

CITY OF FLORENCE, SOUTH CAROLINA
BOARD OF ZONING APPEALS
JULY 22, 2021 AT 6:00 PM

AGENDA

I. Call to Order

II. Approval of Minutes

Regular meeting held on June 24, 2021.

III. Public Hearing and Matter in Position for Action

BZA-2021-09	Request for a variance from the requirements for an accessory building on a residential lot located at 1731 Malden Drive, in the NC-15 zoning district; Tax Map Number 01503-01-105.
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IV. Adjournment

Next regularly scheduled meeting is August 26, 2021.

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF FLORENCE BOARD OF ZONING APPEALS
VIA ZOOM VIDEO CONFERENCING
JUNE 24, 2021**

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

MEMBERS ABSENT: Larry Chewning and Randolph Hunter

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

OTHERS PRESENT: James Durant (via telephone with his wife); Lester Switz, Devarise Cooper, LeRoderick McCoy (via Zoom)

CALL TO ORDER: Co-Chairman Poston called the meeting to order at 6:00 p.m.

APPROVAL OF MINUTES:

In the absence of Chairman Chewning, Co-Chairman Nathaniel Poston introduced the April 22, 2021 minutes. Voting in favor of approving the minutes was unanimous (5-0).

PUBLIC HEARINGS AND MATTERS IN POSITION FOR ACTION:

BZA-2021-07 Request for a variance from the fence requirements for a residential lot located at 1014 Hallie Drive, in the NC-6.1 zoning district; Tax Map Number 18005-01-028.

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

Mr. Adams asked if the applicant had sought any building permits for the fence. Mrs. Zlotnicki stated not in this case, and that permits are not required for fences in the city as long as the property owner adheres to the ordinance. She mentioned Codes Enforcement had received complaints from neighbors which is how the Planning Department became aware of the case.

Ms. Moses asked what the complaint was. Mrs. Zlotnicki stated the neighbors believed the fence was unsightly and detracted from property values in the vicinity.

Chairman Poston asked what the height of the fence was. Mrs. Zlotnicki informed him the height is 8 feet.

Mr. Chico noted the fence also violated the ordinance's minimum transparency requirement of 50%.

There being no other questions, Mrs. Zlotnicki phoned the applicant, Mr. James Durant, and put him on speaker phone as he did not want to attend in person or call in through Zoom. Chairman Poston swore in Mr. James Durant, the applicant, to speak in favor of the request. Mr. and Mrs. Durant both outlined their reasons for installing the fence and asked the board to allow them to retain it. They stated that they need

the privacy the fence gives them because the neighbors were always looking at their house and had cameras pointed at their house. They want to be able to use their front porch without the neighbors watching them.

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

Mr. Adams 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 not, in this individual case, result in an unnecessary hardship, in that: The applicant was looking for a degree of privacy that this fence did provide; however, it does not meet any of the literal applications of the Ordinance in this situation.
2. That the spirit of the *Unified Development Ordinance* will not be observed, public safety and welfare secured, and substantial justice done because: The intent of this Ordinance is to provide the visibility and openness along the street in this residential area; the current 8' fence does not allow that. The front yard closest to the house does have the enclosure, leaving the remainder of the front yard open, but the fence obscures the view of the home's entrance and the windows with the exception, as stated, of the garage as well as the window in the garage.
3. That there are no extraordinary and exceptional conditions pertaining to the particular piece of property, namely that these conditions do generally apply to other property in the vicinity, in that: The layout of the lot and dimensions are similar to other lots in this particular neighborhood and the vicinity of the neighborhood. There appear to be no natural, geographical, or infrastructural conditions that are out of the ordinary for this specific piece of property.
4. That because of these conditions, the application of the *Unified Development Ordinance* to the particular piece of property would not effectively prohibit or unreasonably restrict the utilization of the property by: Other lots are subject to the same requirements as the applicant.
5. 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 fence obscures the view of the home's entrance and the windows.

Mr. Chico seconded the motion. The motion to deny the variance as requested passed unanimously (5-0).

BZA-2021-08 Request for a variance from the impervious surface requirements for a residential lot located at 2467 Parsons Gate, in the NC-15 zoning district; Tax Map Number 01221-01-316.

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

Mr. Chico asked whether the pool constituted part of the 5% variance request. Mr. Johnston stated only the pool house and jacuzzi exceeded the impervious service area.

There being no further questions, Chairman Poston opened the public hearing.

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

Mr. Chico moved that the Board grant the variance as 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: The applicant is looking for a five percent variance on the impervious surface ratio allowed or he will not be able to utilize his property as desired.
2. That the spirit of the *Unified Development Ordinance* will be observed, public safety and welfare secured, and substantial justice done because: The approximately three percent of impervious surface added by the pool will only lead to an additional stormwater runoff when the pool is overflowed, which will most likely be at least a 25-year storm event. In most storm events the applicant's impervious surface ratio will exceed the City's maximum by only two percent. The parcel is adjacent to a stormwater pond, excessive stormwater not infiltrated into the lot will drain directly into the pond without utilizing City stormwater infrastructure. With the parcel backyard draining towards the City stormwater pond, adjacent homeowners will be minimally impacted by the additional five percent impervious surface.
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property, namely: The lot is located adjacent to the neighborhood's stormwater pond as well as a 0.40 acre lot, to the south, designated as greenspace/common area for the neighborhood. There is only one adjacent home to the north.
4. That these conditions do not generally apply to other property in the vicinity, in that: This is one of ten lots on Parsons Gate that are adjacent to and drain directly into the neighborhood stormwater pond.
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: Strict observance of the Ordinance would not prevent the use of the property as a single-family residential structure as intended; however, it would prevent the homeowner from building the poolhouse and associated hardscape as desired.
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 proposed structure will be located in the rear yard which is surrounded

by an opaque masonry fence. The adjacent homeowners and the City's infrastructure will be minimally impacted.

Mr. Adams seconded the motion. The motion passed unanimously (5-0).

BZA-2021-10 Request for a variance from the requirements for an accessory building and impervious surface for a residential lot located at 400 Peatree Court, in the NC-6.1 zoning district; Tax Map Number 15219-01-117.

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

Ms. Moses asked if the applicant would be willing to move the playhouse. Mr. Johnston stated yes. Ms. Moses asked what the size of the large accessory building is. Mr. Johnston stated 334 square feet and that staff would treat it as a detached garage so the applicant could keep another accessory building.

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

Mr. Adams moved that the Board deny the variance as 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: Literal enforcement of the Ordinance is intended to limit the number of accessory structures allowed on the lot.
2. That the spirit of the *Unified Development Ordinance* will not be observed, public safety and welfare secured, and substantial justice done because: The intent of the Ordinance is to limit the dedicated building number even though the parcel amount of the storage buildings will not surpass the 25% square footage limit permitted by the Ordinance; however, it is the number of individual structures that will be surpassed and over the limit.
3. That there are not extraordinary and exceptional conditions pertaining to the particular piece of property, namely: The applicant is citing the size of their family including multiple age groups that require special accommodations for storage which puts them over the limit for the parcel. This property is located at the end of a cul-de-sac and is irregularly shaped which affords this lot a larger rear yard, however the number of buildings is what is in question.
4. That these conditions do generally apply to other property in the vicinity, in that: This property is located at the end of a cul-de-sac and is irregularly shaped which affords this lot a larger rear yard than those not located on the cul-de-sac. A small number of other lots within the neighborhood located on cul-de-sacs have similar lot configurations, but not the same number of buildings.

5. That because of these conditions, the application of the *Unified Development Ordinance* to the particular piece of property would not effectively prohibit or unreasonably restrict the utilization of the property by: A literal enforcement of the Ordinance will not restrict the intended use of the property as single-family residential.
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: Not just the location of the accessory buildings, but the number of accessory buildings, as well as, the owner's fence minimize the visibility, however it is still over the allotted amount in the Ordinance.

Mr. Chico seconded the motion. The motion passed unanimously (5-0).

ADJOURNMENT:

As there was no further business, Mr. Adams moved to adjourn the meeting. Ms. Moses seconded the motion. Voting in favor of the motion was unanimous (5-0). Chairman Poston adjourned the meeting at 6:43 p.m. The next regular meeting is scheduled for July 22, 2021.

Respectfully submitted,

Austin Cherry, Office Assistant III

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

Date: July 22, 2021

Appeal Number: BZA-2021-09

Variance Request: Variance request from the rear setback requirements in Section 3-8.1.9 of the *Unified Development Ordinance* for the installation of a detached garage.

Location: 1731 Malden Drive

Tax Map Number: 01503-01-105

Owner of Record: Mary Blanche Fowler

Applicant: Mary Blanche Fowler

Zoning District: Neighborhood Conservation-15

Land Use and Zoning

The property is located at 1731 Malden Drive, and consists of a single-family detached home in the Neighborhood Conservation-15 (NC-15) zoning district. The City's Future Land Use Plan designates this area as Neighborhood Conservation. The *Unified Development Ordinance* permits one accessory building and one carport or detached garage in the NC-15 zoning district. Table 3-8.1.1 states the detached garage must comply with the side setbacks of the house. Because this is a corner lot, the detached garage must be placed 15' from Milton Street; non-corner lots have a side setback requirement of 10'. The rear setback for the detached garage is 10' because the height of the building is greater than 10' in height. Buildings less than 10' have a setback requirement of 5' from the rear.

Site and Building Characteristics

The house is on a corner lot and is 0.43 acres in size. The 1.5 story home is approximately 3,000 square feet and constructed in 1985. The lot is approximately 115 feet wide and 165 feet in depth with a large backyard, mostly covered with trees. The proposed detached garage is 12' by 32' (384 square feet) with a garage door height of 6' 8" and an overall height of 11' 8". The applicant originally obtained a Zoning Permit from the City for a detached garage June 10, 2021. The site plan (Attachment G) shows the owner's original layout intention. The owner then realized the space constraints caused by the mature trees in the backyard before placing the detached garage with the correct Unified Development Ordinance setbacks of 15' on the street side and 30' in the rear. After gaining more details about the dimensions of the detached garage, City Staff informed the applicant of the 15' street-side setback (Milton Street) and 10' rear setback.

Variance Requests

The property owner is requesting a variance from the street-side and rear setback requirements for a single story detached garages from Table 3-8.1.1 of the *Unified Development Ordinance*. The applicant is

requesting a 4' variance from both the street-side and rear setback requirements resulting in an 11' street-side setback and a 6' rear setback.

The following information was submitted by the applicant:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: **I will have to remove trees and shrubs if I'm not able to place the building near the back of the property line.**
- b. These conditions do not generally apply to other property in the vicinity as shown by: **My other neighbors have similar buildings close to their property lines.**
- c. 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: **No response given.**
- d. 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: **Same response as in 2b above, many of my neighbors already have buildings extremely near their property line.**

Issues to be Considered

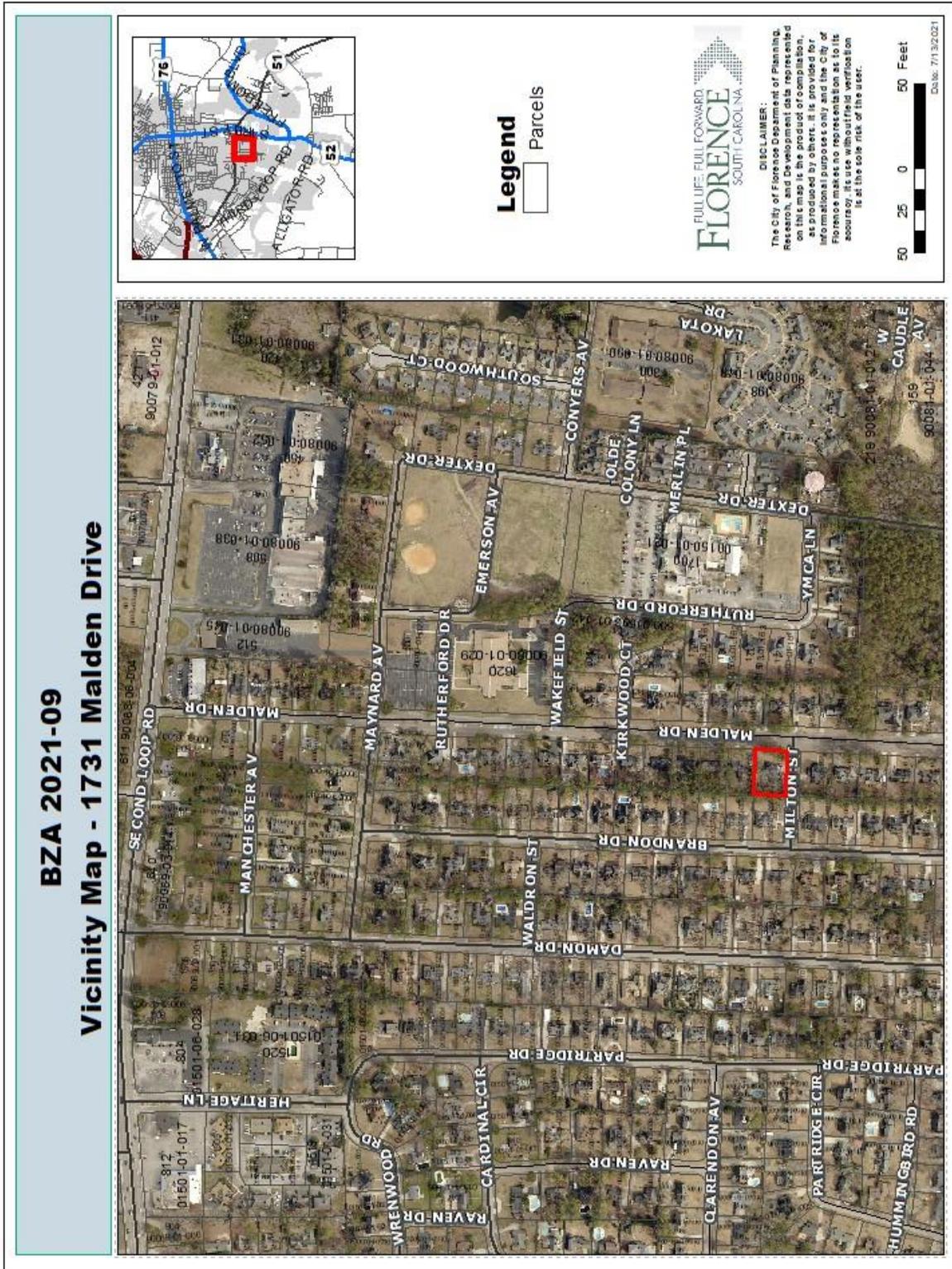
Applications for a variance shall be evaluated by the Board of Zoning Appeals on the basis of the following conditions:

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: **The owner would like to place the detached garage 11' from the street side property line and 6' from the rear property line to take advantage of open space free of vegetation. Strict adherence to the Ordinance would require removal of mature trees on the property.**
2. That the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done: **The height of the structure triggers the increased setback requirements from 5' to 10'. The applicant is proposing the structure to be 6' from the rear property line to make up for the additional 1'8" of height over 10'. This would allow the preservation of mature trees and shrubs on the site.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **The rear yard is almost completely covered with vegetation including trees and shrubs that limit placement options for the detached garage**
4. That these conditions do not generally apply to other property in the vicinity: **The hardship is limited to this parcel because of the large percentage of rear yard occupied by established vegetation as compared to most lots in the vicinity.**
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: **Strict adherence to the Ordinance does allow use of the property as a single-family residence, but would limit the ability of the property owner to place the detached garage in the desired location of 11' from the street-side property line and 6' from the rear property line.**

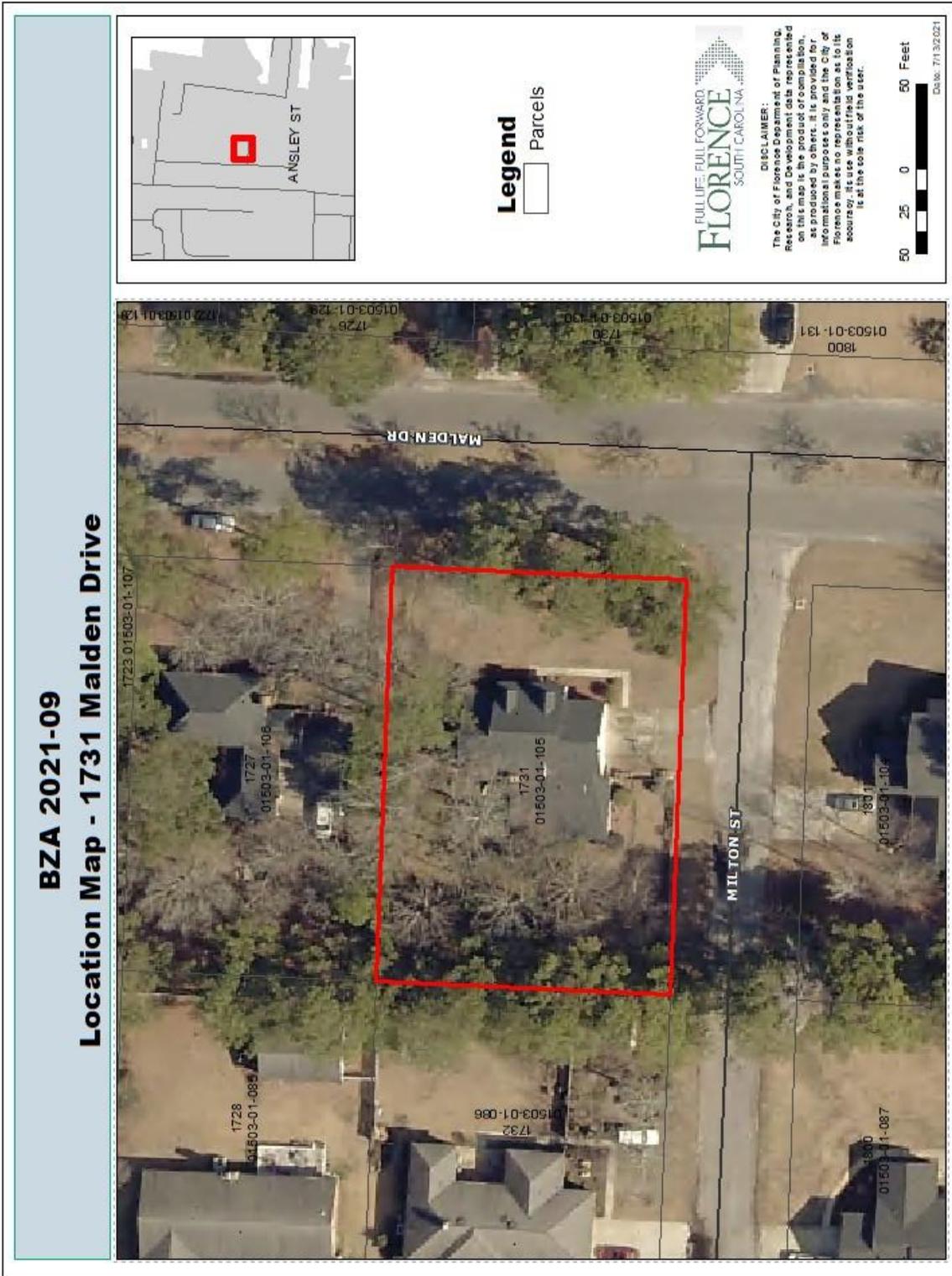
6. That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance: **The detached garage will not have minimal visual impact from Malden Drive or Milton Street due to the house and the vegetation, but the property owner to the rear will be affected by the close proximity of the detached garage to the property line. There is a row of mature trees and shrubs separating the two parcels.**

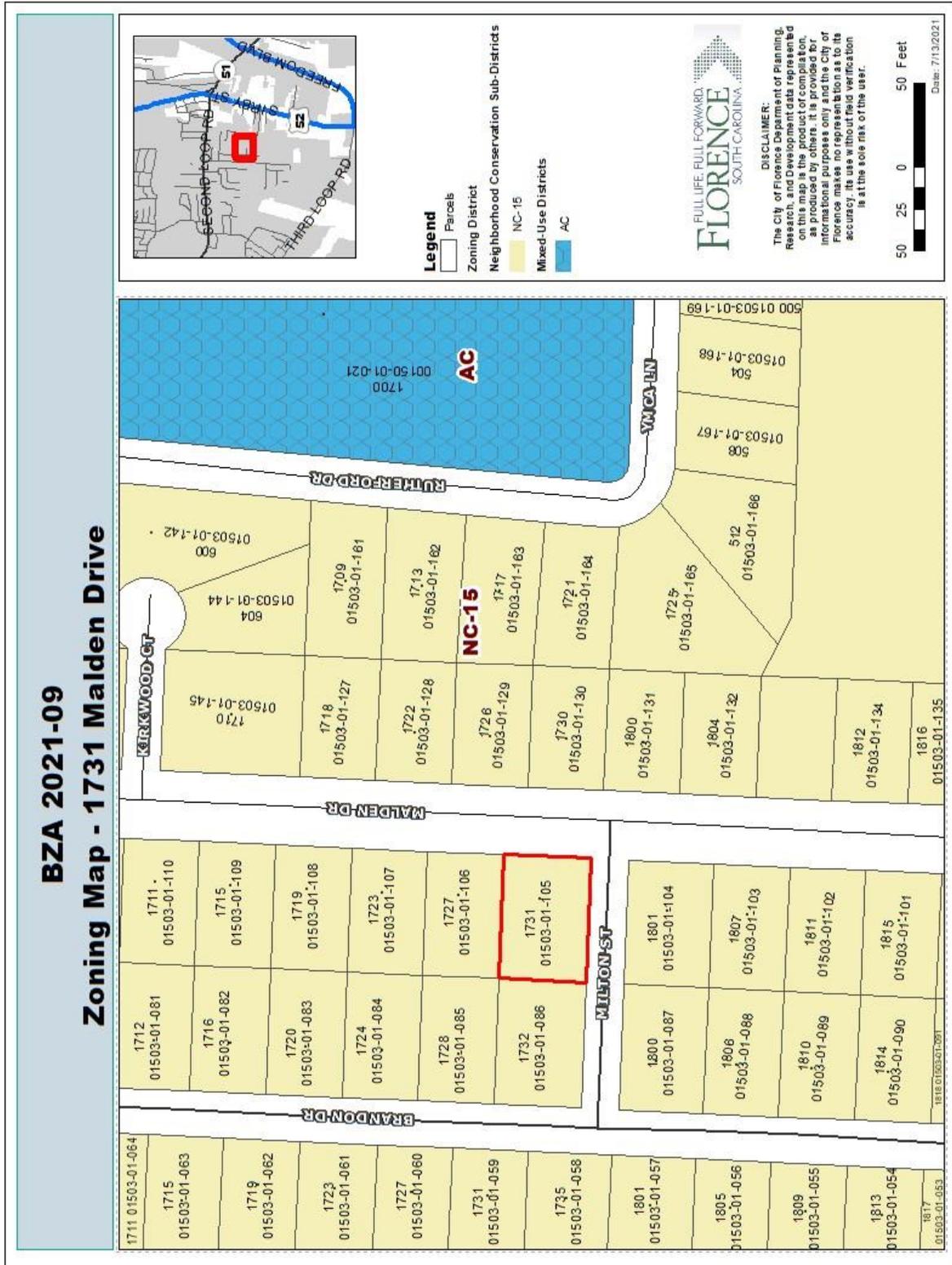
Attachments

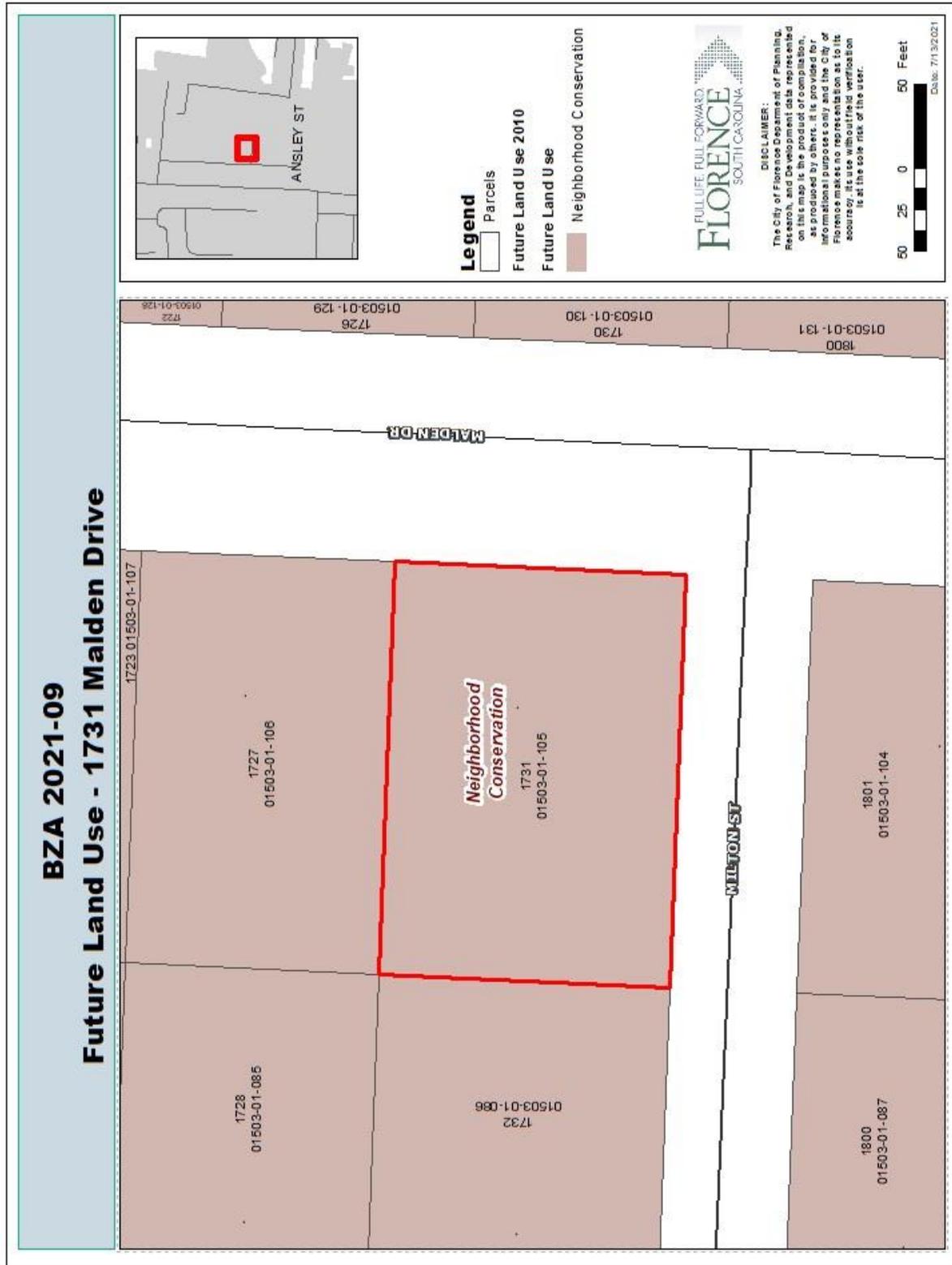
- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Future Land Use Map
- E. Section 3-8.1.9.G Accessory Building and Structures
- F. Table 2-5.2.1 General Lot and Building Standards
- G. Table 3-8.1.1 Permitted Encroachments
- H. Site Plan from June 10, 2021 Zoning Permit
- I. Detached Garage Rendering
- J. Aerial Photo Showing Tree Cover
- K. Site Photos



Attachment B: Location Map







Attachment E: Section 3-8.1.9 Accessory Building and Structures

L. **Detached Garages.** Detached garages are permitted only for the following housing types:

1. *Single-Family Detached.* Detached garages on single-family detached lots may be single-story buildings or two-story buildings that include second floor workshop or storage space (subject to *Section 1-2.10.1, Residential Accessory Uses*).

a. One-story detached garages may be set back as allowed by *Section 3-8.1.1, Permitted Encroachments*.

b. Two-story detached garage buildings shall be set back according to the requirements that apply to the principal building. For the purposes of this Subsection, garages with doors that are taller than eight feet are considered two-story.

Attachment F: Table 2-5.2.1 General Lot and Building Standards

Table 2-5.2.1 General Lot and Building Standards								
Subdistrict	Minimum Setback					Maximum Building		
	Front	Street Side	Side	Total Side	Rear	Height ¹	Impervious Surface Ratio	Floor Area
NC-15	25'	15'	10'	20'	30'	38'	40%	See Note 2
NC-10	25'	12'	8'	16'	25'	38'	45%	
NC-6.1	25'	10'	5'	12'	25'	38'	45%	
NC-6.2	25'	10'	5'	12'	20'	38'	45%	
NC-6.3	25'	10'	5'	12'	20'	55'	70%	
NC-4	20'	8'	5'	10'	20'	38'	60%	

Table Notes:
¹ The maximum height of a residence may be 38 feet; provided however, that a new or redeveloped residence or an expansion of an existing residence shall be of no greater height than the residences situated to either side within the same subdistrict. If the new or redeveloped residence or expanded existing residence is situated adjacent to another district, the new or redeveloped residence or expanded existing residence shall be of no greater height than the adjacent residence within the same subdistrict.
² The gross floor area of a new or redeveloped residence or expanded existing residence shall be comparable to the residences on the same side of the block and within 300' as follows:
a. Equal to or no greater than 120 percent for residences up to 2,500 square feet of gross floor area; or
b. Equal to or no greater than 115 percent for residences greater than 2,501 square feet of gross floor area.

Attachment G: Table 3-8.1.1 Permitted Encroachments

Table 3-8.1.1 Permitted Encroachments		
Structure or Projection	Permitted Encroachments ¹	
	Into Required Yard	From Lot Line
All Setbacks		
Overhanging eaves and gutters	North and South exposures: 1.5' East and West exposures: 3'	1' ^{1,2}
Awnings and structurally supported canopies without supports that extend to the ground	N/A	2' ^{1,2}
Steps, 4 feet or less above the point of measurement for the building, which are necessary for access to the building	5'	1.5'
Chimneys	2'	N/A
Arbors and trellises	N/A	2'
Flagpoles	N/A	2'
Fences, walls, and hedges	See Section 3-8.1.2	
Ground-supported Communication and Reception Antennae	5'	
Structures and projections not listed in this Table.	3'	
Front or Street Side Setback		
First floor bay windows	3'	N/A
Patios	10 ft., subject to Section 3-8.1.3	2.5'
Open porches	4 ft., subject to Section 3-8.1.3	2.5'
Balconies, subject to Section 3-8.1.3	Generally: 4' CBD, AC, and DS Districts: 6'	N/A
Side-load garages (attached or detached)	On lots 75' or more in width: 10 ft. On lots less than 75' in width: prohibited	
Interior Side Setback or Street Side Setback		
Accessory building (except detached garages)	N/A	Shall comply with the principal building setback for the district.
Air conditioning unit	3' without screening; 5' if screened by a garden wall or hedge that is 1' taller than the unit	3'
Driveways	N/A	Generally: 2'; Shared Driveways: 0'
Decks	N/A	3', subject to Section 3-8.1.3; 1' if the adjacent parcel is permanent open space
Rear Setback		
Accessory building (except detached garages)	N/A	5' for buildings that are less than 10 ft. in height; 10' for all other accessory buildings
Paved off-street parking spaces	N/A	3', except individual driveways that are accessed from an alley
Rear-load detached garage	N/A	0', or as required by Director for safe alley passage
Side-load detached garage	N/A	5'
One-story bay window	3'	N/A
Air conditioning unit	3' without screening; 5' if screened by a garden wall or hedge that is 1' taller than the unit	N/A
Decks, less than 4' above grade	N/A	3', subject to Section 3-8.1.3
Decks and balconies, 4 feet or more above grade	12'	5', subject to Section 3-8.1.3
Animal pens and shelters; dog runs ³	N/A	5'.
TABLE NOTES:		
¹ Structures or projections shall not encroach into easements or onto abutting property that is not owned by the applicant. See Subsection C. of this Section.		
² Encroachment may be allowed subject to Subsection D., of this Section.		
³ The keeping of animals is regulated by the Code of Ordinances.		



Attachment I: Detached Garage Rendering

LOFTED BARN GARAGE



FEATURED BUILDING:
12' x 32' Lofted Barn Garage
Pioneer Scarlet Urethane Finish
Grey Painted Trim
Old Town Gray Metal Roof

Sizes
12X20
12X24
12X28
12X32
12X36
14X20
14X24
14X28
14X32
14X36



With a taller garage door opening and additional lofts, this garage is an upgrade to the original Portable Garage.

Attachment J: Aerial Photo Showing Tree Cover



Attachment K: Site Photos



1731 Malden Drive-view from Malden Drive



Backyard viewed from Milton Drive



Backyard with Rear Property Line Left of Picture



Backyard with Rear Property Line Left of Picture



Backyard Looking North – Rear of House on Right



Backyard Looking North – Rear of House on Right

Board of Zoning Appeals Motion Worksheet

Case Number: BZA 2021-09 Nature of Request: Rear 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 *Unified Development 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 *Unified Development 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 *Unified Development 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: