



INDIAN TRAIL  
north carolina  
P.O. Box 2430  
Indian Trail, North Carolina 28079  
Telephone (704) 821-5401  
PLANNING AND NEIGHBORHOOD SERVICES

## Variance Staff Report

<b>Case: VAR 2014-003 Front Setback Deduction from 40 Ft. to 25 Ft.</b>		
<b>Reference Name</b>	Frontier Circle Front Setback	
<b>Proposed Request</b>	Variance Relief from Section: <ul style="list-style-type: none"> <li>510.040 Lot and Building Standards, (B) Lot Size, Density, Setback and Height Table (Front Setback)</li> </ul>	
<b>Existing Site Characteristics</b>	<b>Existing Zoning</b>	SF-1 (Single-Family Residential)
	<b>Existing Use</b>	Vacant
	<b>Site Acreage</b>	0.74 (32,234 Sq. Ft.)
<b>Applicant</b>	Patsy Moore, Property Owner	
<b>BOA Hearing Date</b>	November 19, 2014	
<b>Location</b>	Lot 22 Frontier Circle (Moores Park Subdivision), Indian Trail, NC 28079	
<b>Tax Map Number(s)</b>	07-117-055	
<b>Plan Consistency</b>	<b>Designation</b>	Old Monroe Village
	<b>Plan Consistency</b>	Yes

### Project Summary

Ms. Patsy Moore, the property owner of Lot 22 on Frontier Circle (Parcel 07-117-055) is requesting a variance for relief from the front setback requirement to help facilitate the construction of a single family residence.

The current requirement for the front setback in the Single Family (SF-1) District is forty (40') feet. Ms. Moore has an individual interested in purchasing Lot 22 in the Moore's Park subdivision to construct a single family residence. The request is to reduce the front setback to twenty-five (25') feet to allow a larger leveled buildable area for the home to be constructed on.

The applicable UDO Section is:

- 510.040 Lot Size, Density, Setback and Height Table
  - SF-1 District
    - Front Setback – Forty (40') Feet

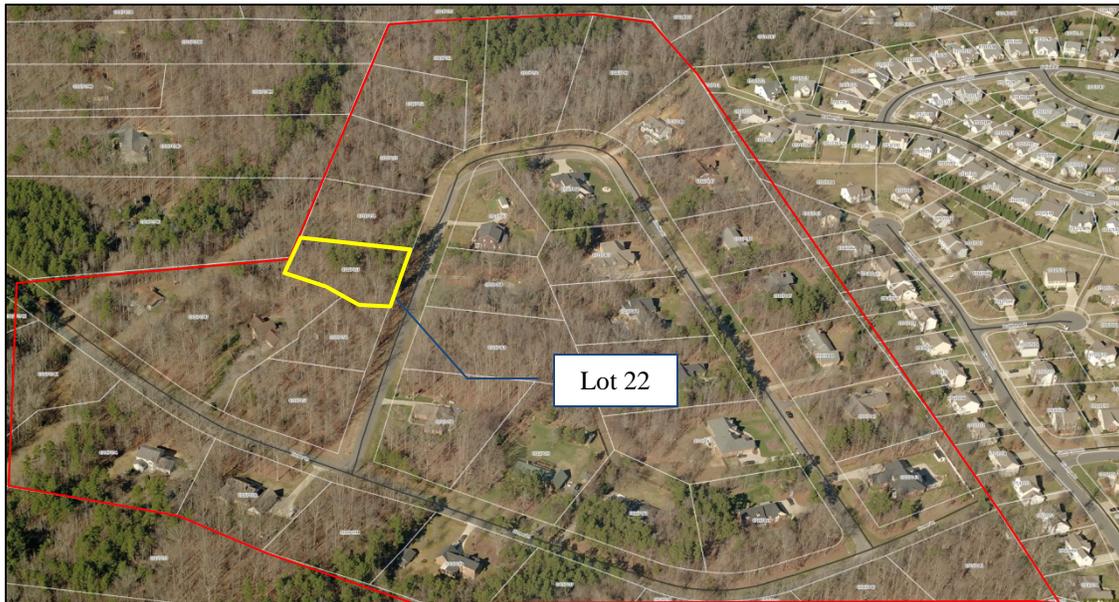
The property owner is asking for a reduction of fifteen (15') feet from the required forty (40') foot to allow for a twenty-five (25') foot front setback due to the presence of an existing stream, the 100 year floodplain, and the topography of the site.

This public hearing for the subject variance was noticed in compliance with NC State Statutes and the UDO. Adjacent property owners were notified by first class mail and the property was properly posted. There are no HOA's in the vicinity to be notified.

## Analysis

### Site and Adjacent Properties

The subject property is located in the Moore's Park subdivision. The neighborhood is zoned SF-1 (Single-Family Residential) and was created in 1974. The lot is approximately 0.74 acre or 32,234 square feet, as referenced in the maps below.

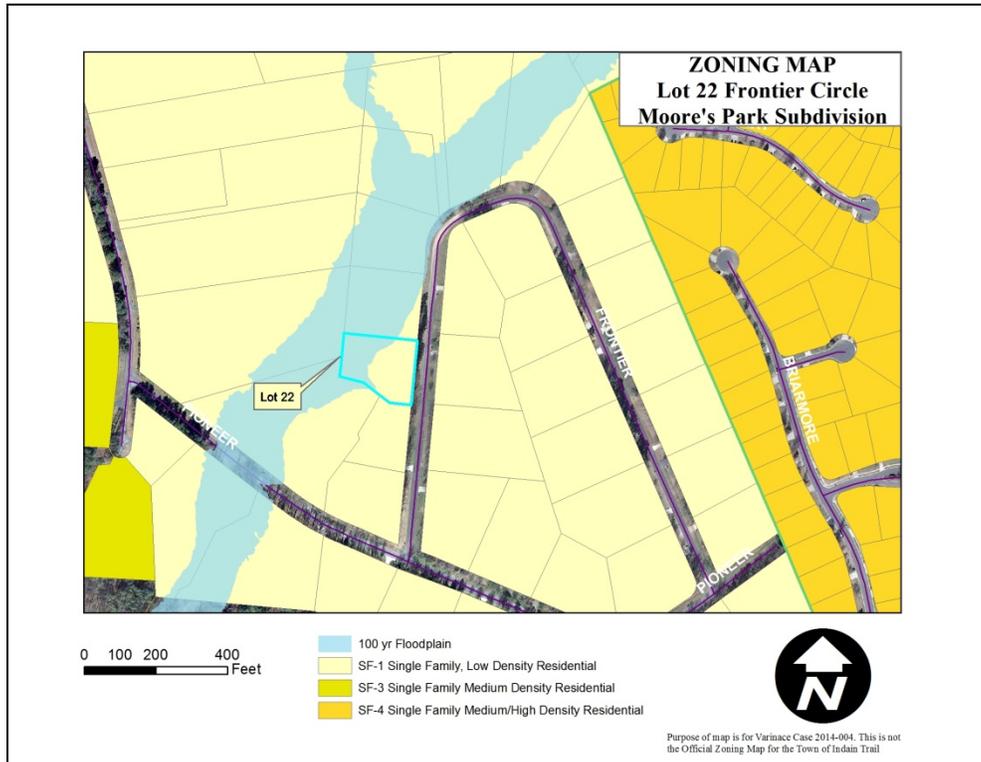


*Moore's Park (Lot 22 in yellow)*

All of the properties surrounding Lot 22 are zoned SF-1 and consist of lots that average between three-quarters of an acre to one acre in size. As referenced in the maps below, this lot has a prohibited building area of approximately 13,000 square feet (40% of the lot) due to the floodplain in the rear.



*Unbuildable Area (100 yr Floodplain)*



*Zoning & Floodplain Map for Moore's Park*

*Topography:* The property has a relatively flat area at the front of the lot with a gentle slope to the rear. There is a dramatic drop off on the right side where the bank of the stream is located. **Attachment #3** has pictures that showing the stream and where the proposed setback would be located based on field observations.

**Letter of Intent/Statement of Justification**

The applicant states in her Letter of Intent and Statement of Justification (*See Attachment #1*) there are particular hardships from which she suffers, below is a staff summary.

1. Ms. Moore has stated that because of the very deep slope and drops at the rear of the property it would be difficult for a home to be placed on the lot with a forty foot front setback. There would need to be substantial grading completed to make for a more desirable building site.
2. Ms. Moore is stating that the stream running through the property is a hardship verses a personal circumstance.
3. While there are a few lots in the neighborhood that have the stream on them; this lot has a substantial amount of the stream, topographical issues and floodplain that limit the amount of buildable area

**Variance Request**

This request is for relief of the forty foot front setback associated with Section 510.040 of the UDO, which provides regulations for lot size, density and setback standards within the Town.

510.040 Lot Size, Density, Setback and Height Table

The front setback for the SF-1 District is consistent with the approved Moore's Park subdivision when it was initially created. One difference is that the SF-1 District allows for a fifteen (15') foot side setback verses a twenty (20') foot side setback that is required in the Moore's Park subdivision.

**Outside Agencies**

Engineering Department (waiting on Adam's comments).

No other comments.

**Plan Consistency**

The subject property is located within the Old Monroe Village Plan of the Comprehensive Plan, which is a Suburban Mix Village. This project is consistent with Comprehensive Plan goal 2.3.2 Land Use and Housing.

*Land Use and Housing No. 3: Improve existing Indian Trail neighborhoods to create strong and vibrant communities.*

The construction of a new single-family home on an infill lot within an established Indian Trail neighborhood will increase investment in the neighborhood and help contribute to its overall viability.

**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 permit is in the Town's Jurisdiction according to the table of permissible uses:**  
The subject property is within the Town's jurisdiction to regulate single-family residential uses and its accessory uses.
2. **Whether the application is complete.**  
Staff is of the opinion that the application for VAR2014-003 is complete.
3. **The Board will consider whether the application complies with all of the applicable requirements of this ordinance.**  
The facts show that VAR 2014-003 would not be in compliance with the front setback requirements set forth by the Unified Development Ordinance, however, the subject application is for a Variance to these requirements. If approved, the proposal will comply will all applicable sections of the Unified Development Ordinance.

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. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no

reasonable use can be made of the property; *and*

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance; *and*
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as self-created hardship; *and*
4. The requested variance is consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured and substantial justice is achieved; *and*
5. The variance will neither result in the extension of a nonconforming situation in violation of 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.

If the Board is of the opinion that the above required findings can be made to approve the variance, staff recommends the site be subject to the following conditions:

1. A zoning permit is applied for including the proposed elevation of the home for review and approval; and
2. All necessary permits must be obtained from Union County Building Code Enforcement Department and any other outside agencies; and
3. Potential tree save areas along the sides and possibly at the front of the home to lessen the impact of the home being placed at a twenty-five foot setback verse a forty foot setback.

## **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**

Kevin P. Icard, AICP, CZO

Senior Planner

(704) 821-5401

[kicard@planning.indiantrail.org](mailto:kicard@planning.indiantrail.org)

**Attachment 1** – Application/Letter of Intent

**Attachment 2** – Surveys

**Attachment 3** – Additional Images

**ATTACHMENT #1**  
Application/Letter of Intent

**ATTACHMENT #2**  
Surveys at Forty Feet and Twenty-Five Feet

**ATTACHMENT #3**  
Additional Images