

**CITY OF FLORENCE, SOUTH CAROLINA**  
**BOARD OF ZONING APPEALS**  
**JUNE 24, 2021 AT 6:00 PM VIA ZOOM**

**AGENDA**

**I. Call to Order**

**II. Approval of Minutes**

Regular meeting held on April 22, 2021.

**III. Public Hearing and Matter 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.

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

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.

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

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.

**VI. Adjournment**

Next regularly scheduled meeting is July 22, 2021.

**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF FLORENCE BOARD OF ZONING APPEALS  
VIA ZOOM VIDEO CONFERENCING  
APRIL 22, 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:** David Alderman (in person)

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

**APPROVAL OF MINUTES:**

Chairman Chewning introduced the March 25, 2021 minutes. Ms. Moses made a motion to approve the minutes and Ms. Deas seconded the motion. Voting in favor of the motion was unanimous (4-0).

**PUBLIC HEARINGS AND MATTERS 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.**

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.

Chairman Chewning swore in Mr. David Alderman, the applicant, to speak in favor of the request.

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.

Mr. Chico moved that the Board approve the variance 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: **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.**

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

**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.**

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.

Mr. Chico asked if the height restriction for the front or side yard applied in this case. Mrs. Zlotnicki stated the front yard height restriction of four feet and at least fifty percent transparency applies in this case because the fence extends past the front plane of the house. Mr. Chico then asked how far into the yard the fence extends. Mrs. Zlotnicki stated it is around twenty-five feet from the edge of the road.

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.

Ms. Deas 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 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.**

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

**ADJOURNMENT:** As there was no further business, Ms. Moses moved to adjourn the meeting. Voting in favor of the motion was unanimous (4-0). Chairman Chewning adjourned the meeting at 6:30 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:** June 24, 2021

**APPEAL NUMBER:** BZA-2021-07

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

**LOCATION:** 1014 Hallie Drive

**TAX MAP NUMBER:** 18005-01-028

**OWNER OF RECORD:** James E. Durant

**APPLICANT:** James E. Durant

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

**Land Use and Zoning**

The parcel is located at 1014 Hallie Drive in the Pine Forest 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.

**Site and Building Characteristics**

The lot is 8,400 square feet in size. It is 70 feet wide and 120 feet long. The house has a 30 foot front setback and is about 50 feet from the edge of the pavement due to the city right of way. The rear yard has a 6 foot high wooden fence around it. The applicant has installed an eight foot tall wooden privacy fence around the front of the house (Attachments E and F).

**Variance Request**

The applicant is asking for a variance from the requirements of Table 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.

The following information is included as submitted by the applicant and further described in Attachment H:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: **I need privacy from the neighbors.**
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 front yard and it doesn't interfere with street visibility.**

### **Staff Comments**

The applicant installed the fence without checking with the City for fence regulations. Most fences do not require a permit, but they are expected to meet the requirements of the Ordinance in Table 3-8.1.2. The applicant installed an eight foot tall opaque fence directly across the front of the house. The City has received complaints about the fence; a Codes Enforcement officer contacted the owner and explained 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**

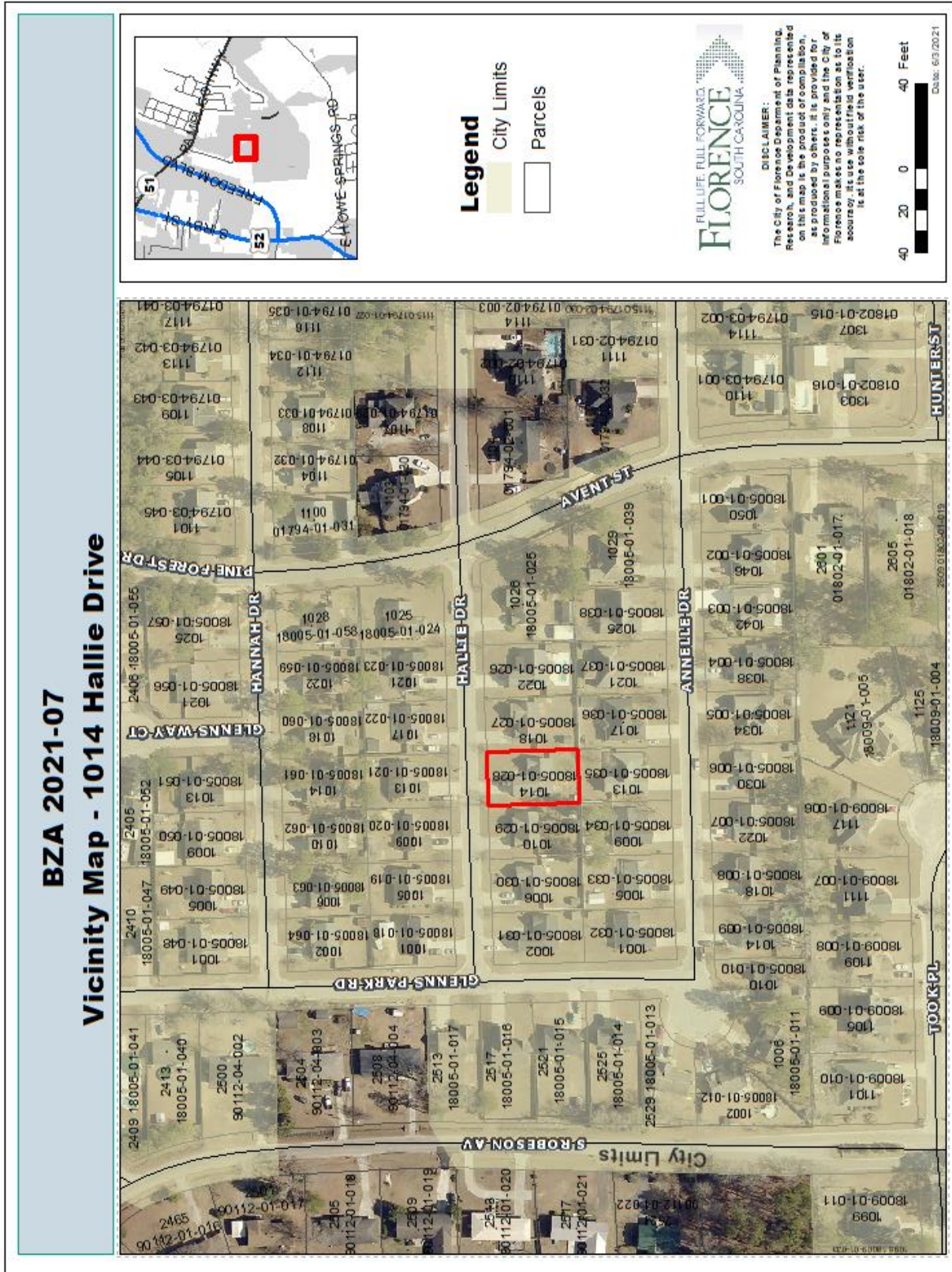
Applications for a variance shall be evaluated by the Board of Zoning Appeals based on the following conditions:

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 his 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. The portion of the front yard closest to the house is enclosed and the remainder of the front lawn is left open. The fence obscures the view of the home's entrance and windows with the exception of the garage and one window above the garage.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **The layout of the site and the lot dimensions are similar to other lots in the vicinity. There appears to be no natural, geographic, or infrastructural conditions that are out of the ordinary for this property.**
4. That these conditions do not generally apply to other property in the vicinity: **Other lots in the vicinity are similar to this property in layout and appearance. Other properties would also be subject to the fence requirements of the Unified Development Ordinance.**
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 prevent the use of the home as a single-family residence; however, the desired level of privacy by the current owner would have to be achieved through other means such as alteration of the house or vegetative 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: **The fence does inhibit view of the house from the street and adjacent properties. A portion of the front lawn is left open and unobstructed.**

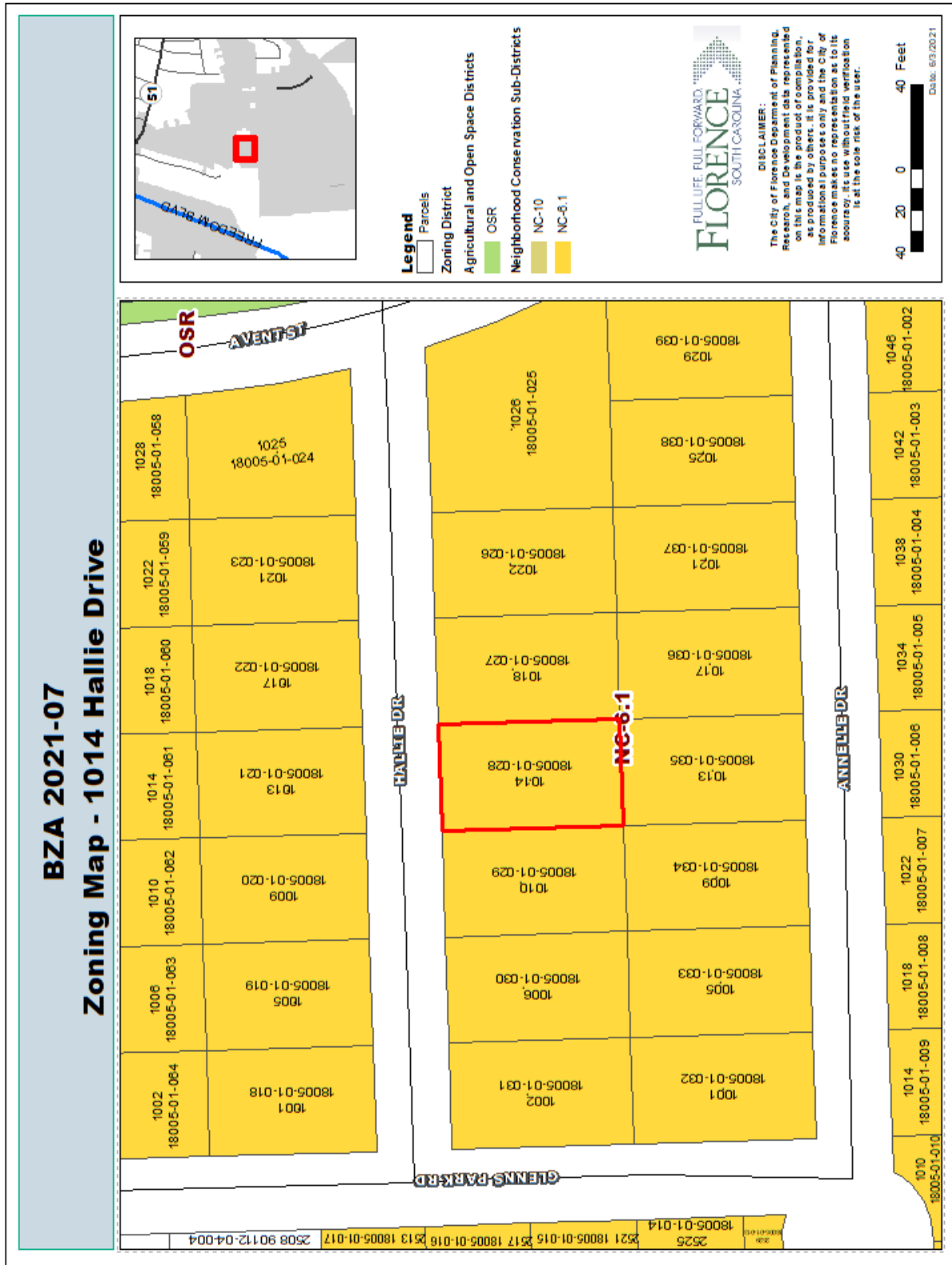
**Attachments**

- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Table 3-8.1.2
- E. Site Photos
- F. Fence Detail
- G. Codes Enforcement Letter
- H. Letters from Applicant









Attachment D: Table 3-8.1.2 from the *Unified Development Ordinance*

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.

Attachment E: Site Photos



View of the front of the house from Hallie Drive.



View of the west side.



View of the east side.



The houses across the street

Attachment F: Fence Details

Invoice from fencing company with dimensions of fence.

<b>Proposal</b>	
FLAT OUT FENCING NICHOLAS HEDGES 843 206 6922 162 S Aiken Dr Florence SC	PROPOSAL NO. _____ DATE <u>4/10/21</u> BID NO. _____ ARCHITECT _____
TO <u>JAMES</u> ADDRESS <u>1014 HALLIE DR</u> CITY, STATE <u>FLORENCE SC</u> PHONE NO. <u>843 432 8028</u>	WORK TO BE PERFORMED AT: <u>SAME</u> ADDRESS <u>SAME</u> CITY, STATE <u>SAME</u> DATE OF PLANS _____
We hereby propose to furnish the materials and perform the labor necessary for the completion of <u>160' of 8' TALL WOODEN PRIVACY FENCING.</u>	
Area below for additional description and/or drawings:	
All material is guaranteed to be as specified, and the above work to be performed in accordance with the drawings and specifications submitted for above work and completed in a substantial workmanlike manner for the sum of <u>ONE THOUSAND SIX HUNDRED TWENTY FIVE &amp; NO/100'S</u> Dollars (\$ <u>1625.00</u> ) with payments to be made as follows.	
PAYMENT IN FULL UPON COMPLETION <small>Any alteration or deviation from above specifications involving extra costs will be requested only upon written order, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents, or delays beyond our control.</small>	Respectfully submitted <u>NICHOLAS HEDGES</u> Per <u>FLAT OUT FENCING</u>
<small>Note - This proposal may be withdrawn by us if not accepted within _____ days</small>	
ACCEPTANCE OF PROPOSAL The above prices, specifications, and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payments will be made as outlined above.	
Date _____	Signature <u>James E. Duvall</u>
Signature _____	



**CITY OF FLORENCE**  
**COMMUNITY RELATIONS - CODES ENFORCEMENT**  
324 W. Evans Street  
Florence, SC 29501  
Ph. 843-665-3294  
Fax: 843-679-5677

**ZONING VIOLATION NOTICE**

Date: 04/27 /2021

James E. Durant  
1014 Hallie Dr  
Florence SC 29505

Please be advised an inspection was conducted by Codes Enforcement Staff on 04/26/21

The following discrepancies were found non-compliant with the applicable articles of the Unified Development Ordinance and/or the sections in the current City of Florence Code of Ordinances.

**Location of Violation:** 1014 Hallie Dr Florence SC (photo attached)

**Violation:** City of Florence Unified Development Ordinance Section 3-8.1.2

**The maximum height on a privacy fence is 6 ft. without a permit.**

The front yard part of your fence can be up to 4ft high and be 50% transparency.

Like a picket fence. You may need to come to the Zoning Department located on the second floor City Center address is at the top of this notice right hand corner.

This office would like to solicit your cooperation in correcting the violation by

You have until the end of the business day of May 17 2021 to correct the discrepancy described above. A follow up inspection will be performed and depending on the type of violation action will be taken in the form of a Municipal Summons if the violation has not been corrected. You may be entitled to an Administrative Appeal with the City of Florence Zoning Board of Appeals or the City of Florence Design Review Board if requested within ten (10) days of your receipt of this violation.

A handwritten signature in cursive script that reads "Bob Palmer".

**Codes Enforcement Officer**



**Bob Palmer**  
Codes Enforcement Officer

**Florence Police Department**  
324 West Evans Street  
Florence, SC 29501-3430

Office 843-676-8831 extension 1056  
Fax 843-679-5677  
E-mail: bpalmer@cityofflorence.com

Attachment H: Letters from Applicant

May 19, 2021

To the Board of Appeals or  
to whomever this may concern.  
I am requesting and appeal to  
keep my privacy fence. My fence  
protects me from the people whom  
I have in writing, that could or  
maybe asking or complaining about  
it.

Sincerely  
Mr. James D. [Signature]  
4 - Mrs. [Signature]



May 19, 2021

## Appeals Board of Zoning

To whom it may concern, I am having problems with my neighbors. That's why I have a privacy fence. A lady by the name of STACEY MARTE ELLISON who lives right across the street from where I stay. At 1017 Hallie Dr, Florence, S.C. lied on me, Mr. James Durant and have a restraining order against me, Stacy M. Ellison and her husband Lavance Ellison. They continue to stalk me & taunt me. And there trying to get me to come out of my character, to get me arrested. And also they uses there daughter (teenager). To stand outside facing my house ~~and~~ scratching and digging her backside. And smoking cigarettes. The same Teenage girl that lied and said I threatened to shot her. I also have problems with there company they hides in there house to watch me. She & her husband have Vivint Cameras pointing directly at my front porch. And a doorbell camera on my house. watching my every move. I can't even go outside

in peace. Everything I do. Her & Husband  
wants to see it. They want my fence  
to be lower so they can record me  
with these cameras. It mainly is her  
Husband. He's trying to do anything  
he can to keep her satisfied. So  
she can use her restraining order.  
That's why I have my fence.

Conclusion: The same day, I got my  
fence installed. I seen Stacy M. Ellison  
Husband Lavance Ellison talking and  
pointing. Worrying about my business again,  
at my house. To Code enforcement.

Sincerely,  
Majandra A. [Signature]

May 19, 2021

Appeals Board of Zoning

To whom it may concern I have problems with my neighbors at 1013 Hallie Dr, Florence, S.C 29505. I had a problem with them when I first moved here June 2018. Being nosey. All I said to them mind your business please, and we'll get along. And we also got into an altercation on that same occasion. Davarix Cooper + Kristen M. Cooper the parents of Chaise Cooper there son pulled out a gun on me + my wife. Police came out, nothing was done about it. And 2020 Her dad threaten my life to shot me. Police came nothing was done. And nothing was resolved. Her father still continues to come around. Trying to taunt me. But I don't follow him up. That's why I need my fence for privacy. They have a doorbell camera on my ~~house~~<sup>house</sup> watching just as much as the neighbors beside them at 1017 Hallie Dr, Florence, S.C 29505. There mad because they can't look at my front porch + record me. And see what I am doing. My fence protects

them from watching me.

Stanley  
Stanley D. D. D. D.

May 19, 2021

Appeals Board of Zoning

To whom it may concern. I have problems with my neighbors at 1009 Hallie Dr, Florence, S, C 29505. Its this old man that stay's there. He has been these past couple of years with all his windows open. And his bathroom is right across from my window. And I can see him butt naked washing. Looking at my house, Before I got the fence. I am so glad that I don't have to look at that no more. My Fence blocks him out. That's why I need to keep it.


Sincerely

Mr. James Edward  
+ [Signature]

May 19, 2020

## Appeals Board of Zoning

To whom it may concern. I have these new neighbors beside me at 1018 Hallie Dr, Florence, S.C. 29505. I don't know if they have a complaint against me. But I have included them. Their company comes by their house, sits in their cars for hours, looking at my house. Before I got the fence, their view is not being blocked. They can see the road. Now that I have the fence, the company that they used to have don't come by no more. All because they can't look at my house. I don't know these people but they're nosey. And they have trespass on my property the same day they moved in. These people that I added know each other. In the neighborhood. That's why I need my fence. This fence it's keeping me out of trouble.

Sincerely,   
Mary Jones  
11625202

To whomever it may concern, On the dates that  
Codes Enforcement officer Bob Palmer ~~made~~ claim that  
he came by my house at 1014 Hallie Dr, Florence, S.C  
He did not come by. The letter is dated 04/27/2021  
And whoever made the complaint on 04/26/2021. I  
am just now getting notified May 19, 2021. He came  
by trying to take pictures because he didn't have  
any.

5-19-21 is the date that he really came  
5-19-21 at 1:08 p.m.

James Dumb

**Board of Zoning Appeals Motion Worksheet**

Case Number:   BZA 2021-07   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:

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

**DATE:** June 24, 2021

**APPEAL NUMBER:** BZA-2021-08

**VARIANCE REQUEST:** Request for a variance from the maximum impervious surface ratio in Table 2-5.2.1 of the *Unified Development Ordinance* for a lot in the NC-15 zoning district.

**LOCATION:** 2467 Parsons Gate

**TAX MAP NUMBER:** 01221-01-316

**OWNER OF RECORD:** Mihir Patel

**APPLICANT:** Mihir Patel

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

**Land Use and Zoning**

The parcel is located at 2467 Parsons Gate in the Windsor Forest subdivision. It is in the Neighborhood Conservation-15 zoning district. This district permits single family detached houses only. Per Section 3-8.1.9.I.1.c of the *Unified Development Ordinance*, an accessory building in the NC-15 zoning district can occupy up to 15% of the lot's total area.

**Site and Building Characteristics**

Property Tax Records detail the house as a two 2-story, 4-bedroom 3.5 bath 4,140 square foot house constructed in 2016. The lot is 32,120 square feet (.71 acres) in size. It is approximately 150 feet wide and 220 feet long. The lot currently has an impervious footprint of 11,334 square feet or approximately 35% of the total lot area including the house (12.5% of lot area), the driveway (19.7% of lot area), rear concrete patio and walkways (3.2% of lot area), and the applicant is currently installing a pool and hot tub of 935 square feet (2.9% of lot area) bringing the total impervious surface ratio to 38%.

**Variance Request**

The applicant is asking for a variance from the requirements in Table 2-5.2.1 of the *Unified Development Ordinance* for the maximum impervious surface ratio of a lot allowed in the NC-15 zoning district. According to Table 2-5.2.1, the maximum impervious surface ratio permitted is 40%. The applicant is proposing the construction of a 1410 square foot (4.4% of the lot) pool house with an additional undetermined amount of concrete associated estimated to be around 790 square feet (2.5% of the lot). This proposed construction will bring 2467 Parsons Gate's total impervious surface ratio to 45%.

The following information is included as submitted by the applicant and further described in Attachment H:



1. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: **difficult to comply with due to house being on a curve and layout of driveway.**
2. These conditions do not generally apply to other property in the vicinity as shown by: **this section of the neighborhood is still under development and it is hard to answer this question.**
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: **installation of a pool and pool house and associated hardscaping.**
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: **this will add value to the house substantially and raise the value of houses in the neighborhood.**

### **Staff Comments**

The applicant is proposing the construction of a 1410 square foot (4.4% of the lot) pool house with an additional undetermined amount of concrete estimated to be around 790 square feet (2.5% of the lot). The pool house and concrete would bring the total impervious surface ratio of the lot to 45% exceeding the maximum allowed by *Unified Development Ordinance* Table 2-5.2.1 of 40% in the NC-15 zoning district. The applicant is proposing to exceed the maximum allowable square footage of impervious surface by 686 square feet.

The amount of impervious surface affects the amount of stormwater runoff versus the amount of stormwater that infiltrates into the ground. A higher amount of stormwater runoff affects how much rainwater could potentially leave the property to flow onto adjacent properties, the amount of water required to be handled by stormwater infrastructure and is associated with a higher concentration of pollutants carried from impervious surfaces. This higher rate of stormwater runoff has the potential, on a macro scale, to cause increased drainage which could lead to localized flooding.

The City Engineering Department concludes this is an acceptable amount of increased impervious surface citing the following facts:

1. The approximately 3% of impervious surface added by the pool will only lead to additional stormwater runoff when the pool is overflowed, which would 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 2%.
2. The parcel is adjacent to a stormwater pond. Excess stormwater not infiltrated into the lot will drain directly towards the pond without utilizing City Stormwater infrastructure which is only designed to handle 10-year storm events. City infrastructure will be minimally affected.
3. With the parcel's backyard draining towards the City's Stormwater pond, adjacent homeowners will be minimally impacted by the additional 5% impervious surface.

### **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 five percent variance (686 square feet) on the impervious surface ratio allowed or he will not be able to utilize his property as desired.**

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 prevent stormwater issues associated with excessive amounts of impervious surface, the applicant is requesting a variance for an additional 686 square feet beyond the limits of the Code. Comments from the City's Engineering Department are included above in Staff Comments.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **The lot is located adjacent to the neighborhood's stormwater pond (to the rear) 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: **This lot is one of ten lots located on Parson's Gate that are adjacent to and drain directly into the neighborhood stormwater pond.**
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 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: **The proposed structure will be located in the rear yard which is surrounded by an opaque masonry fence. Comments from the City Engineering Department are included above.**

### **Attachments**

- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Table 2-5.2.1
- E. Site Photos
- F. Proposed Site Plan with Impervious Surface Ratio Analysis

Attachment A: Vicinity Map



Attachment B: Location Map





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 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:  
<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 E: Site Photos



*2467 Parsons Gate*



*Driveway on South side of Residence*



*Construction of Pool & Hot Tub in Center of Backyard*



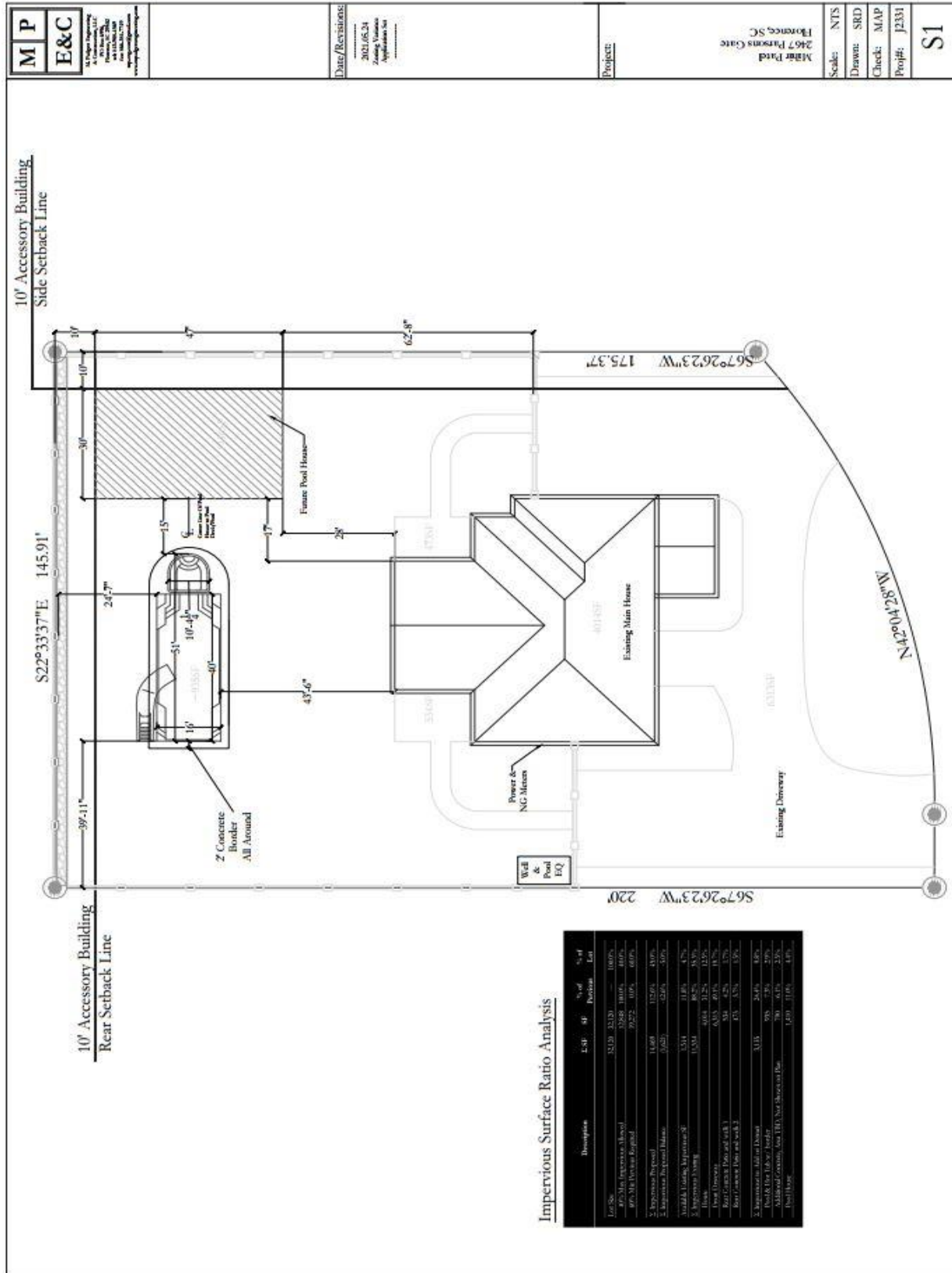
*Proposed Location for Pool House in Southeast Corner*



*View Southward towards Location of Proposed Pool House*



Attachment F: Proposed Site Plan with Impervious Surface Ratio Analysis



**Board of Zoning Appeals Motion Worksheet**

Case Number:   BZA 2021-08   Nature of Request: Impervious Surface Ratio Maximum

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:** June 24, 2021

**APPEAL NUMBER:** BZA-2021-10

**VARIANCE REQUEST:** Request for variances from the number of accessory buildings permitted for a residential lot.

**LOCATION:** 400 Peatree Court

**TAX MAP NUMBER:** 15219-01-117

**OWNER OF RECORD:** La’Rodrick McKay

**APPLICANT:** La’Rodrick McKay

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

**Land Use and Zoning**

The parcel is located at 400 Peatree Court in the South Brook subdivision and within the NC-6.1 zoning district. This district permits single family detached houses only.

The property currently has 3 accessory buildings: a playhouse approximately 10’ by 12’ (120 square feet); storage building approximately 12’ by 12’ (144 square feet); and a newly installed detached garage approximately 28’ by 12’ (336 square feet). The accessory buildings will have to meet a side setback of 5’ and a rear setback of 10’. Per Section 3-8.1.9.I.c the homeowner is only allowed one detached garage and one other accessory building.

**Site and Building Characteristics**

The .22-acre parcel is located on the Peatree Court cul-de-sac. The two-story, 2566 square foot, four-bedroom, 2.5 bath house was constructed in 2006. The parcel contains three accessory buildings in the rear yard. The playhouse (120 square feet) does not meet the side setback of 5’. The older storage building (144 square feet) does meet the setbacks required of an accessory building in the NC-6.1 zoning district. The new storage building (336 square feet) does not currently meet the rear setback of 10’. The owner will move the storage building to the proper location pending the Board’s decision.

**Variance Request**

The applicant is asking for a variance from the requirement of Section 3-8.1.9.I.3.c regarding the number of accessory buildings permitted for a residential lot.

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: **Due to the size of our family we needed additional storage for our things to make**

**room in our home for 9 children, including 4 driving teenagers. The smallest building is a playhouse for our 5 younger children.**

2. These conditions do not generally apply to other property in the vicinity as shown by: **Due to us having a large family of multiple age groups, special accommodations were needed.**
3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: **Without these accommodations we will not have the storage required for our family.**
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: **Due to us living in a cul-de-sac and having a privacy fence, our accessory buildings are not viewable to the public.**

### **Staff Comments**

The applicant currently has 3 accessory buildings on their property which is one above the maximum allowed. The playhouse and new storage building currently do not meet the required setback for accessory buildings in the NC-6.1 district. The owner has expressed his desire to meet setback requirements pending the Board's decision. The accessory buildings' combined total square footages meet the size requirement limit from Section 3-8.1.9.I.1. The combined square footage of the accessory buildings cannot exceed 25% of the house's total square footage (641 square foot maximum).

Staff would recommend the homeowner have a survey done to determine their property line especially on the southside of the property where the wooden fence is located. Aerial photos seem to indicate the fence may be on the neighbor's property. Before accessory buildings are permanently placed the exact location of the side and rear property lines should be known.

### **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: **Literal enforcement of the Ordinance is intended to limit the number of accessory structures allowed on-site**
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 dedicating an excessive amount of a parcel's square footage to accessory storage. The additional storage building will not surpass the 25% square footage limit permitted by the Ordinance; however, the number of individual structures would be surpassed.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **The applicant is citing the size of their family including multiple age groups that require special accommodations for storage. 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.**

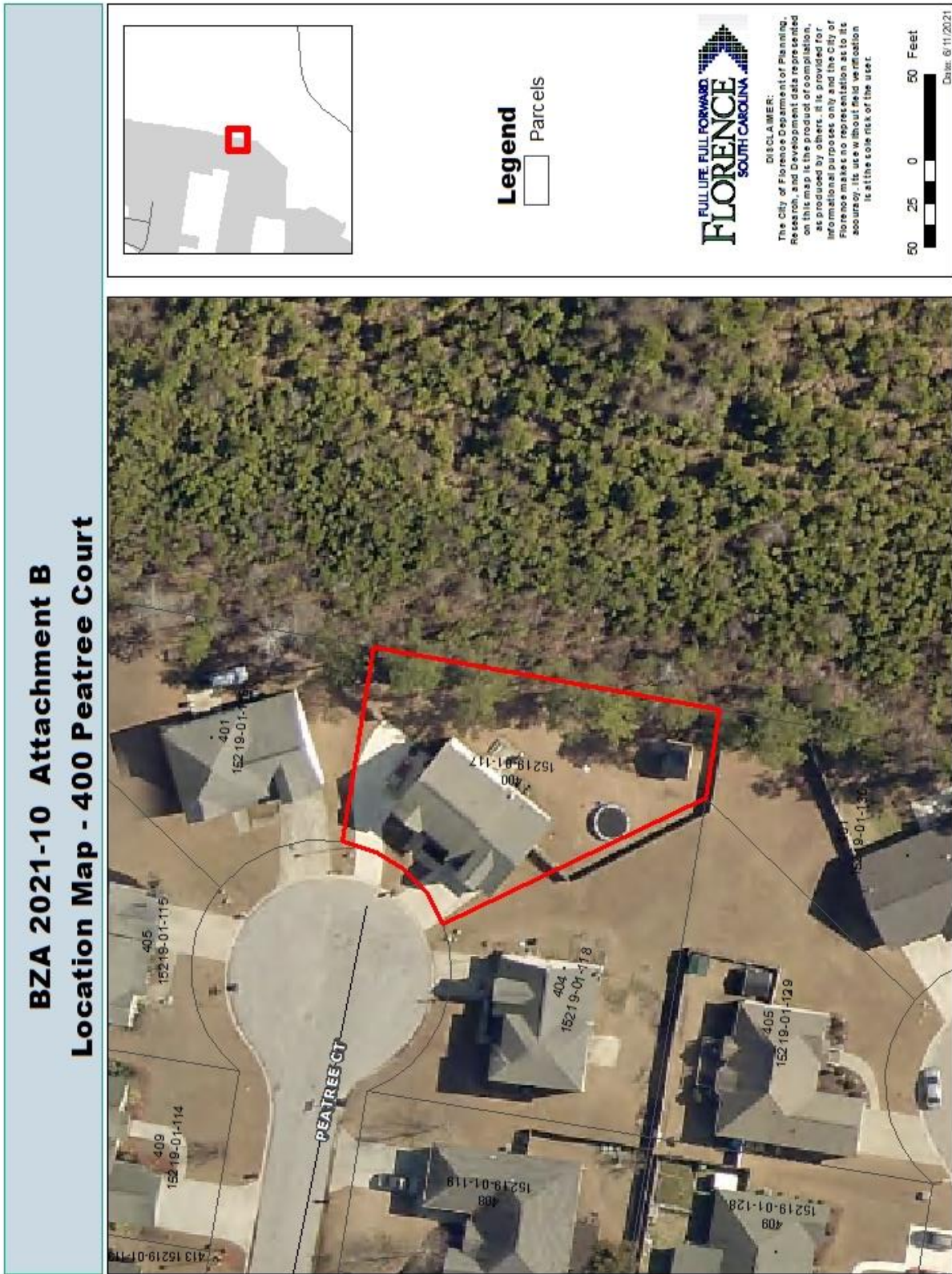
4. That these conditions do not generally apply to other property in the vicinity: **This property is located at the end of a cul-de-sac and is irregularly shaped, which affords this lot a larger rear yard than those not located on the cul-de-sac. A small number of other lots within the neighborhood located on cul-de-sacs have similar lot configurations.**
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: **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 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 accessory buildings and owner's fence minimize the visibility and effect of additional storage buildings to adjacent properties.**

#### **Attachments**

- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Section 3-8.1.9.I.c of the *Unified Development Ordinance*
- E. Site Photos



Attachment B: Location Map







**Sec. 3-8.1.9 Accessory Buildings and Structures**

**I. Other Detached Accessory Buildings (Excluding Accessory Dwelling Units).**

3. *Number of Accessory Buildings.* The number of accessory buildings is limited by the more restrictive of:
- a. Any applicable building coverage or floor area ratio limitation for the lot or parcel proposed for development;
  - b. The floor area limitation of Subsection I.1., above; or
  - c. One accessory building (other than a detached garage) per single-family residential lot; or
  - d. One accessory building (other than a detached garage) per individual townhome, duplex, or multiplex unit.

Attachment E: Site Photos



*Front of 400 Peatree Court*



*New Storage Building (3<sup>rd</sup> Accessory Building) – 12' by 28'*



*New Storage Building – Applicant awaiting Board Decision to Place*



*New Storage Building – 336 Square Feet*



*Existing Accessory Buildings – Old Storage Building(left) & Playhouse(right)*



*View of Accessory Buildings from Street*

**Board of Zoning Appeals Motion Worksheet**

Case Number: BZA 2021-10 Nature of Request: Number of Accessory Buildings

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.
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Notes: