows to a corner at the north end. The applicant cannot meet the City of Lenoir's zoning setbacks, as is.

Matt Duchan read the draft findings from the staff report and answered questions from the board.

Board member Baker asked if the property had recently been listed for sale.

The applicant, Daniel Fisher stated this property was acquired with a second property. The properties were supposed to be sold together, but this property was withdrawn from the sale. He stated it's a difficult lot to build on without this variance. His expectation would be to build a similar type of home like others in the neighborhood.

Latoya Taylor at 431 Folk Street stated her parent's property is located on this street and she is over their estate. She asked what this means for her parents' property.

Staff explained to Mrs. Taylor this case isn't for the property her family owns specifically, and that staff is required to notice all neighbors surrounding the subject property.

Chairperson Bryant closed the public hearing.

Board Member Careccia made a motion to approve the variance request with the conditions and recommendations as presented in the staff report. Board Member Case seconded the motion, which was voted upon and passed unanimously.

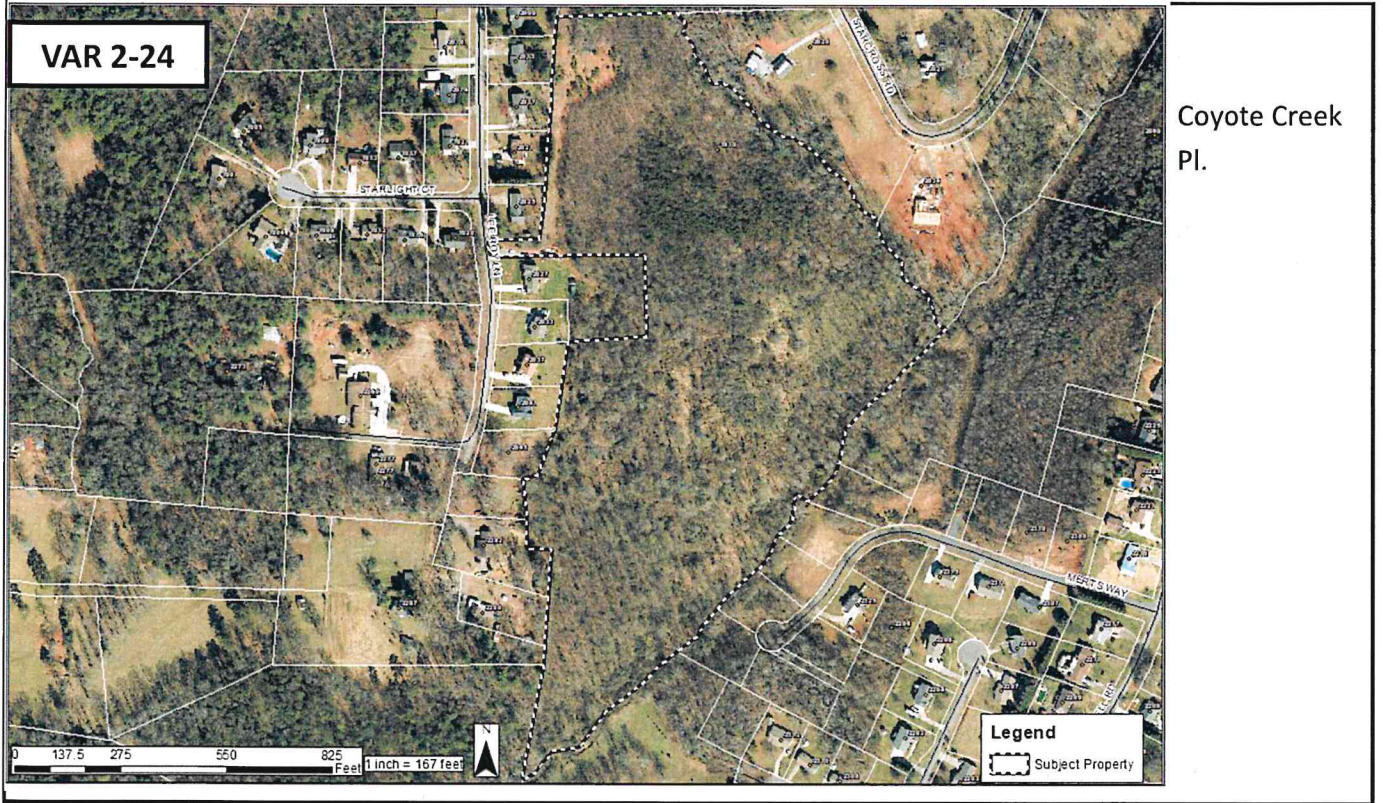
ADJOURNMENT:

There being no further business to be brought before the Board, Chairperson Bryant adjourned the meeting at 6:20 p.m.

Sharon T. Bryant, Chair

**Hannah Williams
Planning Director**

LOCATION MAP/AERIAL PHOTOGRAPH



Coyote Creek Pl.

SUMMARY

Owner
 Roland Trivett
 Joseph Greer

Applicant
 Roland Trivett

Location
 1810 Coyote Creek Place
 South of Starlight Ct, off of Lee Roy Ln

NCPIN
 2768135978

Project Planners
 Hannah Williams, AICP, CZO
 Matt Duchan

Updated September 10, 2024

Applicant's Request:
 The applicant is requesting a 5 ft. variance to street frontage standards as established in Sec. 800, Table A.

The applicant proposes to subdivide the property where there is only 45' of public street frontage. To split the 27 acre tract into two lots, both lots must have at least 25' of public street frontage.

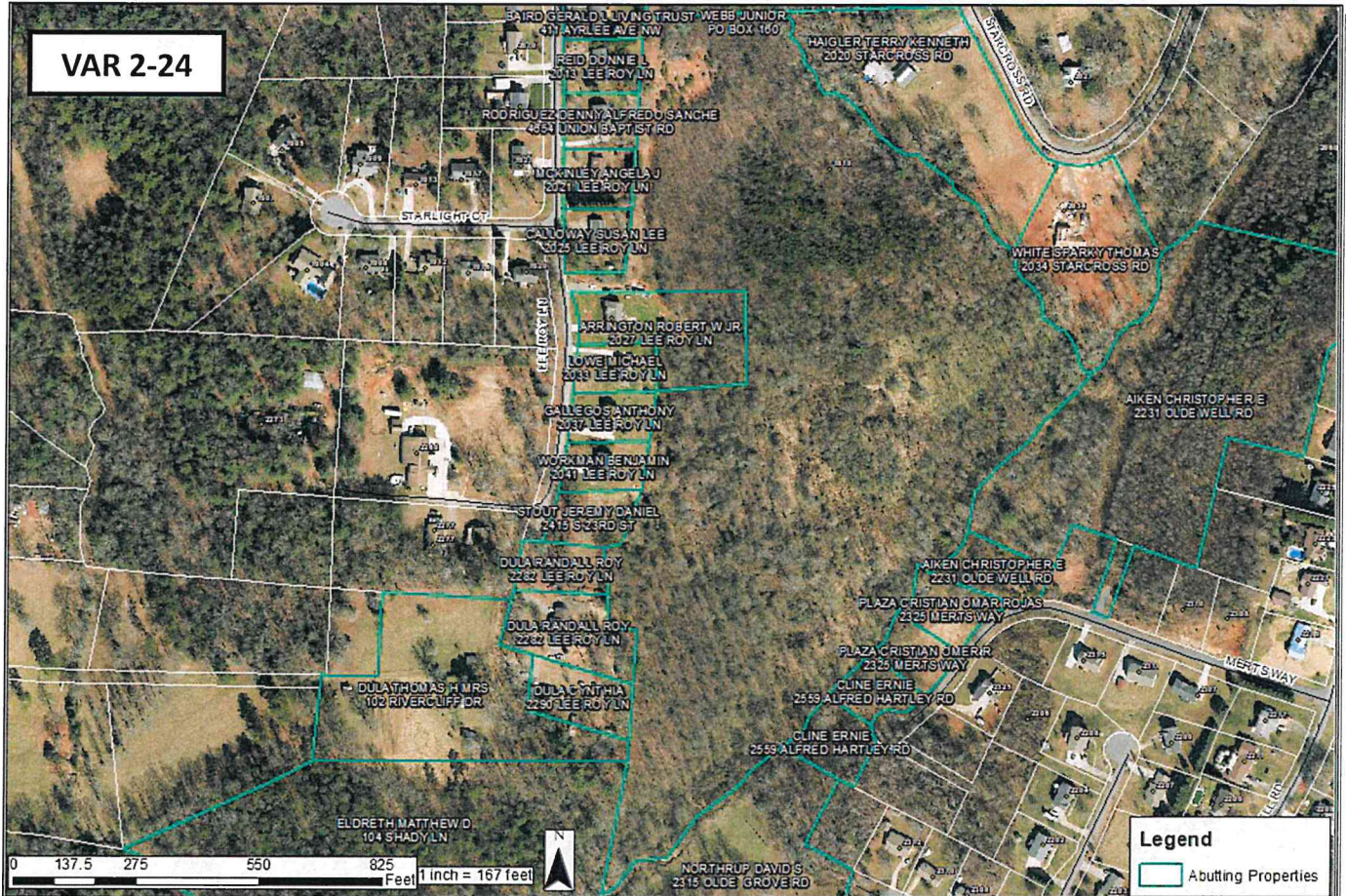
Staff Recommendation:
 Approval of the requested variance. See draft findings, page 4.

Public Comment:

Planning Board Meeting: Scheduled for September 26, 2024. Notices were mailed to adjacent property owners on or before September 13, 2024. A sign was posted on the subject property advertising the evidentiary hearing on September 13, 2024.

*****This request is quasi-judicial. You should not discuss this case with decision makers outside of the scheduled public hearing*****

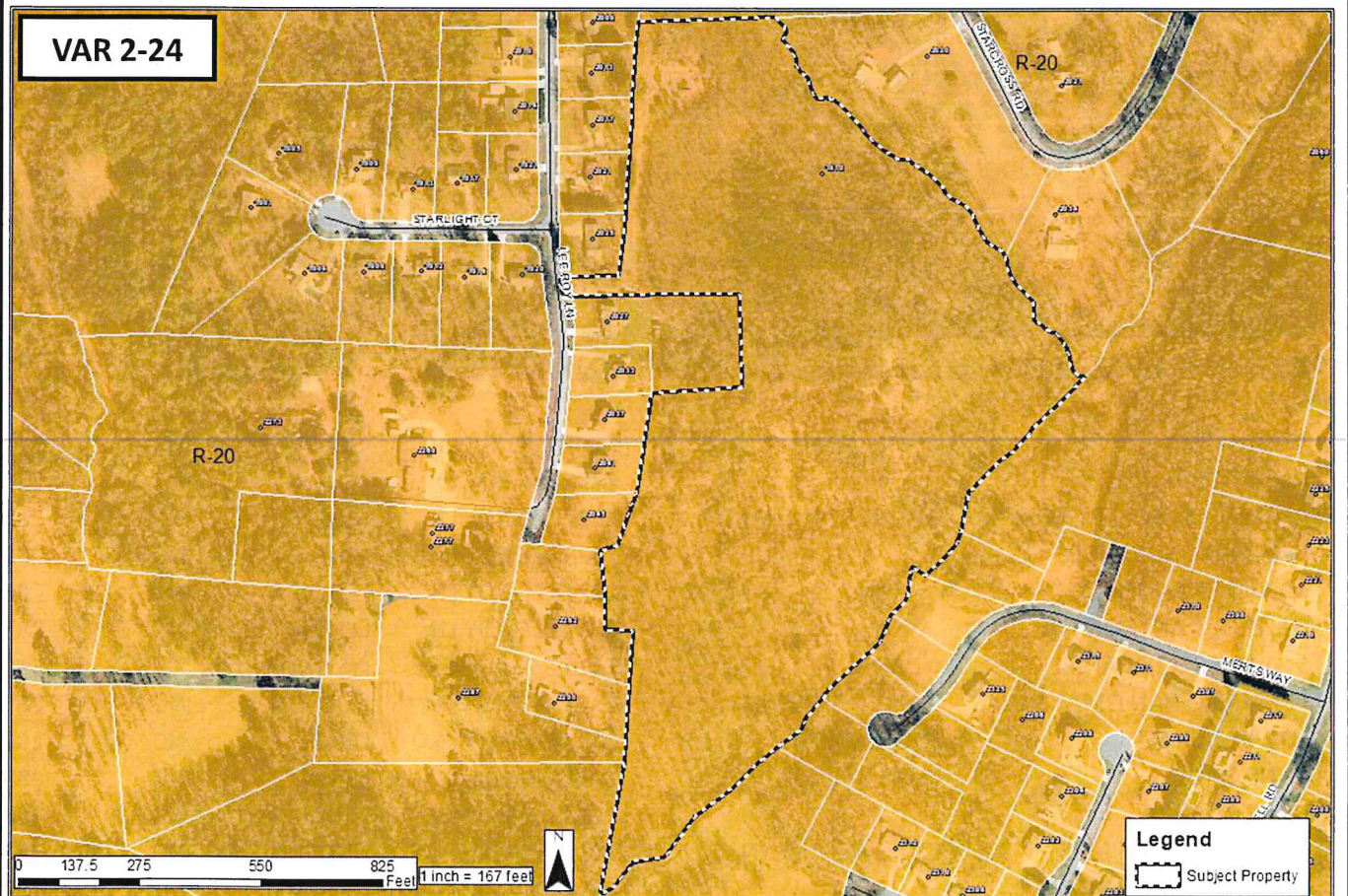
ABUTTING PROPERTY OWNERS



Account Name 1	Account Name 2	Mailing Address	City	State	Zip
DULA RANDALL ROY		2282 LEE ROY LN	LENOIR	NC	28645
ARRINGTON ROBERT W JR	ARRINGTON CHARITY	2027 LEE ROY LN	LENOIR	NC	28645
CALLOWAY SUSAN LEE		2025 LEE ROY LN	LENOIR	NC	28645
MCKINLEY ANGELA J		2021 LEE ROY LN	LENOIR	NC	28645
GALLEGOS ANTHONY		2037 LEE ROY LN	LENOIR	NC	28645
STOUT JEREMY DANIEL		2415 S 23RD ST	FT LEAVENWORTH	KS	66048
PLAZA CRISTIAN OMAR ROJAS	ROJAS JESSYLENIA	2325 MERTS WAY	HUDSON	NC	28638
LOWE MICHAEL	LOWE AMBER	2033 LEE ROY LN	LENOIR	NC	28645
CLINE ERNIE	CLINE BRENDA	2559 ALFRED HARTLEY	LENOIR	NC	28645
DULA CYNTHIA		2290 LEE ROY LN	LENOIR	NC	28645
DULA THOMAS H MRS	C/O GWENDOLYN CHURCH	102 RIVERCLIFF DR	HUDSON	NC	28638
WHITE SPARKY THOMAS		2034 STARCROSS RD	LENOIR	NC	28645
AIKEN CHRISTOPHER E	AIKEN JANET D	2231 OLDE WELL RD	HUDSON	NC	28638
HAIGLER TERRY KENNETH	HAIGLER MARY LOU	2020 STARCROSS RD	LENOIR	NC	28645
NORTHRUP DAVID S	NORTHRUP JOYCE A ET AL	2315 OLDE GROVE	Hudson	NC	28638
DULA RANDALL ROY		2282 LEE ROY LN	LENOIR	NC	28645

ABUTTING PROPERTY OWNERS (CONT.) & ZONING MAP

Account Name 1	Account Name 2	Mailing Address	City	State	Zip
CLINE ERNIE	CLINE BRENDA	2559 ALFRED HARTLEY RD	LENOIR	NC	28645
AIKEN CHRISTOPHER E	AIKEN JANET D	2231 OLDE WELL RD	HUDSON	NC	28638
BAIRD GERALD L LIVING TRUST		411 AYRLEE AVE NW	LEESBURG	VA	20176
ELDRETH MATTHEW D	ELDRETH BRANDY M	104 SHADY LN	LENOIR	NC	28645
RODRIGUEZ DENNY ALFREDO SANCHE	SMITH KRISTEN LINDSEY NICOLLE	4654 UNION BAPTIST RD	LENOIR	NC	28645
WORKMAN BENJAMIN	WORKMAN ANNA	2041 LEE ROY LN	LENOIR	NC	28645
REID DONNIE L		2013 LEE ROY LN	LENOIR	NC	28645
WEBB JUNIOR	WEBB KAREN	PO BOX 160	HUDSON	NC	28638
WEBB KAREN H		2018 STARCROSS RD	LENOIR	NC	28645



BACKGROUND AND ANALYSIS

Intent of Variances

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment must allow for a variance from the ordinance standards creating the hardship, when specific factors are found to be true (see findings for specific standards).

Intent of the Zoning District

R - 20 Residential (Single-family) District is intended to accommodate low density single-family residences and compatible land uses. The regulations for this district are designed to stabilize and encourage a healthful environment for family life in areas where public or community water or public sewer may not be available. Any uses which would adversely affect or interfere with the residential character and development of these areas are excluded.

Subject and Surrounding Properties

The 27-acre subject property is located in city limits on the southeast side of Lenoir and is zoned R-20 (single-family residential). It is an undeveloped, wooded tract that the applicant is currently clearing to build a home. This property is accessed off of Lee Roy Lane. At the applicant's request, the City recently named his driveway Coyote Creek Place for NG-911 purposes on September 3rd, 2024. The tract abuts properties along Lee Roy Lane, Merts Way, Old Grove Road and Starcross Road.

All of the surrounding properties are in the same R-20 zone and are developed with single family homes. Lee Roy Lane is built-out subdivision accessed off of Starcross Road, which intersects major roads Hibriten Drive to the west and Ellerwood Road to the east.

Background Information

In 2000, Starcross Subdivision Section 2 created Lee Roy Lane and Starlight Court. See Plat Book 19, Page 138, and Plat Book 27, Page 120 on page 7 & 8 of this report. This tract was not included in that subdivision except for the 45' access area into the tract. This 45' of frontage on the subject property was reserved for a right-of-way, likely into a future subdivision development. Through this 45' right-of-way, a public road could have been built to serve a larger subdivision with many homes. With the R-20 zoning district (and the 20,000 SF minimum lot size), up to 50 new residential lots could have been created on this tract. However, a development never materialized, and a 27 acre tract with 45' of public road frontage remained.

Applicant's Request

The applicant would like to subdivide the subject property into two parcels in order to build two houses on the 27 acre tract. Due to zoning requirements, new lots must have 25' of public road frontage. In its current configuration, the zoning regulations will only allow for one home to be built on the parcel, since there is not enough public road frontage for two parcels. He is proposing two lots with 22.5 feet of public road frontage each. The applicant is requesting a variance of 2.5' to the minimum public road frontage standards.



The proposed new lot line would divide the 45' of frontage into 22.5' of frontage for the two new parcels.

REQUESTED VARIANCE & RELEVANT CODE CITATIONS

Relevant Ordinances

Section 800, Table A: Zoning District Regulations requires 25 feet of street frontage per lot in all zoning districts in the City of Lenoir, including R-20.

Standards	Residential Districts			
	R-R Rural Residential	R-20 Low Density Single Family	R-15 Single Family	R-12 Single Family
Minimum Lot Area (in sq. ft.):				
Residential Uses (1-family)	(1)	(1)	15,000	12,000
Residential Uses (2+ family)	(1)	(1)		
Non-Residential Uses	20,000	20,000	20,000	18,000
Minimum Lot Width (measured at building line)		60 ft.	60 ft.	60 ft.
Minimum Street Frontage (2)	25 ft. (8)	25 ft.	25 ft.	25 ft.

DRAFT FINDINGS

No variance shall be approved unless a 4/5 majority of the Board of Adjustment finds that:

1. An unnecessary hardship is created from the strict application of the ordinance.

Staff Response: The development of the property is limited to one single family house on a 27 acre tract. The strict application of the 25' minimum street frontage prohibits the owner from placing a second home, even though there is vast space for another house.

2. The unnecessary hardship is peculiar to the property.

Staff Response: Considering the property's overall size, the 45' wide road frontage is disproportionate to the total land. A property of this size would typically allow for far more than the two houses the property owner is proposing to build. Despite abutting several neighborhoods and major roads, the property can only be accessed via Lee Roy Lane at this time. The narrow access off of Lee Roy Lane causes a hardship that is peculiar to the property.

3. The hardship is not self-created.

Staff Response: The property is shaped in such a way that inhibits any development other than a single house on a 27-acre property. The property was originally intended to be developed into a major subdivision. The property owner was not the original developer of the Starcross Subdivision, and is not responsible for the inadequate access to the tract.

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 Response: The requested variance would allow for the property owner to build two houses without making substantial changes to the lot. Adjacent lots that are just a small fraction of the size are able to accomplish similar goals as is, so putting two houses on 27 acres will not be an eyesore or noticeable to the vast majority of adjacent property owners. The intent of R-20 is to have single-family residential at a lower density than that of any other residential zoning district other than R-R (rural residential). If anything, two homes on 27 acres is a comparatively sprawled arrangement than any of the homes in the surrounding area.

By granting the variance, substantial justice is achieved by allowing the owner to place two homes on a property that far exceeds minimum lot size for two homes. No public safety issues result in the construction of two homes where there are currently zero homes.

PLAT BOOK 27, PAGE 120

Vicinity Map - No Scale

Certificate Of Ownership And Dedication

I (we), hereby certify that I (we) (see title) the owner (s) of the property shown and described herein, which is located in the subdivision jurisdiction of the City of Lenoir and that I (we) hereby assign this part of subdivision with free consent, without minimum building surface area and dedicate all streets, walks, parks, and other sites and easements to public use as shown.

9-27-2010 *Samuel H. Swanson*
Date Owner

Certificate Of Acceptance Of Dedication And Recording

I hereby certify that the Subdivision Plan shown herein has been made in conformity with the Subdivision Regulations for Lenoir, North Carolina, and has been approved by the City Council for recording in the office of the Register of Deeds of Cabarrus County. The City accepts the dedication of streets, easements, and public parks, but the City assumes no responsibility to accept or maintain any streets, easements, rights-of-way, or other lands (therein and adjacent lands) for public purposes until in the opinion of the Lenoir City Council it is in the public interest to do so. The approval of this plat shall be null and void if the plat is not recorded with the Cabarrus County Register of Deeds within sixty (60) days of the date of approval.

10-11-10 *Chadwick*
Date City of Lenoir
Mark H. Price
City of Lenoir
Director of Public Works

Certificate of Approval By The Planning Board

The City of Lenoir Planning Board hereby approves the Final Plat for the Subdivision.

9-27-10 *Samuel H. Swanson*
Date Chairman, Lenoir Planning Board

Certificate of Approval of Water Supply System and Sewerage Disposal Systems

I hereby certify that the water supply and sewerage disposal systems proposed for installation in public Subdivision meet the necessary health requirements of the Cabarrus County Health Department and are hereby approved.

Date _____ Cabarrus County Health Officer
The Authorized Representative

REVIEW OFFICER'S CERTIFICATE

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

Jay Cole REVIEW OFFICER OF
CABARRUS COUNTY, CERTIFY THAT THE MAP OR PLAT TO WHICH THIS CERTIFICATION IS AFFIXED MEETS ALL STATUTORY REQUIREMENTS FOR RECORDING.

REVIEW OFFICER
Jay Cole

DATE 10-11-10

LEGEND

Existing Iron Pipe	●	EP
New Iron Pipe	○	NP
P.W. Mail	□	PK
Concrete Monument	□	CM
New Iron Rod	○	NR
Existing Iron Rod	○	ER
Stake	●	ST
Rebarrod Spike	●	RS
Face Monument	□	FM
Temporary Bench Mark	○	TBM
M.G. Nail	●	MY

GRAPHIC SCALE - FEET

0 60 120 180

NOTARY PUBLIC

STATE OF NORTH CAROLINA
COUNTY OF CABARRUS

Mark H. Price
Notary Public
Commission Expires 12-31-11

WESTERN CAROLINA SURVEYORS, P.A.
212 HARPER AVE., S.W. LENOIR, N.C. TELE: (888) 768-8363

TITLE: Major Subdivision Of The Property Of:
"Slarcross" Section 3

CLIENT:	S & S Developers Of Hudson, LLC	TOWNSHIP:	Lower Creek	COUNTY:	Cabarrus	STATE:	NC
DEED REF.:	1644 PG. 822	TAX MAP NUMBER:	146-1-31	LAYERS:	34/38		
APP. BY:	JC	DATE:	3/5/2009	SCALE:	1" = 80'	DRAWN BY:	JC
						DATE:	3/5/2009

NOTES:

- Property is Zoned R-20 By The City Of Lenoir.
- Property is Served By Public Water & Sanitary Sewer.
- Minimum Building Setback: Front - 40'; Side - 10'; Rear - 25'.
- Total Number Of Lots = 5.
- Minimum Lot Area = 20,063 Sq. Ft.; Total Area Within Lots = 2,350 Acres; Total Area Within Proposed Road = 0.721 Acres.
- Property is Not Located Within A WS IV Watershed Area.
- Part Of The Subject Property is Located Within A 100 Year Flood Area According To Final Map Panel #3710278000, Effective Date: 7/7/09.
- Proposed Lots Are Located Outside Of The Flood Hazard Area.
- Areas Were Determined By Coordinate Geometry.
- There is No Known Horizontal Control Located Within 2,000.00' Of The Site.
- All Lot Corners Are 1/2" R/L Unless Otherwise Noted
- See Section Of Law Roy Lane To Be Dedicated To The City Of Lenoir.

PROPERTY DESCRIPTIONS:

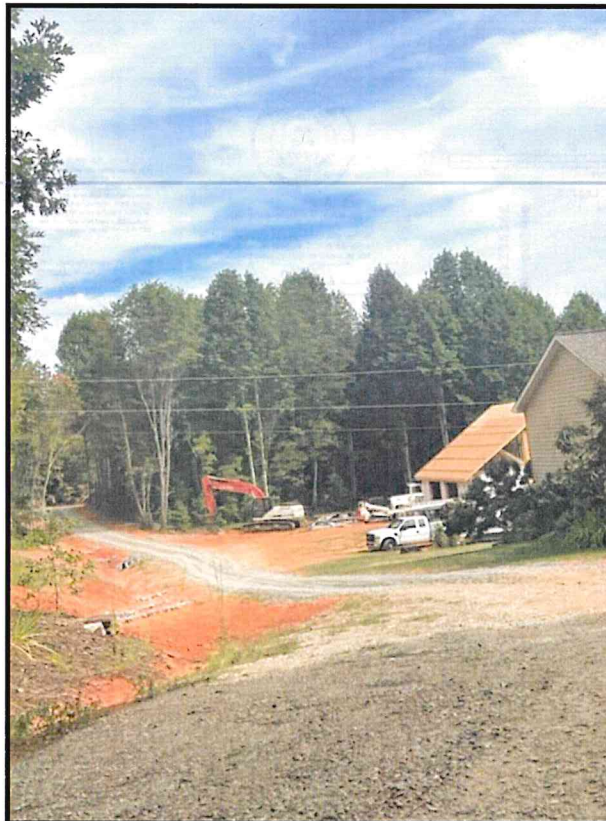
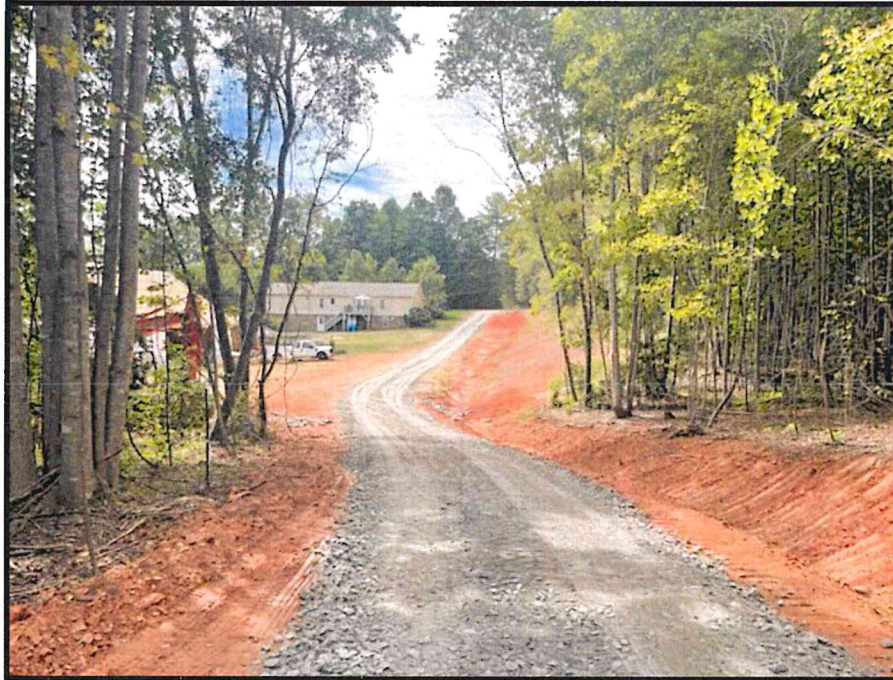
- Lot 1: 144 Sq. Ft.
- Lot 2: 20,072 Sq. Ft.
- Lot 3: 20,491 Sq. Ft.
- Lot 4: 20,063 Sq. Ft.
- Lot 5: 21,975 Sq. Ft.

ADJACENT PROPERTIES:

- "Slarcross" Section 2, Plat Book 19 Page 138
- Jerry L. Gragg, Sr., Deed Book 1318 Page 1457, WCS #6719
- Randall R. Dula, Deed Book 1463 Page 1099
- James D. Price, Deed Book 1677 Page 1923

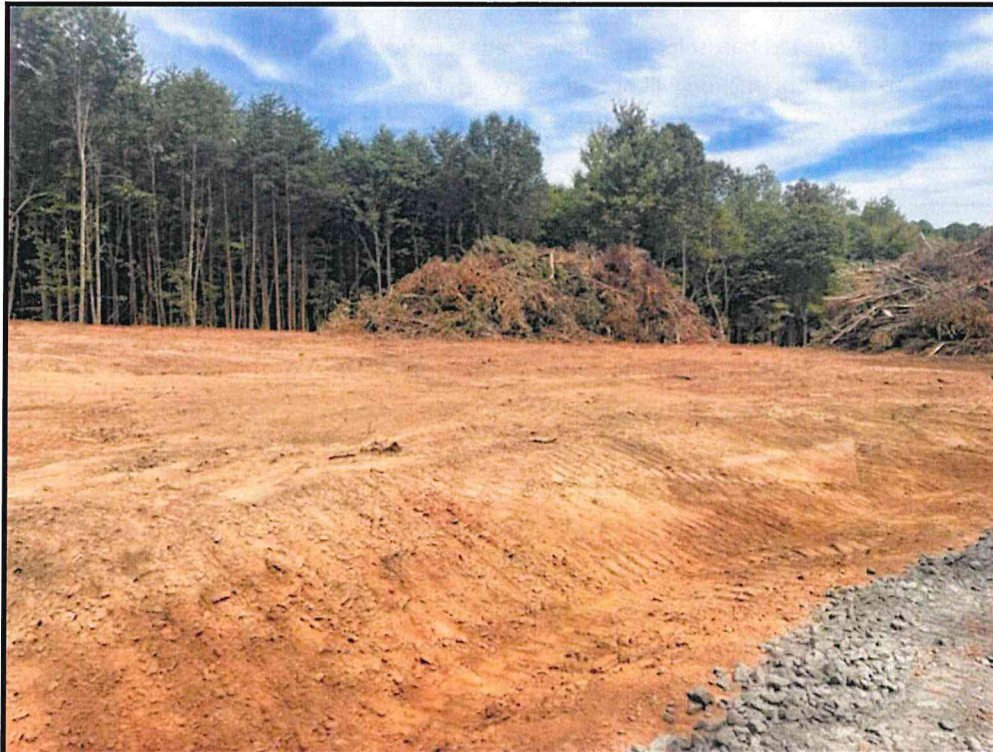
SITE PHOTOS

Below: 45' right of way from Lee Roy Lane to entrance to interior



Above: Lee Roy Lane and Starlight Court

INTERIOR PROPERTY PHOTOS



APPLICANT'S RESPONSE TO VARIANCE STANDARDS

An unnecessary hardship is created from the strict application of the ordinance. Whenever there is regulation, there is some level of necessary hardship and inconvenience shared by all of the community. An applicant must show *unnecessary* hardship, that is greater than a mere inconvenience or a preference for a more lenient standard. Cost of compliance may be a factor, but cost is not determinative. The hardship must come from the application of the ordinance. *Note: Prior to 2013, the City of Lenoir held that a hardship did not meet this standard unless the applicant showed no reasonable use of the property without the variance. This strict standard is no longer allowed under state statutes.*

ORDINANCE Requires 50ft Road frontage only
 45 ft AVAILABLE, Need 50ft frontage for
 2 houses

The unnecessary hardship is peculiar to the property. The hardship must be peculiar to the property, not general to the neighborhood or community. Such peculiar characteristics might arise, for example, from the location of the property, size or shape of the lot, or topography or water features on the site. Hardships that result from personal circumstances may not be the basis for granting a variance. The board is looking at the nature of the property and the land use ordinances, not the nature of the applicant and their circumstances.

The 27 acre property has only one
 access off of LeRoy Lane there is no
 other access

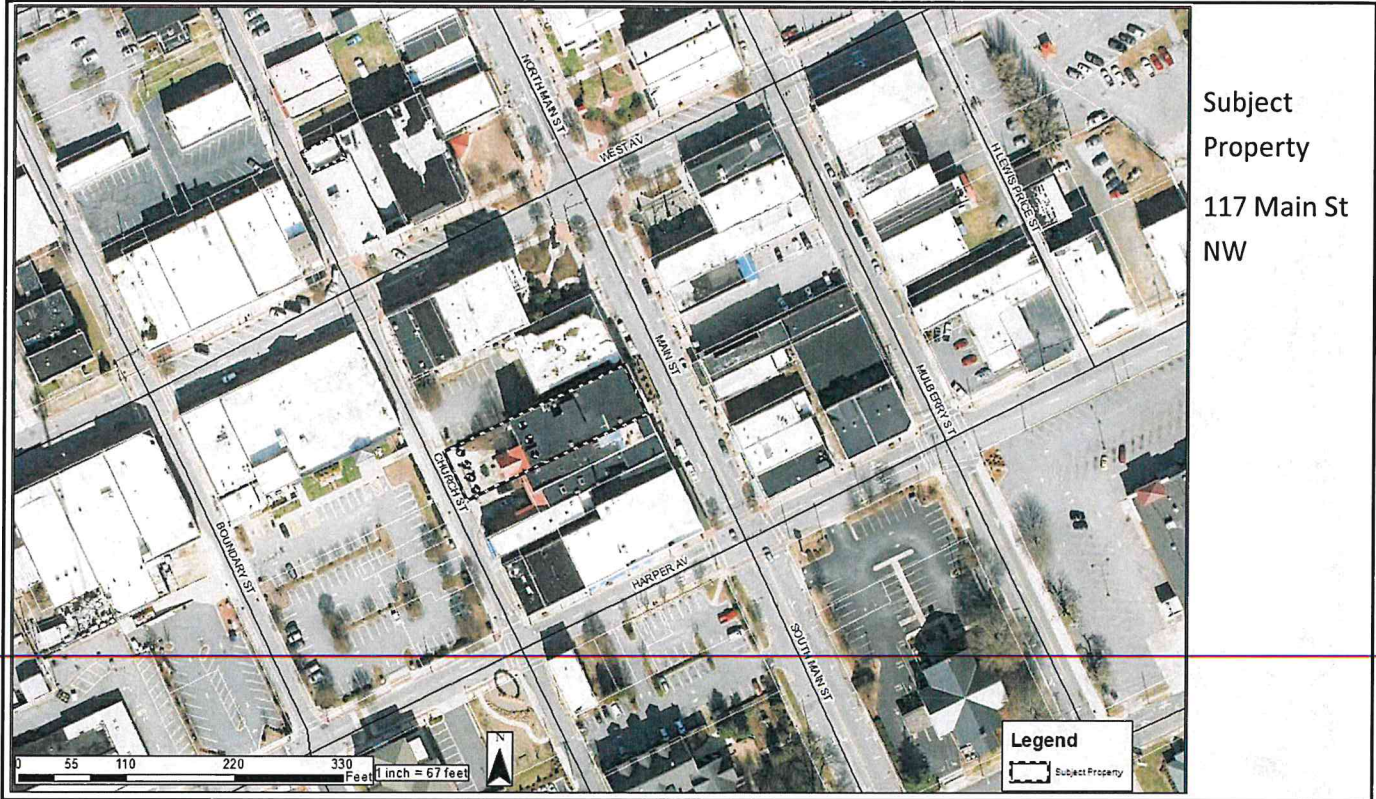
The Hardship is not self-created. The hardship must not result from actions taken by the applicant or property owner. Ignorance of the law is a self-created hardship -- variances requested due to the owner's failure to obtain appropriate building and zoning permits prior to construction will not be approved. However, purchasing a property with knowledge that circumstances exist that may justify the granting of a variance is not considered a self-created hardship.

Seller of property (Samuel Swanson), the Realtor
 prior the closing Attorney made us aware
 of this 50ft requirement

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. Where an ordinance expresses a clear intent, the variance cannot subvert that intent. The variance cannot harm public safety, even if the request meets the "unnecessary hardship" test. And the Board must ensure that substantial justice is achieved in the issuance of each variance -- the board will consider issues of fairness for the community, neighbors, and prior applicants in their decisions.

Intent is to build 2 houses on the
 property similar to houses in surrounding
 area

LOCATION MAP/AERIAL PHOTOGRAPH



Subject
 Property
 117 Main St
 NW

SUMMARY

Owner
 Heart of Lenoir LLC
 William and Janet Huntsinger

Applicant
 Janet Huntsinger

Location
 117 Main St NW—current site
 of Hogwaller stage

NC PIN
 2749779212

Project Planner
 Hannah Williams, AICP, CZO

Updated September 5, 2024

Applicant’s Request:

The applicant is requesting a variance from Sec 1112.1 of the zoning ordinance, which regulates signage in the B-3 zoning district.

The applicant is proposing 100 SF of permanent wall signage where 50 SF is allowed, and 50 SF of event/band promotional signage in the form of various banners.

Staff Recommendation:

Denial of the requested variance.

Public Comment: Notices were mailed to owners of property abutting the subject property on September 11, 2024. A sign was posted on the subject property advertising the hearing on September 13, 2024.

*****This request is quasi-judicial. You should not discuss this case with decision makers outside of the scheduled public hearing*****

ABUTTING PROPERTY OWNERS



NCPIN	Name	Mailing Address	City	State	Zip Code
2749779210	Heart of Lenoir LLC	812 WEST AVE NW	LENOIR	NC	28645
2749870203	R&J Piedmont Developers LLC	98 WAGSTAFF LN	WEST ISLIP	NY	11795
2749779178	Tye Investments LLC	422 HIGHLAND AVE SW	LENOIR	NC	28645
2749779176	Hogwaller Church Street Condo	110 CHURCH ST UNIT 1	LENOIR	NC	28645
2749779362	LLJensen LLC	127 MAIN ST NW	LENOIR	NC	28645
2749778355	Bender Restaurant Management LLC	2021 TALL OAK DR	LENOIR	NC	28645
2749778376	1275 Highway 268 LLC	626 HARPER AVE NW STE 1	LENOIR	NC	28645
2749777264	Caldwell County	905 WEST AVE NW	LENOIR	NC	28645
2749872227	Power Pops Properties LLC	7950 HOOTEN HOWS RD	NASHVILLE	TN	37221
2749872310	Douglas and Tracey Terry	7527 FALCON RIDGE RD	LENOIR	NC	28645
2749871392	A New Dimension Inc.	116 MAIN ST NW	LENOIR	NC	28645
2749872327	Lenoir First LLC	PO BOX 285	BLOWING ROCK	NC	28605
2749871451	Bruce Cannon	PO BOX 269	LENOIR	NC	28645
2749871476	Keystone Properties LLC	2606 KEYES PL	LENOIR	NC	28645

ZONING MAP



BACKGROUND AND ANALYSIS

Intent of Variances

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the Board of Adjustment must allow for a variance from the ordinance standards creating the hardship, when specific factors are found to be true (see findings for specific standards on page 4).

Intent of the Sign Ordinance

Section 1100 Intent and Purpose - The intent of this Article is to promote and protect the public health, welfare, and safety by regulating existing and proposed outdoor advertising and outdoor signs of all types. It is intended to provide content-neutral regulations and should not be applied or enforced based on content. Specifically, this ordinance is intended to:

- (a) Reduce sign or advertising distraction and obstructions that may contribute to traffic accidents,*
- (b) Protect commercial property values by creating a more attractive economic and business climate,*
- (c) Protect residential property values by creating an attractive aesthetic in residential areas,*
- (d) Enhance and protect the physical appearance of the community, and*
- (e) Provide fair, equitable, and predictable sign standards.*

Subject and Surrounding Properties

The Hogwaller outdoor stage and venue is located in the B-3 zoning district off of Church Street NW between Harper Avenue and West Avenue. It is within the National Register Historic District. The subject property includes a 600 SF stage with a metal roof, and about 5,000 SF of open area that is used for audience space, either standing or with a table set up. The open space has also been used as a loading zone and parking. The stage sits about 40 feet back from the public right-of-way. The subject property has been used as a live music venue for several decades.

All of the surrounding properties are also zoned B-3 (Central Business) and developed with a mix of land use categories. The subject property is directly behind the restaurant 1841 Café and the new location for Dead People Stuff Antiques and Emporium. There are restaurant, retail, residential, and office uses within a block on all sides of the subject property.

Background Information

Planning staff observed a zoning violation at the Hogwaller stage when a banner advertising DPS Antiques was hung without sign permits. Two other signs, a banner advertising 1841 Café and an aluminum sign advertising Hogwaller Stage have been on the site for about a decade—but staff has not found permits for these signs in the Planning Department’s record. Staff informed the owner that the banner was in violation of the code in the form of an email on July 22nd and

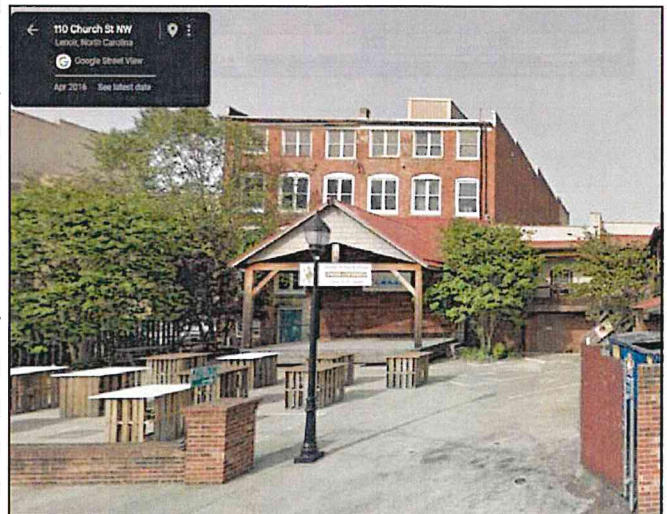


Image from Google Street View showing two signs on the Hogwaller Stage from April 2016

BACKGROUND AND ANALYSIS CONTINUED

follow-up phone call. Staff held a meeting with the owner on August 23rd to discuss how to come into compliance with the sign code. The following business day, the owner submitted a sign application with various sign proposals and this variance application. Her proposals are described below. At the time of this writing, the DPS banner observed in July has been removed.



Applicant's Variance Request

The applicant is seeking to increase the amount of wall-mounted signage on the Hogwaller Stage to 100 SF, along with 50 SF of event & promotion signage. According to the applicant, the promotional signage would be various temporary banners specific to the performers during their actual time on stage or a festival/event banner specific to the event and posted only during the event.

Applicant's Permit Submission

The applicant applied for a sign permit for the following signs, which meet current sign code regulations.

- 48 SF aluminum wall sign on the stage wall
- 10 SF sign to be hung under the stage canopy

At the time of this writing, the sign permit has not been issued due to the nonconforming signs still on display.

RELEVANT CODE CITATIONS

Article XI—Sign Regulations

Figure 1112.1: Permitted Sign Types and Regulations in the B-3 Zoning District*

Sign Type	Permitted Locations	Maximum Number	Maximum Area	Maximum Height	Permitted Illumination (see Sec. 1107.6)
Wall signs and Projecting Signs ¹ (other than blade or shingle signs, which are described below)	Facades facing a public street	2 per wall	10 percent of wall area not to exceed 50 sq. ft. (total area of all signs)	Not above parapet wall	Internal and external. Electronic Message Boards are only allowed outside of the National Register District.
	Facades facing an alley or parking lot	2 per wall	16 sq. ft. (total area of all signs)		
Canopy Signs	Attached to the face of the canopy.	1 per canopy	10 sq. ft.		Internal and external
Ground-Mounted Signs	Same permitted sign types, locations, and sizes as the B-6 Exclusive Business District.				
Freestanding A-frame Signs	Public sidewalks immediately in front of the business advertised, provided the placement does not impede pedestrian traffic or interfere with pedestrian/vehicle site triangles.	1 per street frontage	8 sq. ft. per sign face	4 ft.	None
Temporary Banners (building mounted only) ²	Facades facing a public street, alley, or parking lot	1 per street frontage	32 sq. ft.	Not above the parapet wall	None
Temporary Advertising Devices	Prohibited in the B-3 district, except on public property as a part of an approved Special Event permit.				None
Other Temporary Signs	(a) Properties that are for sale, for lease, under construction, or hiring new employees are permitted two additional temporary window signs per building façade, for a maximum total additional temporary sign area of 32 sq. ft. (b) A maximum of 8 sq. ft. of temporary signage shall be allowed per parcel for non-commercial messages.				None
<p>1. Permanent building-mounted banners, when oriented vertically (either flush mounted or projecting), may be used in lieu of other wall and projecting signs, when the total number of signs and area does not exceed the allowances prescribed above.</p> <p>2. Temporary banners may be displayed no more than twice per calendar year, for a maximum duration of 30 days each time and must have an approved permit.</p>					

*This are excerpts from the B-3 Sign regulations. See Appendix A for the entirety of Figure 1112.1

DRAFT FINDINGS: VARIANCE TO SEC. 1112.1

The applicant has provided responses to these four standards, see page 8. Below are staff's responses to the standards for Variance approval. No variance shall be approved unless a 4/5 majority of the Board of Adjustment finds that:

1. An unnecessary hardship is created from the strict application of the ordinance.

Staff Response: The Central Business District Sign Overlay allows for several sign types and sizes. The applicant has proposed signage that would meet these standards. Therefore, a hardship has not been created through the application of the ordinance.

2. The unnecessary hardship is peculiar to the property.

Staff Response: While the Hogwaller stage is a unique site in downtown, there are no peculiarities that would require more signage than other downtown businesses. The stage, and therefore the proposed signage, is visible from the public right-of-way. There is no hardship peculiar to the property.

3. The Hardship is not self-created.

Staff Response: The hardship is related to the desire of the applicant to have more signage than currently allowed by code. Therefore, the hardship is self-created.

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's Response: The intent of the B-3 sign ordinance is to enhance and protect the physical appearance of Downtown Lenoir, and to provide fair, equitable, and predictable sign standards. Predictable sign standards promotes an attractive streetscape and enjoyable sense of place. Limiting the applicant's signage to the ordinance standards, to what other downtown properties are allowed, is equitable and just. The applicant's proposed increase in signage does not meet these intents of the zoning ordinance's sign standards.

APPLICANT'S RESPONSES

VARIANCE REQUEST APPLICATION—PAGE 2

The Board of Adjustment (BOA) does not have unlimited discretion in deciding whether to grant a variance. NC General Statutes (NCGS 160A-388) require the applicant to show all of the following justifications before the BOA grants a variance. In the spaces provided below, indicate the facts that you intend to show and the arguments that you intend to make to convince the BOA that the variance is justified. Provide additional sheets as necessary. A super-majority (5/6) of the BOA must answer YES to ALL of the below statements for the variance to be granted.

Variance Justification

An unnecessary hardship is created from the strict application of the ordinance. Whenever there is regulation, there is some level of necessary hardship and inconvenience shared by all of the community. An applicant must show *unnecessary* hardship, that is greater than a mere inconvenience or a preference for a more lenient standard. Cost of compliance may be a factor, but cost is not determinative. The hardship must come from the application of the ordinance. *Note: Prior to 2013, the City of Lenoir held that a hardship did not meet this standard unless the applicant showed no reasonable use of the property without the variance. This strict standard is no longer allowed under state statutes.*

Compliance with the standard would limit the signage formats available to the onsite businesses and performers. It would also force the use of conforming signage formats that are undesirable and unattractive (i.e. Electronic message board)

The allowed Electronic Message Board would allow more advertising than the proposed variance but would be more of distraction to traffic and incongruent with the historic nature of the B-3 district and the Hogwaller Stage.

It would also limit the ability to promote local tourism through social media exposure (see next section).

The unnecessary hardship is peculiar to the property. The hardship must be peculiar to the property, not general to the neighborhood or community. Such peculiar characteristics might arise, for example, from the location of the property, size or shape of the lot, or topography or water features on the site. Hardships that result from personal circumstances may not be the basis for granting a variance. The board is looking at the nature of the property and the land use ordinances, not the nature of the applicant and their circumstances.

The Hogwaller Stage is a historic entertainment venue and, as such, it has unique signage needs. When bands are performing on the stage

videos are being made by the patrons and being posted to social media. This will have far reaching opportunities for

the advancement of the City of Lenoir tourism, as well as promotion for the onsite businesses and the various performers.

The Hardship is not self-created. The hardship must not result from actions taken by the applicant or property owner. Ignorance of the law is a self-created hardship — variances requested due to the owner's failure to obtain appropriate building and zoning permits prior to construction will not be approved. However, purchasing a property with knowledge that circumstances exist that may justify the granting of a variance is not considered a self-created hardship.

Heart of Lenoir, LLC purchased the property in June of 2024. Non-conforming signs were already in place. The addition of a sign brought the attention of the City of Lenoir and they educated the Heart of Lenoir, LLC as to the specific conformance requirements as outlined in the ordinance. The Heart of Lenoir, LLC has submitted a signage permit application which will bring the stage into compliance, however, a variance would be preferable.

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. Where an ordinance expresses a clear intent, the variance cannot subvert that intent. The variance cannot harm public safety, even if the request meets the "unnecessary hardship" test. And the Board must ensure that substantial justice is achieved in the issuance of each variance — the board will consider issues of fairness for the community, neighbors, and prior applicants in their decisions.

The stage is a covered area that, although visible from Church St., is set back from the right of way by 40 feet. The ordinance covers all buildings with a broad brush stroke that applies to buildings immediately adjacent to the city streets and sidewalks as well as all other situations. We believe that Hogwaller stage is such a unique property that a variance to allow flexibility in signage would not subvert the overall spirit and intent of the ordinances.

APPENDIX A

Figure 1112.1: Permitted Sign Types and Regulations in the B-3 zoning district (Building Mounted Only)

Sign Type	Permitted Locations	Maximum Number	Maximum Area	Maximum Height	Permitted Illumination (see Sec. 1107.6)
Wall signs and Projecting Signs ¹ (other than blade or shingle signs, which are described below)	Facades facing a public street	2 per wall	10 percent of wall area not to exceed 50 sq. ft. (total area of all signs)	Not above parapet wall	Internal and external. Electronic Message Boards are only allowed outside of the National Register District.
	Facades facing an alley or parking lot	2 per wall	16 sq. ft. (total area of all signs)		
Signs hung under awnings, canopies, and marquees	Signs must be perpendicular to the building and the lower edge of the sign must be at least 7 ft. above the surface of the sidewalk.	1 per storefront (where a tenant occupies more than one storefront or has a second entrance, a second sign is allowed)	3 sq. ft. (per sign)	N/A	External
Awning Signs	Awning signs cannot project out from or above an awning	1 per awning	10 sq. ft.	N/A	External
Blade Signs or Projecting Shingle Signs	Street-level only; when sign projects over public sidewalk, a minimum distance of 7 ft. from the sidewalk to the lowest part of the sign must be maintained. Maximum projection from facade is 3 ft.	1 per storefront, per facade	6 sq. ft.	Top of sign may not exceed 15 ft. tall, measured from the adjacent grade of the sidewalk.	External
Canopy Signs	Attached to the face of the canopy.	1 per canopy	10 sq. ft.		Internal and external
Marquee Signs	Attached to the face of the marquee, but may project above the roof of the marquee.	1 per side of the marquee	Total combined area of all marquee signs: 20 sq. ft.	N/A	Internal and external light sources
Window Signs	First Floor Windows	1 per window	20% of total window area	N/A	Internal and external light sources
	Upper floor windows	1 per window	50% of window	N/A	Internal and External light sources

1. Permanent building-mounted banners, when oriented vertically (either flush mounted or projecting), may be used in lieu of other wall and projecting signs, when the total number of signs and area does not exceed the allowances prescribed above.

2. Temporary banners may be displayed no more than twice per calendar year, for a maximum duration of 30 days each time and must have an approved permit.

APPENDIX A

Figure 1112.1: Permitted Sign Types and Regulations in the B-3 zoning district

Sign Type	Permitted Locations	Maximum Number	Maximum Area	Maximum Height	Permitted Illumination (see Sec. 1107.6)
Ground-Mounted Signs	Same permitted sign types, locations, and sizes as the B-6 Exclusive Business District.				
Freestanding A-frame Signs	Public sidewalks immediately in front of the business advertised, provided the placement does not impede pedestrian traffic or interfere with pedestrian/vehicle site triangles.	1 per street frontage	8 sq. ft. per sign face	4 ft.	None
Temporary Banners (building mounted only) ²	Facades facing a public street, alley, or parking lot	1 per street frontage	32 sq. ft.	Not above the parapet wall	None
Temporary Advertising Devices	Prohibited in the B-3 district, except on public property as a part of an approved Special Event permit.				None
Other Temporary Signs	(a) Properties that are for sale, for lease, under construction, or hiring new employees are permitted two additional temporary window signs per building façade, for a maximum total additional temporary sign area of 32 sq. ft. (b) A maximum of 8 sq. ft. of temporary signage shall be allowed per parcel for non-commercial messages.				None

1. Permanent building-mounted banners, when oriented vertically (either flush mounted or projecting), may be used in lieu of other wall and projecting signs, when the total number of signs and area does not exceed the allowances prescribed above.

2. Temporary banners may be displayed no more than twice per calendar year, for a maximum duration of 30 days each time and must have an approved permit.

CITY HALL • 801 WEST AVENUE NW • PO BOX 958 • LENOIR, NC 28645

Please use this form to file appeals concerning any interpretation of the zoning ordinance by the Planning Department or any decision or order of the minimum housing inspector. For questions about this application form, please contact the Planning Department at 828.310.8442. The concurring vote of 5 of the 6 members of the Board of Adjustment is necessary to reverse any Planning Department decision. A week prior to the BOA meeting, your request will be advertised in the News-Topic and courtesy notices will be mailed to the owners of property within 100 ft. of the subject property.

Submittal Checklist:

Appeal Form

Copy of written interpretation that is being appealed

- This may include an email, notice of violation letter, order from the housing inspector order, etc.

Statement by Appellant:

- Attach to this form a statement presenting your interpretation of the zoning map and/or zoning or housing ordinance as it relates to your appeal, and state what reasons you have for believing that your interpretation is correct.

Other Supporting Evidence

Appeal Related To:

Property Address: 312 Morganton Blvd SW Lenoir, NC NC PIN: 2759100389

Zoning District: City of Lenoir Use of property: M&B Beach Bingo

Interpretation/Order being appealed (cite specific sections when applicable):
N/R Beach Bingo - We are not Adult
Gaming - we are Beach Bingo.

Appellant Information:

Name: Amanda Moser Phone Number: (828) 238-9946

Address: 158 Cedar Ave. Email: mandymoser999@gmail.com

Hudson, NC. 28638 Relationship of Appellant to Property:

Rochelle Anta - 221-75369 Owner Tenant Agent Other

Appellant's Signature: Amanda Moser 8-30-2024

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

OFFICIAL USE ONLY:

Case Number: 1434-24 Received: 8/30/24 Advertised on: _____ BOA meeting: 9/03/24

Action by the BOA : _____

Attachments

1. Exhibit A: Appellant's statement
 2. Exhibit B: Staff Response to Appeal
 3. Exhibit C: Relevant code citations
 4. Exhibit D: Map
 5. Exhibit E: Staff interpretation letter and ordinance sheet
 6. Exhibit F: DBA Form
-

Exhibit A - Appellant's Statement

M&R Beach Bingo

Date 8/30/24

We are appealing the decision because we are not Adult Gaming or sweepstakes. We are a Beach Bingo all ages can play as long as they or with an adult.

Zoning

By law we don't need a zoning permit for a beach bingo but we was told we needed one but was denied so this is why we are asking for a hearing on the zoning part. And there's a road that is dividing the business and the homes which can't use the zoning to deny us... For a beach bingo business all we need is a license which we have from the public safety of Raleigh. Zoning sure not be no issue for our Beach Bingo.

Adult Gaming Establishment - We are not an Adult Gaming, Adult Gaming Establishment Is Stand up Games, Pull tabs, fish tables and sex contents. There is a age limit for Adult Gaming but not beach bingo all ages are welcome.

Beach Sweepstakes - We are not a Beach Sweepstakes We don't have any stand up games or Video Games or fish tables or pull taps.

Beach Bingo - We are a Beach Bingo where it is legal for all ages and groups as long as we don't go over 10.00 dollars with license make us legal. If we go over 10.00 then that's when we become illegal. We don't have stand up games and pull tabs or fish tables .we just play regular beach bingo and we call numbers by a bingo machine. Anyone is welcome to come and see. We have done bingo for 15 years never any fights; police called never came out its just clean fun for everyone.

We are under chapter 14- 309.14 article 37 we are not Chapter 14-309, 37 this is what we was listed under and this was not correctly.

Arnada Moser

Rochelle Dula

Staff Response to Appeal #1-24

Appellant's Request

Amanda Moser and Rochelle Dula (the appellants) are appealing staff's interpretation of their beach bingo business (M&R Beach Bingo) classification as an adult gaming establishment. The appellants proposed their business at 312 Morganton Blvd (NCPIN 2759160389), which does not meet the separation standards required for adult gaming establishments.

Background Information and Timeline

On August 5th, 2024, the appellants proposed their bingo business to planning staff to determine what permits were needed to establish the business. They described their location, how the game is played, and rewards granted to winners. Upon hearing that beach bingo rewards patrons with \$10 cash prizes, staff determined that the business was an adult gaming establishment and would need to meet the required separation standards (See Exhibit C, Sec. 611 Performance Standards for Adult Gaming Establishments). Their proposed location at 312 Morganton Blvd is around 150 ft away from a residential zoning district, and around 580 ft from an addiction treatment facility, which violates two of the separation standards. Staff printed the adult gaming definition and Performance Standards for Adult Gaming Establishments (Sec. 611) to the appellants.

The following day, August 6th, 2024, the appellants returned to further discuss their bingo business. They stated that beach bingo is legal for minors to play in North Carolina, and questioned if adult gaming establishments refers to the video gaming machines/electronic sweepstakes. They stated they believed their business to be a recreational business similar to an arcade. Staff maintained that since their business rewards with cash, that takes them out of other land use categories like General Gaming Establishment or Indoor Recreation, which is how an arcade would be classified.

On August 9th, 2024, staff provided the appellants with a letter describing staff's adult gaming establishment interpretation, stating that their proposed location at 312 Morganton Blvd would not be allowed. This letter also described the manner of an appeal to the Board of Adjustment.

The appellants submitted their complete appeal application on August 31, 2024.

Response to Appellant's Statement

The appellant first argues that they do not need a zoning permit to operate in Lenoir, but this is not true. Section 1301 of the zoning code describes that a zoning permit is required to commence any development activity, and Section 611(7) states that adult gaming establishments are required to obtain zoning permits.

The next argument regards the separation standards. This site backs up to Pennton Avenue and the Maehill/Oakmont neighborhood, which is zoned R-12. The appellant states that the street provides adequate separation between the subject property and the residential zone. This is not the case. Section 611(1) of the zoning ordinance requires that adult gaming establishments must be located "at least 350

Exhibit B

ft away from any residential zoning district, measured from the edge of the residential district to the closest door of the adult gaming establishment open to the public in a straight line.” There is no exception for roadways. In addition to not meeting the residential separation standard, this site does not meet another separation standard. Section 611(3) states “Adult Gaming Establishments must be located at least 1,000 ft. away from any other Adult Gaming Establishment, Adult Use, Liquor (ABC) Store, or Addiction Treatment and Recovery Facility, measured from door to door in a straight line.” This site is within 580 ft of McLeod Center for Wellbeing, an addiction treatment center at 222 Morganton Blvd.

The appellant's third argument states that beach bingo is not an adult gaming establishment because there is no age limit to play beach bingo per statutes. However, the adult gaming establishment does not include an age limit. The zoning ordinance differentiates adult gaming and general gaming with the types of rewards offered to patrons. General gaming establishment provides no reward or rewards of limited value such as children’s toys and are not redeemable for cash. Adult gaming establishment rewards with cash or other monetary payments.

The appellant’s final argument is in regard to whether they are considered a video game/internet sweepstakes business. Video gaming/internet sweepstakes are prohibited in NC (NCGS 14-309.37). The adult gaming establishment definition includes video gaming/internet sweepstakes, but is not limited to just that use. Staff finds that any gaming that rewards with cash is considered adult gaming under the Lenoir zoning code.

Recommended Action

Staff recommends that the Board of Adjustment uphold staff’s interpretation that the beach bingo business is an adult gaming establishment and must conform to the required separation standards.

Exhibit C

Relevant Code Citations

Lenoir Zoning Ordinance

Article IV – Definitions

- *Adult Gaming Establishment* - Any establishment deemed legal by state law, featuring one or more stand-alone electronic or conventional gaming units, skill-based or otherwise, or serving one or more patrons in such a capacity at any one time, which also rewards patrons with cash or other monetary payments, goods or certificates for services which are redeemable for cash or other monetary payment on or off premise and including on-line redemptions, as well as any rewards which cannot be legally obtained, consumed, or otherwise used by minors. This term includes, but is not limited to, internet cafes, internet sweepstakes, beach sweepstakes, and cyber cafes.
- *General Gaming Establishment* - Any establishment deemed legal by state law, excluding billiards halls, adult gaming establishments and any others similarly defined in this chapter, whose primary use is to provide entertainment services to the general public in the form of electronic or conventional gaming units which provide either no reward to patrons or rewards of limited value such as children's toys, games, and novelties when all of said rewards can be legally obtained and used by all ages and are not redeemable for cash or any other kind of compensation or services on or off premises, including on-line redemptions. This term includes, but is not limited to, traditional video game arcades and children's and family game centers, whether stand-alone or in conjunction with a restaurant or other permissible uses.
- *Recreation, Indoor* - Uses that provide recreational opportunities for adults and children located primarily within enclosed buildings. Indoor recreation uses include general gaming establishments, movie theaters, bowling alleys, arcades, indoor roller skating and ice skating rinks, escape rooms, laser tag, indoor play structures, trampolines, indoor rock climbing walls, museums and hands-on play spaces, and similar uses. Adult gaming establishments and billiard/pool halls are regulated separately and are not included in indoor recreation uses.

Article VI – Permitted Use Chart and Performance Standards

611 Performance Standards for Adult Gaming Establishments

1. Adult Gaming Establishments must be located at least 350 ft. away from any residential zoning district, measured from the edge of the residential district to the closest door of the adult gaming establishment open to the public in a straight line.
2. Adult Gaming Establishments must be located at least 1,000 ft. away from any school, youth day care, church, park, or playground, measured from the property line of the protected use to the closest door open to the public of the adult gaming establishment in a straight line.

Exhibit C

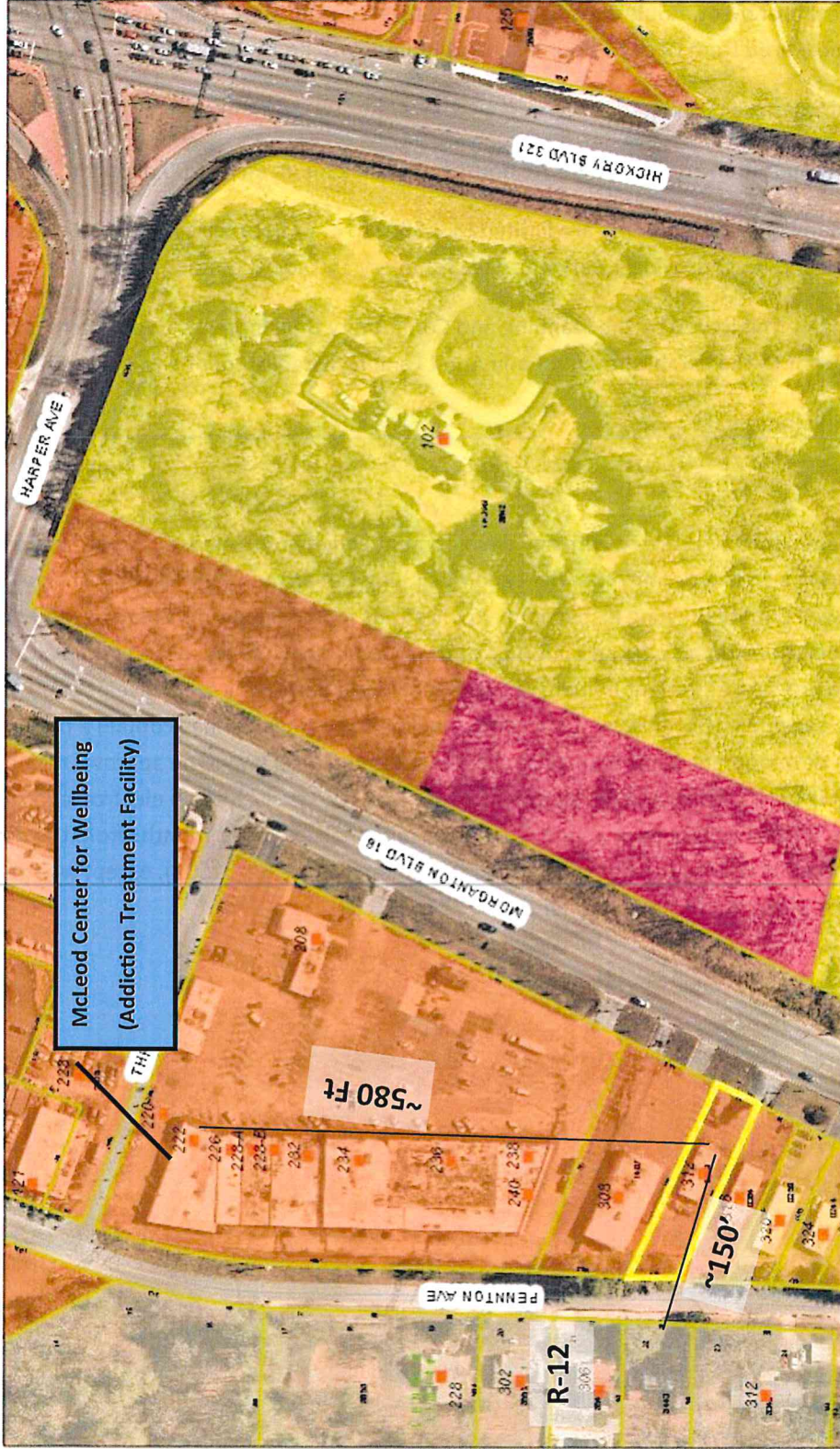
3. Adult Gaming Establishments must be located at least 1,000 ft. away from any other Adult Gaming Establishment, Adult Use, Liquor (ABC) Store, or Addiction Treatment and Recovery Facility, measured from door to door in a straight line.
4. Alcohol Sales are prohibited.
5. Hours of operation are limited to the hours between 11 a.m. and 12:00 midnight.
6. Adult Gaming Establishments are limited to 1,500 sq. ft. of floor area dedicated to gaming operations and must provide 1 parking space for every 150 sq. ft. of floor area.
7. A zoning permit issued by the Planning and Community Development department is required prior to the establishment of any Adult Gaming Establishment within the City.

Article XIII – Administration

1301 Zoning Permit Required

No person shall commence or proceed with any development activity regulated by this ordinance without first securing a zoning permit from the Lenoir Planning Department and, if applicable, a building permit from Caldwell County Building Inspections. Applications for zoning permits may be made by the landowner, a lessee or person holding an option or contract to purchase or lease land, or an authorized agent of the landowner. An easement holder may also apply for a permit for such development as is authorized by the easement. Development approvals shall be in writing and may contain a provision requiring that the development apply with all applicable State and local laws. The approval may be issued in print or electronic form. Any development approval issued exclusively in electronic form shall be protected from further editing once issued. Zoning Permits shall expire 12 months from the date of approval if development activity has not substantially commenced (see Sec. 1505), except where a longer timeframe is prescribed by this ordinance.

EXHIBIT D: MAP



This map is NOT of land survey quality and is NOT suitable for such use.

Owner	R & R ENTERPRISES	Deferred Val	\$	
	839 WILKESBORO BLVD	Assessed Val	\$124,700	
	LENOIR, NC 28645	Calc Acreage	0.27433786	
		Land Units	1 (LT)	
Acct Number	100843	Legal Desc	BK 1234 PG 153 YR 1998	ST 270.00
Parcel ID	09 34 6 13	Plat Ref	00000/00000	
NCPIN	2759160389	Property Addr	312 MORGANTON BV	

Caldwell County



September 10, 2024

PLANNING DEPARTMENT MEMORANDUM

LENOIR PLANNING DEPARTMENT
CITY OF LENOIR, 801 WEST AVENUE, LENOIR, NC 28645

TO: Amanda Moser and Rochelle Dula
FROM: Hannah Williams, Planning Director
SUBJECT: Beach Bingo Determination
SITE: 312 MORGANTON BLVD
ZONING: B-2
ISSUED: August 9, 2024
CC: File

On August 5th 2024, you proposed a beach bingo business at 312 Morganton Boulevard to Lenoir Planning. Since your business proposes to reward players with \$10 in cash, it is considered an Adult Gaming Establishment under the Lenoir Zoning Ordinance. Adult Gaming Establishments must meet several separation standards, which are attached to this letter. These establishments must be 350 feet away from residential zoning districts and 1000 feet from schools, parks, playgrounds, daycares, ABC stores, addiction treatment and recovery facilities, and any other adult use.

The 312 Morganton Blvd location does not meet the required separation standards from a residential zoning district, or from an addiction treatment facility. The beach bingo establishment cannot locate here.

You may file an appeal to the Board of Adjustment within 30 days, specifically by September 9, 2024. Appeals carry an administrative cost as determined by the City Council.

611 Performance Standards for Adult Gaming Establishments

1. Adult Gaming Establishments must be located at least 350 ft. away from any residential zoning district, measured from the edge of the residential district to the closest door of the adult gaming establishment open to the public in a straight line.
2. Adult Gaming Establishments must be located at least 1,000 ft. away from any school, youth day care, church, park, or playground, measured from the property line of the protected use to the closest door open to the public of the adult gaming establishment in a straight line.
3. Adult Gaming Establishments must be located at least 1,000 ft. away from any other Adult Gaming Establishment, Adult Use, Liquor (ABC) Store, or Addiction Treatment and Recovery Facility, measured from door to door in a straight line.
4. Alcohol Sales are prohibited.
5. Hours of operation are limited to the hours between 11 a.m. and 12:00 midnight.
6. Adult Gaming Establishments are limited to 1,500 sq. ft. of floor area dedicated to gaming operations and must provide 1 parking space for every 150 sq. ft. of floor area.
7. A zoning permit issued by the Planning and Community Development department is required prior to the establishment of any Adult Gaming Establishment within the City.

Adult Gaming Establishment - Any establishment deemed legal by state law, featuring one or more stand-alone electronic or conventional gaming units, skill-based or otherwise, or serving one or more patrons in such a capacity at any one time, which also rewards patrons with cash or other monetary payments, goods or certificates for services which are redeemable for cash or other monetary payment on or off premise and including on-line redemptions, as well as any rewards which cannot be legally obtained, consumed, or otherwise used by minors. This term includes, but is not limited to, internet cafes, internet sweepstakes, beach sweepstakes, and cyber cafes.

General Gaming Establishment - Any establishment deemed legal by state law, excluding billiards halls, adult gaming establishments and any others similarly defined in this chapter, whose primary use is to provide entertainment services to the general public in the form of electronic or conventional gaming units which provide either no reward to patrons or rewards of limited value such as children's toys, games, and novelties when all of said rewards can be legally obtained and used by all ages and are not redeemable for cash or any other kind of compensation or services on or off premises, including on-line redemptions. This term includes, but is not limited to, traditional video game arcades and children's and family game centers, whether stand-alone or in conjunction with a restaurant or other permissible uses.

This document presented and filed:
07/22/2024 09:49:56 AM

Fee \$26.00



Caldwell County North Carolina
Wayne L. Rash, Register of Deeds

ASSUMED BUSINESS NAME CERTIFICATE (NCGS §66-71.5)

Please print legibly.

1. The assumed business name is: M:R Beach Bingo

(You may include no more than five (5) assumed business names on this form.)

2. The real name of the person or entity engaging in business under the assumed business name is:
Amanda Hall Moser
Rochelle Dula

(Corporations, LLC's, limited partnerships must provide the exact name registered with the NC Secretary of State's office and the SOSID number assigned at the time of formation. Go to www.sosnc.gov/br/search to look up your information.)

3. The nature/type of the business is: Beach Bingo

4. The street address of the principal place of business is: (PO Boxes are not acceptable)
312 Morganton Blv. Lenoir, N.C. 28645

5. The mailing address, if different from the street address, is:

6. The counties where the assumed business name will be used to engage in business are:
 All 100 North Carolina counties

This certificate is signed by the owner/legal representative of the person or entity named above, this 22 day of July, 2024.

Signature: Amanda H. Moser

Printed/Typed Name: Amanda H. Moser - Rochelle Dula

Title: General Partnership

(See instructions for who must sign for various business entity types.)