

**CITY OF FLORENCE, SOUTH CAROLINA  
BOARD OF ZONING APPEALS  
OCTOBER 28, 2021 AT 6:00 PM**

**AGENDA**

**I. Call to Order**

**II. Approval of Minutes**

**III.** Regular meeting held on September 23, 2021.

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

BZA-2021-15                      Request for a variance from street side setback requirements for a residential lot located at 221 North Pointe Drive, in the NC-6.1 zoning district; Tax Map Number 01472-01-111.

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

BZA-2021-16                      Request for a variance from setback requirements for a residential lot located at 403 North McQueen Street, in the NC-6.2 zoning district; Tax Map Number 90072-12-023.

**VI. Adjournment**

Next regularly scheduled meeting is November 18, 2021.

**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF FLORENCE BOARD OF ZONING APPEALS  
SEPTEMBER 23, 2021**

**MEMBERS PRESENT:** Larry Adams, Larry Chewning, Ruben Chico, and Deborah Moses

**MEMBERS ABSENT:** Shelanda Deas, Nathaniel Poston, and Randolph Hunter

**STAFF PRESENT:** Jerry Dudley, Alfred Cassidy, Derek Johnston, Alane Zlotnicki, and Danny Young, IT

**APPLICANTS PRESENT:** Scott Brady

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

**APPROVAL OF MINUTES:**

Chairman Chewning introduced the August 26, 2021 minutes. Mr. Adams moved that the minutes be approved as submitted; Mrs. Moses seconded the motion. Voting in favor of approving the minutes was unanimous (4-0).

**PUBLIC HEARINGS AND MATTERS IN POSITION FOR ACTION:**

**BZA-2021-11 Request for a variance from the setback and size requirements for an accessory building on a residential lot located at 1913 Brigadoone Lane, in the NC-15 zoning district; Tax Map Number 15013-01-007.**

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.

Mrs. Zlotnicki said that she asked the engineers to look at the history of the culvert between the two properties and provided the following information:

1. In 1964 DC Barbot & Associates proposed the Sandhurst Subdivision. It drained to an existing open ditch running north-south along the property line between it and what would later become Brigadoone. At this time the Brigadoone property was undeveloped.
2. In August 1966 Sandhurst expanded south to Third Loop Road, and the design showed proposed pipe along the entire 3200 linear feet of the ditch. There were no recorded easements over the pipe in the record drawing.
3. Heller & Associates began the Brigadoone subdivision in August 1988 (Phase 1). Phase 2 followed in September 1990. Phase 3 was designed in August 1999, and Phase 4 came in March 2000. For reference, Phase 3 contains the 1913 Brigadoone Lane parcel.
4. The Brigadoone Phase 3 drawings show easements on the storm drainage pipe within the subdivision itself, but the piped ditch on the property line does not have an easement.

5. Unless the individual property plats show an easement, the City cannot prove that there is one. With 20+ years of fences and landscaping in the lots that back up against the property (up to 50+ for Sandhurst homes) it may be very difficult to gain access to the pipe.
6. The culvert is considered to be on private property and the responsibility of the property owners.
7. As part of the 2021 Stormwater Bond, Sandhurst is being surveyed and assessed for stormwater issues.

She added that, regarding the issue of diverting runoff from the extension of the building, the owner is willing to install a gutter and downspout on that side of the shop to mitigate any runoff onto the side neighbor's yard.

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

Mr. Chico moved that the Board approve the variance as requested based on the following findings of fact and conclusions, with the condition that the applicant install a gutter to facilitate the drainage of the building.

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: **Requiring that current setback requirements be met by the new addition would result in the inability to expand the existing building as desired by the owner.**
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 an adequate distance from property lines for accessory buildings in a residential area. When the house and garage were built, 3 feet was the required distance for accessory structures. Additionally, there is a 6 foot tall privacy fence between the garage and the neighboring properties both to the side and the rear.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **The garage is already built and encroaches into the side setback; the request is to construct a 240 square foot addition to the rear of it.**
4. That these conditions do not generally apply to other property in the vicinity: **This is a preexisting building that was constructed according to the requirements in place at the time.**
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 setback requirements would not prevent the use of the home as a single-family residence; however, the extra work space desired by the owner would have to be provided in an additional accessory building, which would increase visual clutter in the back yard.**
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 exterior of the garage which is visible from the street will not change, and the addition will be finished to match. The area proposed for the addition is currently unused space and is not visible from the street. There is a 6 foot privacy fence around the back yard so the proximity to**

**neighboring properties is not obvious. In order to mitigate additional runoff, the owner will install a gutter on the building as a condition of the approval of the variance.**

Mr. Adams seconded the motion. The motion to approve the variance as requested passed unanimously (4-0).

**BZA-2021-13 Request for a variance from sign ordinance requirements for the business located at 2300 West Palmetto Street, in the CG zoning district; Tax Map Number 90011-02-001.**

Chairman Chewing introduced the request and asked staff for their report. Mr. Johnston gave the report as submitted to the Board of Zoning Appeals. Chairman Chewing asked if there were any questions of staff. Being no questions, Chairman Chewing swore in Mr. Scott Brady to address the Board on behalf of the applicant.

Mr. Brady stated the used car sign would eventually be removed but was unsure of the timeframe. He stated the proposed sign would be used to advertise community events. Mr. Chico expressed concerns over the cluttered nature of signage in the area's vicinity.

There being no one else to speak for or against the request, Chairman Chewing closed the public hearing and asked for a motion. Mrs. Moses moved that the Board approve the variance as requested based on the following findings of fact and conclusions:

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: **Literal enforcement of the Ordinance is intended to limit the number of freestanding signs permitted along a given street frontage.**
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 limit an accumulation of freestanding signs along one street frontage. The property fronts on four streets and, by code, would be allowed a sign on each frontage. An additional freestanding sign would bring the dealership's total to three, one existing sign serving Holly Circle, one existing sign serving West Palmetto, and the proposed sign would be on the corner of Holly Circle and West Palmetto (oriented to be visible from both roads).**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **This parcel fronts on four different streets, but most of the vehicular traffic is concentrated on two; West Palmetto Street, and Holly Circle. Other properties in the vicinity are limited to one sign per street frontage.**
4. That these conditions do not generally apply to other property in the vicinity: **While some parcels in the area have two street frontages, this particular property is unique in that it has four street frontages; however, there has been no allowed accumulation of signage within municipal limits.**
5. That because of these conditions, the application of the Ordinance to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: **A literal enforcement of the Ordinance will not restrict the intended use of the property as an Automobile Sales & Service Establishment but would prevent an additional freestanding sign on Holly Circle.**

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 location of the additional signage will be about 35' north-northwest of the existing sign on the corner of Holly Circle and West Palmetto Street, and 450' west-southwest from the existing entrance sign serving West Palmetto Street. The character of this corridor of West Palmetto Street is commercial in nature.**

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

Chairman Chewning moved that an amendment be made that clarified the time frame to remove the third sign. Mr. Chico seconded the motion to amend, and the motion passed unanimously (4-0).

**BZA-2021-14 Request for a variance from the fence requirements for a residential lot located at 419 Wilson Road, in the NC-6.1 zoning district; Tax Map Number 01765-02-007.**

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.

Mr. Adams asked staff if the fence was the same height the entire length of the side yard. Ms. Zlotnicki stated the applicant is here to answer questions.

Chairman Chewning swore in Alice and Carmenita Fleming to speak in favor of the request. Ms. Fleming stated the fence is elevated around the side door in order to obstruct their neighbor's view of the home. She outlined the history of abuse by her neighbors as the reason she needed the variance.

There being no further questions 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.

Mrs. Moses moved that the Board approve the variance as requested based on the following findings of fact and conclusions:

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 affect a portion of the front yard, only one side is affected and the portion closest to the street is left open.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **The physical aspects of the property and structure are similar to others in the vicinity; however, the property owner is seeking privacy from an adjacent property to mitigate effects previously described**
4. That these conditions do not generally apply to other property in the vicinity: **The adjacent property has a history of police calls. The applicant and other neighbors have also outlined other perceived nuisances.**

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 affect visibility from adjacent driveways. The fence is a nonpermanent structure which could be removed in the future.**

Mr. Chico seconded the motion. The motion to approve the variance as requested passed unanimously (4-0).

#### **ADJOURNMENT:**

Mr. Dudley gave the Board an update on the progress of the Comprehensive Plan. As there was no further business, Mr. Adams moved to adjourn the meeting. Mrs. Moses seconded the motion. Voting in favor of the motion was unanimous (4-0). Chairman Chewning adjourned the meeting at 6:58 p.m. The next regular meeting is scheduled for October 28, 2021.

Respectfully submitted,  
Alane Zlotnicki, AICP  
Senior Planner

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

**DATE:** October 28, 2021

**APPEAL NUMBER:** BZA-2021-015

**VARIANCE REQUEST:** Request for a variance from the street side setback requirements in Table 2-5.2.1 of the *Unified Development Ordinance* for a residential lot.

**LOCATION:** 221 North Pointe Drive

**TAX MAP NUMBER:** 01472-01-111

**OWNER OF RECORD:** City of Florence

**APPLICANT:** City of Florence Community Development Department

**ZONING DISTRICT:** Neighborhood Conservation-6.1 (NC-6.1)

**Land Use and Zoning**

The parcel is located at 221 North Pointe Drive in the North Pointe Subdivision. It is in the Neighborhood Conservation-6.1 zoning district, as is everything adjacent to it. This district permits single family detached houses only. Setbacks are 25 feet from the front property line, 10 feet from the street side property line for corner lots such as this one, 5 feet from the interior side property line, and 25 feet from the rear property line. The purpose of the street side setback is to ensure that there is adequate visibility for drivers at the intersection.

**Site and Building Characteristics**

The irregularly shaped lot is 9,584 square feet in size, with a width of 67 feet at the front setback line of 25 feet, narrowing to 48 feet at the rear of the lot. The house proposed for the parcel is also irregularly shaped, with a total width of 47 feet, 6 inches, and a total depth of 45 feet, 10 inches.

**Variance Request**

The applicant is asking for a variance from the requirements of Table 2-5.2.1 of the *Unified Development Ordinance* regarding street side setbacks for principal buildings in residential districts in order to accommodate the slanted interior side property line. The requirement is 10 feet, but the applicant is asking for a 5 foot variance, to allow the house to be located 5 feet from the street side property line.

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: **The lot is small and irregularly shaped due to a platting correction that was needed following the construction of the house next door.**
2. These conditions do not generally apply to other property in the vicinity as shown by: **The size and shape of this particular lot.**

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: **The house next door was built across the shared side property line, necessitating a redrawing of the property lines, resulting in the irregularly shaped lot. In order to provide at least 10 feet between the two houses, it is necessary to shift this one towards the street. Denying the variance would result in the two houses being closer to each other along their shared property line than are other houses in the neighborhood, or the necessity of finding a narrower house plan which wouldn't fit the character of the community.**
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 house plan chosen is one that has been used on other lots in the subdivision. Because of the right of way and the sidewalk, visually the house will not be obviously closer to the side street, and it will maintain the consistency of style and character for the neighborhood.**

### **Staff Comments**

The North Pointe Subdivision is being developed by the City of Florence to provide affordable housing for residents. A limited number of house plans are being used to provide consistent character. The house at 217 North Pointe Drive was mistakenly built on the side property line shared with 221 North Pointe Drive, necessitating a redrawing of the parcel lines (see Attachment E). In order to accommodate the requisite 10 feet between houses (5 foot side setback per house), the house plan needs to be shifted towards the street slightly. There are 8 feet in the right of way between the sidewalk and the property line, so the house will still be about 13 feet from the sidewalk.

### **Issues to be Considered**

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

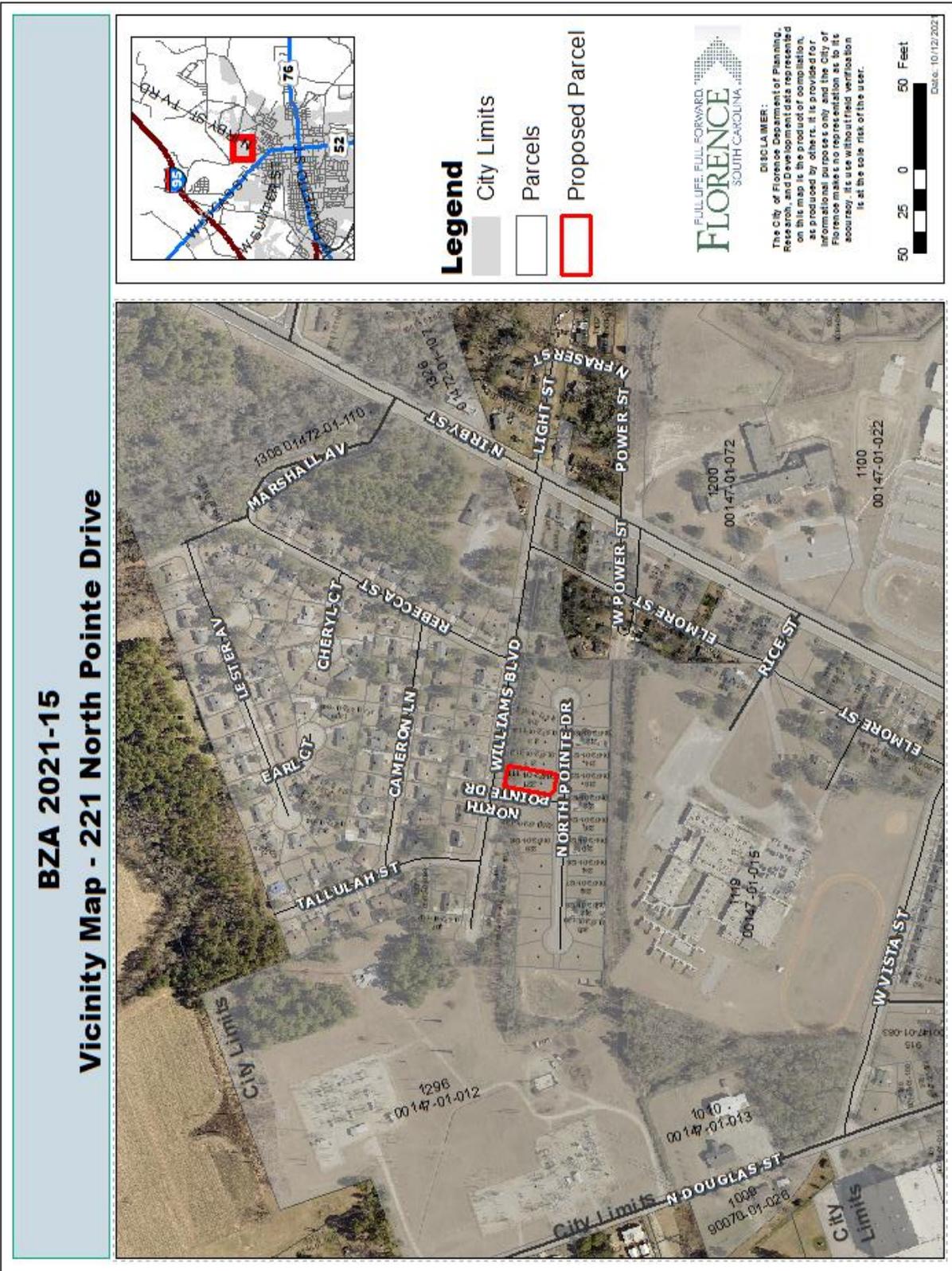
1. That a variance from the terms of this Ordinance will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will in an individual case, result in an unnecessary hardship: **Because of the unusual shape of the lot, the variance is necessary to enable the construction of a house in keeping with those already constructed in a manner that does not detract from the overall character of the neighborhood.**
2. That the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done: **The intent of the street side setback is to ensure that visibility is maintained at the intersection. Because of the width of the public right of way and the sidewalk, the proposed location of the house will not interfere with that visibility.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **The irregular shape of the lot that resulted from the unavoidable redrawing of the interior side property line limits the buildable area.**
4. That these conditions do not generally apply to other property in the vicinity: **The shape of this particular lot was distorted after accommodations were made for the house constructed next door.**
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 the 10 foot street side setback would put the two houses too close to each other for safety or**

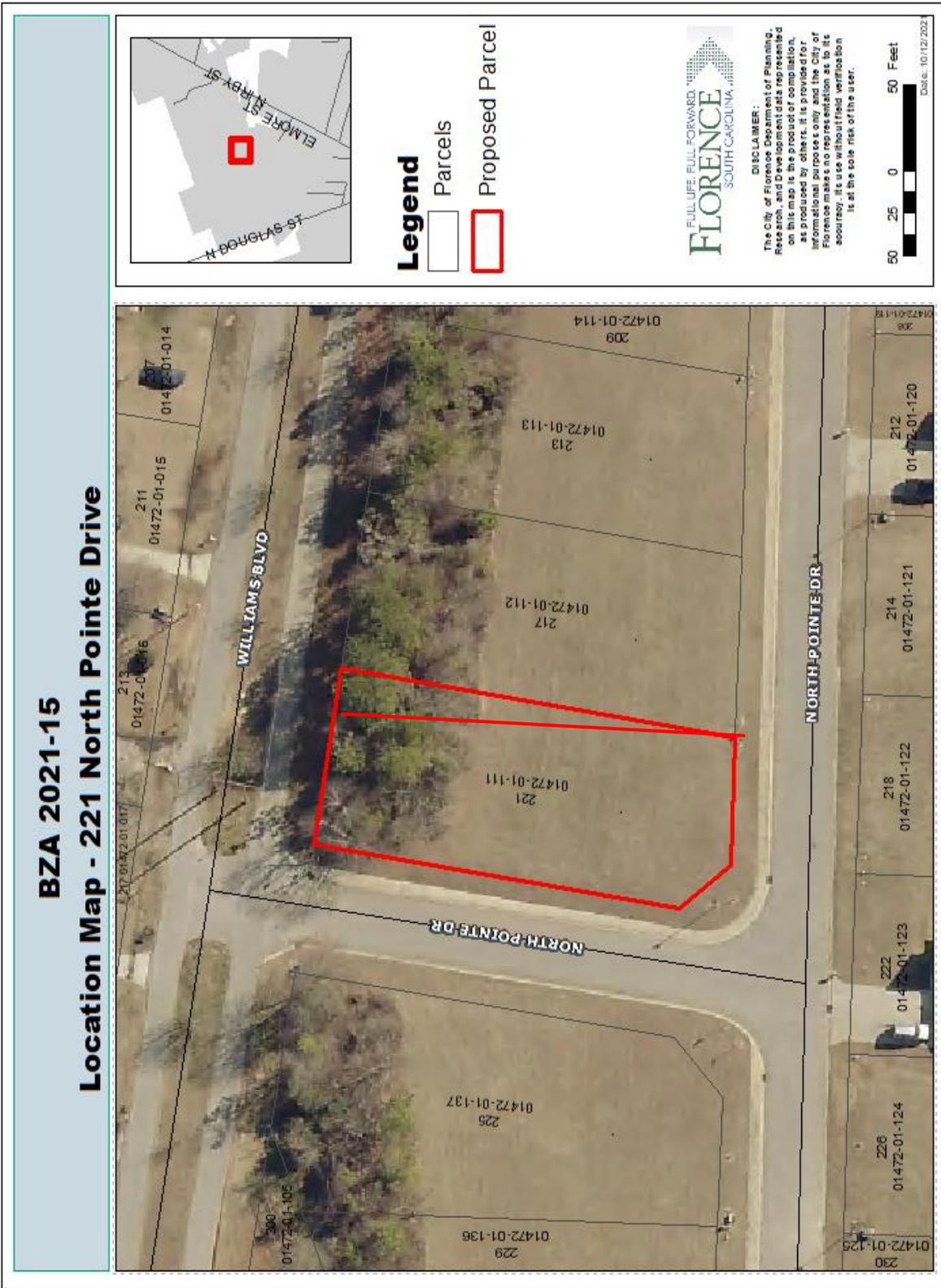
**aesthetics.**

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: **Granting the variance will not impair the character of the neighborhood either visually or physically because the house will be consistent with the others and it will exceed the minimum setback distance from the sidewalk, if not the property line.**

**Attachments**

- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Table 2-5.2.1
- E. Plat
- F. House Rendering and Plan
- G. Site Photos







Attachment D: Table 2-5.2.1 from the *Unified Development Ordinance*

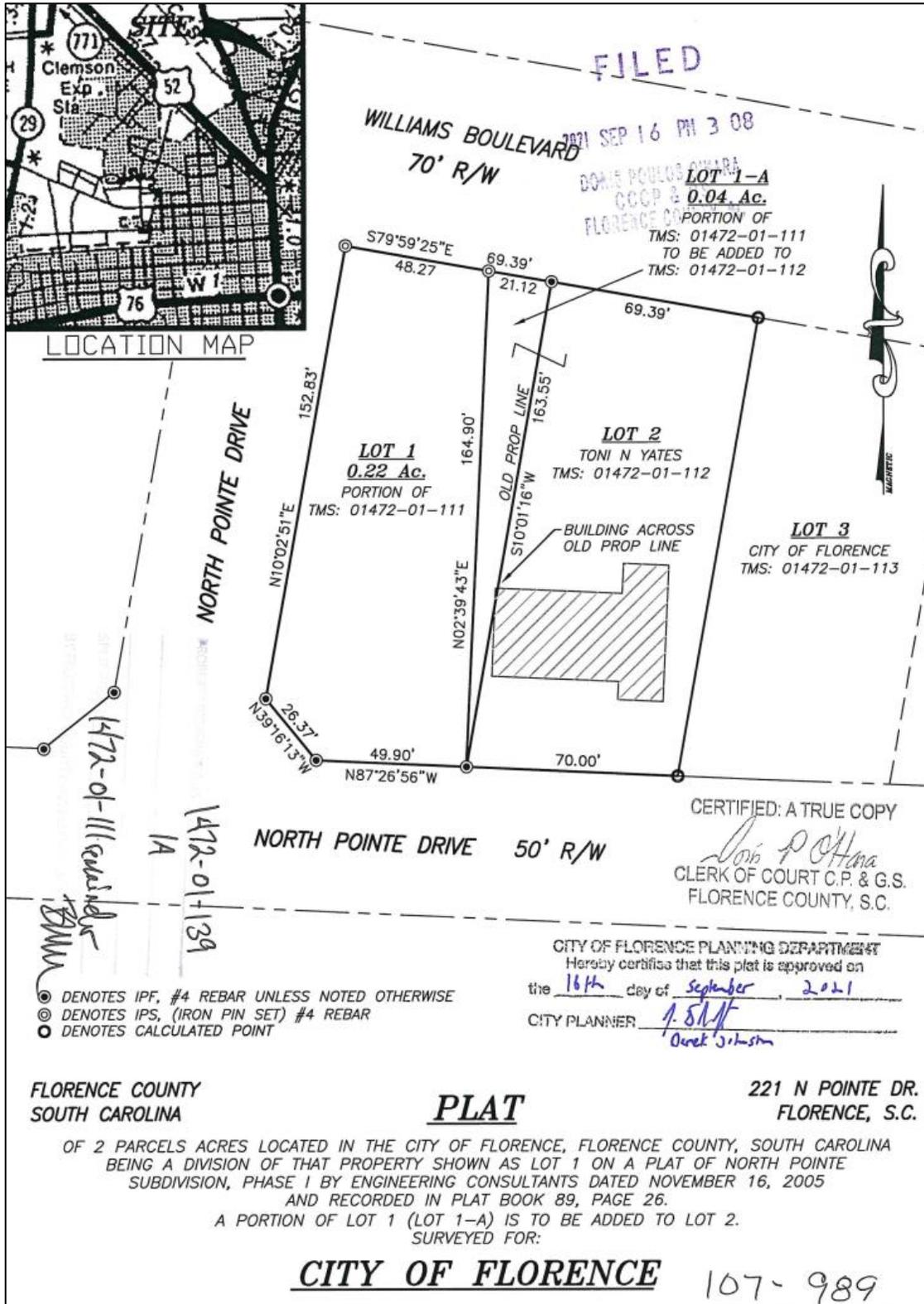
Table 2-5.2.1 General Lot and Building Standards								
Subdistrict	Minimum Setback					Maximum Building		
	Front	Street Side	Side	Total Side	Rear	Height <sup>1</sup>	Impervious Surface	Floor Area
NC-15	25'	15'	10'	20'	30'	38'	40%	See Note 2
NC-10	25'	12'	8'	16'	25'	38'	45%	
NC-6.1	25'	10'	5'	12'	25'	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:**

<sup>1</sup> 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.

<sup>2</sup> 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: Site Photos



The corner lot.



Looking down the interior side property line.



The street side property line (marked by the flag) showing the right of way to the sidewalk.



View down the street.



Looking down the front setback line.

**Board of Zoning Appeals Motion Worksheet**

Case Number:   BZA 2021-15   Nature of Request:   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:** October 28, 2021

**APPEAL NUMBER:** BZA-2021-16

**VARIANCE REQUEST:** Request for a variance from setback requirements in Table 2-5.2.1 of the *Unified Development Ordinance* for a residential lot.

**LOCATION:** 403 North McQueen Street

**TAX MAP NUMBER:** 90072-12-023

**OWNER OF RECORD:** Della Baker Sprowl

**APPLICANT:** Della Baker Sprowl

**ZONING DISTRICT:** Neighborhood Conservation-6.2 (NC-6.2)

**Land Use and Zoning**

The parcel is located at 403 North McQueen Street in the Neighborhood Conservation-6.2 zoning district, as is everything adjacent to it. This district permits single family detached houses and duplexes only. Setbacks for NC-6.2 are 25 feet from the front property line, 5 feet from the interior side property lines, and 20 feet from the rear property line. However, most of the houses were built in the 1940s and 1950s and the front setbacks average 8 to 15 feet. The public right of way provides about 25 feet between the edge of the pavement and the front property lines.

**Site and Building Characteristics**

The irregularly shaped lot is 4,738 square feet in size, with a width of 45 feet at the front property line, narrowing to 20 feet at a section of the rear of the lot. The owner of 403 North McQueen Street was under the impression that her lot was rectangularly shaped like the others, historically maintaining the entire rear portion of the lot. She recently discovered that her lot is actually flag shaped; half of the back third of the lot is actually the rear part of 405 West Marion Street (Attachment D). She is considering the purchase of the missing portion of the lot, but at this point does not own it.

The existing 906 square foot house was built in 1950 and is about 8 feet from the front property line and 28 feet from the closest rear property line. It is 50 feet deep and 27 feet wide. The owner has gotten approval from the Historical Commission to demolish the house in order to construct a new one.

The house proposed for the parcel is 30 feet wide and 62 feet deep, including a garage at the front. According to Section 2-5.2.2 of the *Unified Development Ordinance*, front setbacks for new construction may be reduced to the average along the same segment of the street. The average front setback on the block is 8 feet from the front property line. When a lot takes vehicular access from the front, as this one does, a

minimum 20 foot long driveway is required. To accommodate the driveway, the house would have to be placed only 3 feet from the rear property line of the affected portion of the lot. It would be 48 feet from the remainder of the lot (Attachment E).

### **Variance Request**

The request is for variances from the requirements of Table 2-5.2.1 and Section 2-5.2.2 of the *Unified Development Ordinance* in order to accommodate the unusual rear property line and match the character of the neighborhood. Table 2-5.2.1 lists front and rear setbacks for principal buildings in residential districts. The applicant is asking for a 7 foot rear setback variance, to allow the house to be located 13 feet from the affected rear property line. Likewise, while Section 2-5.2.2 Alternative Setback Standards requires that if the lot takes vehicular access from the front, the driveway must be at least 20 feet long measured from the property line to the garage door, she is requesting to reduce the distance to 10 feet from the property line to the garage door in order to pull the house closer to the front line to mimic the average front setback for the area.

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: **The lot is small and irregularly shaped, which was not known until recently. We traditionally maintained the entire back part of the parcel, and the owners of 405 West Marion Street never acted as if they owned that part of the yard.**
2. These conditions do not generally apply to other property in the vicinity as shown by: **The size and shape of this particular lot.**
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: **The existing house, which meets the setback, is tiny and in bad shape. I want to remove it and build a new house. The plan I want to use is in keeping with the neighborhood and would fit if it weren't for the odd rear property line. Denying the variance would result in the inability to rebuild on this lot, resulting in either leaving the old house in place or not being able to use the lot at all.**
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 part of the lot that the house would be 13 feet from is the far back yard of the house on West Marion Street. It wouldn't change the character of the neighborhood or affect the owner of 405's ability to use their property.**

### **Staff Comments**

The applicant's family has historically maintained the entire rear of the parcel. 405 West Marion Street is a rental property, and the owner did not challenge the applicant's maintenance of the rear of the lot, adding to the confusion. The applicant wants to build a small house with a garage in the front at 403 North McQueen Street.

The average front setback in the neighborhood is about 8 to 10 feet, but the Ordinance requires that houses with a garage be set 20 feet from the front property line. There is a distance of about 26 feet from the front property line to the edge of the pavement, which will accommodate the remaining 10 feet of the driveway.

If the lot was complete, the house would fit easily to the required setbacks, with 48 feet to the rear property line. The lot at 405 West Marion Street is 100 feet deep; the shared portion is the rear 25 feet of the parcel, 55 feet from the back of the house on that lot. If the overlapping portion is sold to the applicant, the house on West Marion Street would still have a rear setback of 30 feet, which is well over the minimum 20 feet required.

### **Issues to be Considered**

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

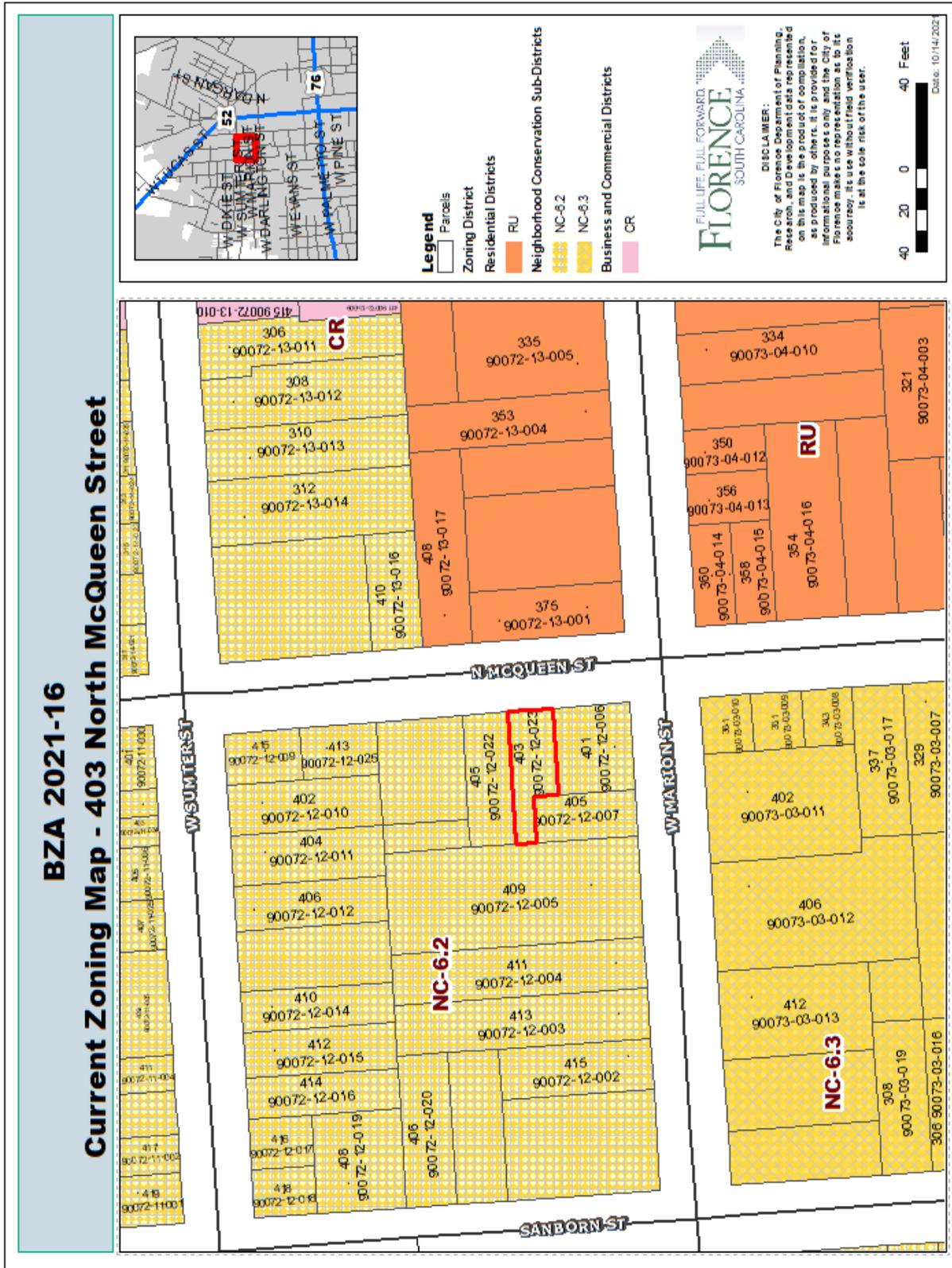
1. That a variance from the terms of this Ordinance will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will in an individual case, result in an unnecessary hardship: **Because of the unusual shape of the lot, the variance is necessary to enable the construction of a new house in a manner that does not detract from the overall character of the neighborhood.**
2. That the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done: **The intent of the rear setback is to ensure that a sufficient back yard is provided. The variance would place the house 13 feet from the back yard of the neighboring lot, and set the front of the house to line up with existing houses.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **The irregular shape of the lot limits the buildable area.**
4. That these conditions do not generally apply to other property in the vicinity: **The shape of this particular parcel is not typical for residential lots in this neighborhood.**
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 the 20 foot rear setback severely limits the buildable area available.**
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: **Granting the variances will not impair the character of the neighborhood either visually or physically because the house will be consistent with the others and it will only affect the back yard of the neighboring property.**

### **Attachments**

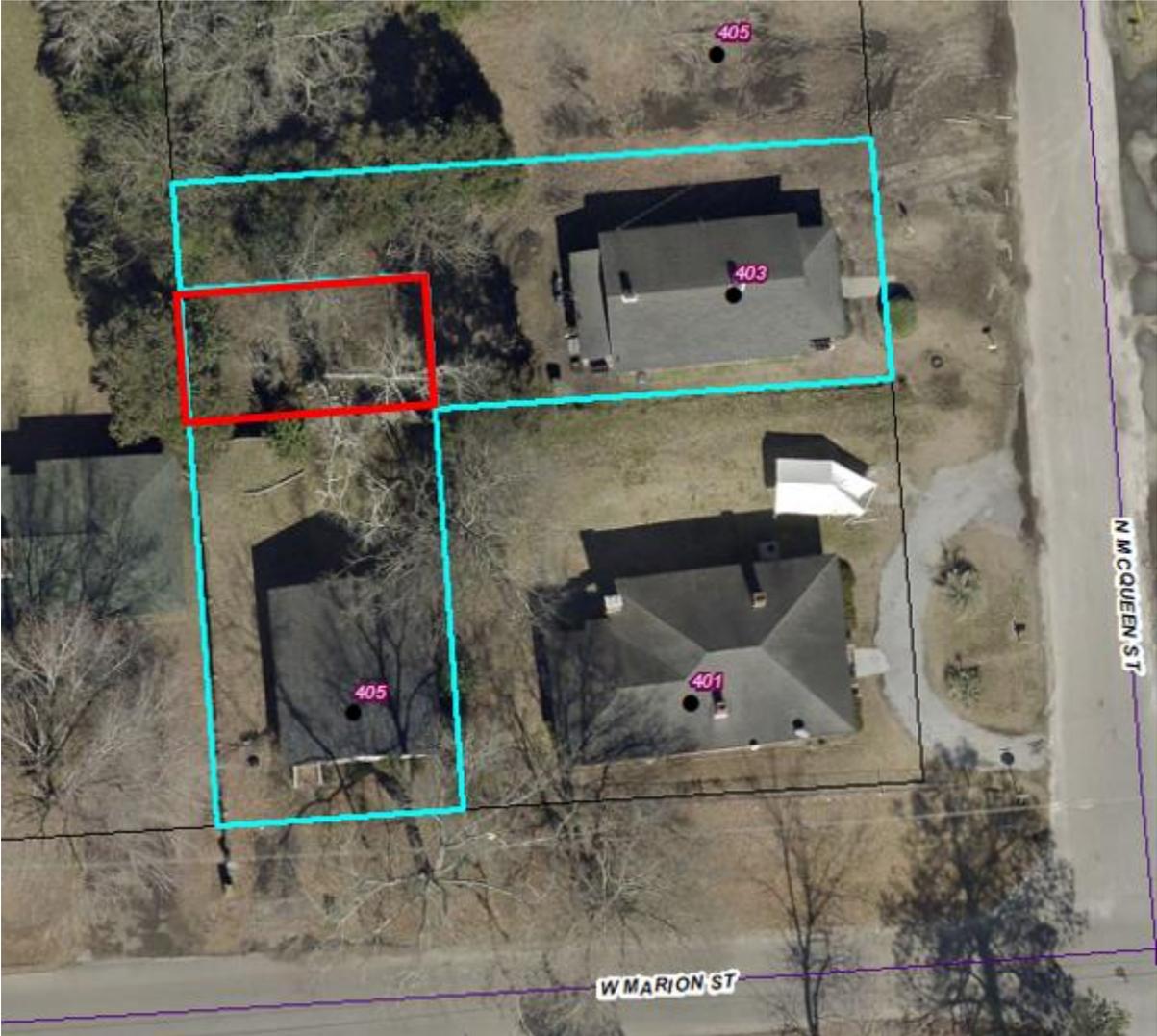
- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Lot Overlap Map
- E. Site Plan
- F. Table 2-5.2.1
- G. Site Photo





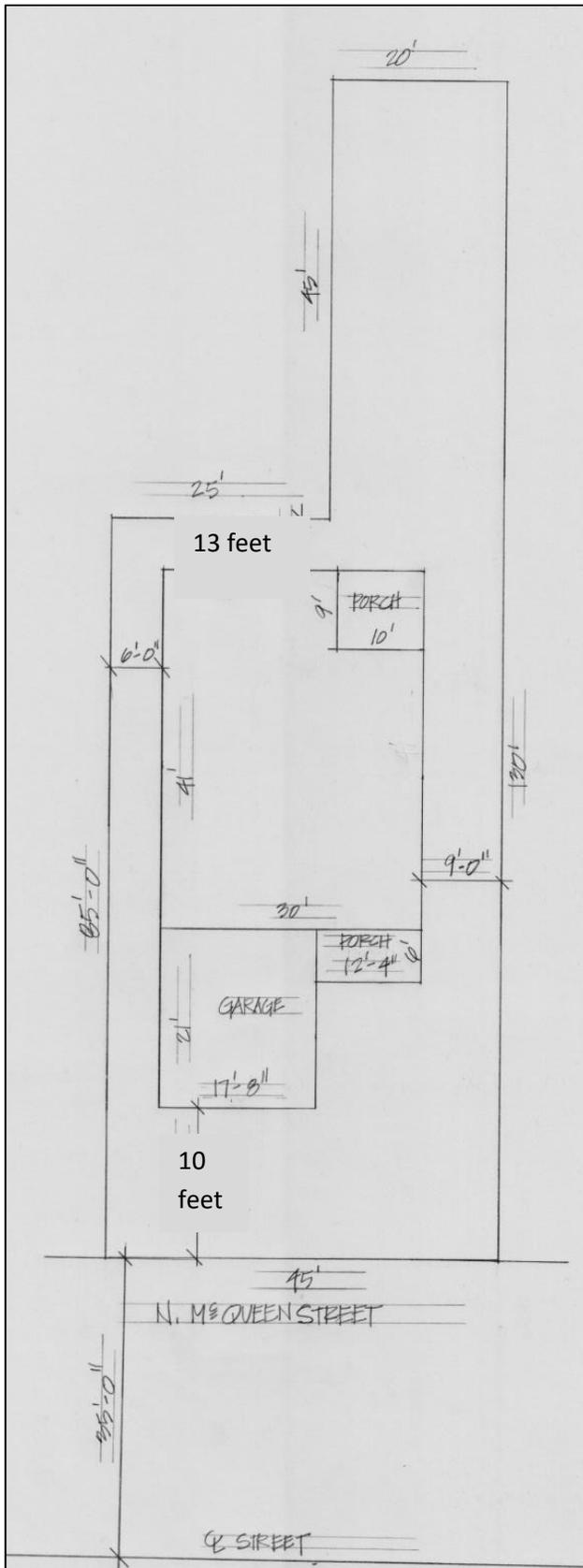


Attachment D: Lot Overlap Map



The red square is the portion of land that the owner of 403 North McQueen Street thought was part of her property. It is actually part of 405 West Marion Street. It is 25 feet wide and 45 feet long.

Attachment E: Site Plan



This is the site with the house plan imposed on it. The UDO requires a minimum 20 foot long driveway, so the request is for a 10 foot front variance to enable the house to be 10 feet from the front property line, providing 13 feet to the rear property line instead of the required 20 feet.

Attachment F: Table 2-5.2.1 from the *Unified Development Ordinance*

Table 2-5.2.1 General Lot and Building Standards								
Subdistrict	Minimum Setback					Maximum Building		
	Front	Street Side	Side	Total Side	Rear	Height <sup>1</sup>	Impervious Surface	Floor Area
NC-15	25'	15'	10'	20'	30'	38'	40%	See Note 2
NC-10	25'	12'	8'	16'	25'	38'	45%	
<del>NC-6.1</del>	<del>25'</del>	<del>10'</del>	<del>8'</del>	<del>12'</del>	<del>25'</del>	<del>38'</del>	<del>45%</del>	
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:**  
<sup>1</sup> 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.  
<sup>2</sup> 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: Site Photo



**Board of Zoning Appeals Motion Worksheet**

Case Number:   BZA 2021-16   Nature of Request:   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: