



CITY OF BURLINGTON

PLANNING DEPARTMENT

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THE REGULAR MEETING of the **BOARD OF ADJUSTMENT** of the City of Burlington, North Carolina will be held on Tuesday morning August 8, 2017 at 8:30 a.m. in the Council Chambers, Burlington Municipal Building, 425 S. Lexington Avenue, for the purpose of hearing the following appeal:

AGENDA

ITEM NO. 1:

Call meeting to order.

ITEM NO. 2:

Approval of the minutes of the meeting held June 13, 2017.

ITEM NO. 3:

CASE NO. 08-17 SPECIAL USE PERMIT (City)

Divine Miracles Home Daycare

709 Arden St.

Alamance County Tax Map number 112-464-89

§ Section 32.13.W

Child Daycare Facility

All persons interested in the above mentioned appeal(s) are requested to appear before the BOARD OF ADJUSTMENT at the time and place mentioned above when, and where, they will be given the opportunity to be heard. The City of Burlington will provide reasonable accommodations, auxiliary aids, and services for any qualified disabled person interested in attending the public hearing. To request the above, you may contact Mrs. Rachel Kelly at (336) 222-5076 (Phone), or rkelly@ci.burlington.nc.us (email) no later than three (3) days prior to the date of the public hearing.

H. E. Wilson, III
Chairman, Board of Adjustment

MINUTES
BOARD OF ADJUSTMENT
City of Burlington, NC
June 13, 2017

Members Present

City:

Mr. Ed Wilson, Chairman
Mr. Mike Gee, Vice-Chairman
Mr. Eric Grant (Alt.)

Members Absent

City:

Mr. Todd Smith
Mr. Robert Giles II (Alt.)
Mrs. Joyce Lance

ETJ:

Mrs. Sylvia Greeson (Alt. ETJ)

ETJ:

Mr. David McDevitt

Also present were Mr. Joey Lea, Zoning Administrator and Mr. Chris Marland, Zoning Enforcement Officer.

Chairman Mr. Ed Wilson called the meeting of the Board of Adjustment to order at 8:30 a.m. Chairman Mr. Ed Wilson stated, the city representatives to the Board of Adjustment are appointed by the City Council. This is a quasi-judicial hearing. Everyone speaking before the Board should state their name, sign the log on the podium, and swear or affirm that everything they say is true to the best of their knowledge. Appeals of the Board's decisions may be taken to the Alamance County Superior Court. The City will state their position because of their knowledge of the case and the technical codes. The applicant will state their case, and then anyone from the public may speak. After the applicant and the public have presented all evidence the Board will then close the meeting to the public and discuss the case and vote. During this time no more evidence shall be admitted nor any other arguments made unless the Board wishes to ask the Applicant a question pertaining to the evidence already presented. Anyone that tries to make an argument or present any evidence at this time will be out of order. The Chairperson may order any individuals who willfully interrupts, disturbs, or disrupts to leave the meeting. Any person who fails to comply with this order is guilty of a class 2 misdemeanor. An affirmative four-fifths vote is required to grant a variance. A majority vote is required to grant a Special Use Permit or to determine an appeal.

DUE PUBLICATION

Mr. Chris Marland, Zoning Enforcement Officer with the City of Burlington stated, due notice and publication of this meeting of the Board of Adjustment has been made, and all required property owners were mailed a notice advising of this meeting.

SWORN TESTIMONY

Prior to testifying before the Board, each party was sworn in or affirmed that the testimony they were about to give was true to the best of their knowledge.

MEETING MINUTES

Board Member Mr. Eric Grant made a motion to approve the minutes per corrections. Board Member Mrs. Sylvia Greeson seconded the motion. The Board voted unanimously to approve the May 9, 2017 Meeting Minutes per corrections.

ITEM NO. 3:

CASE NO. 06-17 SPECIAL USE PERMIT (City)

Terri's Lil Tots

711 Hermitage Rd.

Alamance County Tax Map numbers 99-424-5 & 99-424-6

§ Section 32.13.W

Child Daycare Facility

EVIDENCE PRESENTED: Zoning Enforcement Officer Mr. Chris Marland stated, your first case today, number 06-17, is at 711 Hermitage Rd. and Ms. Terri Lee of Terri's Lil Tots is here today to ask for a special use permit for a child daycare facility for up to 108 children on up to three shifts. This is located in a RO&I district in which, this use will be allowed by a Special Use Permit. This is also two adjoining lots in the RO&I district, as you will notice in the package and on your screen, there is an existing building at 711 Hermitage Road, and to the right of that building is a vacant lot, this permit request is for both of those lots. She will place the 8000 Sq. Ft. fenced in play area on the adjoining lot which would satisfy the requirements of the 100 Sq. Ft per child. Chairman Mr. Ed Wilson asked, so the Special Use Permit is for both of these lots? Zoning Enforcement Office Mr. Chris Marland stated, yes sir, Chairman Mr. Ed Wilson stated, because the facility and the playground is on both lots? Zoning Enforcement Officer Mr. Chris Marland stated, yes sir. We received about 13 calls on this, I did not receive a call saying anyone had a problem with this. Vice Chairman Mr. Mike Gee stated, I assume, in previous Special Use cases like this, this is a requirement for the state to issue their permit for the facility. Zoning Enforcement Officer Chris Marland stated, they have to get ours first. Vice Chairman Mr. Mike Gee stated, that's what I'm saying, so this is a pre-requirement to that. Zoning Enforcement Officer Mr. Chris Marland, stated yes sir. Board Member Mrs. Sylvia Greeson asked, what was last in that building? Zoning Enforcement Officer stated, that I am not sure of. Mr. Howard Hawks stated, I'm sorry, the owner purchased it from the United Way, and they had various agencies inside the building. Chairman Mr. Ed Wilson stated, thank you. Chairman Mr. Ed Wilson asked, has this been through Technical Review Committee? Zoning Enforcement Officer Mr. Chris Marland stated, yes sir. Chairman Mr. Ed Wilson asked, the committee signed off on that? Zoning Enforcement Officer Mr. Chris Marland stated, yes sir. Chairman Mr. Ed Wilson asked, Mrs. Lee if she would like to come forward now?

Mrs. Terri Lee stated, my name is Terri Lee and I swear that everything I say is the truth. Chairman Mr. Ed Wilson asked, Mrs. Lee could you tell us a little about what you want to do here with your daycare and some of your plans? Mrs. Terri Lee stated, my daycare is currently at my home and I have been in my home doing this for 15 years, I am wanting to expand to care for more children. Chairman Mr. Ed Wilson asked, how many children do you care for now? Mrs. Terri Lee stated, 8 per shift with a total of 3 shifts. Chairman Mr. Ed Wilson asked, you have children on all 3 shifts. Mrs. Terri lee stated, all shifts are full except for my third currently. Chairman Mr. Ed Wilson asked, how many children do you plan to care for in the new facility?

Mrs. Terri Lee stated, 108 per shift. Chairman Ed Wilson asked, that is what the license you are applying for will let you do? Mrs. Terri Lee stated, yes. Chairman Mr. Ed Wilson asked, are you aware of the playground requirement of a 100 sq. ft. per child. Mrs. Terri Lee stated, I am. Chairman Mr. Ed Wilson asked, do you own these properties, or are you trying to lease these properties? Mrs. Terri Lee stated, I am just trying to see if it would work out currently with a Special Use Permit, which would then allow me to lease the properties. Chairman Mr. Ed Wilson asked, so you will lease the properties if you can get the special use permit? Mrs. Terri Lee stated, yes. Board Member Mrs. Sylvia Greeson asked, how many employees do you intend to hire? Mrs. Terri Lee stated, 12. Chairman Mr. Ed Wilson asked, are you currently in good standing with the state on your daycare facility? Mrs. Terri Lee stated, I am, I just had my annual compliance last Tuesday and I had no violations. Board Member Mrs. Sylvia Greeson asked, do you plan to run all three shifts at this facility? Mrs. Terri Lee stated, yes if there is a need for it. Chairman Mr. Ed Wilson asked, if you could tell us a little bit about the traffic pattern on the property, cars coming on the property and picking up kids and leaving, can you tell us maybe looking at the map, tell us about your plans? Mrs. Terri Lee stated, yes, they would go through this driveway here which is one-way traffic, and come in the driveway this one way, go around the building completely and out past the adjoining building. Chairman Mr. Ed Wilson asked, so it is all one way traffic? Mrs. Terri Lee stated, yes. Chairman Mr. Ed Wilson asked, so do they park and come in or will you have monitors out there? Mrs. Terri Lee stated, they will park and come in. Chairman Mr. Ed Wilson asked, do you anticipate traffic backed up out of your facility and down the highway or do you think most people will be able to park? Mrs. Terri Lee stated, it only takes five minutes to park and drop a child off. Chairman Mr. Ed Wilson asked, do you know of any other daycares in the area? Mrs. Terri Lee stated, I do not. Board Member Mrs. Sylvia Greeson asked, back to the traffic pattern, when you say they would go around the building and then exit through an adjoining, we have an aerial photo here, are they going to be exiting a drive through 719 or on your own property? Board Member Mrs. Terri Lee stated, it would not be on my own property, but there is an easement there. Board Member Mrs. Sylvia Greeson stated, okay so they would have to go through to an adjoining parking area.

Mr. Howard Hawks stated, my name is Howard Hawks and I represent the owner of the property; I promise to tell the truth. Chairman Mr. Ed Wilson asked, so you represent the owner there, the same person owns both properties of 711 and 719? Mr. Howard Hawks stated, no. The owners of 719 are here. Chairman Mr. Ed Wilson asked, so you represent the property owner of 711? Mr. Howard Hawks stated, that is correct, and the vacant lot beside of it. Chairman Mr. Ed Wilson asked, so she intends to lease this and operate it as a daycare and the owner is in agreement with that? Mr. Howard Hawks stated, that we are in agreement with it. Chairman Mr. Ed Wilson asked, she testified that there is an easement across 719, is that correct? Mr. Howard Hawks stated, the way it is currently set up and the way the parking lot is striped, they pull in off of Hermitage, and drop off as you go behind the building through 719's lot. Chairman Mr. Ed Wilson asked, is there any problems with that, which that you are aware of? Mr. Howard Hawks stated, not that I am aware of. Chairman Mr. Ed Wilson stated, not that you are aware of, okay. Mr. Howard Hawks stated, that it has been brought to my attention with the additional traffic my neighbors might have a problem with that, and you will hear from them shortly. I know them well enough that if it becomes a problem, we can certainly work to find another solution. Vice Chairman Mr. Mike Gee, asked is there a deeded easement across that parking lot? Howard Hawks stated, I don't know if it is deeded.

Mr. Bill Wilson stated, my name is Bill Wilson and I own the adjacent property and I swear to tell the truth. Board Member Mrs. Sylvia Greeson asked, you own 719? Mr. Bill Wilson stated, yes I own 719. Vice Chairman Mr. Mike Wilson asked, the question was is there a deeded easement? Mr. Bill Wilson stated, there was a deeded easement when it was sold to Ed Stuart by United Way back in 2008. Mr. Howard Hawks stated, it didn't use to be a property because United Way owned both of the buildings. Mr. Bill Wilson stated, that is correct and that they used and own the buildings, they used them for I guess business incubators. Mr. Howard Hawks stated, that they were trying to consolidate all of their agencies under one roof because they were scattered about through town and that didn't work out very well. So they disbanded the idea, agencies scattered back out and the buildings went up for sale, Bill bought one and Ed Stuart bought the other. Vice Chairman Mr. Mike Gee asked, that Ed Stuart owns the building that is the subject of this special use permit? Mr. Howard Hawks stated, that is correct. Vice Chairman Mr. Mike Gee asked, Ed Stuart owns the buildings that is the subject of request for this lot and there is an easement in his name across the back of the parking lot to the adjacent building. Mr. Bill Wilson stated, that is correct, that he owns an easement. Chairman Mr. Ed Wilson asked, if you guys contest the easement, is it in good standing? Mr. Bill Wilson stated, the easement is there, obviously when we bought the building. Chairman Mr. Ed Wilson stated, that I will let Mrs. Terri finish and then call you back up Mr. Bill Wilson. Chairman Mr. Ed Wilson asked, do you have anything else to talk about Mrs. Lee? Mrs. Terri Lee stated, no. Board Member Mrs. Sylvia Greeson asked, what kind of lighting will you have around the facility if you expect to run three shifts? Mrs. Terri Lee stated night lights from Duke Power. Chairman Mr. Ed Wilson stated, telephone poles? Mrs. Terri Lee stated, yes. Vice Chairman Mr. Mike Gee asked, Mrs. Lee do you think if you have this facility where it is proposed that it will endanger the public health or safety? Mrs. Terri Lee stated, no I do not. Vice Chairman Mr. Mike Gee asked, you testify that you are not aware of any other daycare facilities in the area, so do you see a necessity, a public need to have a facility like this? Mrs. Terri Lee stated, yes. Mr. Howard Hawks stated, to further that point, I have been working with Mrs. Lee several months now to get to this point, I have had less than five calls on that building be operated as a daycare, and through my education of this, there is a lot of things you have to jump through to run and operate a daycare, a lot of specifics within the building. Vice Chairman Mr. Mike Gee asked, Mrs. Lee do you think having a daycare facility will injure the value of any adjoining property? Mrs. Terri Lee stated, I do not. Chairman Mr. Ed Wilson asked, do we have any more questions for Mrs. Lee? Vice Chairman Mr. Mike Gee stated he has one question for Mr. Hawks. Vice Chairman Mr. Mike Gee asked, could you tell us your profession Mr. Hawks? Mr. Howard Hawks stated, I am a commercial real estate broker with NAI piedmont triad commercial property values. Vice Chairman Mr. Mike Gee asked, Mrs. Lee would consider yourself an expert in property? Mr. Howard Hawks stated far from it. I don't see how it could hurt it; I am only going to improve the building when she comes in there. Vice Chairman Mr. Mike Gee stated, I know you were speaking in gest. Vice Chairman Mr. Mike Gee asked, let me ask your opinion of do you think this will injure the value of the property? Mr. Howard Hawks stated, I do not. Chairman Mr. Ed Wilson stated, thank you Mrs. Lee and Mr. Hawks. Chairman Mr. Ed Wilson asked, if Mr. Wilson would come back forward?

Mr. Bill Wilson stated, the only concern I've got is that, I don't have a problem with the daycare, the problem I do have is the traffic pattern and right now the school.

If you have ever been by there between three or four o'clock most of the businesses there, I'm sure you have heard from Boster or some of the other people that you're just about a neighborhood that can't carry on business. The traffic pattern there is something we could work out, but when the sale of the easement occurred like Howard said, United Way owned both of those buildings and the building it currently resides in, I don't think they saw that easement as an issue. There is two way traffic coming in from memorial, now what you have is one way traffic coming here and from that way, and two way traffic coming from here and from that way. Now between 3 or 4 o'clock you can't basically carry on business because I have kids running through my front yard waiting on their parents that pull all the way around memorial and in front of hermitage they drive through the lots and park in any open parking spaces they can find. I am sure I am not the only one that has ever said anything about this. Board Member Mrs. Sylvia Greeson asked, is 719 currently occupied? Mr. Bill Wilson stated, it is, it's occupied by my business which I run a real estate agency and a hiring agency. The hiring agency has about 7 people there, and I have about 4 people. The problem I would have, like I said would be if something worked out with that easement, then maybe if we can get rid of that easement and stop that traffic flow through there, the problem that Ms. Terri Lee will have and as well as I have got now is you're going to have Turrentine Middle School let out and she is going to have people come in and try to get picked up. Mr. Bill Wilson asked, Ms. Terri Lee how many do you have on staff again? Ms. Terri Lee stated, 12. Mr. Bill Wilson stated she will have 17 parking spots and 105 kids that is going to be about a 100 cars going through there in addition to Turrentine middle school which is probably 100 to 200 cars. Mr. Bill Wilson stated, that is my concern and if we can work out an easement then I don't have a problem with it. Chairman Mr. Ed Wilson asked, your biggest concern is the traffic during the Turrentine dismissal time and throughout the day? Mr. Bill Wilson stated, yes that is my concern. There is also a retirement center across the street and they park along Hermitage too, and their kids or family come over and have to smoke off their lots. It is almost like everybody gets funneled in that U shaped area there at Turrentine. Vice Chairman Mr. Mike Gee asked, Mr. Wilson I have a question and I just am trying to interpret what you're saying to make sure I am clear, It sounds like the biggest issue you have is Turrentine traffic and not traffic from the use of this building, is that accurate? Mr. Bill Wilson stated, well that would be accurate until you got a 100 people in 17 parking spots, that have twelve filled up because that's not accounting for your employees and everybody that comes in and drops people off. Chairman Mr. Ed Wilson stated, we'll ask Ms. Lee about that, and I don't think there will be a 100 kids all the time, and I don't think there will be 12 employees parked all the time because that is over the three shifts, but we'll ask her for those details too. Mr. Bill Wilson stated, like I said my biggest concern is the traffic because you got them always coming in during that one hour, and I am just speaking on that one hour now and not the other times. During that one hour you have a lot of chances for accidents because you get people coming around that building and coming out, and people backing out, and there is not a lot of room to see them and you're going to have some accidents, and that may happen no matter what. Chairman Mr. Ed Wilson stated, I've never been at Turrentine during that time period. Chairman Mr. Ed Wilson asked, is there any law enforcement in that area at that time? Mr. Bill Wilson stated there is, but they just drive by it. Law enforcement has been told about it, and there is nothing they can do. A year or two ago at one time, there was no parking on Edgewood or Hermitage, one day the signs were put up and there was parking between markers that were filled up. Vice Chairman Mr. Mike Gee asked, Mr. Wilson what are your hours of operation? Mr. Bill Wilson stated, mine are from 9 to 5.

Chairman Mr. Ed Wilson asked, do you perhaps know the hours of the other facilities? Mr. Bill Wilson stated, staffing has employees that come in around 7:30 and leave anywhere from 5 to 5:30. We are normally there from 6 to 6:30. Board Member Mr. Eric Grant asked, what you're saying is this dedicated easement needs to be re-looked at? Mr. Bill Wilson stated, yes. I say primarily because when I bought the building I didn't know Turrentine would be such a hassle. I have seen what can happen when that easement is being used, if somehow the traffic can be rerouted because if you look at the parking there on the side of 711 they are angled and funnels right through a two way traffic. Once it gets past Ed's building, it goes to two way traffic. Board Member Mr. Eric Grant asked, if this were to be revisited what would be your desire? Mr. Bill Wilson stated, my desire would be to somehow reroute that traffic so it would not funnel through that parking lot. Board Member Mrs. Sylvia Greeson asked, so you would you like to see the easement go away? Mr. Bill Wilson stated, if the easement can go away, like I said my major problem is the traffic. Chairman Mr. Ed Wilson stated, we have no authority over the easement; I just want to let you know that. Mr. Bill Wilson stated, I understand that, the issue becomes how long it will be before someone gets hit or hurt. Vice Chairman Mr. Mike Gee stated, that's a tough spot, again I can't say anything to speak to that. Mr. Bill Wilson stated, other than that I don't have any issues. She may have more concerns than I about that because she is running a daycare. Chairman Mr. Ed Wilson stated, thank you Mr. Wilson.

Chairman Mr. Ed Wilson stated, Ms. Terri Lee we have a few more questions. Chairman Mr. Ed Wilson asked, if you could tell us again, you said you would have 108 children and 12 employees. Originally I thought that would be across all three shifts. Ms. Terri Lee stated, that's actually during each shift. Chairman Mr. Ed Wilson asked, 108 persons per shift? Ms. Terri Lee stated, yes that is correct. Vice Chairman Mr. Mike Gee stated, that is the allowed maximum amount of children allowed by the state of NC. Chairman Mr. Mike Gee asked, so what you're doing is applying for the maximum amount of children that the state of NC allows? Ms. Terri Lee stated, yes that is correct. Chairman Mr. Ed Wilson asked, does your facility allow for that number of children, is there enough square footage in the facility? Ms. Terri Lee stated, yes. Chairman Mr. Ed Wilson asked, so someone has looked at that and determined all that? Ms. Terri Lee stated, yes. Board Member Mrs. Sylvia Greeson asked, so 12 employees per shift? Ms. Terri Lee stated, yes. Chairman Mr. Ed Wilson asked what would be your hours of operation depending on the shifts? Ms. Terri Lee stated, they vary depending on the parents, but based on the parents and children I have currently, the kids will be dropped off between 5:00 and 6:00 am and picked up from 3:30 pm to 4:30 pm for the first shift. Chairman Mr. Ed Wilson asked, and your other shifts? Ms. Terri Lee stated, the second shift would end at 11:30 to 12:30 pm depending on parents, and third shift would be from 11:30 or 12:30 pm till 8:30 am. Chairman Mr. Ed Wilson asked, are you familiar with the dismissal of Turrentine? Ms. Terri Lee stated I am because my children actually went to Turrentine. Chairman Mr. Ed Wilson asked, do you anticipate problems with your pickup times, because one will be right when Turrentine is letting out? Ms. Terri Lee stated, that is based off the hours I have currently, so I don't know about that as I stand here today. Chairman Mr. Ed Wilson asked, if a problem would arise, would you be willing to work with your landlord or neighbors to find a solution? Ms. Terri Lee stated, yes I don't want there to be a problem. I want something good to be there. Chairman Mr. Ed Wilson asked, it would be beneficial to your business and your parents to have an easy pickup for your children also? Ms. Terri Lee stated yes. Board Member Mr. Eric Grant asked, Ms. Lee will you be leasing this facility? Ms. Terri Lee stated, yes.

Board member Mrs. Sylvia Greeson asked, have you talked to the potential landlord about doing additional parking in the grass area that our sketch shows, will that remain or is that a possibility? Mr. Howard Hawks stated, I promise to tell the truth. I think the landlord will be willing to reroute the traffic or create additional parking, were just working to try and find a solution. But yes he owns both lots adjacent to it and the lot right behind that, so we have some area to work with. Board Member Mrs. Sylvia Greeson stated, it seems that we have the potential for a real traffic nightmare here, with additional land that could be used not for a parking lot for say but for a traffic driveway flow that would allow the possibility to avoid the next door neighbor's driveway. Mr. Howard Hawks stated, I would probably need the city to grant a curb cut along that vacant lot because that might help things out.

Zoning Enforcement Officer Mr. Joey Lea stated, Mr. Chairman my name is Joey Lea and I am a Zoning Administrator for the City of Burlington and I swear everything I say to the best of my knowledge will be the truth. Traffic may be a concern, but this request fits everything in the ordinance, they have 23 parking spots on site, 1 space per staff member and 1 space for every ten children. According to the plan there is 23 parking spaces. The easement is already there associated with the traffic, daycares usually have peak hours especially in the morning shift and evening which is generally after school hours. However, I will testify again that this does meet the requirements of the ordinance.

Chairman Ed Wilson stated, well one of the findings of fact we have is not substantially injuring the value of any adjoining properties but it is a public necessity. So I don't know that increased traffic will injure the value but adjoining property owners testify that it would seem to be a hardship. Until this facility is in place I don't know how you tell whether it will or won't. I don't know how to put a stipulation on here if there is a problem you've got to address it, it's kind of vague. Board Member Mrs. Sylvia Greeson stated, I don't think we can.

Zoning Enforcement Officer Mr. Chris Marland stated, keep in mind that this did go through our TRC committee which transportation looks at and no concerns did arise from this. Chairman Mr. Ed Wilson asked, is the transportation department aware of the Turrentine dismissal traffic? Zoning Enforcement Officer Mr. Chris Marland stated, yes sir.

Chairman Ed Wilson asked, Ms. Lee, Mr. Hawks and Mr. Wilson do you have anything else to offer? Mr. Hawks and Ms. Lee stated, no. Mr. Bill Wilson stated, you would have 300 coming and going which would be 600. All I can say is that you would not want to carry on your business at 3 or 4 o'clock and you would not want one of hour of your time that you're not going to give or get. Ms. Lee's situation could make it worse because you're going get to rid of parents parking there now, but where are they going to park. They're going to park anywhere they won't. If Burlington could tell me tomorrow that they could stop these parents picking up and parking wherever then I would be fine with it, but they can't. They haven't done it and they're not going to do it. Chairman Mr. Ed Wilson stated, I understand your problem Mr. Wilson, but we need to move on because we need to bring this to a vote. Chairman Mr. Ed Wilson asked, Is their anyone else here that wishes to address this matter? Does the Board have any questions for the City or applicant or for Mr. Wilson?

DISCUSSION & FINDING OF FACTS: Chairman Mr. Ed Wilson stated, this is an application for a special use permit by Ms. Terri Lee for a child daycare center and she has applied for 108 children per shift for three shifts and currently has operated a daycare for 15 years with 8 children per shift. One issue that exists that can't be fixed through the process was going through today, that issue is with the city of Burlington and the police department around traffic control. As it has been testified by TRC committee and reviewed we know that Ms. Lee is applying for the maximum amount of children by the State of NC. In all likelihood are we going to have 300 kids and it is going to take a minute to get to that level. I don't anticipate that, in that instance, I don't know if the traffic pattern would be affected if another business was in the building. I do sympathize for Mr. Wilson, there is an easement already in place but he was aware of that when he bought that property. In my opinion granting this permit will not be to the detriment to this adjoining property any more than any other use of that building. I agree with that and apply any condition that is reasonable. I can't come up with a condition that is alleviable. That condition would need to be involved with the school rather than us. Ms. Lee might want to have people managing the traffic during drop off and pickup and the landlord could address the vacant lot for parking and traffic, but that would be up to the landlord rather than the BOA.

DECISION: Vice Chairman of the Board Mr. Mike Gee stated, I would like to make a motion that the four required conditions for issuing a Special Use Permit in accordance to Section 32.13.B(1)(a) are met due to the following Finding of Fact:

1. **the use will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved:**
the findings of fact are, we have an operator of an in home daycare of 15 years and is in good standing with the state of NC and understands how to meet the needs of childcare in this local area. This is a permitted use within this area. I don't believe that having a childcare facility will cause a public health or safety issue.
2. **the use meets all required conditions and specifications:**
the findings of fact are, testimony from the applicant and from the City of Burlington that all the plans have been cleared by the Technical Review Committee. There is currently a one way traffic easement and egress for the property and according to the applicant the outside play area requirement has been met and there is adequate lighting for the shifts that are not the first shift.
3. **the use will not substantially injure the value of adjoining property or that the use is a public necessity;**
the findings of fact are, the testimony from the applicant is that there are no other daycare facilities in the general vicinity, there is a need for this type of facility in the area. Based on all the testimony today, I don't believe we're going to create anything that could injure the value of adjoining properties.

4. **The location and character of the use if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Burlington and its environs;**
the findings of fact are, as testified by the applicant, there are no other daycare facilities in the area, this is a use that would appear to be in harmony with the adjoining area as well.

Board Member Mrs. Sylvia Greeson seconded the motion.

AYES: Grant, Gee, Wilson, Greeson

NOES:

Vice Chairman Mr. Mike Gee stated, I would like to make a motion to approve the Special Use Permit for Terri Lee operating as Terri's Little Tots to be located at 711 Hermitage Road, Burlington, North Carolina due to the previously stated Findings of Fact and that the applicant shall complete the development in accordance with the plans submitted and approved by this Board and if any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of effect.

Board Member Mrs. Sylvia Greeson seconded the motion. The Board voted unanimously to approve the Special Use Permit.

AYES: Grant, Gee, Wilson, Greeson

NOES:

ITEM NO. 4:

CASE NO. 07-17 SPECIAL USE PERMIT (City)

Miss Leslie's Play Group

602 Fountain Place.

Alamance County Tax Map number 88-375-89

§ Section 32.13.W

In-Home Child Daycare Facility

EVIDENCE PRESENTED: Zoning Enforcement Officer Mr. Chris Marland stated, this case 07-17 is located at 602 Fountain Place. This is for Miss Leslie's Play Group which is an in-home child daycare for up to 8 children on one shift. This is a limited part time play group daycare that she plans on doing which she can explain that better than I can. This is what you would normally see, this is a very limited daycare facility and she has a fenced in area in the back approximately 3700 Sq. Ft. that she is going to use for the children which is more than enough for what she needs. Chairman Mr. Ed Wilson asked, this has been through Technical Review Committee and meets the conditions? Zoning Enforcement Officer Mr. Chris Marland stated, no sir because it is in-home it does not have to go through the committee. Chairman Mr. Ed Wilson asked, you're testifying that it meets all the requirements? Zoning Enforcement Officer Mr. Chris Marland stated, yes sir me and Mr. Lea were out on site with her and we walked the site and saw the home. Chairman Mr. Ed Wilson asked, any questions for the city? Ms. Peavy if you would like to come forward and state your name and affirm you will tell us the truth?

Ms. Leslie Peavy stated, my name is Leslie Peavy and I promise to tell the truth. Chairman Mr. Ed Wilson asked, can you tell us a little bit about your playgroup or daycare? Ms. Leslie stated, I have been a preschool teacher for 20+ years. I am currently keeping my grandson in my home and I have a passion for teaching preschool and we have applied for a permit to have a small preschool group in the home. Board Member Mrs. Sylvia Greeson asked, you said part time, what hours? Ms. Leslie stated, 9-1, three days a week (Tues, Wed, and Thurs.). Chairman Mr. Ed Wilson asked, how many children? Ms. Peavy stated, 8. I've applied for the maximum number of 12, but I would be pleased to have 8. Chairman Mr. Ed Wilson asked, Mr. Marland does the application say 8 or 12 or does that matter for us? Zoning Enforcement Officer Mr. Chris Marland stated, I was under the impression we were applying for 8. Ms. Leslie stated, I thought we discussed doing the larger number of 12 just in case it went to 9 children. Zoning Enforcement Officer Joey Lea stated, that daycares are tied to a number; this particular daycare does not have to be licensed by the state since you keep children part time. Generally for in home daycare 12 is the maximum you can have, over 12 it becomes a commercial operation. It needs to be stated whether it is going to be 8 or 12 for the special use permit. Chairman Mr. Ed Wilson asked, if its 12 can we hear this case today? Zoning Enforcement Administrator Mr. Joey Lea stated, yes. Vice Chairman Mr. Mike Gee asked, Ms. Leslie, the number you are applying for today is? Ms. Leslie stated, 12. Vice Chairman Mr. Mike Gee asked, if we grant this special use permit do you think there will be any endangerment to the public health or safety of the neighborhood? Ms. Leslie stated, absolutely not. Vice Chairman Mr. Mike Gee asked, do you think it will injure the value of any adjoining properties? Ms. Leslie stated, no sir. Zoning Enforcement Administrator Mr. Joey Lea stated, before we go any forward I would like to check the number that it states in the letters that were mailed out to the adjacent property owners. That letter did say 8 children. Chairman Mr. Ed Wilson stated, Ms. Peavy we can postpone this and you can reapply for 12 or you can go forward with a permit for 8. Zoning Enforcement Administrator Joey Lea stated, if I make a suggestion, go forward with 8 and if you grow and see the need for more than 8 then you can come back before the board with a permit for 12. Chairman Mr. Ed Wilson asked, the process for amending this special use permit? Zoning Enforcement Administrator Joey Lea stated, you would apply for a whole new special use permit. Board member Mrs. Sylvia Greeson asked, you said 8 was your ideal number so we're not going to harm your plan at this point by limiting you to 8? Ms. Peavy stated, correct. Chairman Ed Wilson asked, now that is 8 per shift, are there any other daycares on fountain place or near it that you are aware of? Ms. Peavy stated, not that I am aware of. Vice Chairman Mr. Mike Gee asked do you think this use will be in harmony within the area? Ms. Leslie Peavy stated, I do. I would like some positive feedback from my neighbors. Chairman Mr. Ed Wilson asked where do you think people may park, you have a shared driveway there correct? Ms. Peavy stated, yes sir, we have a sidewalk out front where people can park on the street. When Fountain Place residents have gatherings they park on the street. Also they can pull in my driveway and walk in and that process would take no more than 8 to 10 minutes. At 9:00 the street is very quiet because the majority of everyone is gone by that time. Chairman Ed Wilson asked, so there is enough parking and enough capacity on the street for the traffic? Ms. Peavy stated, yes sir. Board Member Mrs. Sylvia Greeson asked, will you have any additional employees besides yourself? Ms. Peavy Stated, my son will help some because he lives with me and his son will be there. Chairman Mr. Ed Wilson asked, any additional lighting or signs or changes to the home being made? Ms. Peavy stated, no sir.

Chairman Mr. Ed Wilson asked, are there any more questions for Ms. Peavy? Board Member Mrs. Sylvia Greeson asked, preschool is what age specifically? Ms. Peavy stated, that it would be just 3's and 4's. Chairman Mr. Ed Wilson asked, any more questions for Ms. Peavy? No more questions were stated. Chairman Mr. Ed Wilson asked, is there anyone from the public that would like to address this matter?

Ms. Anderson stated, my name is Amy Anderson and I swear to tell the truth to the best of my ability. I live across the street from Ms. Peavy and my husband and I are very supportive of Ms. Peavy and have had no negative reactions from our other neighbors about it. Thank you.

Chairman Mr. Ed Wilson asked, Mr. Marland? Zoning Enforcement Officer Mr. Chris Marland stated, we received 9 calls on this and all parties were in favor. Chairman Mr. Ed Wilson asked, is there any further public comment?

DISCUSSION & FINDING OF FACTS: Chairman Mr. Ed Wilson stated, the application is for a special use permit for an in home child care essentially a playschool from 9-1 three days a week by Ms. Peavy.

DECISION: Vice Chairman Mr. Mike Gee stated, I would like to make a motion that the four required conditions for issuing a Special Use Permit in accordance to Section 32.13.B(1)(a) are met due to the following Finding of Fact:

1. **the use will not materially endanger the public health or safety if located where proposed and developed according to the plans as submitted and approved:**
the findings of fact are, all testimony given by the applicant that these conditions are to be met.
2. **the use meets all required conditions and specifications:**
the findings of fact are, testified by the City of Burlington Zoning Enforcement Officers that have visited the facility, fencing is more than adequate, it meets the specific requirements, and the traffic will not be any more than just a normal given time within a neighborhood. This is a limited scope of this proposed use because of it being just a three day week part time playschool. Again, Ms. Peavy's extensive background in this field and the support as testified by the public.
3. **the use will not substantially injure the value of adjoining property or that the use is a public necessity;**
the findings of fact are, all testimony given by the applicant that these conditions are to be met.
4. **The location and character of the use if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of Burlington and its environs;**
the findings of fact are, all testimony given by the applicant that these conditions are to be met.

Board member Mr. Eric grant seconded the motion.

AYES: Grant, Gee, Wilson, Greeson

NOES:

Vice Chairmen Mr. Mike Gee stated, I would like to make a motion to approve the Special Use Permit for Ms. Leslie Peavy to be located at 602 Fountain Place, Burlington, North Carolina due to the previously stated Findings of Fact and that the applicant shall complete the development in accordance with the plans submitted and approved by this Board and if any of the conditions affixed hereto or any part thereof shall be held invalid or void, then this permit shall be void and of effect.

Board Member Mrs. Sylvia Greeson seconded the motion. The Board voted unanimously to approve the Special Use Permit.

AYES: Grant, Gee, Wilson, Greeson

NOES:

NEW BUSINESS: None

MEETING ADJOURNED

H.E. Wilson III, Chairman

Kelly Peele, Secretary

**CITY OF BURLINGTON
BOARD OF ADJUSTMENT
APPLICATION FOR SPECIAL USE PERMIT**



*Applicant must comply with the provisions of Section 32.13 of the City of Burlington Zoning Code
WHEN NECESSARY, PLANS MUST BE SUBMITTED ALONG WITH APPLICATION
For application submittal and meeting dates, please see the attached sheet.*

APPLICATION FEE-----\$200.00

DATE APPLICATION SUBMITTED 7/19/17

DATE OF BOARD OF ADJUSTMENT HEARING 8/8/17

ZONING ORDINANCE SECTION 32.13.W

APPLICATION REVIEWED BY JOEY LEA CASE# 08-17

PROJECT SUMMARY

- Project Name Divine Miracles Home daycare 8 CHILDREN PERMITS (W 3 SHIFTS)
- Street Address or Property Description 709 Arden Street Burlington, NC 27215
- Tax Map / Block / Lot Number 132587 Zoning District R-C
- Existing Use SINGLE FAMILY
- Proposed Use Daycare
- Name of Applicant Kimberly Rogers
- Address 1807 Chapel Edge Drive
- City / State / Zip Greensboro, NC 27405
- Telephone Number 910-778-6569 Fax Number _____
- Email address kimrogers2183@yahoo.com
- Name of Property Owner / Developer (if different from above) Andy Andrews
- Address 709 Arden Street
- City / State / Zip Burlington, NC 27215
- Phone Number 336-516-2526 Fax Number N/A
- Email Address N/A

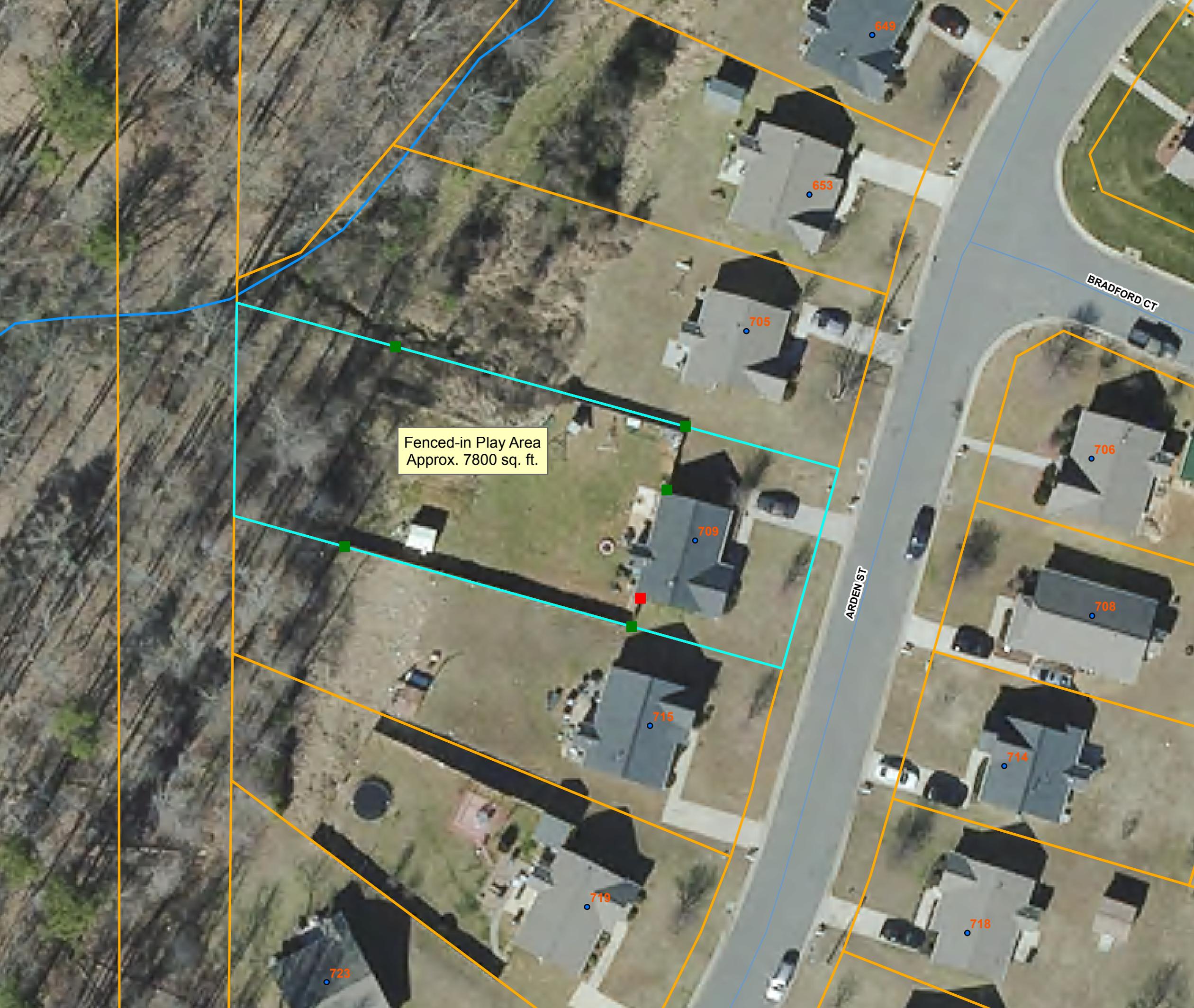
W. Child Care Facility: A child care facility shall be defined as a building or premises regularly used within a 24-hour period for recreational or supervisory care of six or more children who are unrelated to the operator, but not including foster homes. (Amendment adopted March 16, 2004)

1. Such facilities shall meet the standards established by the North Carolina Department of Health and Human Services and Article 7, Chapter 110, of the North Carolina General Statutes.

Evidence of compliance with the above standards (as amended) and other applicable statutes, rules, and regulations shall be furnished by the operator of such child care facility to the Director of Inspections, or his designee, for the City of Burlington. (Amendment adopted August 18, 1998)

2. The minimum lot area for a child care facility that cares for ten children or less shall be the same as for a single-family dwelling in the district in which the facility is located or 6,000 square feet, whichever is greater. An additional 1,000 square feet of lot area shall be provided for each ten children over the first ten.

3. At least 100 square feet per child (excluding infants in the crib) of well drained, completely fenced outside play area, not including drives, parking areas or land otherwise unsuitable, shall be provided.



Fenced-in Play Area
Approx. 7800 sq. ft.

BRADFORD CT

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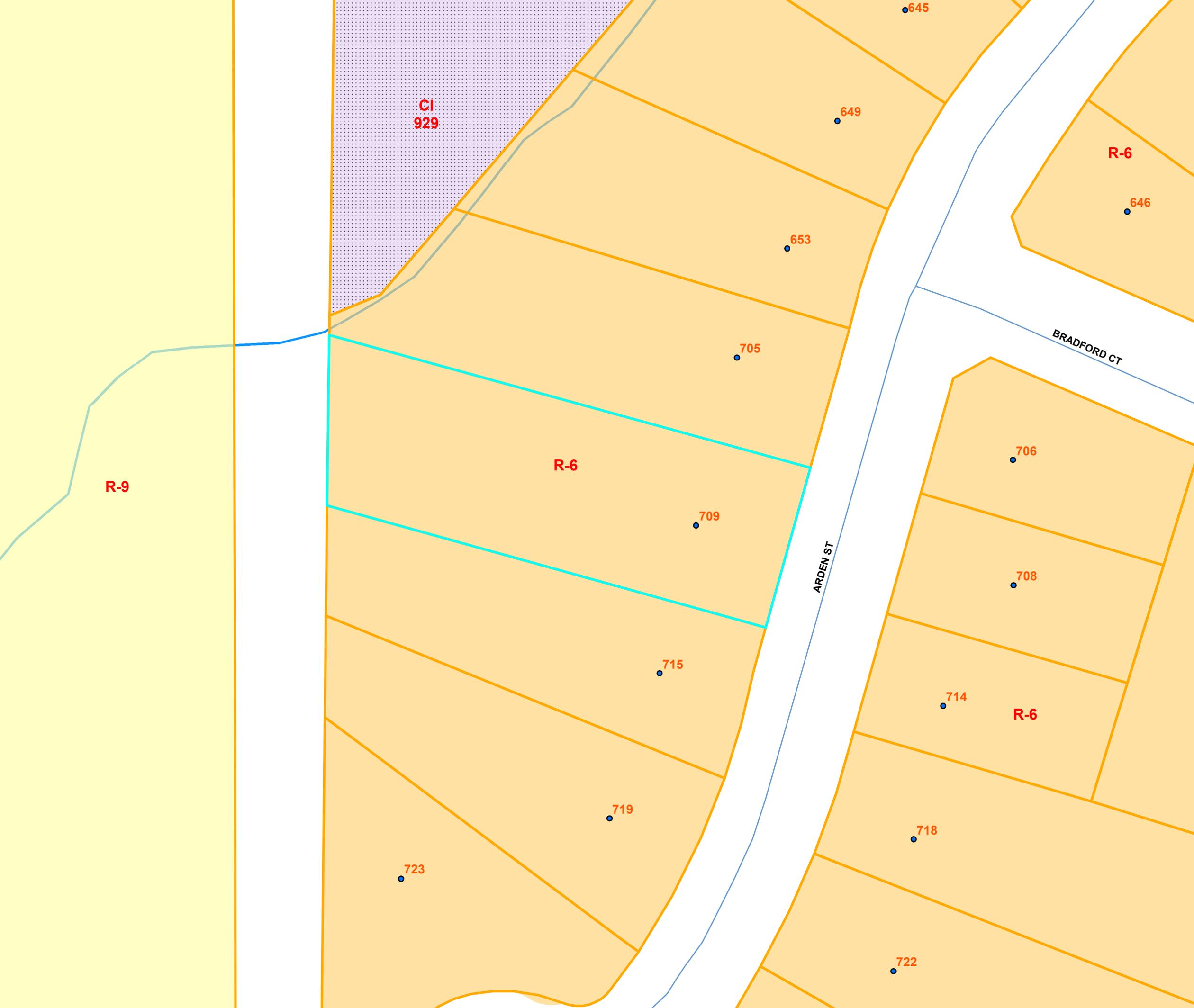
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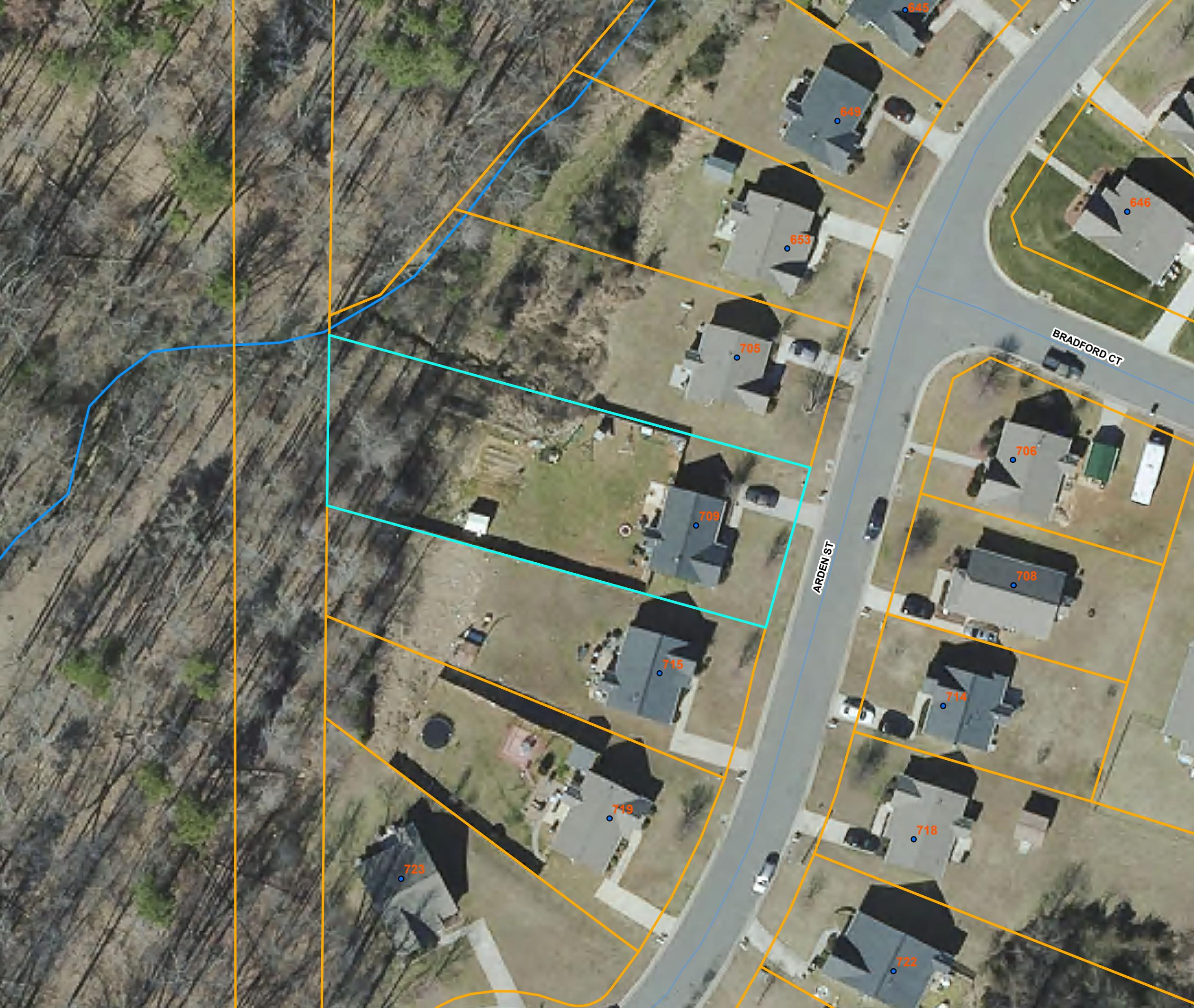
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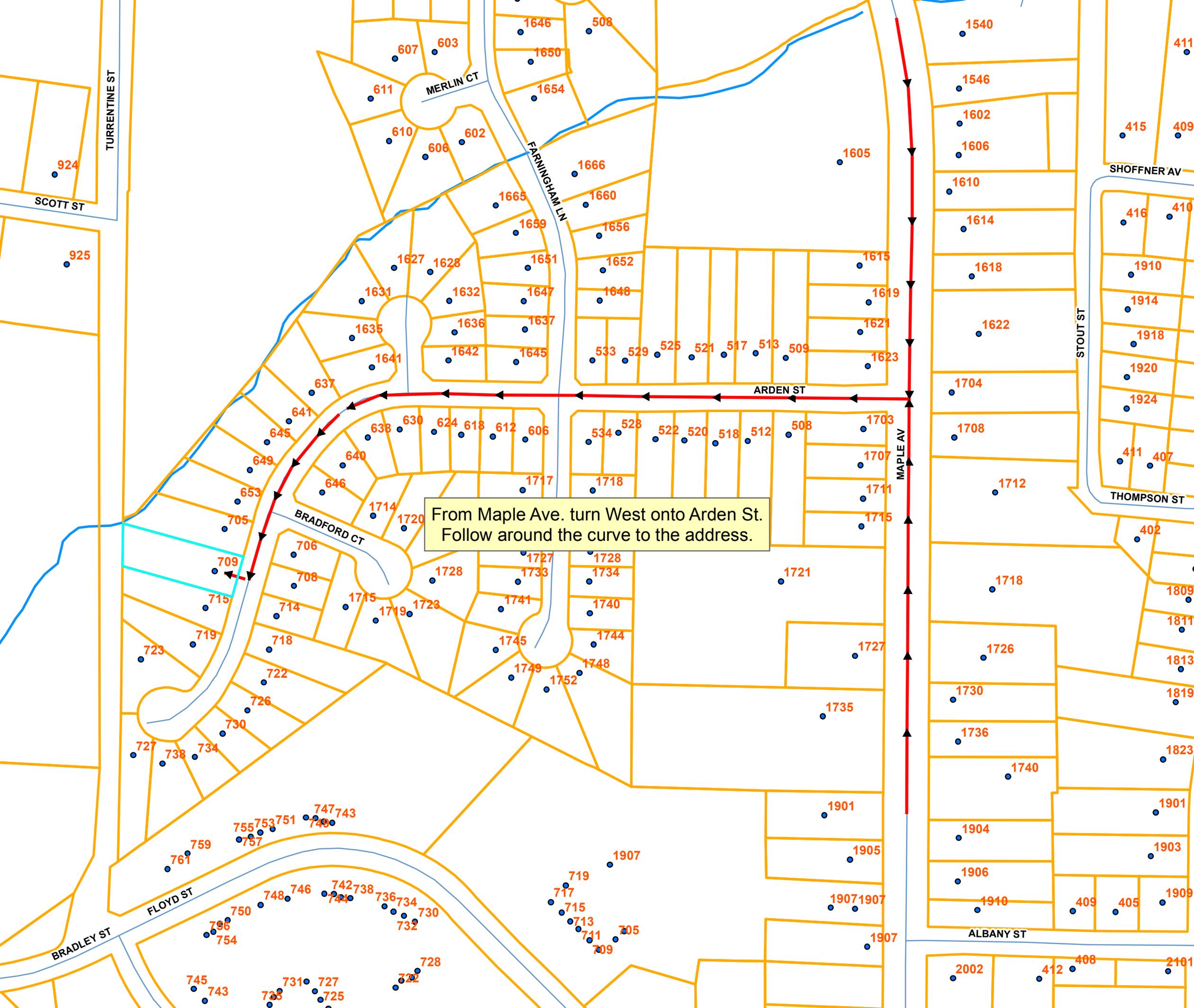
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From Maple Ave. turn West onto Arden St.
Follow around the curve to the address.