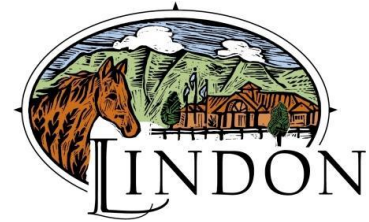


# Notice of Meeting

## Lindon City Board of Adjustment



The Lindon City Board of Adjustment will hold a meeting on **Wednesday, May 17, 2023**, in the downstairs conference room of Lindon City Hall, 100 North State Street, Lindon, Utah. The meeting will begin at **5:30 p.m.** The agenda will consist of the following:

### AGENDA

#### 1. Call to Order

#### 2. Approval of Minutes from June 25, 2019

#### 3. Variance: Rear Yard Setback — Lucas Collier 758 East 770 North

The applicant is requesting a rear yard setback variance of ten (10) feet to the rear yard setback requirement of thirty (30) feet. If approved, the rear yard setback of the lot in question would be twenty (20) feet.

Adjourn

Staff Reports and application materials for the agenda items above are available for review at the Lindon City Planning Department, located at 100 N. State Street, Lindon, UT. For specific questions on agenda items our Staff may be contacted directly at (801)785-7687. City Codes and ordinances are available on the City web site found at [www.lindoncity.org](http://www.lindoncity.org). The City of Lindon, in compliance with the Americans with Disabilities Act, provides accommodations and auxiliary communicative aids and services for all those citizens in need of assistance. Persons requesting these accommodations for City-sponsored public meetings, services programs or events should call Kathy Moosman, City Recorder, at (801)785-5043, giving at least 24 hours notice.

**Posted By:** Brandon Snyder

**Date:** June 29, 2016

**Time:** ~ 1:00 pm

**Place(s):** Lindon City Center, Lindon Community Development, Lindon Police Department, Lindon Community Center

**Item 1. Call to Order**

**Jeff Southard - Chair**

**Glenn Mitchell - Board member**

**Greg Slater – board member**

**Steve Smith – board member**

**Jeff Wilson – board member**

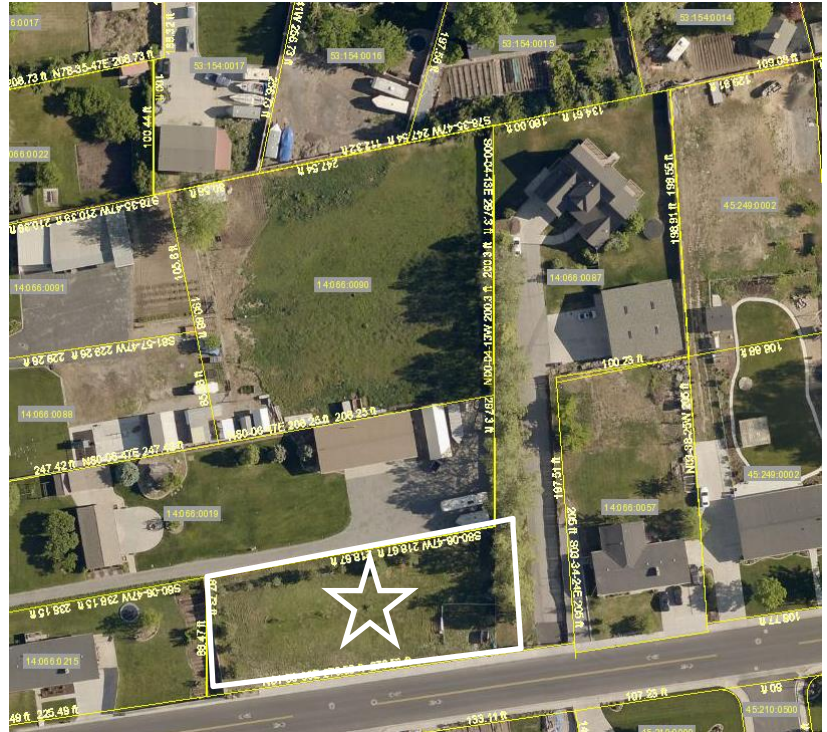
## Item: 3    Variance Approval – Collier Rear Yard Setback – 740 W. 100 S.

**Date:** May 17, 2023

**Applicant:** Lucas Collier  
**Presenting Staff:** Michael Florence

**Property Owner:** Lucas and Whitney Collier  
**Project Address:** 740 W. 100 S.  
**Parcel ID:** 14:066:0087  
**Size:** .46 acres

**General Plan:** Residential Low  
**Current Zone:** R1-20  
(Residential)



### Summary of Key Issues

1. The applicant is requesting a variance for the rear 30 ft setback for Lot 18 of Timber Creek Estates Plat D.

### Overview

1. On November 29<sup>th</sup>, 2023, the Planning Commission officially approved Timber Creek Estates Plat D with the nonconforming depth on Lot 18, due to a 1997 variance. The subdivision plat has not yet been recorded because the owner is installing infrastructure prior to recording the plat.
2. In 1997, a variance for the depth of this parcel was granted to the Munson's, who were the owners at the time, by the Lindon City Board of Adjustment.
  - a. The owner at that time made a concept plan application for a possible subdivision, but never officially applied or provided engineered plans. Meeting minutes do not exist for this Board of Adjustment meeting.
3. The applicant owns both 18 and 19 on the Timber Creek Estates Plat D., Lot 18 is located along 100 S. with the following characteristics:
  - a. The property is zoned R1-20.
  - b. Previous owners have used this field for grazing horses.
4. The setbacks for the R1-20 zone require a 30' front and rear yard setback. With the setback requirements, the buildable area for a residential dwelling is 27-34' deep.

5. The applicant is requesting a variance to reduce the rear yard setback by 10', for a total rear yard setback of 20'. This would allow a 37-43' deep residence.

### **Development Analysis**

<b>Required</b>	<b>Lot 18</b>	<b>Compliant with City Standards</b>
Minimum Lot Size: 20,000 square feet	20,007 sq. ft.	Yes
Minimum Lot Width: 100 feet	224 ft	Yes
Minimum Lot Depth: 100 feet	87.81 ft (east property line) 93.88 ft (west property line)	Yes, with 1997 variance
Minimum public street frontage: 50 feet	224 feet	Yes

### **Motion**

I move to (*approve, deny, continue*) the applicant's request for 20' rear yard setback located at 750 W. 100 S. (Lot 18 on Timber Creek Estates Plat D) with the following conditions:

1. Timber Creek Estates Plat D will be recorded before a building permit for Lot 18 is approved;
2. The buildable area and reference to the variance be added to the plat; and
3. All items of the staff report.

### **Surrounding Zoning & Land Use**

North: R1-20 - Residential

East: R1-20 - Residential

South: R1-20 - Residential

West: R1-20 - Residential

### **Purpose of the Single-Family Zone – Title 17.44**

The Single Family Residential Zones (R1) are established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of one (1) family detached dwellings on individual lots that are separate and sheltered from non-residential uses found to be inconsistent with traditional residential lifestyles customarily found within Lindon City's single-family neighborhoods.

### **Residential Low General Plan Description**

Residential-Low (buff) 2 or less DU/AC: It is the purpose of this category to provide areas of low density residential neighborhoods of essentially spacious and uncrowded character to promote the benefits of an open, rural atmosphere, and to provide for areas where large animals are permitted. Includes area typically zoned as R1-20.

### **Variance Request**

LCC 17.10.050 addresses variances in Lindon City, and it states:

- Any person or entity desiring a waiver or modification of the requirements of the land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the land use ordinance.

The applicant is requesting a variance from the rear yard setback requirement for Lot 18. A rear yard setback is currently required to be 30 ft, measured from the rear property line, within the R1-20 zone (Lindon City Code 17.44.080).

### **Variance History – Lot 18**

- In 1997, James and Ann Munson applied for a variance for the depth of the property now known as Lot 18 of Timber Creek Estates Plat D. Lot 18, at its shallowest end, is about 87.81 ft deep, and the Lindon City residential code requires that all lots in the R1-20 zone be 100' deep. Originally, the idea behind subdividing this property would be to construct a cul-de sac down the existing driveway, as seen in the 1997 Proposed Subdivision exhibit.
- On 5/15/1997, this depth variance was approved. After extensive research of the City archives, staff has concluded that the minutes from this meeting were not preserved. We do not know why or how the 1997 Board of Adjustments justified this decision, or if any conditions were included. All we have is a note that states: Approved 5/15/1997.
- In June 1997, James Munson applied for a concept map and subdivision, to create the subdivision seen on the 1997 Proposed subdivision exhibit. This subdivision was intended to open up the back property and provide a way for surrounding property owners to develop their land. However, it was never brought to the planning commission, and therefore, never approved. There are no review documents to suggest that it was reviewed, and no further documentation on why it was not completed.



- Over the years, many potential buyers have come to the city to ask if Lot 18 could be subdivided, but the city has consistently said no, because of the obvious depth problem. The depth variance document was only recently uncovered from the city records, after research into the history of this property. With this document, and with the note confirming approval, it seems that a depth variance was granted in 1997. Therefore, Lot 18 was recently approved for a subdivision by the planning commission, despite the depth issue.
- Neighboring property owners suggest that the lot depth variance was tied to the road being constructed. The city has no records of this condition of approval.

The approved subdivision from November 2022 has yet to be recorded with the county, due to some public improvements that must be completed before the plat is recorded. Therefore, a condition for this variance was added, requiring the recordation of Timber Creek Plat D before a building permit is approved. This is to ensure that this reduced setback is only permitted on the future Lot 18, and the residence that will be built on it.

### **Variance Requirements**

According to city and state code, the Board of Adjustments must determine whether this variance meets the following five criteria:

1. Any person or entity desiring a waiver or modification of the requirements of the land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the land use ordinance.
2. (a). The Board of Adjustment may grant a variance only if:
  - i. Literal enforcement of the land use ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
  - ii. There are special circumstances attached to the property that do not generally apply to other properties in the same zone;
  - iii. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
  - iv. The variance will not substantially affect the general plan and will not be contrary to the public interest, and;
  - v. The spirit of the land use ordinance is observed and substantial justice done.
- (b). i. In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a) above, the Board of Adjustment may not find an unreasonable hardship unless the alleged hardship:
  - A. Is located on or associated with the property for which the variance is sought, and;
  - B. Comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- ii. In determining whether or not enforcement of land use ordinance would cause unreasonable hardship under Subsection (2)(a) above, the Board of Adjustment may not find an unreasonable hardship if the hardship is self-imposed or economic.
- (c). In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the Board of Adjustment may find that special circumstances exist only if the special circumstances;

- i. Relate to hardship complained of, and;
  - ii. Deprive the property of privileges granted to other properties in the same district.
3. The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
4. Variances run with the land.
5. The Board of Adjustment and any other body may not grant use variances.
6. In granting a variance, the Board of Adjustment may impose additional requirements on the applicant that will:
  - (a). mitigate any harmful affects of the variance, or;
  - (b). serve the purpose of the standard or requirement that is waived or modified.

All five criteria must be found in favor of the variance in order for it to be valid. The unreasonable hardship may not be self-imposed or purely economic, and must arise from conditions unique to the property.

### **Variance Discussion**

The applicant has brought forward this setback request to the board. The applicant believes that due to the depth of the property the depth of a future residence is limited. The depth a of future home would be between 27-34' in depth.

Staff has put together the following analysis for this variance but it is the responsibility of the applicant to present the argument to support the variance.

**1. Literal enforcement of the land use ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances.**

The general purpose of the rear setback is to ensure proper spacing for single family homes within the R1-20 zone and to help meet the requirement of Title 17.44.120 – “In an R1 zone, all buildings, including accessory buildings and structures, shall not cover more than forty (40) percent of the area of the lot or parcel of land.” The applicant would still meet the 40% area requirement if the setback variance were granted. A couple of questions for the Board of Adjustment to consider is whether a home that meets all of the standard setbacks in the R1-20 zone can be built on the lot. Second, whether the applicant is self-imposing the hardship by requesting a larger home. At the narrowest section the home would be 27' up to 34'. If the Board of Adjustment granted the variance, then the home would have a width ranging from 37' to 44'. The applicant is the one designing the home that will go on the future lot and does know the parameters of the future lot.

**2. There are special circumstances attached to the property that do not generally apply to other properties in the same zone.**

There are older homes in the R1-20 zone that have non-conforming setbacks and lot areas. A special circumstance that should be considered is the 1997 variance.

**3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone.**

This item goes back to whether or not a home can be built on the lot. If a variance needs to be granted in order to fit a home on the future lot then this item could be considered as meeting the requirement.

**4. The variance will not substantially affect the general plan and will not be contrary to the public interest.**

The general plan states: Residential-Low (buff) 2 or less DU/AC: It is the purpose of this category to provide areas of low-density residential neighborhoods of essentially spacious and uncrowded character to promote the benefits of an open, rural atmosphere, and to provide for areas where large animals are permitted. Includes area typically zoned as R1-20.

**5. The spirit of the land use ordinance is observed and substantial justice done.**

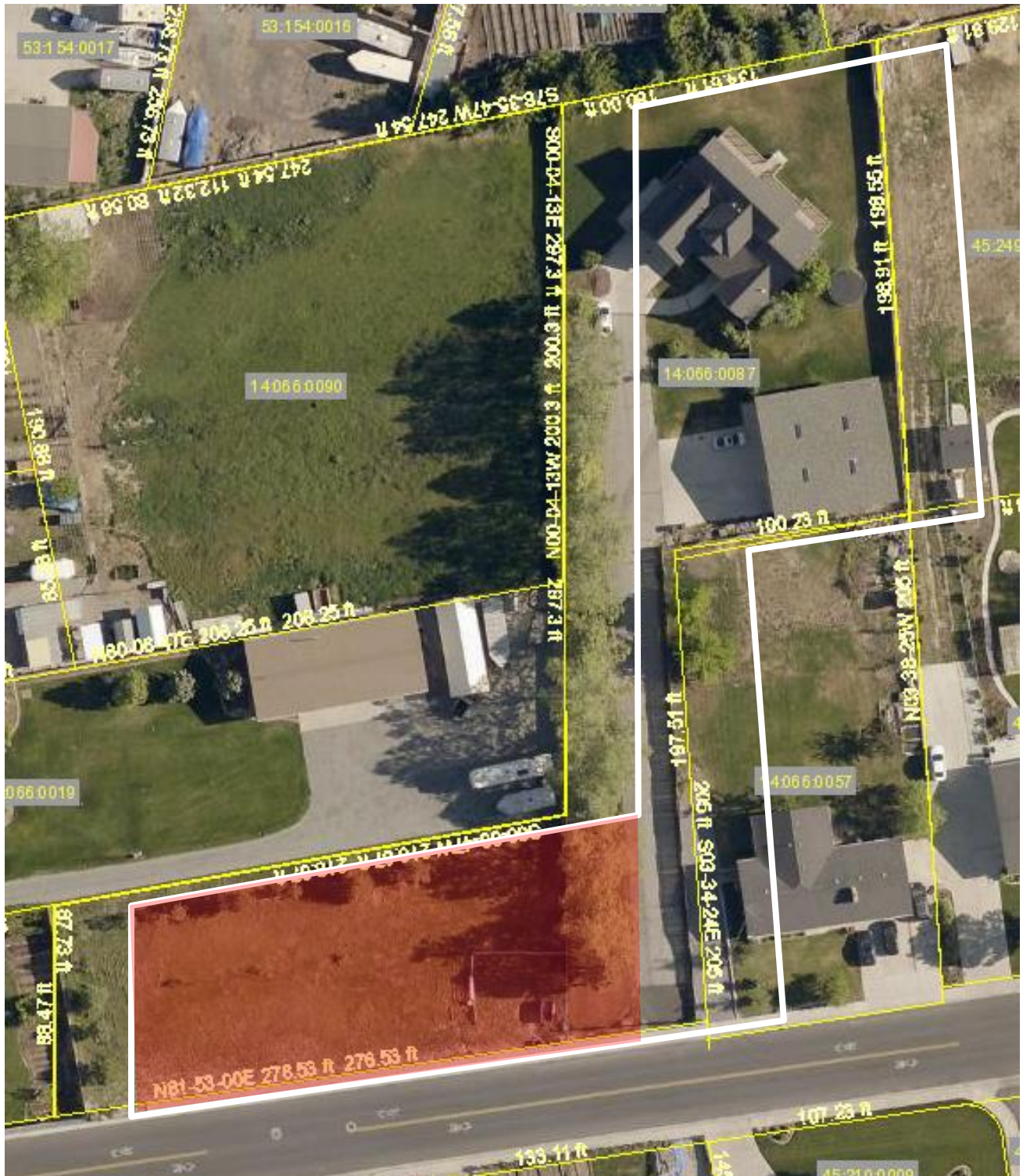
Title 17.44 – The Single-Family Residential Zones (R1) are established to provide areas for the encouragement and promotion of an environment for family life by providing for the establishment of one (1) family detached dwellings on individual lots that are separate and sheltered from non-residential uses found to be inconsistent with traditional residential lifestyles customarily found within Lindon City's single-family neighborhoods.

**Exhibits**

1. Aerial Photo
2. Subdivision Plat – Timber Creek Estates Plat D
3. Site Plan Showing Setback
4. 1997 Variance Document
5. 1997 Proposed Concept Subdivision Plan

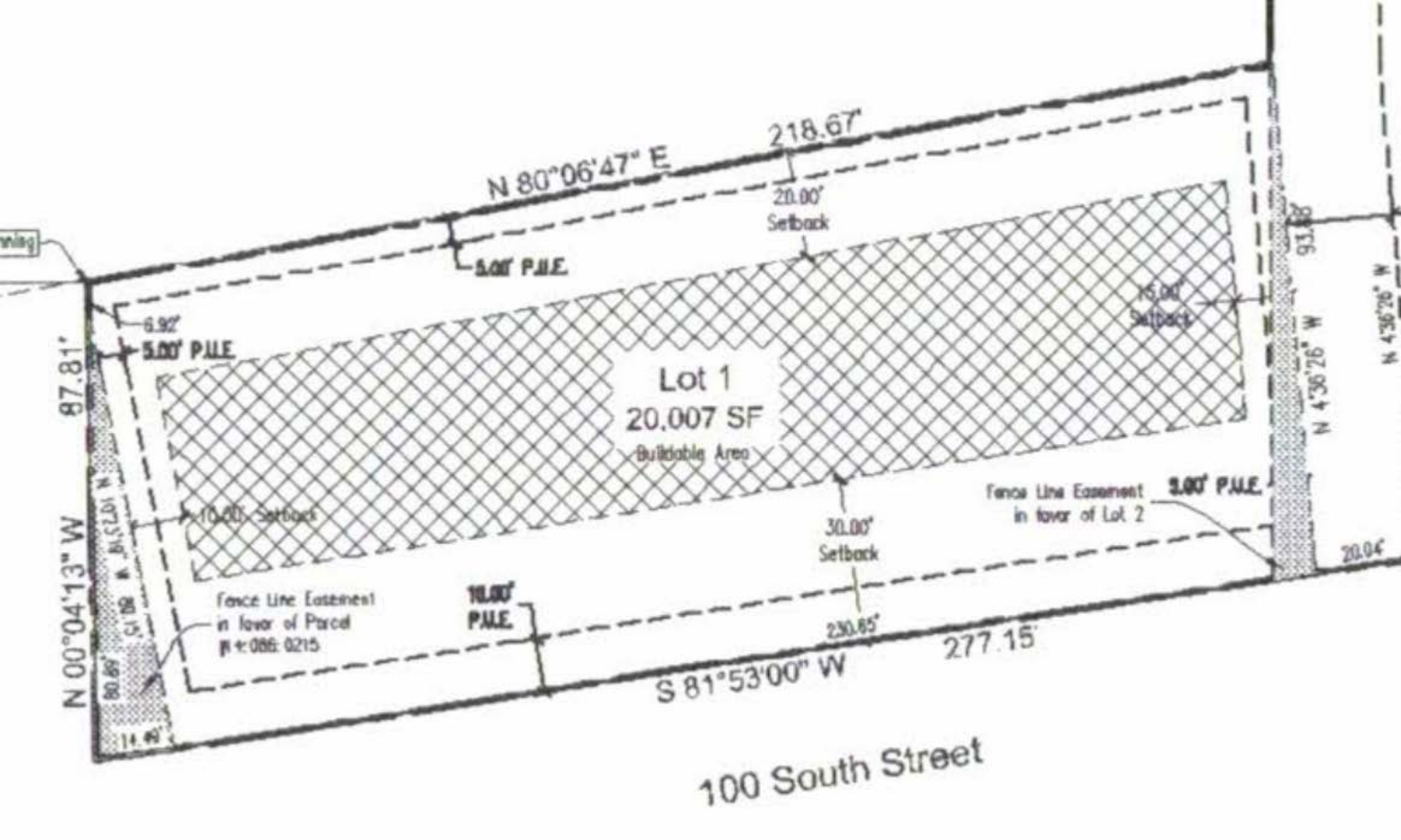


Red area is Lot 18









# OFFICE USE ONLY

Date Filed \_\_\_\_\_  
 Legal (2) \_\_\_\_\_  
 Site Plan (5) \_\_\_\_\_  
 Floor Plan (2) \_\_\_\_\_  
 Elevations (2) \_\_\_\_\_

Application # \_\_\_\_\_  
 Meeting Date \_\_\_\_\_  
 Sec/Twp/Rnge \_\_\_\_\_  
 Fee \$200 200.00 paid 4/14/97  
 Existing Zoning \_\_\_\_\_

Planner Initials/Comments:

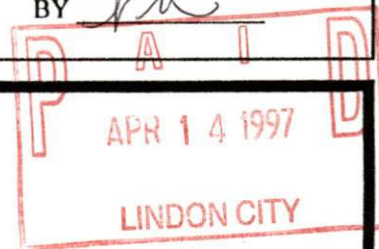
Reference Files:

Receipt # 3.97545

BY km



## LINDON CITY VARIANCE APPLICATION FEE: \$200.00 APPLICANT: Please Type or Print



Property Owner's Name: JAMES & ANN MUNSON Telephone: 229-1428  
 Applicant's Name: JAMES MUNSON Telephone: \_\_\_\_\_  
 Name of Contact Person: JAMES MUNSON Telephone: \_\_\_\_\_  
 Correspondence To Be Sent To: JAMES & ANN MUNSON Telephone: \_\_\_\_\_  
 Address: 1561 North 1040 West Assessor's \_\_\_\_\_  
OREM UT 84057 Parcel Number: \_\_\_\_\_  
 (City) (State) (ZIP)

Property Address or Nearest Cross Streets: 740 SOUTH WEST 100 SOUTH LINDON

PLEASE BRIEFLY DESCRIBE PURPOSE OF REQUEST: VARIANCE FOR MINIMUM DEPTH

### PLEASE ANSWER THE FOLLOWING:

1. What special circumstances or conditions exist, applicable to the property or building referred to in the application, which you believe justify a change of restrictions (exceptional narrowness, shallowness, shape or topography)?
2. Explain any other special circumstances or hardships (not pertaining to the lot) which you believe justify a change in restrictions.
3. Explain why the granting of this application is necessary for the preservation and enjoyment of substantial property rights.
4. Explain how the granting of such application will not materially affect the health or safety of persons residing or working in the neighborhood and will not be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.
5. Explain how the granting of this application will not adversely affect the Lindon City Master Plan.

(I, We), the undersigned, swear and say that (I am, We are) the owner(s) of record on the Tax Rolls of the property involved in this application, or (am, are) otherwise qualified to initiate this application under Lindon City Code; that the information on the attached legal description, all plans, drawings, and sketches attached hereto and all the statements and answers contained herein are in all respects true and correct to the best of my knowledge and belief, and the undersigned understands that this application must be complete and accurate before a hearing can be conducted.

[Signature] (and) Ann Munson  
 Property Owner Property Owner  
 \_\_\_\_\_ (and) \_\_\_\_\_  
 Property Owner Property Owner

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

My Commission Expires:

NOTARY PUBLIC

LINDON CITY CORPORATION  
383 WEST LAKEVIEW ROAD  
LINDON, UTAH 84042

PHONE: (801)785-5043

RECEIPT NO: 3.97545

APRIL 14, 1997

MUNSON, JAMES & ANN

PLANNING/ZONING FEES-VARIANCE

200.00

TOTAL:

\$ 200.00

CASH  
AMOUNT APPLIED:

200.00  
200.00

CHANGE TENDERED

\$ 0.00

## **Introduction.**

Jim and Ann Munson request a variance be given to build a home on the front portion of a lot they own in Lindon. They will be building a road on their property that could enable other property owners to split and sell their property and make a little cul-de-sac across the street from another subdivision. It would also keep this property from becoming land locked. The property owners do not currently wish to do this but would like to in the future. The building of this road would enable the Munsons to build another home on the front of their property.

## **Purpose of Request.**

The purpose of this request is to ask the Board of Adjustments to approve a variance on the minimum depth of property from 100 feet to 87 feet 9 inches (Actual field measurement of 91 feet). The depth varies the measurement given is the minimum depth the farthest east portion of the lot measures 99 feet 6 inches.

## **Responses to questions 1 through 5 on the Variance Application.**

1. The lot is an odd shaped lot we have not seen any other lots in Lindon shaped in this manner. The best way to describe it is a double flag shaped lot. In order to build on the frontage portion of the lot we need to provide a road to the back portion of the lot. This would be done. The road would meet minimum requirements for the City.

2. The portion we are requesting a variance on would be an asset to the community as a house and not a vacant field collecting trash. The lot directly west has a home built on it which has the same depth as the lot we are requesting a variance for.

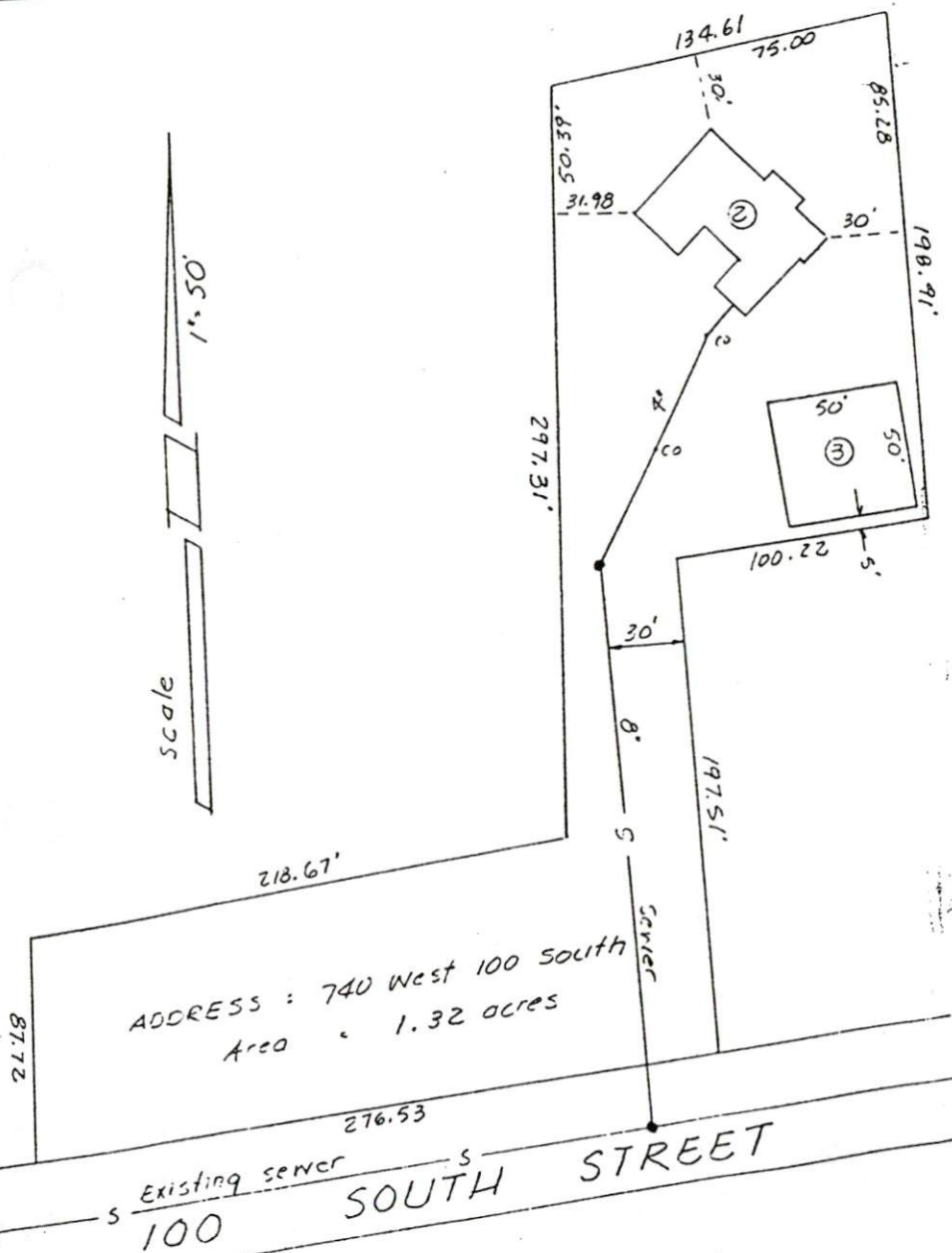
3. Granting of this application would enhance the property rights of all homes in the area. It would do this by allowing a home to be built on a lot that would otherwise be detrimental to the neighborhood in the future.

4. The granting of this application would be a benefit to the persons residing in the neighborhood. Far from being injurious it would add to the improvements taking place currently. There is a small subdivision being built directly south of the lot in question. The future home owners, and families moving into those homes have less to fear from a nice home than a vacant field with barb wire fences.

5. The spirit of the low density residential lot is one of size. The lot in question would meet the size requirements for a lot in Lindon it does not meet the depth requirements. As stated earlier it would be on a lot that would look much like the home directly west. It would enhance the property values of the homes around it and meet the spirit of low density housing.







## NOTES

1. All work shall conform to Lindon City Standard Specification, Drawings, and ordinances.
2. Proposed home - see accompanying plans
3. Proposed Garage/Shop - shall be either block or steel. Plans shall be submitted prior to construction.

**CURRENT**

SITE PLAN  
FOR  
JIM MUNSON  
LINDON, UTAH

DESIGNED BY JM  
DRAWN BY DCA  
CHECKED BY \_\_\_\_\_  
SCALE 1" = 50'

ALLEN CONSULTING SURVEYORS  
532 North State Street  
Lindon, Utah 84042  
785-0857

DRAWING NO. S-1  
SHEET 1 OF 1  
PROJ. NO. 97011  
DATE JAN 97

Homeowner  
Notification

April 29, 1997

Dear Homeowner,

The purpose of this letter is to inform you that Ann and Jim Munson have applied for a variance in the depth of a lot. This lot is located at 740 West 100 South in Lindon. They are required by City ordinance to notify you of the request.

The request for variance is scheduled to take place May 15, 1997 at 7:00 P.M. the office is located at Lindon City Hall, 383 West Lakeview Road, Lindon Utah. This meeting will take place before the board of Adjustments. Any interested parties are invited to attend.

By reading and signing this letter you acknowledge your notification of this request for variance, and the meeting scheduled to hear the request.

Sincerely,

*Ann & Jim Munson*

Ann and Jim Munson

<i>Wayne Whiteley</i>	<i>79 So. 800 W</i>
<i>Zed E. Johnson</i>	<i>85 So. 800 W</i>
<i>Dean R. Johnson</i>	<i>710 W. 100 So.</i>
<i>Laure Hanning</i>	<i>680 W. 100 So.</i>
<i>Jim N.H.</i>	<i>780 W. 100 So.</i>
<i>Andy Frost</i>	<i>775 W. 100 So.</i>
<i>RL</i>	<i>118 S. 740 W.</i>

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Sincerely,

Ann and Jim Munson

*Bill Vagstad*

360-5206

690 W. 100 So.

Front cover reads: Approved 5/15/97

CITY OF LINDON

PRELIMINARY PLAT  
MUNSON

LINDOM

SCALE: 1" = 50' FEET

