

CITY OF FLORENCE BOARD OF ZONING APPEALS
CITY CENTER – COUNCIL CHAMBERS
324 WEST EVANS STREET, FLORENCE, SC
THURSDAY, JANUARY 25, 2024 – 6:00 P.M.
MEETING AGENDA

I. Call to Order

II. Approval of Minutes Regular meeting held on November 16, 2023
(no meeting on December 28, 2023)

III. Approval of 2024 Meeting Calendar

January 25	April 25	July 25	October 24
February 22	May 23	August 22	November 21
March 28	June 27	September 26	December 19

IV. Public Hearing and Matter in Position for Action

BZA-2024-01 Request for a variance from the size and height requirements for an accessory structure located at 918 Wisteria Drive in the NC-15 zoning district; identified as Tax Map Number 90066-06-022.

V. Adjournment

The next meeting is scheduled for February 22, 2024.

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF FLORENCE BOARD OF ZONING APPEALS
NOVEMBER 16, 2023**

MEMBERS PRESENT: Larry Chewning, Charlie Ipock, Miriam James-Singley, Deborah Moses, Jermaine Nowline, Nathaniel Poston, and Michael Valrie

STAFF PRESENT: Derek Johnston, Clint Moore, and Alane Zlotnicki

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

APPROVAL OF MINUTES: Chairman Chewning introduced the October 26, 2023 minutes and asked if there were any changes that needed to be made. There being none, he called for a motion. Ms. James-Singley moved that the minutes be approved as submitted, Mr. Poston seconded; voting to approve the minutes was unanimous (7-0).

PUBLIC HEARING AND MATTER IN POSITION FOR ACTION:

BZA-2023-12 Request for a variance from the setback requirements for an accessory structure located at 1610 Westview Drive in the NC-10 zoning district; identified as Tax Map Number 10112-01-003.

Chairman Chewning introduced the request and asked staff for their report. Mrs. Zlotnicki gave the staff report as submitted to the Board of Zoning Appeals. She said that the question is whether the structure is considered a deck or an accessory building because that differentiation will determine what setbacks apply to the structure. The ordinance defines a deck as being a structure only a few feet off the ground, but doesn't say anything about having a roof, so staff needs the Board to make that determination. Decks require only a 3 foot setback, but accessory structures require a 10 foot rear setback for buildings over 10 feet tall. If there wasn't a roof over it, it would simply be considered a deck, but the roof causes the question. The neighbor to the rear has concerns about rainwater runoff from the roof.

Chairman Chewning clarified that the Board has to determine if it is a deck or an accessory building, and then determine whether a variance is required and decide whether to grant or deny said variance. Mrs. Zlotnicki agreed.

Mr. Moore added that when a situation like this arises and there is ambiguity in the Code about the definition of a structure, the more restrictive definition applies. Staff therefore considered the structure to be an accessory structure, which requires a ten foot rear setback, necessitating the application for a variance. The Board has the option of appealing staff's decision and determining that the structure is not subject to the ten foot setback requirement.

Mr. Poston asked if staff determined it to be an accessory building rather than a deck; Mr. Moore said that was correct. Mr. Poston asked for the definition of an accessory building. Mr. Moore said the code is vague; it becomes considered more of a structure with a roof from a building inspection standpoint.

Mrs. Moses asked if the structure was permitted. Mrs. Zlotnicki said that there was no record of zoning or building permits for either structure on the applicant's lot, the storage building or this one.

Ms. James-Singley asked if buildings in the neighborhood needed to be detached; Mr. Moore said that was correct.

Mr. Poston asked if the applicant had gotten a building permit; Mrs. Zlotnicki said that there was no record of zoning or building permits for either of the accessory structures at this address. She said that staff would have recommended a variance if they had applied. Mr. Moore said that the storage shed is an existing nonconforming structure. He thinks it was developed under County standards and then annexed.

Mr. Ipock asked if permits were required but not gotten; Ms. Zlotnicki said that was correct. Mr. Moore said it was not uncommon for property owners to construct accessory buildings without getting zoning or building permits. Staff often works with the owners to get them permitted and inspected after the fact.

Mr. Poston asked if this was brought to staff's attention by Codes Enforcement; Mr. Moore said it was. It's common for residents to not know that they need to apply for permits.

Ms. James-Singley asked if signs were posted to alert the neighbors to the meeting; Mrs. Zlotnicki said yes. She said that no one besides the neighbor behind the applicant has said anything about it.

Mr. Poston asked about the proposal to add gutters. Mrs. Zlotnicki said that option was presented to the owner, but the neighbor behind him wasn't satisfied with that option.

Mr. Ipock asked who cut the tree; Mrs. Zlotnicki said that the applicant did.

There being no further questions from the Board for staff, Chairman Chewning opened the public hearing. He swore in Mr. Fowler Laney, the applicant. Mr. Laney shared his PowerPoint presentation with photos of the site, site plans, and photos of similarly placed accessory structures along both Westview Drive and Hazel Drive. He said the fence is his and is inside the property line. He included a letter from a residential contractor stating that his lot slopes away from Ms. Webster's lot and so water diverted off the roof would drain into his yard and not hers. He said he was willing to install a gutter.

Mr. Ipock asked Mr. Laney what the purpose of the structure was. He said it would be for grilling, and that the enclosed storage building was being used to store items. There wouldn't be any open storage on the deck. Ms. James-Singley repeated that he was only going to use it as a deck.

Ms. Moses asked if the two buildings were attached; he said no. He said it's not attached but the edge of the roof extends to the roof of the storage building to keep rain off the deck.

Mr. Valrie asked if there were any plans to remove the storage building or further modify the deck; Mr. Laney said no to both. He said they were fitted together to keep rain off the deck. He said gutters would be installed along the back of the roof and drain onto his property.

Mr. Poston asked why he'd shown pictures of his neighbors' accessory structures; he said it was to show that there are many accessory buildings in the neighborhood, and he'd talked to the neighbors and no one else got permits either. Mr. Laney said he purchased both buildings. Mr. Poston asked if any other neighbors had a problem with it; Mr. Laney said they were all fine with it.

Chairman Chewning next swore in Ms. Patricia Webster of 1615 Hazel Drive. She shared photos from her side of the fence, directly behind Mr. Laney's yard, indicating the height and proximity of the roof compared to her side of the fence. She pointed out that she had a survey done showing that the fence was actually on the property line, not one foot inside Mr. Laney's parcel as he claimed. She said that in the county they are required to meet certain requirements. She asked if he met his subdivision guidelines. She said she didn't say anything when he installed the storage building because it had a shingle roof. The reason she went to the City about the new structure was because it was built on a weekend and the tree was damaged. She indicated that she did not speak to Mr. Laney prior to his removal of the branch overhanging the fence, and the structure was constructed on a weekend without any permits.

She expressed concern that the roof is much taller and attached to the storage building. Rainwater will sheet off the roof onto her lot, where she has flower beds, and would result in the fence and her yard being wet. The roof is only 16 inches away from the fence. A gutter can only hold so much water. She doesn't feel that a gutter will adequately divert the water away from her property, nor that Mr. Laney would direct it entirely onto his own property. She feels that he is causing her undue stress from diverting water onto her property. He should have looked into the rules and regulations, and he didn't. Will the neighbors all now keep building structures without permits? He created

the problem, and he needs to fix it. The building isn't the problem, it's the water that is the problem. The building takes up a large portion of the back property line. She's worried about a drainage problem and water issues for her buildings which were already there. The storage building doesn't meet the codes either. It's the City's duty to enforce the codes. He wants a variance to not correct his own problem. He knows the yard is small, why did he have to build such a big structure?

She's been to Codes five times. After the weekend it was built, she asked Mrs. Zlotnicki if he'd gotten a permit. She said no and had Ms. Webster talk to Mr. Bradley from Codes. Mr. Bradley attempted to reach the property owner. Mrs. Zlotnicki then called Ms. Webster and said she'd spoken to Mr. Laney, and he agreed to install gutters, but Ms. Webster doesn't feel that will prevent the problem. The building is attached to the storage building.

Chairman Chewning explained that it is not the role of the Board to investigate whether someone did or did not obtain permits; only to determine whether a structure complies with the ordinance or requires variances to comply. He encouraged members of the Board to keep that in mind.

Mr. Nowline asked if there was an HOA in the area. Ms. Webster said Hazel Drive does not have one. She asked if the variance was granted, would he keep it where it is. Chairman Chewning said that depended on what the Board found. He asked Mr. Laney if there was an HOA for Westview Drive; he said he wasn't aware of one.

Mr. Poston asked staff how the Board was to go about defining the building; Mr. Moore said staff determined it was an accessory structure, but the Board may determine it is a covered deck. It will be an either/or situation; determine what it is, and then if defined as a structure, decide on a variance to grant.

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.

Mr. Ipock moved to override staff's assessment and recommended that the structure be defined as a deck based upon its appearance and its use for grilling and not for storage, and as such it is in compliance with the Ordinance and does not require a variance. Ms. James-Singley seconded that motion and requested to include the condition that the applicant be required to add gutters to the roof to divert rainwater away from the neighbor's lot. Mrs. Moses seconded the motion and the condition.

The motion to define the structure as a deck in compliance with the setbacks, with the condition that a rain gutter be added to the roof passed 4 to 3. Mr. Ipock, Ms. James-Singley, Mr. Nowline, and Mrs. Moses voted in favor of the motion; Chairman Chewning, Mr. Poston, and Mr. Valrie voted against the motion.

Under other business, Mr. Moore updated the Board on the City's appeal of its ruling on the HBS Motorsports sign; he said that the judge finally remanded the case back to the Board, and the Board's attorney, Scott Kozacki, and the City's attorney, Danny Crow, will obtain clarification on the Board's responsibility.

ADJOURNMENT: As there was no further business, Mr. Valrie moved to adjourn the meeting; Ms. Moses seconded and the motion passed unanimously (7-0). The Board adjourned at 6:55 p.m. The next regular meeting is scheduled for December 28, 2023.

Respectfully submitted,
Alane Zlotnicki, AICP
Senior Planner

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

DATE: January 25, 2024

APPEAL NUMBER: BZA-2024-01

VARIANCE REQUEST: Request for variances from the size and height restrictions for accessory structures on a residential parcel.

LOCATION: 918 Wisteria Drive

TAX MAP NUMBER: 90066-06-022

OWNER OF RECORD: Frank Ellington

APPLICANT: Mike Padgett, M. Padgett Engineering & Construction LLC

ZONING DISTRICT: Neighborhood Conservation-15 (NC-15)

Land Use and Zoning

The 95 feet wide by 348 feet deep lot is zoned NC-15, which permits single family detached uses only. There is an existing 2,769 square foot house, to which a roughly 1600 square foot addition is proposed, for an eventual total of about 4,369 square feet. The 100-year flood plain is located in the rear of the parcel and impacts the buildable area. The proposed structure will be outside of the flood plain as required.

The owner is proposing a combination carport and pool house with a deep porch. The total area for the accessory structures is 2,306 square feet, with the areas of the portions of the accessory structure breaking down as follows:

1. Carport: 624 square feet
2. Pool House: 936 square feet
3. Covered Porch: 746 square feet

Variance Requests

Because of the location and total size and height of the accessory structure, the following variances from the cited portions of the *Unified Development Ordinance* are being requested:

1. Section 3-8.1.9 H 2 d: “Carports...shall be open on all sides unless backing and/or siding to the **primary** structure.” The applicant is proposing that the carport be attached to the pool house, which is an accessory structure. The house is located too close to the side property line to accommodate a double carport while allowing access to the rear of the lot.
2. Section 3-8.1.9 H 5: “Carports...shall not exceed one story or **16 feet** in height, whichever is less.” The roof of the proposed carport is designed to be the same height as the pool house at 19 feet, 5 inches in height, necessitating a height variance of 3 feet, 5 inches.
3. Section 3-8.1.9 I 1, 2: “Detached accessory buildings shall not cover an area that is larger than **25 percent** of the gross floor area of the principal building (25% is 1,092 square feet if the proposed addition to the house is

included in the total). While usually the carport area would not be included in the accessory structure area total, because of the way it is attached to the pool house, as well as the porch as part of the pool house, all three amounts are included in the total area. The variance needed is therefore for 1,214 extra square feet of accessory structure area.

The following information was submitted by the applicant:

- a. There are extraordinary and exceptional conditions pertaining to the particular property as follows:
 1. *This is an irregular lot shape that tapers to the rear;*
 2. *There are flood zone restrictions which were not in place when the house was originally built in 1957;*
 3. *The existing house is set back far off the road and the way it is laid out on the property severely restricts what can be done with the lot, especially in the rear.*
- b. These conditions do not generally apply to other property in the vicinity as shown by:
 1. *Driving down the road;*
 2. *Florence County GIS System;*
 3. *Google Earth, etc.*
 4. *Other lots are laid out much better. It won't be visible from the road regardless.*
- c. Because of these conditions, the application of the ordinance to the particular property would effectively prohibit or unreasonably restrict the utilization of the property as follows: *The available footprint to add an accessory building is very limited due to the existing house location on the lot, the lot's topography, and the lot shape.*
- 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:
 1. *This will be one heck of an improvement to the existing conditions and general neighborhood;*
 2. *This will barely be visible to neighbors and the public view because it's in the back yard at a lower grade, and the lot is wooded on the sides.*

Issues to be Considered:

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

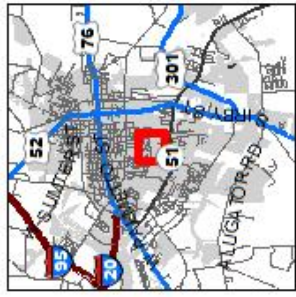
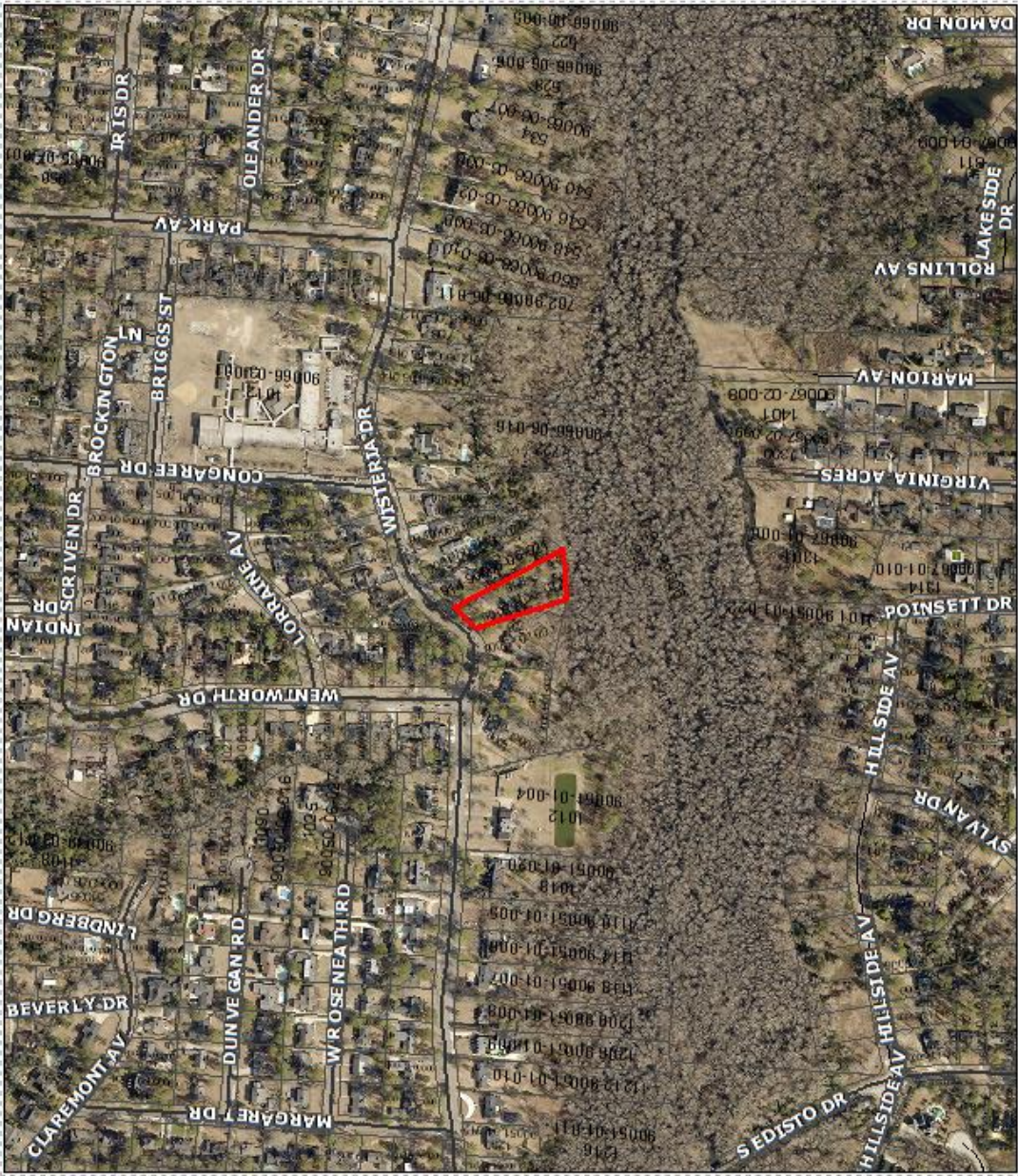
1. That a variance from the terms of this Ordinance will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will in an individual case, result in an unnecessary hardship. Staff Comments: *Adherence to the terms of the Ordinance would result in the inability of the owner to construct the accessory structure that he desires.*
2. That the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done. Staff Comments: *The intent of the Ordinance is to control the size of accessory buildings in order to minimize the impact to neighboring parcels. The sizes of the lot and the principal structure, as well as the wooded character of the lot, will mitigate the effects of the size, height, and location of the accessory structure.*
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property. Staff Comments: *The proposed structure is for the rear of a large, wooded lot behind the principal structure. It is not visible from the public right of way, and the lot is wooded along the sides and rear.*

4. That these conditions do not generally apply to other property in the vicinity. Staff Comments: ***Most lots in the neighborhood are also deep and wooded, with topographical changes.***
5. That because of these conditions, the application of the Ordinance to the particular property would effectively prohibit or unreasonably restrict the utilization of the property as follows. Staff Comments: ***Adherence to the terms of the Ordinance would result in the inability of the owner to construct the accessory structure he is proposing.***
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. Staff Comment: ***Because of the shape of the lot and the location of the house, granting the variance will not affect the character of the street or introduce a new use to the neighborhood.***

Attachments

- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Future Land Use Map
- E. Site Plans
- F. Building Elevations
- G. Site Photos

BZA 2024-01
Vicinity Map - 918 Wisteria Drive



Legend

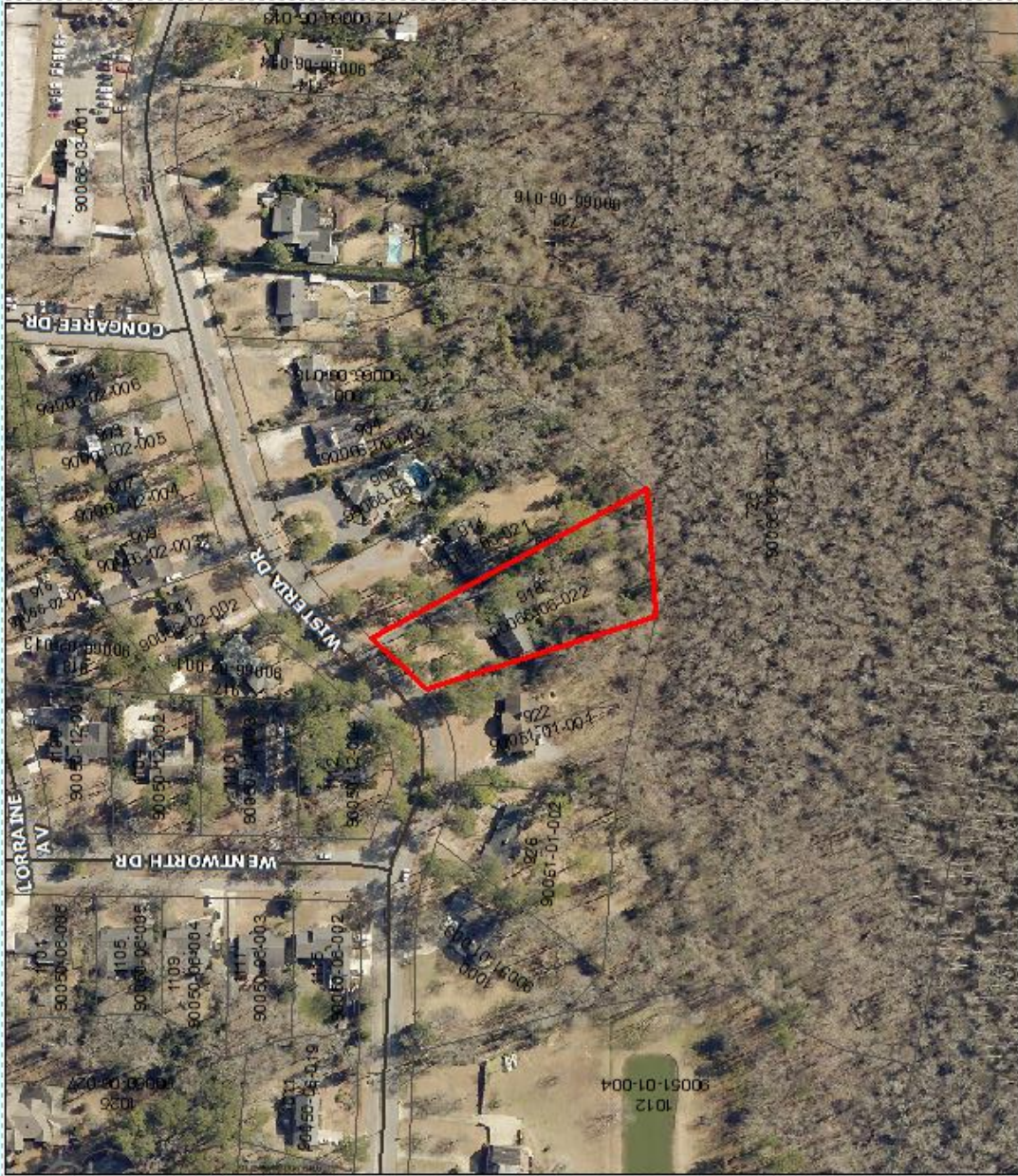
- Parcels
- Proposed Parcel



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BZA 2024-01
Location Map - 918 Wisteria Drive



Legend

Parcels

Proposed Parcel

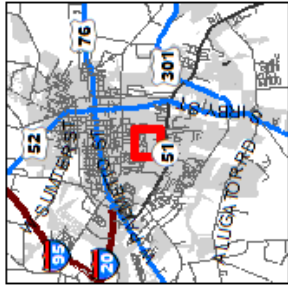
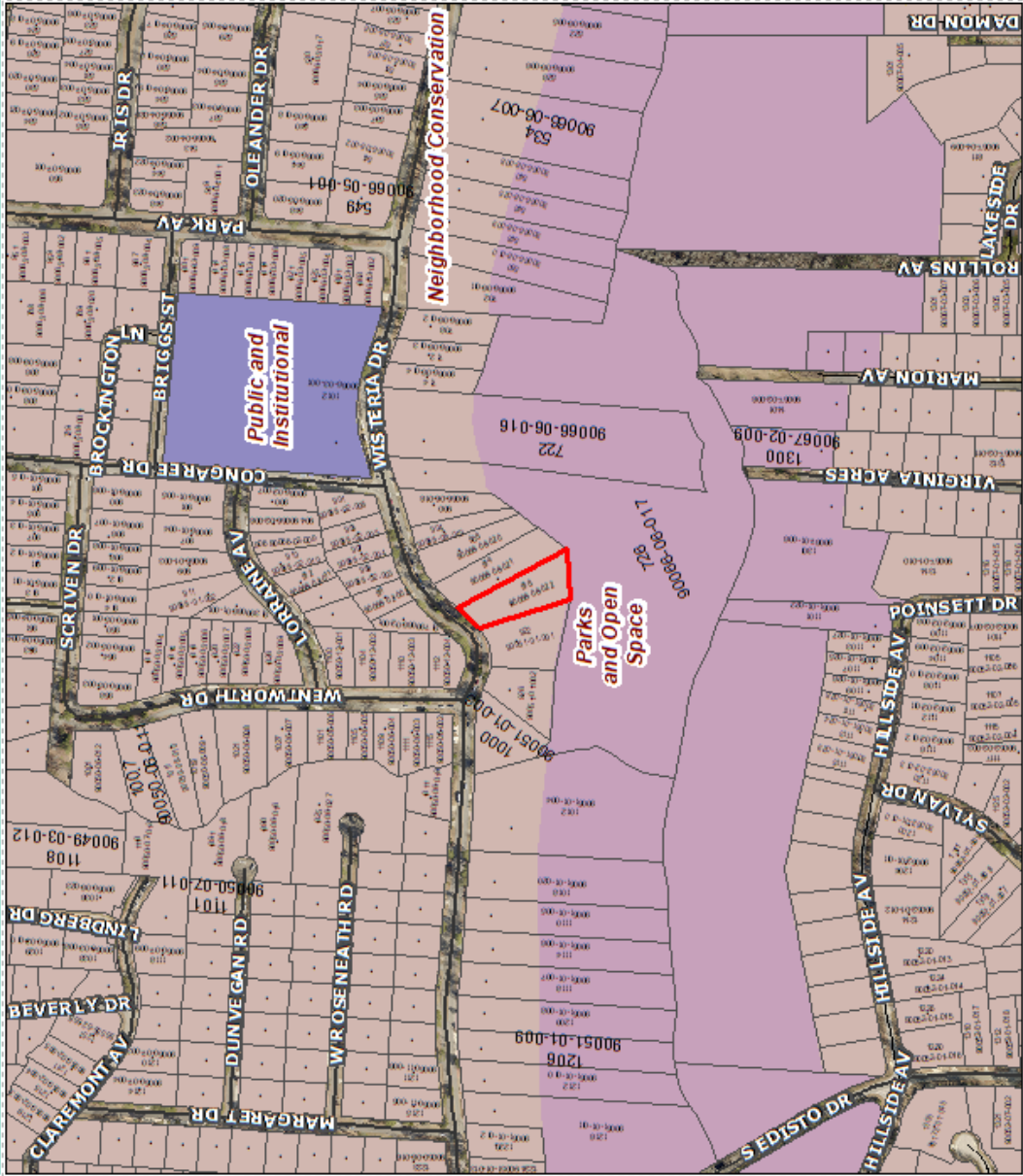


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Date: 12/28/2023

**BZA 2024-01
Future Land Use Map - 918 Wisteria Drive**



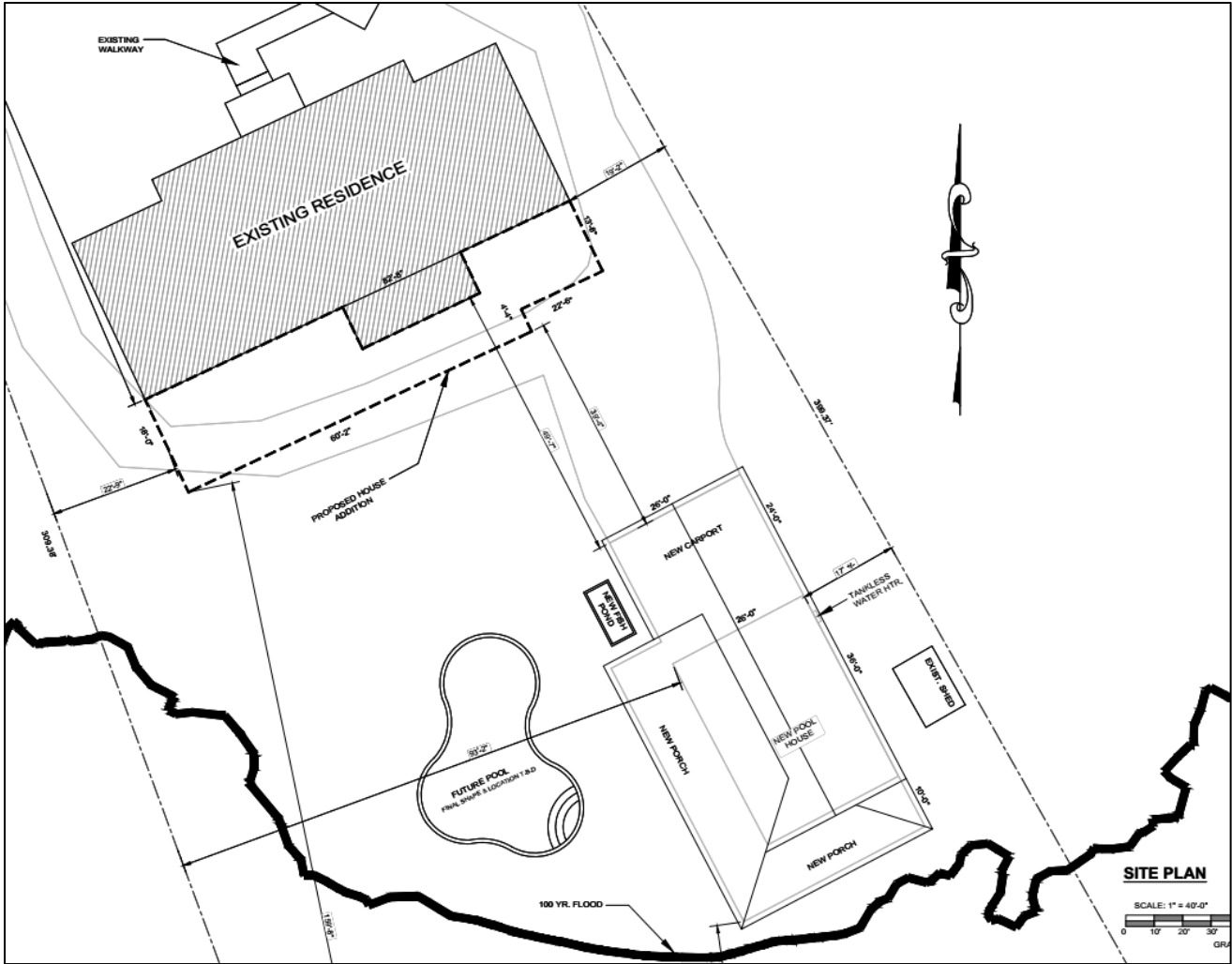
Legend

- Parcels
- Future Land Use 2010
- Future Land Use
 - Neighborhood Conservation
 - Parks and Open Space
 - Public and Institutional
 - Proposed Parcel



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Attachment G: Site Photos





Board of Zoning Appeals Motion Worksheet

Case Number: BZA 2024-01 Nature of Request: Size and Location Variances

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: