

**CITY OF FLORENCE, SOUTH CAROLINA  
BOARD OF ZONING APPEALS  
MARCH 25, 2021 AT 6:00 PM VIA ZOOM**

**AGENDA**

**I. Call to Order**

**II. Approval of Minutes**

Regular meeting held on March 11, 2021.

**III. Public Hearing and Matter in Position for Action**

BZA-2021-04            Request for a variance from the setback requirements for a commercial building located at 1256 East Palmetto Street, in the CG zoning district; Tax Map Number 90117-22-002.

**IV. Adjournment**

Next regularly scheduled meeting is April 22, 2021.

**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF FLORENCE BOARD OF ZONING APPEALS  
VIA ZOOM VIDEO CONFERENCING  
MARCH 11, 2021**

**MEMBERS PRESENT:** Larry Chewning (in person); Shelanda Deas, Deborah Moses, and Ruben Chico (via Zoom Video)

**MEMBERS ABSENT:** Larry Adams, Nathaniel Poston, and Randolph Hunter

**STAFF PRESENT:** Jerry Dudley, Derek Johnston, and Alane Zlotnicki (in person); also Danny Young, IT (in person)

**APPLICANTS PRESENT:** Richard Segers, Robert Harris, Dana Frazier, and Rick Havecost (via Zoom Video)

**CALL TO ORDER:** Chairman Chewning called the meeting to order at 6:00 p.m.

**APPROVAL OF MINUTES:**

Chairman Chewning introduced the January 38, 2021 minutes. Ms. Deas made a motion to approve the minutes and Ms. Moses seconded the motion. Voting in favor of the motion was unanimous (4-0).

**PUBLIC HEARING AND MATTER IN POSITION FOR ACTION:**

**BZA-2021-02 Request for a variance from the setback requirements for a carport located at 1418 Madison Avenue, in the NC-15 zoning district; Tax Map Number 90036-03-014.**

Chairman Chewning introduced the variance and asked staff for their report. Mr. Johnston gave the report as submitted to the Board of Zoning Appeals. Chairman Chewning asked if there were any questions of staff.

Ms. Moses asked staff if the neighbor was the one who complained about the carport. Mr. Johnston confirmed that Mr. Segers had filed the complaint.

There being no further questions for staff from the Board, Chairman Chewning opened the public hearing.

Chairman Chewning then swore in Mr. Robert Harris, the applicant. Mr. Harris stated he chose the carport location because of the existing driveway. He said due to an existing accessory structure and deck on the rear of the home, the carport would not fit in the rear yard. He apologized for not obtaining permits and asked the Board to approve his request.

Chairman Chewning asked staff if a structure of this size requires permitting. Mr. Johnston stated it requires zoning and a building permit and inspection. The Chairman then asked the applicant if a contractor had installed the carport. Mr. Harris said he hired a contractor and he believed they had gotten the appropriate permits, but upon inspection of the contract after installation saw in fine print that the owner is responsible for all permitting.

Ms. Deas asked if the plat in the staff report was created prior to installing the carport. The applicant stated the plat is older, but that the flags and stakes had been placed by the surveyor after installing the carport.

The Chairman asked if the neighbor was on the call. The neighbor, Mr. Segers did not respond. Mr. Johnston stated it appeared he was not on the call but that he was opposed to the request for a number of reasons, including the proximity to the property line, the structure's height, and rain runoff.

Ms. Deas asked if the applicant had explored any alternatives prior to applying for a variance. Mr. Harris stated because of the small lot size, no other location is feasible.

Chairman Chewning asked if the request is denied, what would the ramifications be for the applicant. Mr. Dudley stated he would need to remove the carport and find another location. The applicant asked if it would be possible to angle the carport if it is three feet from the property line. Mr. Dudley said that would be allowed if the structure remains in the rear yard.

Mr. Richard Segers, the neighbor, phoned in to voice his opposition. Chairman Chewning swore in Mr. Segers.

Mr. Segers stated he is opposed to the request for many reasons. He stated on page 13 of the staff report, the photograph clearly shows the carport is not anchored to the asphalt like the applicant stated in his letter to the Board. He stated it shows it is also too close to the property line being only four inches in some places. He stated it is an obvious safety issue especially during a hurricane. He added that the structure is dropping a large amount of water onto the fence and is even causing his side of the fence to deteriorate. Mr. Segers added the structure would negatively impact property values, and that no other home on the street has a similar structure. Mr. Segers stated one leg of the carport is even on his property.

Mr. Harris responded by stating his surveyor assured him the structure is not intruding on Mr. Segers' property. He added that he has not seen any evidence of flooding along the fence since the installation of the carport.

There being no further questions for the applicant from the Board, and no one else to speak for or against the request, Chairman Chewning closed the public hearing and asked for a motion.

Chairman Chewning moved that the Board deny the variance requested based on the following findings of fact and conclusions:

1. That a variance from the terms of the *Unified Development Ordinance* will be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, result in an unnecessary hardship, in that: **The Board cannot take into consideration hardship, the homeowner is responsible for all permits for construction on their property. The owner had alternative permanent placement options for the carport including the rear yard of the property.**
2. That the spirit of the *Unified Development Ordinance* will not be observed, public safety and welfare secured, and substantial justice done because: **The purpose of the NC-15 zoning district is to have side setbacks and carport side setbacks to preserve open space between houses and this carport was placed without a City Building Permit so the neighbor brought this forward to Codes Enforcement.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property, namely: **Yes, the property is narrower than adjacent parcels and contains an existing accessory structure (approximately 360 square feet) to the rear of the property as well as rear**

**deck that limits placement of the carport in the rear of the property, but these issues would have been resolved had proper permitting been done.**

4. That these conditions do not generally apply to other property in the vicinity, in that: **Historically, previous Zoning Ordinances have required a minimum 3' setback for accessory buildings; and, when the Unified Development Ordinance was enacted in 2018, the zoning designation of this property and surrounding residential properties was determined to most closely match the NC-15 zoning district with an average of 10' side setbacks. Adjacent single-family detached homes contend with similar side setbacks and setbacks are addressed at the time of permitting.**
5. That because of these conditions, the application of the *Unified Development Ordinance* to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property by: **The property can still be utilized as a single-family residence and contains one accessory structure and a rear deck that limits the placement of an additional accessory structure in the rear yard, but does not limit the use of the property.**
6. That the authorization of a variance will be of substantial detriment to adjacent property or to the public good, and the character of the district will be harmed by the granting of the variance, because: **The carport was installed contrary to the provisions of the Unified Development Ordinance without first obtaining a Zoning or Building Permit. A complaint was filed with City Codes Enforcement by the neighbor because of proximity to the property line.**

Ms. Moses seconded the motion. The motion to deny the variance request passed unanimously (4-0).

**BZA-2021-03 Request for a variance from the setback requirements for a commercial building to be located at 1809 Gregg Avenue, in the CG zoning district; Tax Map Number 90025-02-009.**

Chairman Chewning introduced the variance and asked staff for their report. Mrs. Zlotnicki gave the report as submitted to the Board of Zoning Appeals. Chairman Chewning asked if there were any questions of staff. There being none, Chairman Chewning opened the public hearing.

Chairman Chewning swore in Mr. Rick Havecost, the applicant, to speak in favor of the request. Mr. Havecost stated the building is intended as a location to store cars and a boat. He added the staff of Mickey Finn's are using the graveled surface of the lot as a parking lot for the time being.

Chairman Chewning asked staff if the request includes three variances, Ms. Zlotnicki stated it is.

Chairman Chewning stated his only issue with the request is that there is no buffer between the property and the neighbor. Mr. Havecost stated he has offered to build a fence for the neighbor at his expense, and that the neighbor approves of the planned construction.

Ms. Moses asked the applicant if this lot is beside Mickey Finn's, Mr. Havecost stated it is located immediately behind the store. The Chairman added he is a patron of the store, and a friend of the applicant.

There being no further questions for the applicant from the Board, and no one else to speak for or against the request, Chairman Chewning closed the public hearing and asked for a motion.

Chairman Chewning moved that the Board grant the variance requested based on the following findings of fact and conclusions:

1. That a variance from the terms of the *Unified Development Ordinance* will not be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, result in an unnecessary hardship, in that: **This lot is sized for a residential use but zoned for commercial uses. It is surrounded by commercial uses on three sides, and rental single family housing on the fourth side. Parking and landscaping is required for all new commercial development within the City of Florence, but since the UDO doesn't require improved parking for fewer than 5 spaces, parking is not required here.**
2. That the spirit of the *Unified Development Ordinance* will be observed, public safety and welfare secured, and substantial justice done because: **The construction of a storage building without a principal building is not permitted by the Ordinance. The applicant has provided a small office with a bathroom to create a commercial building in strict compliance with the intent of the Ordinance. The purpose of landscaping is to improve the appearance of the site, diminish expanses of urban infrastructure, and mitigate nuisances such as noise and light pollution, and the applicant has stated his willingness to work with the owner of the property next door to provide any sort of improvement requested.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **The size of the parcel limits its flexibility for commercial uses.**
4. That these conditions do not generally apply to other property in the vicinity: **Lot sizes in the immediate vicinity vary significantly. This particular lot was historically used for a single family residence.**
5. That because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: **Requiring adherence to the setbacks for the Commercial General district would limit the owner to 530 square feet in total available building size. Even if required setbacks are lessened, landscape requirements would not restrict the utilization of the property.**
6. That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance: **Because of the small size of the existing parcel, reducing setbacks for the building would enable commercial development. Landscaping of the site would protect the public good.**

Mr. Chico seconded the motion. The motion passed unanimously (4-0).

**ADJOURNMENT:** As there was no further business, Mr. Chico moved to adjourn the meeting. Voting in favor of the motion was unanimous (4-0). Chairman Chewning adjourned the meeting at 7:00 p.m.

Respectfully submitted,

Alane Zlotnicki, AICP, Senior Planner;  
Austin Cherry, Office Assistant III

**DEPARTMENT OF PLANNING, RESEARCH & DEVELOPMENT  
STAFF REPORT TO THE  
CITY OF FLORENCE BOARD OF ZONING APPEALS**

**DATE:** March 25, 2021

**APPEAL NUMBER:** BZA-2021-04

**VARIANCE REQUEST:** Variance request from the rear and side setback requirements in Table 2-6.1.1 in the *Unified Development Ordinance* for a commercial building.

**LOCATION:** East Palmetto Street & South Jeffords Street

**TAX MAP NUMBER:** 90117-22-002

**OWNER OF RECORD:** Margaret M. Poston Trustee

**APPLICANT:** Randy Scurry – Randy Scurry Builders

**ZONING DISTRICT:** CG - Commercial General

**Land Use and Zoning**

Jackie Poston’s gas station is located on East Palmetto Street at South Jeffords Road. It is in the Commercial General zoning district. The City’s Future Land Use Plan designates this area as Commercial Auto-Urban. The applicant first brought this variance request to the Board September 24, 2020 with the Site Plan shown as Attachment G. The applicant has recently discovered the initial site plan was in error. The open storage structure on the back of the building was not correctly drawn on the initial site plan presented to the Board. Mr. Scurry has updated the site plan to properly represent the footprint of the existing building (Attachment F). The proposed commercial addition to Jackie Poston’s Store will enclose the entirety of the rear open storage structure thus changing the variance request approved by the Board in September of 2020. The applicant seeks to expand the existing building to the East and South as shown on the new site plan provided (Attachment F).

**Site and Building Characteristics**

The lot is 0.43 acres in size. It is about 155 feet wide at its widest point, 75 feet wide at its narrow end, and approximately 140 feet long. The parcel is surrounded on three sides by three different streets; East Palmetto Street to the North; Cemetery Street to the South; and South Jeffords Street to the East. The applicant is updating their initial variance request from the rear and side setback requirement of 40 feet and 20 feet respectively to allow for future expansion of the building. Jackie Poston’s 960 square foot building was constructed in 1975.

**Variance Request**

The applicant is asking for a variance from the rear and side setback requirement of Table 2-6.1.1 of the *Unified Development Ordinance*, which requires a 40 foot rear setback between the building and the rear property line and a 20 foot side setback between the building and the side property line for buildings in the Commercial General district. The proposed expansion of the building would encroach approximately 2 feet into the side setback along South Jeffords Street, which is consistent with the variance request granted in September. The proposed building expansion would encroach approximately 36’ into the rear setback. The

variance request granted in September of 2020 granted an encroachment of 15', a difference of 21'. The applicant is requesting permission for a rear setback of approximately 4 feet and a side setback of approximately 18 feet.

The following information is included as submitted by the **applicant**:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: *This is a triangular piece of property bounded by three streets.*
2. These conditions do not generally apply to other property in the vicinity as shown by: *No response given.*
3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: *Without a variance, the building cannot be enlarged.*
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: *This store is an improvement to the area and will be used by residents.*

#### **Issues to be Considered**

Applications for a variance shall be evaluated by the Board of Zoning Appeals based on the following conditions:

1. That a variance from the terms of this Ordinance will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will in an individual case, result in an unnecessary hardship: **This building was constructed prior to the adoption of the Unified Development Ordinance. The old City of Florence Zoning Ordinance allowed a 20-foot rear setback instead of the current 40 and a 10 foot side setback instead of the current 20 foot requirement. The lot is surrounded on three sides by streets limiting the options for expansion.**
2. That the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done: **The east side of the property requiring the 2-foot setback variance will be adjacent to commercial property. The south side is adjacent to residential property, but the proposed expansion will not encroach any closer than the current built environment, the difference will be an enclosed structure instead of open.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **This commercial parcel is essentially surrounded on all sides by roads limiting expansion possibilities.**
4. That these conditions do not generally apply to other property in the vicinity: **The hardship is limited to this parcel because of the unique layout of the parcel being surrounded by three different streets and the original layout of the building with respect to previous City setbacks for commercial buildings.**
5. That because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: **The current setbacks for a commercial building in the Commercial General district would restrict**

**the owner's desire to expand their building to accommodate their business needs.**

6. That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance: **The proposed building expansion of approximately 1500 square feet to the existing gas station is a continuation of a use that has existed since 1975. The current proposal requires a greater variance request than initially requested, but the expansion is not physically increasing the setbacks currently on site. The proposal is in line with future land use along East Palmetto Street, Commercial Auto-Urban.**

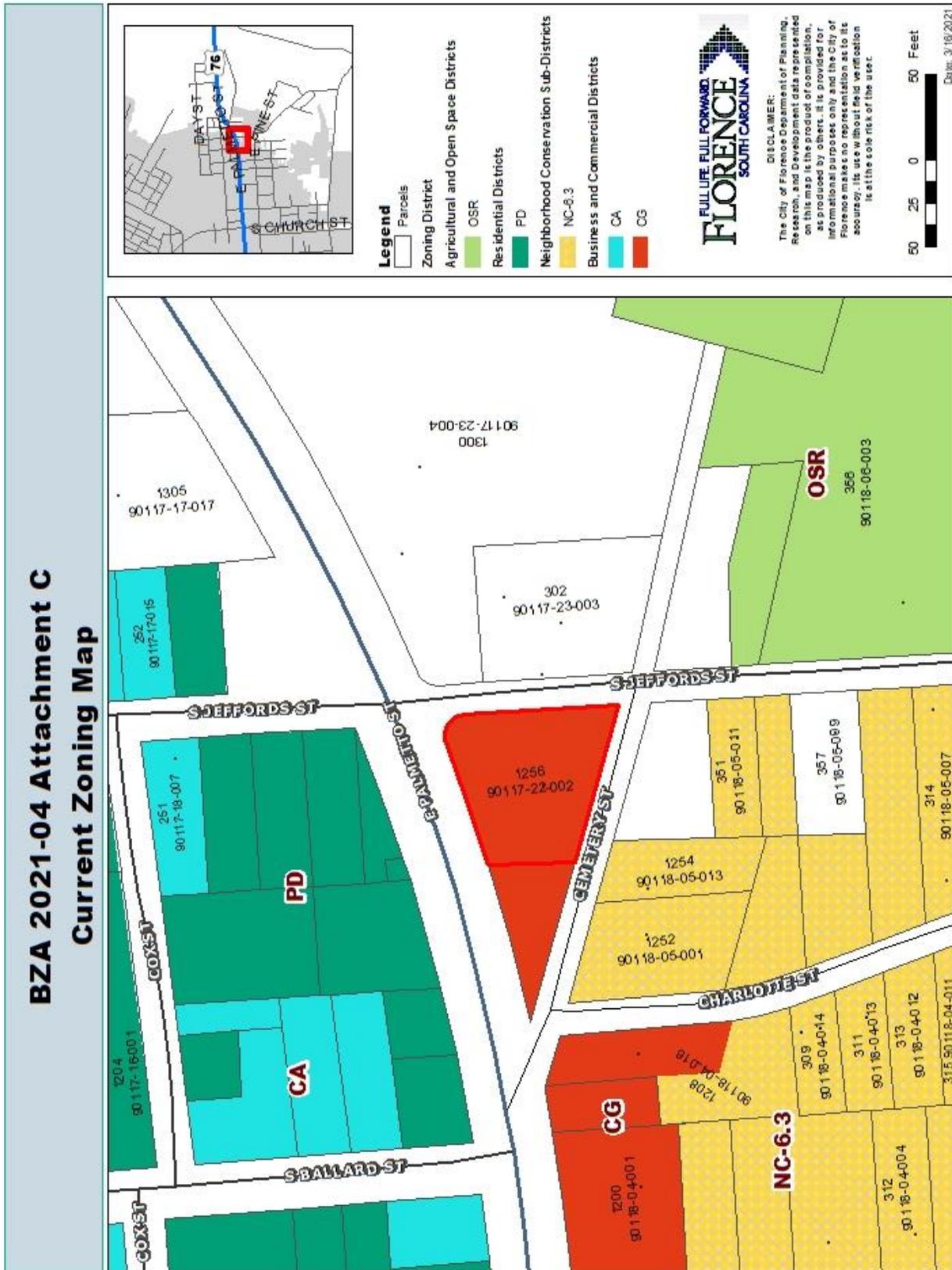
**Attachments**

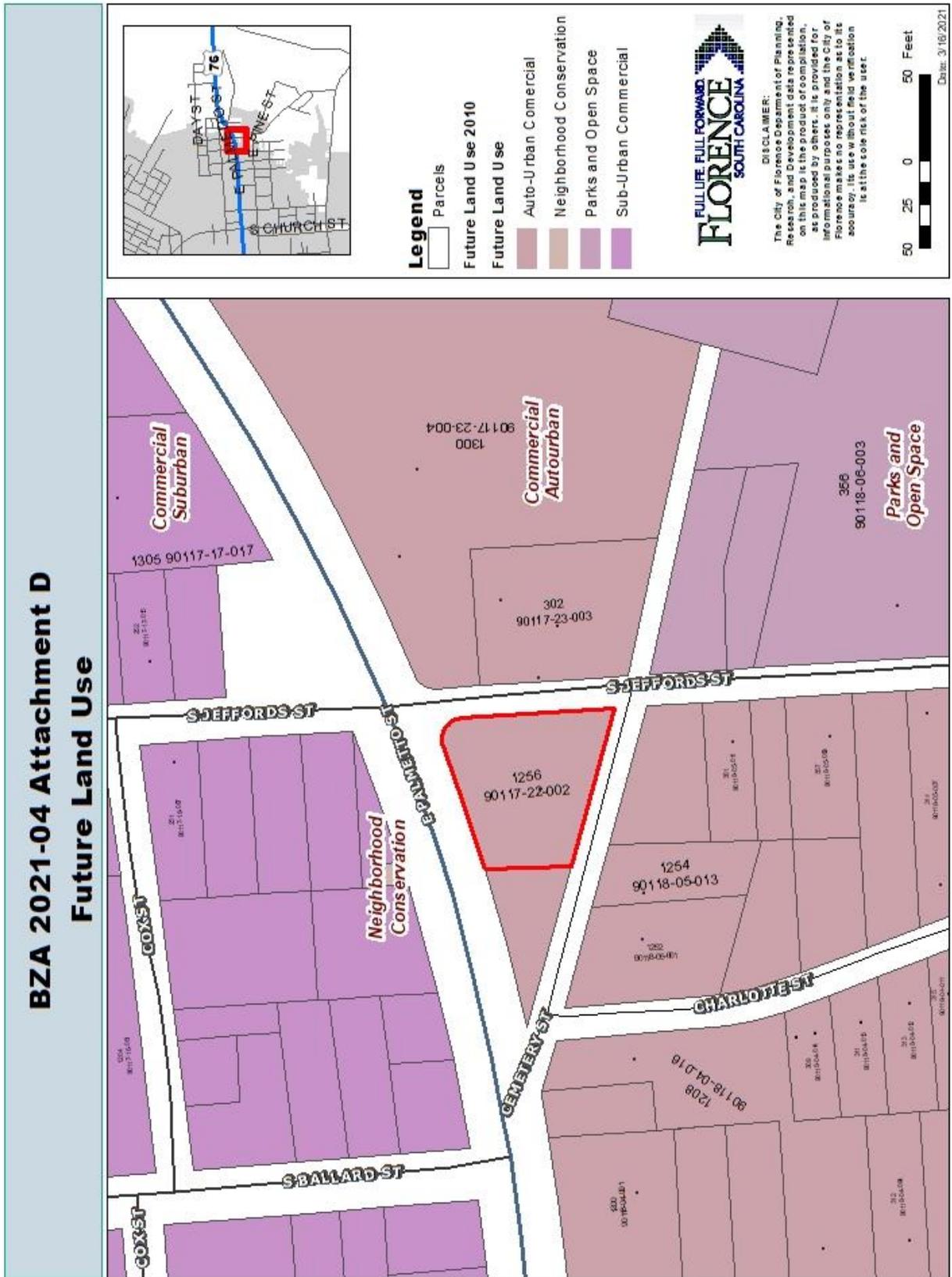
- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Future Land Use Map
- E. Site Photos
- F. Updated Site Plan
- G. Update Site Plan – Proposed Variance
- H. Initial Proposed Site Plan (Variance Granted September 24, 2020)



Attachment B: Location Map







Attachment E: Site Photos



**Facing West towards Jackie Poston's Store**



**Facing West towards Cemetery Street: Rear Open Storage Shed to be Enclosed**



**Facing Northwest towards East Palmetto Street**



**Facing North toward East Palmetto Street – Open Storage Shed to be Enclosed**

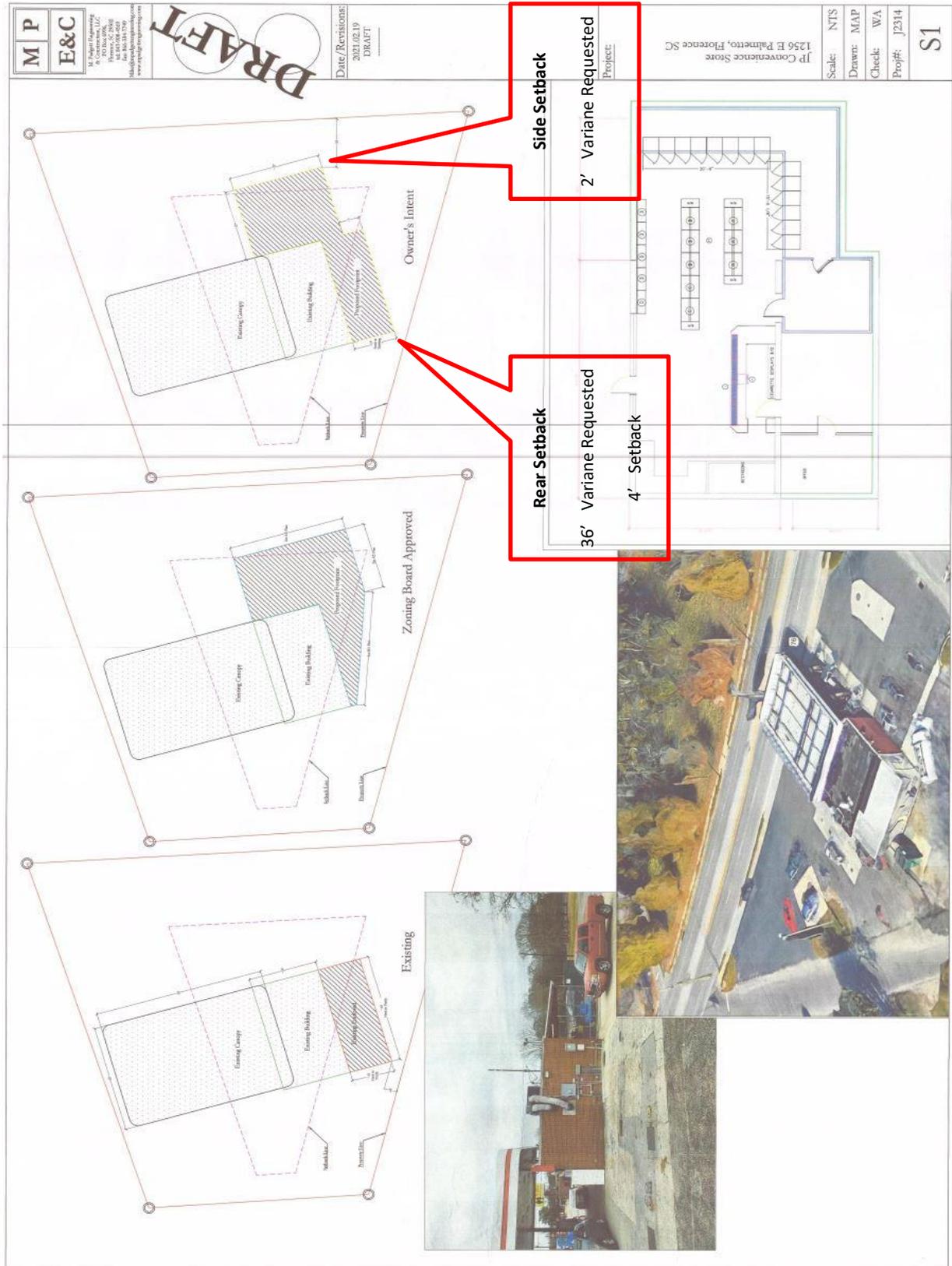


**Facing Northeast towards East Palmetto Street**

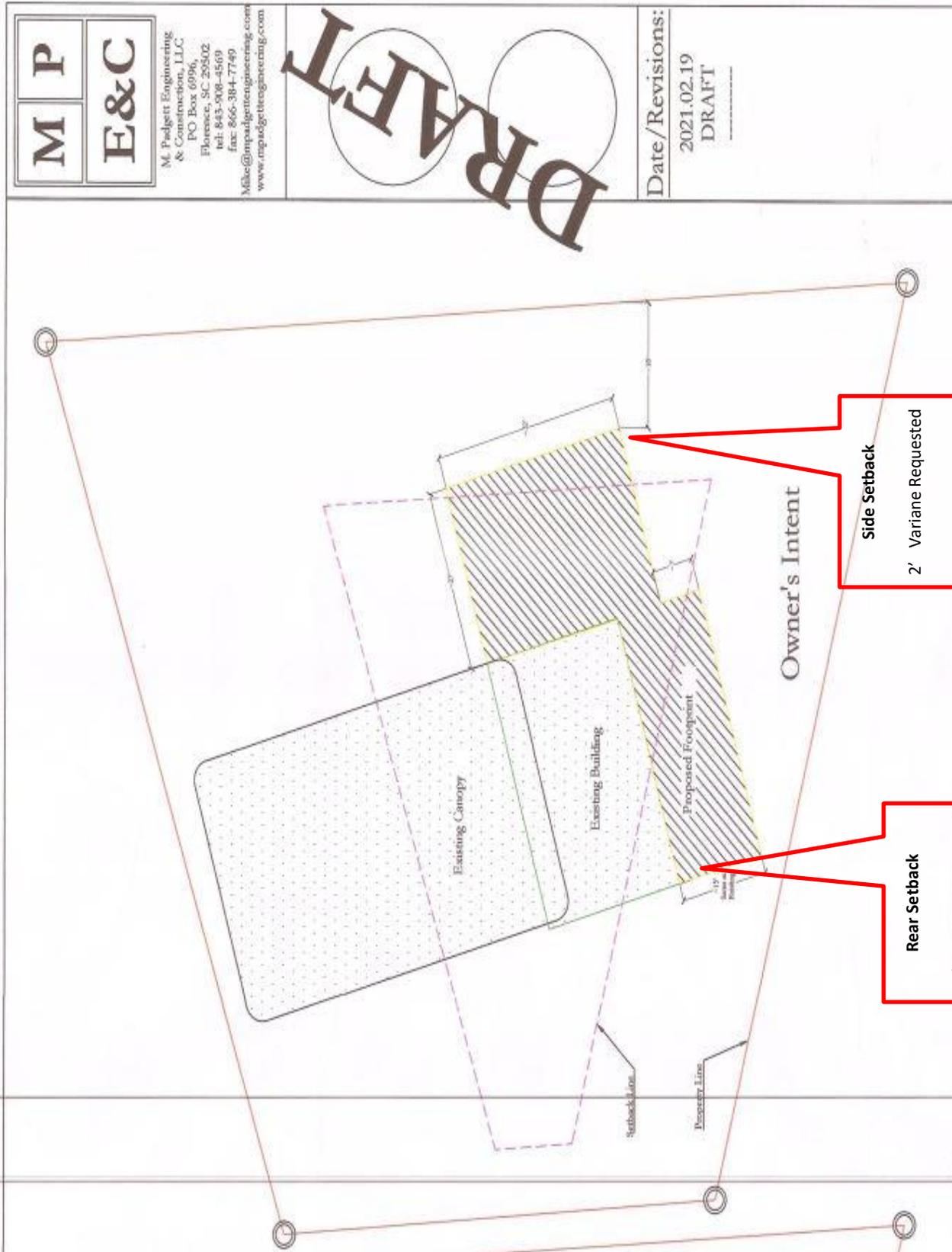


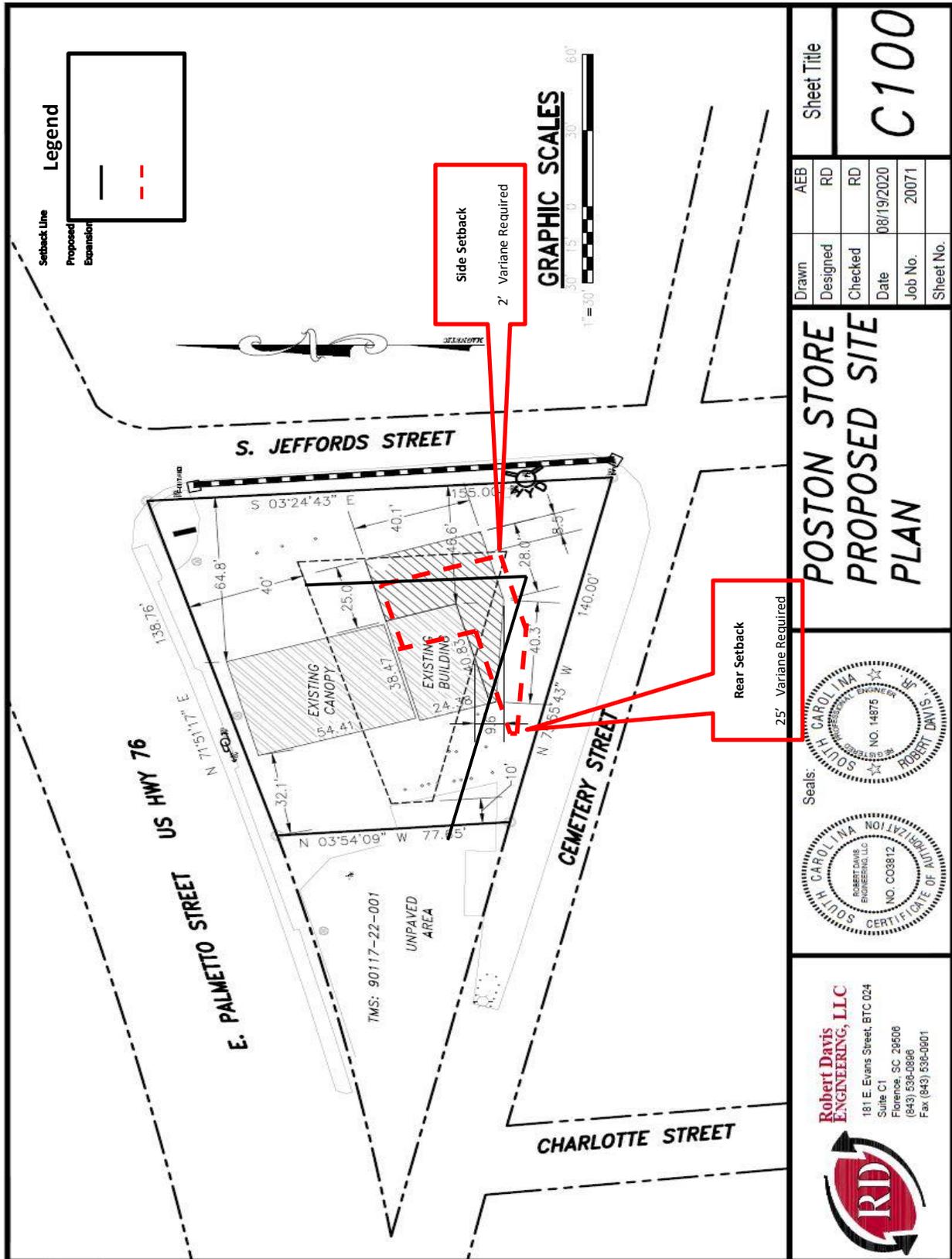
**Facing East towards South Jeffords Street**

Attachment F: Updated Site Plan



Attachment G: Updated Site Plan – Proposed Variance





**Board of Zoning Appeals Motion Worksheet**

Case Number:                   BZA 2021-04                   Nature of Request:           Rear & Side Setback Variance          

I move that we **grant** / **deny** the request for a variance based upon the following findings of fact:

1. That a variance from the terms of the *Zoning Ordinance* **will not** / **will** be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, result in an unnecessary hardship, in that: \_\_\_\_\_  
\_\_\_\_\_
2. That the spirit of the *Zoning Ordinance* **will** / **will not** be observed, public safety and welfare secured, and substantial justice done because: \_\_\_\_\_  
\_\_\_\_\_
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property, namely: \_\_\_\_\_  
\_\_\_\_\_
4. That these conditions do not generally apply to other property in the vicinity, in that: \_\_\_\_\_  
\_\_\_\_\_
5. That because of these conditions, the application of the *Zoning Ordinance* to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property by: \_\_\_\_\_  
\_\_\_\_\_
6. That the authorization of a variance **will not** / **will** be of substantial detriment to adjacent property or to the public good, and the character of the district **will not** / **will** be harmed by the granting of the variance, because: \_\_\_\_\_  
\_\_\_\_\_

Guidelines applicable to the granting of a variance:

1. Profitability: the fact that a property may be used more profitably if the variance is granted **may not** be used as the basis for granting the variance.
2. Conditions: the BZA **can** put conditions on the granting of the variance.
3. Use Variance: the BZA **cannot** grant a variance that would allow a use not permitted in the zoning district.
4. Hardship: the hardship **cannot** be based on conditions created by the owner/applicant.

Notes: