

**CITY OF FLORENCE, SOUTH CAROLINA**  
**BOARD OF ZONING APPEALS**  
**APRIL 22, 2021 AT 6:00 PM VIA ZOOM**

**AGENDA**

**I. Call to Order**

**II. Approval of Minutes**

Regular meeting held on March 25, 2021.

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

BZA-2021-05            Request for a variance from the lot area and setback requirements for a residential lot located at 1300 Madison Avenue, in the NC-15 zoning district; Tax Map Number 90047-07-011.

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

BZA-2021-06            Request for a variance from the fence requirements for a residential lot located at 2217 Pine Forest Drive, in the NC-10 zoning district; Tax Map Number 01792-05-016.

**V. Adjournment**

Next regularly scheduled meeting is May 27, 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 Chewing 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 Chewing 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 Chewing closed the public hearing and asked for a motion.

Chairman Chewing 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:** April 22, 2021

**APPEAL NUMBER:** BZA-2021-05

**VARIANCE REQUEST:** Variance requests from the lot area requirements in Table 1-2.2.1b for new lots and Table 3-8.1.1 for accessory building setbacks in the *Unified Development Ordinance*.

**LOCATION:** 1300 Madison Avenue

**TAX MAP NUMBER:** 90047-07-011

**OWNER OF RECORD:** David Alderman

**APPLICANT:** David Alderman

**ZONING DISTRICT:** Neighborhood Conservation-15

**Land Use and Zoning**

The parcel is located on the southwest corner of Madison Avenue and South Edisto Drive. The applicant also owns 1304 Madison Avenue. The entire area is zoned Neighborhood Conservation-15, which is the most restrictive of the NC residential districts. The minimum lot area for new lots is 15,000 square feet, with a minimum lot width of 100 feet.

**Site and Building Characteristics**

The 1300 Madison Avenue parcel is 200 feet long and 70 feet wide, for a total area of 14,000 square feet. While there is a variety of lot sizes in the area, many were platted out at 70 feet wide by 200 feet deep when the neighborhood was developed in the 1940s. 1304 Madison Avenue is 100 feet wide and 200 feet deep.

There is a main house at 1300 Madison Avenue that faces Madison. There is also a small brick accessory building in the rear of the lot that faces South Edisto Drive. This building straddles the side property line between 1300 and 1304. The applicant lives in 1304 Madison Avenue and also owns 1300. He wants to incorporate the accessory building into the lot for 1304 by creating an L-shaped lot, leaving the remainder of 1300 to be sold as a distinct parcel.

**Variance Request**

The applicant is asking for a variance from the minimum lot size requirements of Table 1-2.2.1b of the *Unified Development Ordinance*, which requires that all new lots in the NC-15 district have a minimum lot area of 15,000 square feet. He wants to replat 1300 and 1304 Madison Avenue to attach the accessory building to 1304 Madison, leaving 1300 Madison Avenue with a lot size of 10,150 square feet, which is 33% smaller than the required size for new lots.

He is also requesting a 3 foot side setback for the accessory building as a result of the new property line instead of the 10 foot side setback required by Table 3-8.1.1 regarding accessory building setbacks in the NC-15 district. The reason for the reduction in the setback is to maintain the circular driveway in the rear of 1300 Madison Avenue to allow access to South Edisto Drive for future owners.

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: **All property lines and structures are pre-existing. The lot is currently considered a legal nonconformity for lot size for the zoning designation that was assigned it in 2018 when the new UDO was adopted. I live at 1304 and wish to incorporate the accessory building into my home lot and sell off 1300 as a separate parcel.**
2. These conditions do not generally apply to other property in the vicinity as shown by: **While the majority of lots in the neighborhood are platted out to this size, they do not have a significant accessory building in the rear of the parcel.**
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: **I want to incorporate the brick accessory building into my lot at 1304 Madison Avenue and sell 1300 Madison Avenue as a free-standing lot. Without the variance, I cannot use the accessory building. In order to leave the circular driveway intact for new owners, I need to extend the new rear property line to be 3 feet from the building rather than the required 10 feet, which would cut into the driveway.**
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: **Authorization of the variance will not change the character or appearance of the neighborhood at all. It would only result in a smaller back yard for 1300 Madison Avenue, but I want to leave the circular driveway intact so new owners can easily access South Edisto Drive.**

### **Staff Comments**

The property in question has an accessory building in the rear of the lot that the owner desires to incorporate into the parcel immediately adjacent to it through the use of an L-shaped lot. The main houses at 1300 and 1304 were both constructed in 1945, and the accessory building behind 1300 Madison Avenue was constructed in 1948. It appears to have been built over the side property line shared with 1304 Madison Avenue.

The applicant owns both lots, but wishes to sell 1300 Madison in the future. However, because the accessory building straddles the shared side property line, he is unable to sell it as is. He is interested in solving that issue by creating an L-shaped lot for 1304 Madison to incorporate the accessory building as part of 1304. Doing so results in a smaller than allowed new lot size for 1300 Madison, thus the need for the variance. He also wants to preserve the circular driveway to enable easy access to South Edisto Drive for new owners, thus necessitating the reduced side setback for the accessory building. Prior to the adoption of the *Unified Development Ordinance* in 2018, the side setback for accessory buildings was 3 feet, which is what he is requesting.

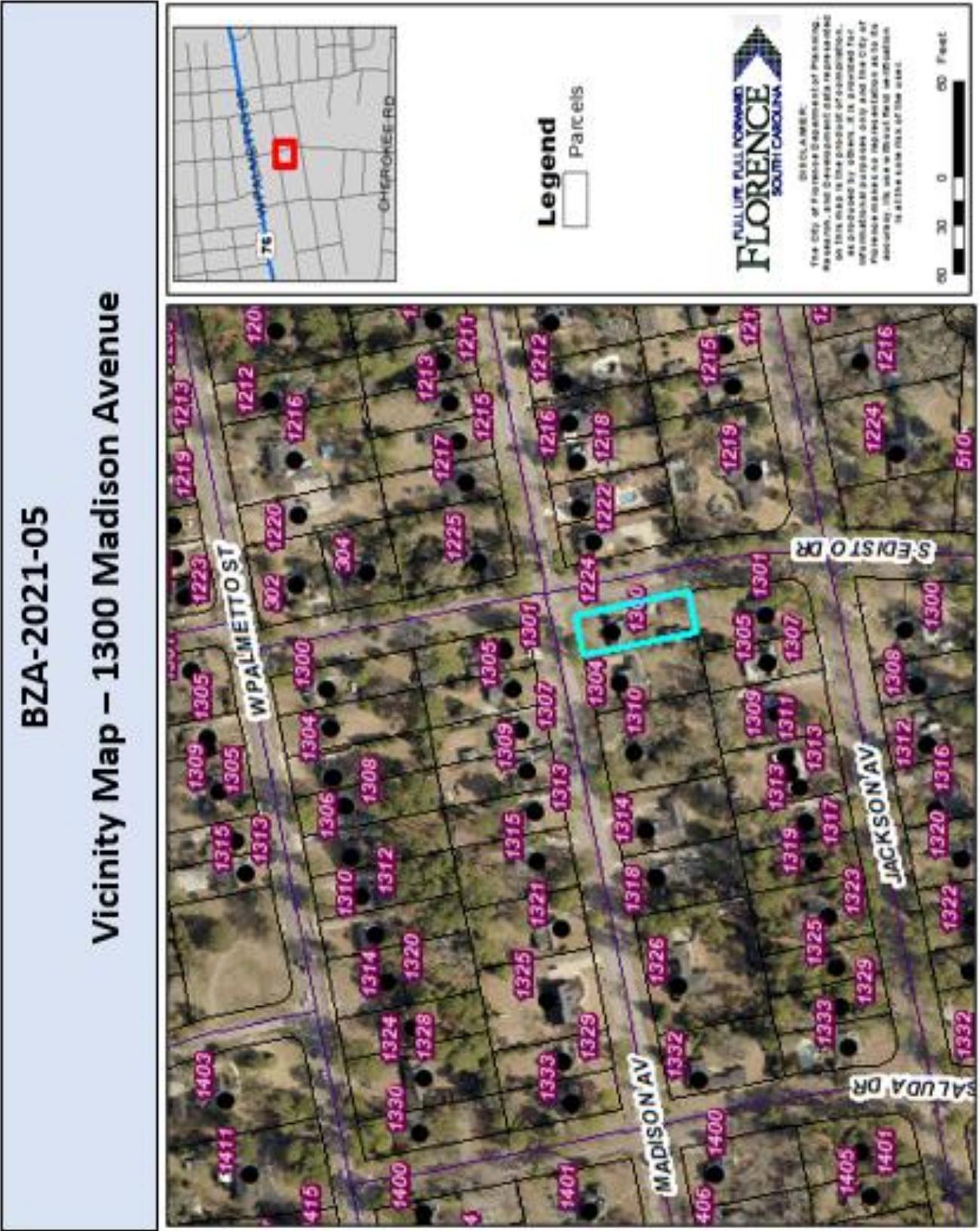
### Issues to be Considered

The Board needs to determine the appropriateness of the requested lot size and setback variances. Applications for a variance shall be evaluated by the Board of Zoning Appeals on the basis of 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: **Enforcement of the Ordinance leaves the accessory building on the property line, which makes it difficult for the owner to sell either lot.**
2. That the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done: **Because these are existing lots with existing houses, the purpose of lot size minimums to provide an adequate and equivalent distance between houses is a moot point.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **There is an accessory building that was constructed across the side property line between the two parcels.**
4. That these conditions do not generally apply to other property in the vicinity: **Other properties do not have a significant accessory building in the rear yard that was built over a shared property line.**
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: **Without the variances allowing the smaller lot size and decreased setback for the accessory building, the owner of the adjacent property will not be able to utilize the accessory building, and once he sells the lot at 1300, there would be issues with the building being on the side property line. Additionally, if the ten foot side setback is enforced, the new rear property line would cut into the circular driveway onto South Edisto Drive.**
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 properties will not change visually at all if the variances are granted. The only real distinction is that 1300 will have a smaller backyard than surrounding parcels.**

### Attachments

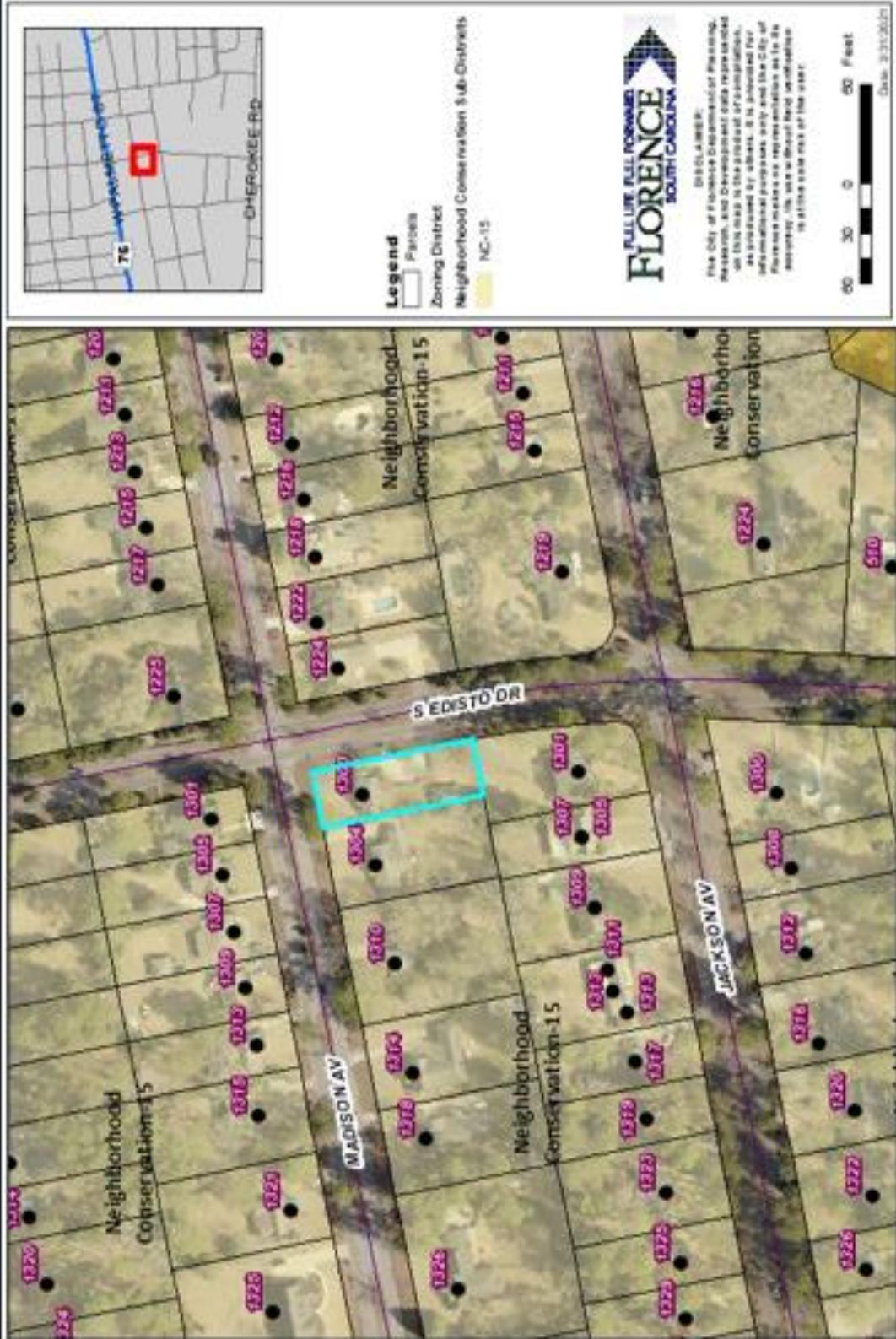
- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Future Land Use Map
- E. Site Plan
- F. Site Photos
- G. *Unified Development Ordinance* Table 1-2.2.1-B and Table 3-8.1.1

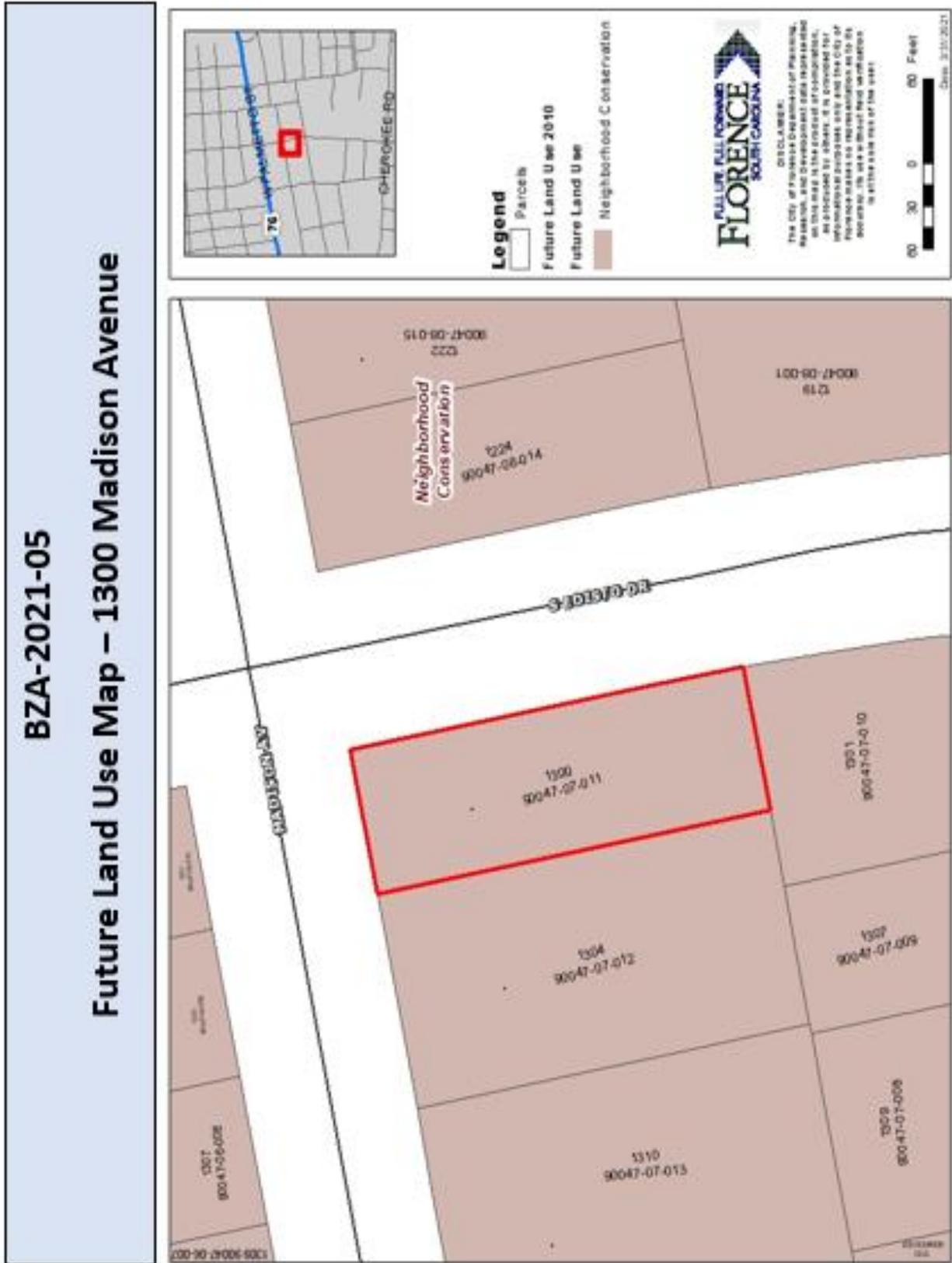


**BZA-2021-05**  
**Location Map – 1300 Madison Avenue**



**BZA-2021-05**  
**Zoning Map – 1300 Madison Avenue**





Attachment E: Site Plan



1300 Madison Avenue currently includes the red and the blue spaces. The request is to remove the blue space from 1300 Madison and add it to the green space, 1304 Madison Avenue. The applicant owns both properties, but wants to incorporate the small accessory building located in the blue space into the property for 1304 Madison Avenue (green) while leaving the circular driveway onto Edisto Drive intact for 1300 Madison Avenue (red).

Attachment F: Site Photos



1300 Madison Avenue from the street.



1304 Madison Avenue from the street.



The accessory building behind 1300 Madison Avenue. The new property line would run along the bushes on the right side of the photo.



The property line going through the accessory building behind 1300 Madison Avenue (see fence attached to the back of the building to the right of the rollcarts).



The back yard behind 1300 Madison Avenue including the circular driveway onto South Edisto Drive.



The proposed rear property line for 1300 Madison Avenue would be this side of the van and along the bushes and wire fence (blue line). The parking pad where the van is would be on the new lot leaving the circular driveway onto South Edisto Drive intact for 1300 Madison Avenue to use.

Attachment G: *Unified Development Ordinance* Table 1-2.2.1-B and Table 3-8.1.1

Table 1-2.2.1B Neighborhood Conservation Subdistricts				
Subdistrict	Character Type	Predominant Building Type	Minimum Lot Area (for New Lots)	Minimum Lot Width (for New Lots)
NC-15	Suburban	Single-Family Detached	15,000 sf.	100 ft.

Table 3-8.1.1 Permitted Encroachments		
Structure or Projection	Permitted Encroachments <sup>1</sup>	
	Into Required Yard	From Lot Line
<b>Rear Setback</b>		
Accessory building (except detached garages)	N/A	5' for buildings that are less than 10 ft. in height; 10' for all other accessory buildings
<b>Interior Side Setback or Street Side Setback</b>		
Accessory Building (except detached garages)	N/A	Shall comply with the principal building setback for the district

**Board of Zoning Appeals Motion Worksheet**

Case Number:   BZA 2021-05   Nature of Request:   Lot Area and 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:

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

**DATE:** April 22, 2021

**APPEAL NUMBER:** BZA-2021-06

**VARIANCE REQUEST:** Request for a variance from the fence requirements in Table 3-8.1.2 and Figure 3-8.1.2 of the *Unified Development Ordinance* for a residential lot.

**LOCATION:** 2217 Pine Forest Drive

**TAX MAP NUMBER:** 01792-05-016

**OWNER OF RECORD:** Shera Hale

**APPLICANT:** Shera Hale

**ZONING DISTRICT:** Neighborhood Conservation-10 (NC-10)

**Land Use and Zoning**

The parcel is located at 2217 Pine Forest Drive in the Pine Forest subdivision. It is in the Neighborhood Conservation-10 zoning district, as is everything adjacent to it. This district permits single family detached houses only.

**Site and Building Characteristics**

The lot is 14,400 square feet in size. It is 80 feet wide and 180 feet long. The house has a 50 foot front setback and is about 70 feet from the edge of the pavement due to the city right of way. The rear yard has a chain link fence around it. The applicant has begun to install a 6 foot tall wooden privacy fence down both side property lines from the rear yard halfway down the front yard towards the street.

**Variance Request**

The applicant is asking for a variance from the requirements of Table 3-8.1.2 and Figure 3-8.1.2 of the *Unified Development Ordinance* regarding fences in residential districts. According to Table 3-8.1.2, fences in front yards must be less than 4 feet tall and have 50% transparency; according to Figure 3-8.1.2, the finished side of the fence must face any abutting property.

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: **I need privacy from the neighbors to the left of me. They keep parking on my yard and are disruptive.**
2. These conditions do not generally apply to other property in the vicinity as shown by: **most people don't need privacy from their neighbors.**

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: **a shorter, less opaque fence would not provide the privacy desired.**
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: **the fence doesn't extend the entire length of the side property lines; it doesn't interfere with street visibility.**

### **Staff Comments**

The applicant and her father had begun to install the fence before they knew to check with the City on what the regulations for fences are. Fences do not require a permit but they are expected to meet the requirements of the Ordinance in Table 3-8.1.2 and Figure 3-8.1.2. The applicant is a single woman living alone and the house next door is a rental. She has had issues with various tenants who park on her yard and harass her as she goes in and out of her house. Her solution was to install a tall opaque fence halfway to the street from the house. The City has not received any complaints about the fence; a Codes Enforcement officer noticed the fence and told them the requirements of the Code. While the same screening effect could be obtained by the planting of bushes and trees, the applicant desires a more immediate level of protection.

### **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: **The applicant is looking for a degree of privacy that would not be met by a literal application of the ordinance to her situation.**
2. That the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done: **The intent of the Ordinance is to provide visibility and openness along the street in a residential area. While this request does enclose a portion of the front yard, the half closest to the street is left open.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **The behavior of the neighbors requires the applicant to take measures to mitigate its effects.**
4. That these conditions do not generally apply to other property in the vicinity: **The house next door is a rental unit rather than owner occupied.**
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 specifics of the fence ordinance would not provide an adequate level of screening.**
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 the fence does not go to the street, it does not completely disrupt the streetscape. Additionally, it is easily removed if the problem with the disruptive neighbors is resolved in the future.**

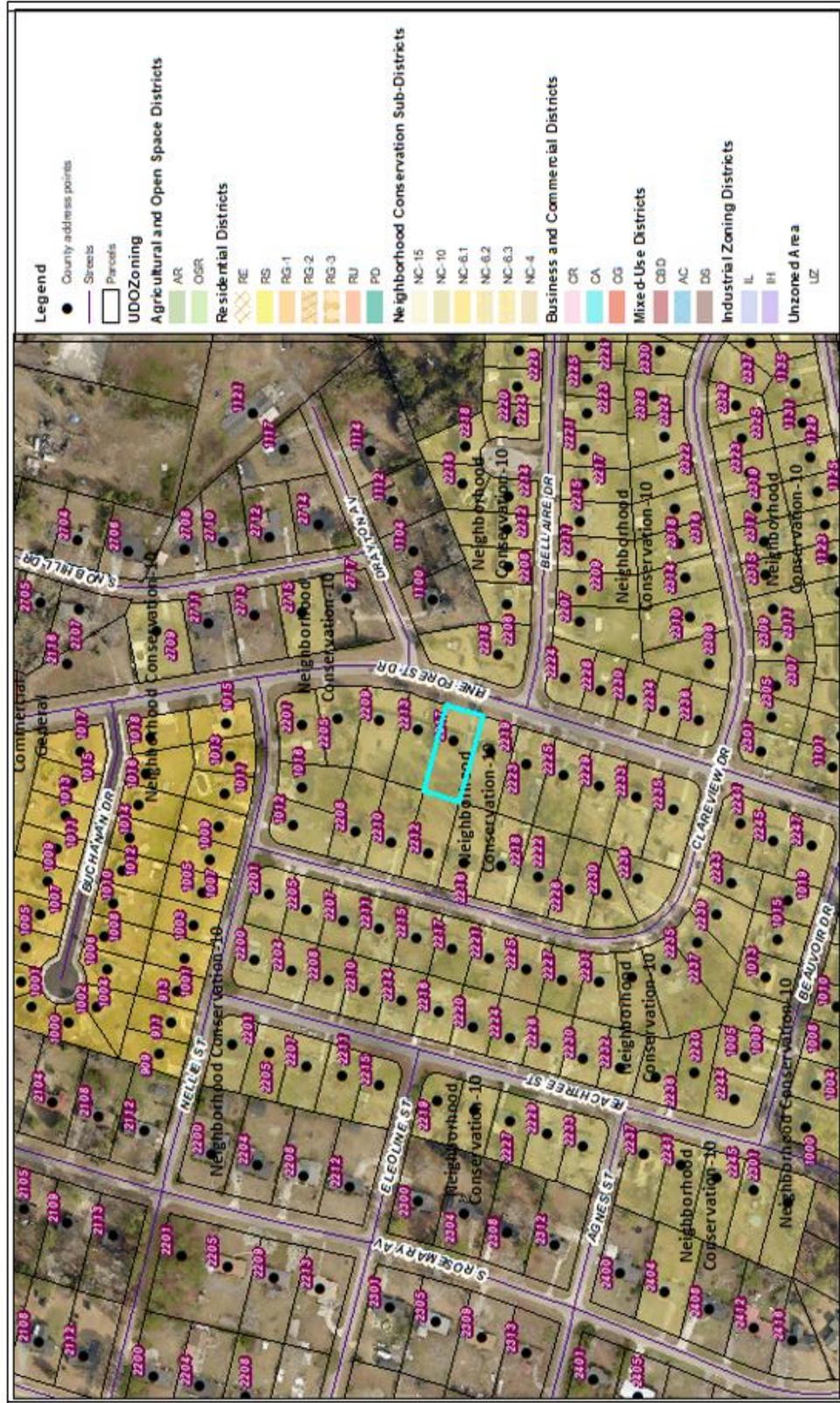
**Attachments**

- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Site Plan and Photos
- E. Table 3-8.1.2 and Figure 3-8.1.2





**BZA-2021-06**  
**Zoning Map – 2217 Pine Forest Drive**



Attachment D: Site Plan and Photos



The yellow lines are the wooden opaque fence under construction. The dark blue is the existing chain link fence. The turquoise is the property line.



The view from the street. The completed fence is on the left; the framework for the remainder is seen on the right.



Showing the distance of the end of the fence from the street.



A closeup of the fence down the side property line.



(Side Fencing on the Right Side of the Shera Hale home picture of the Wood /Stick Fencing that has/ with Full Transparency; NA Set Back, but that is far away from the side of the road into the front of home there is No sidewalk)



(Side Fencing on the Left Side of Shera Hale home picture of the Wood Picket Fence 6ft tall with Minimum Set Back more than required that is away from the front of the road on this street in which it does not have No Sidewalk; Wood Picket Fencing does have Transparency more than required)

The applicant's submission.



Side Fencing on the Left Side of Shera Hale home picture of the Wood Picket Fence 6ft tall with Minimum Set Back more than required that is away from the front of the road on this street in which it does not have No Sidewalk; Wood Picket Fencing does have Transparency more than required)



The applicant's submission.

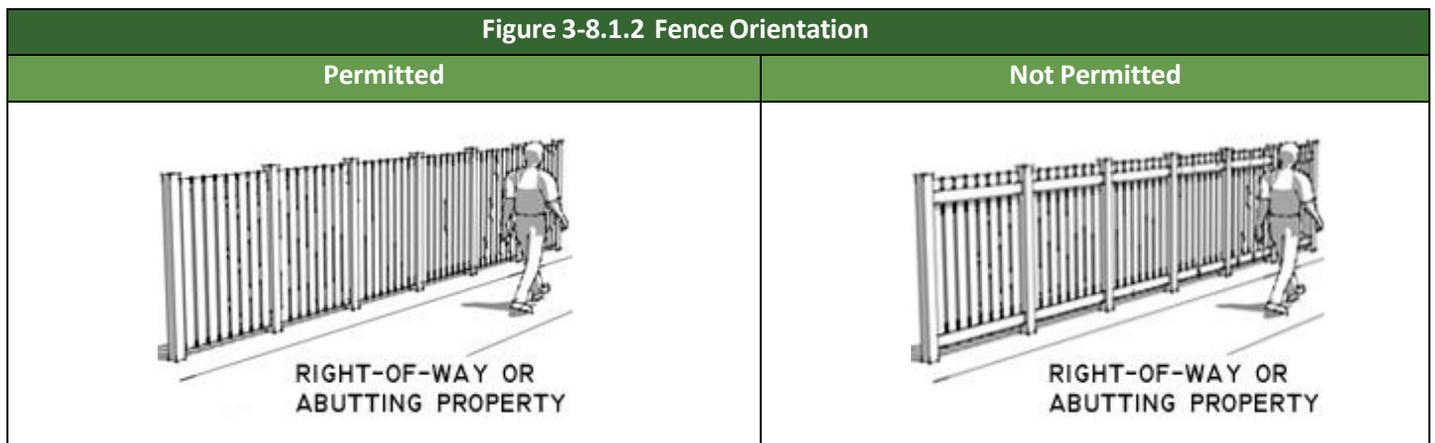
Table 3-8.1.2 Heights and Setbacks for Fences, Walls, and Hedges				
Standard	Front Yard	Side	Street Side Yard	Rear Yard <sup>1</sup>
Maximum Height <sup>3</sup>	Up to 4', subject to this Section.	6'	6'	6' <sup>1,2</sup>
Minimum Setback	N/A; 0', subject to this Section.	0'	0', but at least 1' from sidewalk and/or 5' from street	0' <sup>1</sup>
Transparency	50%	0%	50%	0%

TABLE NOTES:

<sup>1</sup> A lower fence height, increased setback, or minimum transparency may be required to assure safe alley passage.

<sup>2</sup> Fences or walls in rear yards abutting CG, CBD, AC, DS, IL, or IH districts may be a maximum of 8' in height

<sup>3</sup> Fences or walls in excess of maximum allowed height shall require a variance from the Board of Zoning Appeals.



**Board of Zoning Appeals Motion Worksheet**

Case Number:   BZA 2021-06   Nature of Request:   Fence 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: