



Town of
INDIAN TRAIL
north carolina

P.O. Box 2430

Indian Trail, North Carolina 28079

Telephone (704) 821-5401

PLANNING AND NEIGHBORHOOD SERVICES

Variance Staff Report

Case: VAR 2010-001			
Reference Name	4214 Manchester Lane		
	Proposed Request	Variance from UDO Sections 1110.080(F) & 13120.030(C) to allow for a second driveway access	
Existing Site Characteristics	Existing Zoning	SF-1 (single-family residential)	
	Existing Use	Single-family detached home	
	Site Acreage	0.569 acres	
Applicant	David Casper		
BOA Hearing Date	January 4, 2011		
Location	4214 Manchester Lane		
Tax Map Number(s)	07-066-473		
Plan Consistency	Town of Indian Trail Land Use Map	Designation	Sardis/Interchange Mix Village
		Consistent with Request	No

Project Summary

Request: This is a request to allow a variance from Sections 1110.080(F) and 13120.030(C) of the Unified Development Ordinance for a second driveway access.

Areas of Analysis:

1. **Subject Property:** The property is zoned SF-1, with a single-family detached home on it and is located in the Brittany Downs East subdivision.
2. **Adjacent Properties & Businesses:** All of the adjacent properties are zoned SF-1, and are in or near Brittany Downs East subdivision.
3. **The Comprehensive Plan:** The subject property is located within the Sardis/Interchange Mix Village, which allows for a mix of medium and high density residential uses, along with a mix of nearby commercial and industrial uses. Staff is of the opinion that the variance request, as proposed, is not consistent with the Plan.
4. **Compliance:** Staff is of the opinion that the application is complete, but that the request does not comply with the UDO and goals of the Comprehensive Plan.

Background

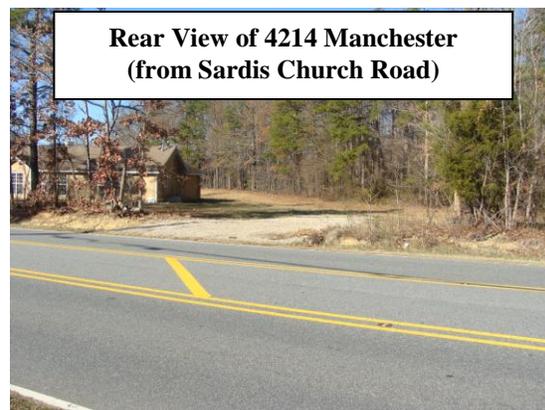
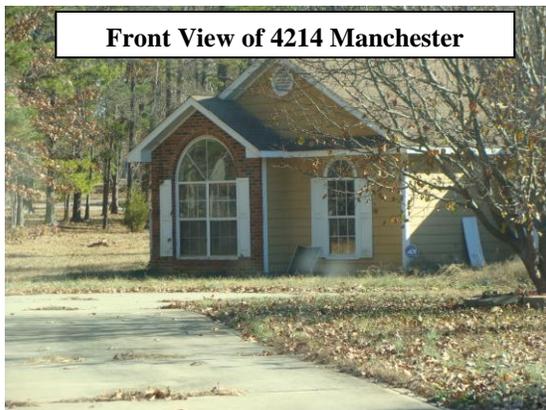
The applicant, David Casper, requests this variance in order to do the following (See **Letter of Intent in Attachment 1**):

- 1) Obtain a new address for his property onto Sardis Church Road using a second driveway access, which he will then make his primary access;
- 2) Get an exterior upfit for his property, so that his property facing Sardis Church Road becomes the new front of his home, instead of his current front facing Manchester Lane; and
- 3) He believes that he will have greater security to his property by obtaining this variance, and better protect it from any future vandalism.

Site and Adjacent Properties

The subject property is located in Brittany Downs East subdivision, which is composed of two phases. Brittany Downs East contains a total 135 lots in all, and was approved by Union County as a major subdivision development in 1993. The existing home is 1,135 square feet, and has a concrete driveway connecting to Manchester Lane in the property's front. All of the adjacent properties are also single-family residential uses in nature.

Map & Pictures of 4214 Manchester Lane (shows current front and back)



Staff Review

This variance request deals with the following UDO Sections (key parts in red):

UDO Division 1110 – Subdivision Regulations

Section 1110.080 Lots

F. Lots on Thoroughfares

Major subdivisions may not be approved that permit individual residential lots to access major thoroughfares or boulevards.

UDO Division 1300 – General Development and Design Standards

Section 13120.020 Driveways and street access shall comply with the following:

- C. All lots or parcels are entitled to at least one (1) driveway connection per street frontage on any street except those which access is otherwise limited or controlled. Requests for two (2) driveways will only be accepted for lots with a street frontage of 350 feet or more.

Here is staff's assessment of this variance request:

1. **Subdivision Lot Access-** Allowing this request would create a nonconforming situation on the property and within Brittany Downs East as a whole. Brittany Downs East is a major subdivision that currently meets all UDO requirements, and allowing this request would create a nonconforming situation in a subdivision where none previously existed.
2. **Street Frontage-** In allowing this variance, this also creates a nonconforming situation by allowing a driveway onto a limited or controlled access road. Boulevards or thoroughfares are designed to be limited or controlled access roads, and the Town's Comprehensive Plan does identify Sardis Church Road as a four-lane boulevard. Therefore, if allowed, this request would not be in compliance with both the UDO and the Comprehensive Plan.
3. **Professional Opinions-** Staff has also received the following professional opinions regarding this variance:
 - a. **Town Engineer-** Is of the opinion that granting this variance will lead to more traffic congestion on a major thoroughfare/boulevard like Sardis Church Road, as well as its proximity to a major intersection (Sardis Church Road and Unionville-Indian Trail Road).
 - b. **NCDOT-** Will not issue a driveway permit for any driveway access from the subject property onto Sardis Church Road. Sardis Church Road, as well as the roads in Brittany Downs East, are all NCDOT-maintained roads.
 - c. **Union County Sheriff's Office-** Is of the opinion that a driveway access onto Sardis Church Road from the subject property will not deter or eliminate any future crime and/or vandalism to the property.

Plan Consistency

The subject property is located within the Sardis/Interchange Mix Village of the Comprehensive Plan. This Village promotes a variety of commercial and industrial uses, as well as medium and high density residential uses, while avoiding land use conflicts.

Staff is of the opinion that this request does not meet the goals of the Comprehensive Plan for the following reasons:

1. **Goal 1.3.3** – Staff is of the opinion that allowing this second driveway would create more traffic congestion than reducing it. By allowing this to be a primary access onto Sardis Church Road, there will be an increase to overall congestion along the road itself.
2. **Boulevards/Thoroughfares** – Sardis Church Road is identified as a four-lane boulevard in the Plan, which means that it is designed to have limited or controlled access. By allowing this request, it would create a nonconforming situation with both the UDO and the goals of the Plan.

Required Findings

Under UDO Chapter 380, the Board of Adjustment, when considering whether to approve an application for a variance request, shall review and evaluate the following:

1. **Whether the application is complete.**
 - a. Staff is of the opinion that the application for VAR2010-001 is complete.
2. **The Board will consider whether the application complies with all of the applicable requirements of this ordinance.**
 - a. The facts show that VAR 2010-001 would not be in compliance with the requirements set forth by the Unified Development Ordinance.
3. **If the Board of Adjustment concludes that all such requirements are met, it will issue the permit unless it adopts a motion to deny the application for one or more of the reasons set forth in UDO Chapter 380.020. Such a motion will propose specific findings, based upon the evidence submitted, justifying such a conclusion, regardless of approval or disapproval.**

Under UDO Section 380.020, the Board of Adjustment must make these required considerations of public health, safety, and welfare. The Board of Adjustment's authority in the review of this variance application is broad and the Board may approve with conditions if it concludes, based upon the information submitted at the hearing, that the proposed request finds that:

1. **Strict compliance with the UDO will cause the applicant not to be able to make any reasonable use of their property; and**
2. **The hardship suffered by the applicant is solely the applicant's, and is not suffered by any other neighbors and/or the general public; and**
3. **The hardship suffered by the applicant relates solely to the applicant's land, rather than any personal circumstances on the applicant's part; and**
4. **The hardship suffered by the applicant is unique (or nearly so), rather than being shared by many surrounding properties; and**
5. **The hardship suffered by the applicant is not the result of the applicant's own actions; and**
6. **The variance will neither result in the extension of a nonconforming situation in violation of UDO DIVISION 1400, Nonconformities, nor authorize the initiation of a nonconforming use of land.**

If one of these findings cannot be made, then the Board must move to deny the variance request, stating for the record why the Board has decided to do so.

Summary

The Town has provided its analysis of this variance request in the above staff report, and now offers this into the record for the Board's consideration.

Staff Contact

Jonathon Edwards

Junior Planner

(704) 821-5401 ext. 242

je@planning.indiantrail.org

Attachments

Attachment 1- Variance Application/Letter of Intent

ATTACHMENT 1

**VARIANCE
APPLICATION**

R-000219



Town of
**INDIAN
TRAIL**
north carolina

PLANNING AND DEVELOPMENT DEPARTMENT
PO Box 2430
Indian Trail, NC 28079
Telephone (704) 821-5401
Fax (704) 821-9045



ONLY COMPLETE APPLICATIONS ACCEPTED

Processing Fee \$300.00

Notification Fee \$2.50 per adjoining property owner



VARIANCE APPLICATION

Date Received 10/25/10

Submittal Requirements

- Completed Application
- Notarized signatures of applicant and property owner
 - Letter of Intent
 - 8 copies of Concept Plan
- Statement of Justification (used to determine if Findings of Fact can be made at public hearing)
- Statement of Appraisal, if necessary
- Fees associated with review

Timeline/Procedures

- The Board of Adjustment, which hears all Variances, meets on the fourth Thursday every month.
- All of the submittal requirements must be met by the first day of the month before the Variance is heard. For example, if you wanted to present your case to the Board of Adjustment on the 4th Thursday of March, you must complete the submittal requirements by February 1st.
- The hearing is Quasi-Judicial in nature, which means there is no deliberation or communication before the hearing, as in a court case. See Section 310.080 of the UDO for more details.
- You must show that suffer from each of the hardships listed Hardship Description section below with facts alone for the Board of Adjustment grant a Variance.

General Information

Project Address 4214 MANCHESTER LN
 City MONROE State NC Zip 28110
 Tax Parcel ID 07066 473 Zoning Designation _____
 Total Acres _____ Impervious Area _____
 Project Description _____

Contact Information – Applicant

Name DAVID E CASPER SR
 Address PO BOX 429
 City INDIAN TRAIL State NC Zip 28079
 Phone 704 564-5488 Fax 704 225-1540
 Email D.WOODDUST@AOL.COM



VARIANCE APPLICATION

Contact Information – Property Owner

Name HERITAGE PROPERTIES OF NC
Address 7845 Cohoony Rd
City CHARLOTTE State NC Zip 28226
Phone 704 442-7449 Fax 704 525-9627
Email

Applicant's Certification

Signature David E Casper Sr Date 10-25-10
Printed Name/Title DAVID E CASPER SR
Signature of Notary Public Robert W. Whick Date 10/25/10
Notary Seal

Property Owner's Certification

Signature David E Casper Sr Date 10-25-10
Printed Name/Title DAVID E CASPER SR PO
Signature of Notary Public Robert W. Whick Date 10/25/10
Notary Seal



VARIANCE APPLICATION

TOWN OF INDIAN TRAIL OFFICE USE ONLY

CASE NUMBER: VAR 2010-001

DATE RECEIVED: 11/01/2010 AMOUNT OF FEE: \$300.00

RECEIVED BY: (Signature) Jason Edwards RECEIPT #: 8688

Project Information

Has work started on the project? Yes No

If yes, did you obtain a building permit? Yes No If yes, please attach a copy

Have you received a Notice of Violation for this project? Yes No If yes, please attach a copy

Has this property been rezoned? Yes No If yes, Petition Number _____

Hardship Descriptions

SUMMARIZE THE EVIDENCE YOU PLAN TO PRESENT FOR THE FOLLOWING ITEMS:

- If the applicant complies strictly with the provisions of the ordinance, he can make no reasonable use of his property; Summarize Evidence:

THIS PROPERTY IS SUBJECT TO CRIME, IT HAS BEEN BROKEN INTO + 21,500 DAMAGE TO INTERIOR

- The hardship of which the applicant complains is one suffered by the applicant rather than by neighbors or the general public; Summarize Evidence:

IF THIS PROPERTY CAN NOT BE REPAIRED IT WILL DEGRADATE TO AN LOT VALUE OF A LOT (AS VALUES CONTINUE TO DESTROY)

VARIANCE APPLICATION



3. The hardship relates to the applicant's land, rather than personal circumstances; Summarize Evidence:

I CAN NOT UP FIT PROPERTY WITH THE PRESENT CONNECTION TO SUB DIVISION

4. The hardship is unique, or nearly so, rather than one shared by many surrounding properties; Summarize Evidence:

THIS PROPERTY BORDERS PROPERTY I PLANTY OWN,

5. The hardship is not the result of the applicant's own actions; Summarize Evidence:

I CAN NOT MAKE ADDITIONS UP DATE, INGRESS TAX VALUE, AS IT IS NOT TIED INTO CRIME RIDDEN SUB DIVISION, BY PRESENT DRIVE

6. The variance will neither result in the extension of a nonconforming situation in violation of Division 1400 of the UDO nor authorize the initiation of a nonconforming use of land. Summarize Evidence:

THIS DO NOT APPLY

(Attach additional sheets if necessary)



CASPER BUILDERS & ELECTRIC

DBA DAVID CASPER

P.O. BOX 429

INDIAN TRAIL, NC 28079

NC License # 11637

Cell 704.564.5488

Fax 704.225.1540



To: Board of Adjustments, Town of Indian Trail
Reference: Reason for Request of Variance on 4214 Manchester Ln., Monroe, NC 28110

To Whom it may Concern:
The reasons for this request are listed below:

- 1) I would like to tie the property into my first piece of property located at 4307 Sardis Church Rd. To do this effectively I will need the entrance off of Sardis Church Rd.
- 2) I would like to up-fit the home to a more suitable place of residence. With upgrades to the home, tax value will increase. In order to accommodate the upgrades, I will need the entrance off of Sardis Church Rd. Without the entrance off of Sardis Church Road, then the up-fitting and additions are not economically feasible.
- 3) I have noted that the property placement in the neighborhood lends itself to be a cut through for various individuals which has previously caused me a great loss. I began repairing tenant damages in the home and painting the entire inside during February of this year. During the month of March, while cutting through the property, two young individuals broke into the home and vandalized it for more than \$20,000. I would like to have some separation from the neighborhood, in order to keep my investment and future home safe. If I can not obtain security through these means, the situation is sure to progress and I can not afford to take loss after loss. In essence, I will be forced to leave only lot value for taxation purposes. This security can be accomplished by allowing an entrance off of Sardis Church Rd.

I greatly appreciate the time that you have given to this situation and look forward to a fair outcome.

Thank You,



David E. Casper Sr.