

**CITY OF FLORENCE, SOUTH CAROLINA**  
**BOARD OF ZONING APPEALS**  
**OCTOBER 27, 2022 AGENDA**

**I. Call to Order**

**II. Approval of Minutes**

Regular meeting held on September 22, 2022.

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

BZA-2022-12                      Request for a variance from the setback requirements to allow an accessory building to be located at 1122 Kenwood Avenue, in the NC-6.1 zoning district; shown as Tax Map Number 90048-05-001.

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

BZA-2022-13                      Request for a variance from the setback requirements to expand the commercial building located at 1256 East Palmetto Street, in the CG zoning district; shown as Tax Map Number 90117-22-002.

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

BZA-2022-14                      Request for a variance from the height limit to allow a fence to be located at 1307 Queensferry Road, in the NC-15 zoning district; shown as Tax Map Number 12515-01-040.

**VI. Adjournment**

Because Thanksgiving is the fourth Thursday in November, the next meeting is scheduled for November 17, 2022.

**MINUTES OF THE REGULAR MEETING OF THE  
CITY OF FLORENCE BOARD OF ZONING APPEALS  
SEPTEMBER 22, 2022**

**MEMBERS PRESENT:** Larry Chewning, Ruben Chico, Nathaniel Mitchell, Deborah Moses, Nathaniel Poston, and Miriam James-Singley

**MEMBERS ABSENT:** Larry Adams

**STAFF PRESENT:** Jerry Dudley, Derek Johnston, Alane Zlotnicki, and Brian Bynum, IT

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

**APPROVAL OF MINUTES:** Chairman Chewning introduced the August 25, 2022 minutes. Mr. Mitchell moved that the minutes be approved as submitted; voting in favor of approving the minutes was unanimous (6-0).

**PUBLIC HEARING AND MATTER IN POSITION FOR ACTION:**

**BZA-2022-10 Request for a special exception permit to allow a short-term rental to be located at 311 South Franklin Drive, in the NC-10 zoning district; Tax Map Number 90047-04-002.**

Chairman Chewning introduced the request and accepted the staff report as given in August and suggested that they continue on from where things left off at that meeting.

Mr. Johnston introduced three letters of support for the proposal. He reminded the Board that the majority of opinions expressed in August were negative and the Board wanted to give the applicant time to provide proof of support for her proposal. She has three letters of support, pointing out that she would be on the premises while she has renters. The Air BnB site does have background checks in place, though the system can be circumvented. Another letter states that it's nice to give visitors another option besides hotels and it would benefit downtown businesses.

Chairman Chewning asked if staff had heard from the neighbors; Mr. Johnston said that they have received a number of calls and emails against the proposal. He went over the seven conditions that must be met to receive a special exception permit and reiterated that it is not transferable.

Chairman Chewning asked if there were any questions of staff. Mr. Poston asked about the letters of support and where the people in support were from. Mr. Johnston said the first writer lives on Pineland Avenue, which is farther away; the second supporter lives at Franklin and Cedar Streets, and the third one lives in the neighborhood.

There being no further questions for staff, Chairman Chewning opened the public hearing. The applicant, Suzanne LaRochelle was sworn in and spoke in favor of the request. She provided copies of an unsigned letter that was circulated around the neighborhood after the August meeting, purported to have been written by the City. It was verified that the letter was not written nor distributed by the City of Florence. She is concerned that this letter misled neighbors about the character of her request. The letter referenced a study of short-term rentals in Boston and problems that came with a proliferation of STRs in a small area. She reminded the Board that the City of Florence's requirements are much more restrictive than they are in Boston, so it's not a fair comparison. Studies from New York and London gave similar information, but it doesn't apply to Florence. She was appalled to see this letter circulating and stirring up fear by being posted

on social media. She reminded them that this is her house where she lives with her 16-year-old daughter. She's not building an apartment in her house; she's trying to follow the law, unlike a lot of other rentals in the City.

Chairman Chewning asked Mr. Johnston if staff had seen the letter; he said they had. Chairman Chewning asked if staff had any comments to make. Mr. Dudley said that the letter was misleading in saying that this was a rezoning; the request is for a special exception permit. The process to operate a short term rental was recommended through Planning Commission, adopted by City Council and incorporated into the *Unified Development Ordinance* as a special exception, requiring the public hearing. The land use doesn't change in any way, it just allows the use as an STR for primary residences.

Mr. Poston asked about the comment on the letter "it was advised that the neighborhood residents come out"; Mr. Johnston said that he was asked by a resident if it would make a difference if many people came to the meeting, and the City's standard answer is yes, because we always urge people to attend a public hearing and express their concerns. We do not advise what the correct decision is; that's up to the Board. Staff only advises as to the regulations on the books.

Chairman Chewning asked Ms. LaRoche if she had any other comments. She said that the woman who posted the letter did delete it and apologized to her, saying she had no intention of causing such a response. She said that Susan Goldstein, who wrote one of the letters of support, could not attend but there are several people present who do support her proposal. Her immediate neighbor, Mr. Al Coltrane, is recovering from surgery and can't be here, but he did call the City to express his support for the request.

Chairman Chewning opened the public hearing and asked that those who spoke last month allow people who haven't spoken yet to speak on this request this month. He asked people to focus on their personal concerns about this particular request, not on Air BnB or VRBO corporate policies.

Chairman Chewning swore in Richard Segers, who lives at 1422 Madison Avenue. He said he did receive the letter, and he did think the City had sent it out and is glad to know it's not the case. He is opposed to it because in the 17 years he's lived there, everything but his property value has gone up. People have invested a lot of money in these old houses to make a nice home. He is concerned that his property value will not be protected or improved and that the granting of this permit will result in 50 more applications being submitted.

Chairman Chewning swore in Fred Kunz, who lives at 302 South Franklin Drive. He asked who would oversee the short-term rentals to ensure they are in compliance with the requirements. He has concerns about increasing traffic in the neighborhood. He is definitely not in favor, and he doesn't want the neighborhood to change. Long term rentals are different from nightly rentals, and he doesn't think it's a good idea.

Chairman Chewning swore in Melanie McMillan, who lives at 901 Jackson Avenue. She talked about her stays in Air BnBs in the States and Europe and what a beautiful exchange it was with high quality homes and high-quality renters. She is in support of issuing the permit. Suzanne comes from Massachusetts and has some new ideas, and she was speaking on her behalf.

Chairman Chewning swore in Carolyn York, who lives at 1202 Madison Avenue. She likes the feeling of safety and welcome in the neighborhood. Because Suzanne lives in the house with her daughter, she doesn't expect that she would rent to people she was uncomfortable with. She also worked with travel nurses and doctors at McLeod, who were all responsible and checked out by the agency and the hospital, and those are the kinds of people who Suzanne wants to rent to so they can stay in a nice area rather than a hotel. The hospitals are also trying to recruit these people. She's very comfortable with the proposal.

A member of the audience asked Chairman Chewning if the residents would be able to vote on the request; Chairman Chewning told him that only the Board would vote.

Chairman Chewning next swore in Bradley Callicott, who lives at 1000 Madison Avenue. He is opposed to the proposal, due to a lack of regulation by the city and the wide open nature of where the clientele could come from. The number of firearms in people's pockets are a concern to him. There are many couples with young children in the neighborhood, which has come back to life, and he wants to see that continue.

Chairman Chewning swore in Kevin Lassen, who lives at 1013 Jackson Avenue. She is opposed to the exception being granted because the neighborhood is zoned neighborhood conservation, and that granting exceptions puts holes in the fabric of the neighborhood. Also, since Florence is halfway between New York and Miami, and the hotels have big problems, and she doesn't want to potentially bring dangerous people into the neighborhood. The entrance is on Madison and is dark and could hide people coming off I-95. She said she would drop the request if she saw this many of her neighbors opposed to it if it was she making the request.

Chairman Chewning swore in McCall Kennedy, who lives at 916 Madison Avenue. She is opposed to the request because she has a 2-year-old so she is worried about the safety aspects of renting. She has also stayed at Air BnBs and owners weren't always present; she's also concerned about increasing crime in the area.

Chairman Chewning swore in Wayne Calcutt, who lives at 400 South Calhoun Avenue. He is opposed to the proposal because he wants it to stay a residential neighborhood.

Chairman Chewning swore in Jonathan Stewart, who lives at 1003 Jackson Avenue. He said he was a long-term renter initially on Jackson Avenue. He thinks approving this will remove the charm and reduce property values, so he is very much opposed to the permit.

Chairman Chewning swore in Merritt Bryant, who lives at 906 Madison Avenue. She is opposed to the request. She's concerned about the high crime rate in the City, and that it needs to be in control before adding something else the City needs to be responsible for. She said that you can't do background checks with Air BnB; she booked one for tomorrow so all they have is her payment information. There's no way to confirm who's staying there. Travel nurses are paid well. The Air BnB brings in more people, like a cleaning service, so it brings more than just the renter into the neighborhood.

Chairman Chewning swore in Teresa Brunson, who lives at 1018 Jackson Avenue. She is a realtor and property manager, and she said that hospitals do background checks, but she had a horrible experience with a nurse who had a monthly rental through her. The nurse's son was a felon that she had to chaperone, and he was causing havoc in the apartment complex. She is very opposed to the request. Long term rentals are bad enough, but short-term rentals are dangerous for the applicant and her family.

Chairman Chewning swore in Ellen Hutchinson, who lives at 1300 Madison Avenue. She has concerns about the proposal because there is enough riffraff walking through the neighborhood. The area is relatively safe but other issues need to be addressed for the safety of everyone.

Chairman Chewning swore in John Bruce, who lives at 1201 Madison Avenue. He is also opposed to the request for the same reasons already given. He's afraid this would lead to many more short-term rentals which decrease property values.

Ms. LaRochelle spoke again, reiterating that she would not do this if she thought she was putting her 16-year-old daughter at risk, and she also is concerned about keeping her property values up. She would be able to remove "bad apples" more easily with the short-term rental, which is harder to do with long term renters. She also encouraged Board members to read what the City has meticulously done to address and

prevent these concerns. This is not an Air BnB like in New York or Boston. The problem comes with proliferation; the City looks at these one by one. There are other STRs in the City and the City can revoke her permit. Once she's approved, she'll take other steps like the background checks to keep her family safe. When the City decided to allow this, they did a significant study and they supported it. She looked into converting the upstairs for long term rental but it's expensive. She's trying to follow the law; most STRs aren't following the law. She's a law-abiding citizen trying to follow the law.

Jonathan Stewart came back up and asked if she was planning to put in sprinklers, but she said she is not. He asked her about doing background checks. She said she started doing research on doing them, but she would have to pay for them. He asked her why she didn't just do a long-term rental; she said converting it would be very expensive. She wants to build a direct entry to the second floor for renters to use.

McCall Kennedy asked about the process to deal with a squatter or other "bad apple"; Mr. Johnston and Mr. Dudley said that any violation would be dealt with through the Codes Enforcement office and police.

Teresa Brunson said that if you let someone into your home, it's very difficult to get them out. Owners have to follow the eviction procedures which can take several weeks. She told about a neighbor who was attacked by someone robbing her house. She reiterated that it's dangerous to let people into your house.

Chairman Chewing closed the public hearing and asked for a motion. Mr. Dudley reminded the Board that they would need to state findings of fact as part of their motion.

Mr. Chico moved that the request for the Special Exception Permit be granted, due to the standards of Section 1-2.8.2 of the *Unified Development Ordinance* which are applicable have been met based on the following findings of fact:

1. The homeowner has agreed to abide by all conditions defined by the Ordinance.
2. The use will not substantially diminish the value of the adjacent properties in the district.
3. The proposed special exception will not adversely affect traffic or congestion.
4. This is the first short term rental in the neighborhood and any future applicant will have to go through the same approval process. The City retains the authority to conduct inspections, investigate complaints, and initiate permit revocation to ensure compliance.
5. The applicant meets and exceeds all requirements of the special exception permit, and the homeowner has agreed to abide by all the conditions and standards in the ordinance, and the City maintains the authority to enforce those standards.

Ms. James Singley seconded the motion to approve. Mr. Chico, Ms. James Singley, and Ms. Moses voted to approve the permit; Mr. Poston, Mr. Mitchell, and Chairman Chewing voted against issuing the permit. Because it was a tie, the motion failed and the request for the Special Exception Permit was denied.

**ADJOURNMENT:** As there was no further business, Mr. Mitchell moved to adjourn the meeting, and the Board adjourned at 7:08 p.m. The next regular meeting is scheduled for October 27, 2022.

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

**DATE:** October 27, 2022

**APPEAL NUMBER:** BZA-2022-12

**VARIANCE REQUEST:** Request for a variance from the size, setback, and location restrictions in Table 3-8.1.1 and Section 3-8.1.9I of the *Unified Development Ordinance*.

**LOCATION:** 1122 Kenwood Avenue

**TAX MAP NUMBER:** 90048-05-001

**OWNER OF RECORD:** Maynard Parker

**APPLICANT:** Maynard Parker

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

**Land Use and Zoning**

The parcel is located at 1122 Kenwood Avenue. It is in the Neighborhood Conservation-6.1 zoning district, as is everything adjacent to it. This district permits single family detached houses only. There is a 1,052 square foot house built in 1950 on the parcel. There are two accessory buildings on the lot; one is 9’ by 16’ and is located in the corner of the parcel. The owner said he plans to remove it in the future due to its dilapidated condition. The new, larger accessory building is located parallel to the interior side property line.

**Site and Building Characteristics**

The corner lot is 6,070 square feet in size. The owner constructed an accessory building which is 12 feet wide and 24 feet long (288 square feet) in the interior side yard and which extends past the front plane of the house into the front yard about six feet. The accessory building is 16 feet from the rear property line, 37 feet from the street, 8 feet 8 inches from the house, and a couple of feet from the side property line, the exact location of which is unknown. There is also a 9 foot by 16 foot shed in the back corner of the lot (see Attachments E and F).

**Variance Requests**

The applicant is asking for variances from the requirements of Table 3-8.1.1 and Section 3-8.9.1 D and I of the *Unified Development Ordinance* regarding the following:

1. **Setbacks for accessory buildings in residential districts.** According to Table 3-8.1.1, side setbacks shall be the side setback for the district, which in the NC-6.1 district is 5 feet. The rear setback is 10 feet for accessory buildings over 10 feet tall. The shed technically meets the rear setback, and based on staff measurements, it does appear to meet the side setback, and the applicant would like permission to leave it where it is.
2. **Location.** According to Section 3-8.1.9 D, accessory buildings must be located in the rear yard, but because of the shape of the lot and location of the house, placement of the shed in the rear yard is not possible. It is currently in the side yard extending about 6 feet past the front plane of the house into the front yard.

3. **Maximum size.** According to Section 3-8.1.9 I 1, detached accessory buildings shall not cover an area larger than 25% of the gross floor area of the principal building. The maximum allowed area for the 1,052 square foot house is 263 square feet; the requested shed is 288 square feet, or 27% of the gross floor area of the house. Additionally, there is a preexisting 9 foot by 16 foot shed (144 square feet) on the lot, which brings the total to 41% of the size of the principal building.
4. **Number of accessory buildings.** According to Section 3-8.1.9 I 3c, the number of accessory buildings is limited to one per single family residential lot. There are two.
5. **Compatibility.** According to Section 3-8.1.9 I 5, accessory buildings shall be designed to be compatible with the principal building in terms of color, materials, roof pitch, and fenestration. The accessory building matches in everything but color.

The following information is included as submitted by the applicant:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: **This is a corner lot of 0.1 acre. The area between my house and back property line is 12 feet. There is not enough room for my shed there and to have a setback.**
- b. These conditions do not generally apply to other property in the vicinity as shown by: **this property is very small, has an odd shape, and a preexisting house.**
- c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: **there is no backyard.**
- 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: **the shed is between the house and a line of trees.**

### **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: **Given its size, requiring the accessory building to be located behind the rear plane of the house would make its placement on the lot impossible, even with the removal of the preexisting smaller building.**
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 accessory buildings from overwhelming the house and lot with which they are associated in a residential area. Granting the location and size variance results in allowing the accessory building to extend into the front yard from its place between the house and the line of trees along the side property line.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **The small size and orientation of the lot and especially the lack of a backyard severely limit the options for the location of an accessory building. The interior side property line is 58 feet long;**

**the rear property line is 108 feet long.**

4. That these conditions do not generally apply to other property in the vicinity: **This corner lot was developed in the 1940s and the house was built with a minimum back yard. Most of the other houses in the area are constructed on larger lots or oriented to have a larger rear yard.**
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 requirements for accessory buildings would not prevent the use of the home as a single-family residence, but it would make it very difficult to have an accessory structure of this size on the lot. The smaller existing shed does not meet the current setback requirements either.**
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 accessory building is located between the house and a row of trees along the side property line, which is the most unobtrusive location for it. Removal of the 9' by 16' shed would reduce the number of accessory structures, but since it is not visible from either Kenwood or Heatherwood, its removal would not significantly change the visual impact at the street.**

#### **Attachments**

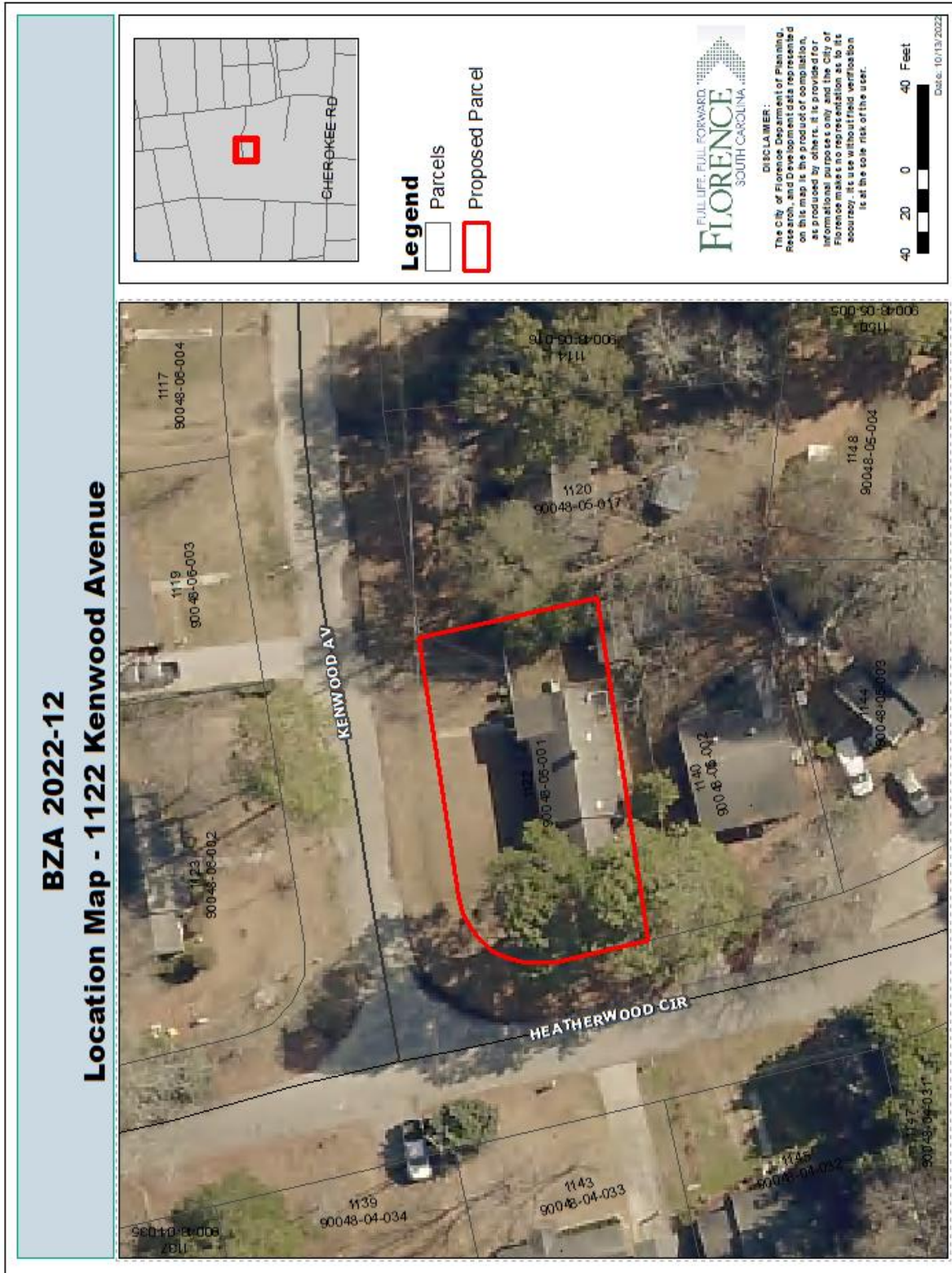
- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Table 3-8.1.1 and Section 3-8.1.9 D and I
- E. Site Plan
- F. Site Photos

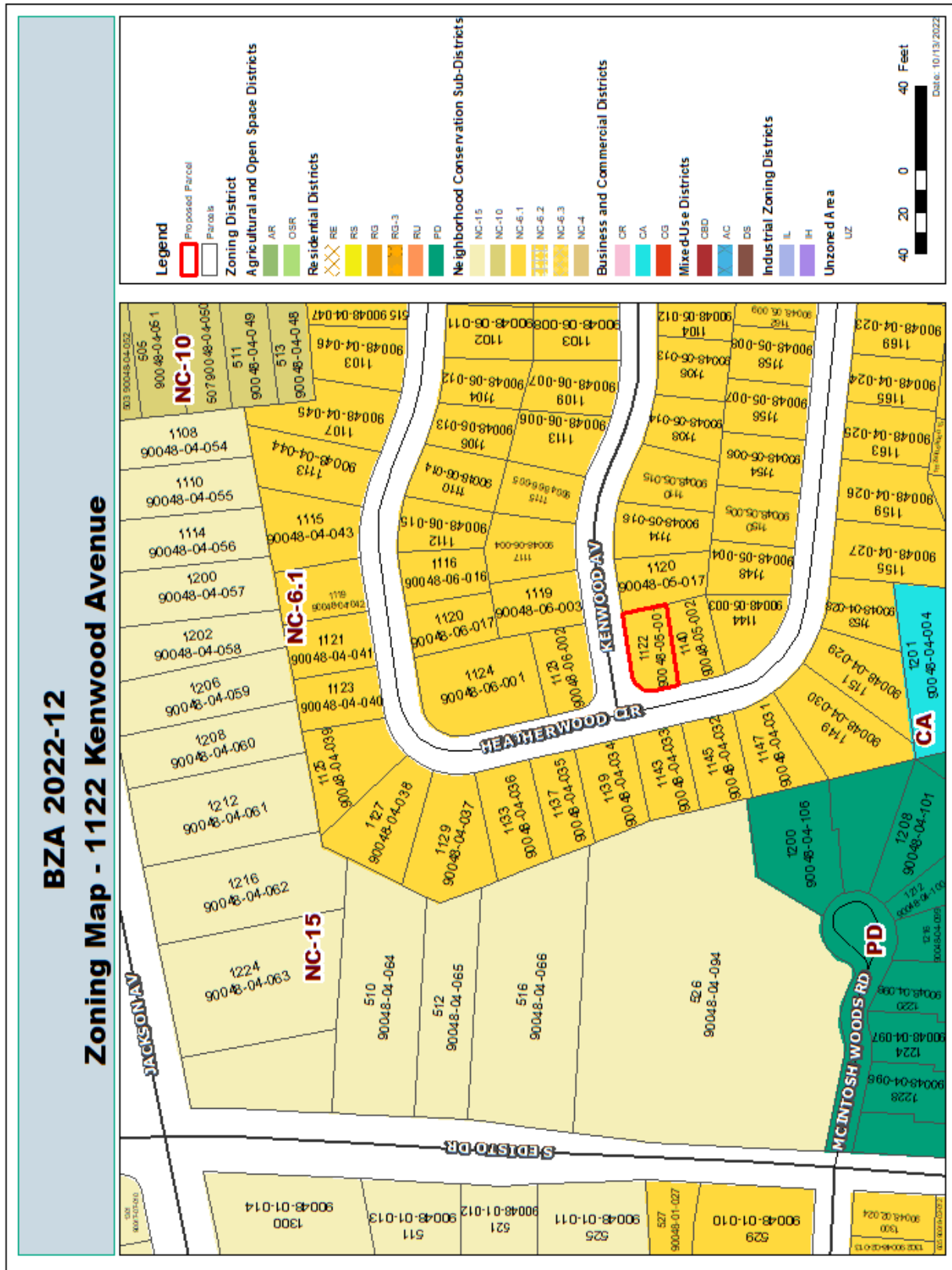






Attachment B: Location Map





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

**D. Location.**

1. No accessory building or structure of any type shall be located in a front yard, side yard (extended to rear plane of house), or street side yard (extended to rear plane of house), except as may be specifically allowed by this Division.
2. Accessory buildings shall not be located in a required bufferyard area.
3. Accessory buildings must be located on the same lot as the principal building or use to which they relate.

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

1. **Maximum Size.** Detached accessory buildings shall not cover an area that is larger than 25 percent of the gross floor area of the principal building, or 1,500 square feet, whichever is smaller, nor shall a detached accessory building's length (measured as the total building length along the side closest in parallel to the rear property line) be in excess of 25 percent of the width of the rear property line, except that:
  - a. In the OSR or AR districts, accessory buildings and structures are permitted as needed to support recreational or agricultural uses;
  - b. Buildings that are accessory to individual townhome, duplex, and multiplex units (except garages) are limited to 120 square feet per unit.
  - c. Accessory buildings in the RE (Residential Estate) and the NC-15 subdistrict shall not cover an area that is more than 15 percent of the lot area.
2. **Height.** Detached accessory buildings shall not exceed the height of the primary structure or 20' in height, whichever is less.
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.
4. **Building Spacing.** Accessory buildings shall be separated from principal buildings and other accessory buildings by no less than six feet.
5. **Compatibility.** Accessory buildings shall be designed to be compatible with the principal building in terms of:
  - a. Color, which shall be the same as or compliment the principal building;
  - b. Materials, which shall be the same as those used on the principal building, and in the case of



- siding or brick, shall be installed with the same patterns as on the principal building;
- c. Roof pitch, materials, and color, which shall be the same as the principal building; and
- d. Fenestration, if windows are provided, they should be of a type and aspect ratio that is similar to those on the principal building.

Attachment E: Site Plan



The green square is the existing 9' by 16' shed; the blue rectangle is the new 12' by 24' shed. The house is 12 feet from the rear property line. The interior side property line is 58 feet long; the rear property line is 108 feet long. The front property line is 17 feet from the edge of the pavement. The new shed is 8'8" from the house.

Attachment F: Site Photos



View of the house and accessory building from Kenwood Avenue.





Looking down the front plane of the house from Heatherwood Avenue showing the extension of the accessory building into the front yard.



Looking down the rear plane of the house from Heatherwood Avenue showing the small depth of the rear yard (12 feet deep).





Showing the 8'8" distance between the house and the accessory building.



Showing the distance from the accessory building to the side property line and the foliage along the side.

**Board of Zoning Appeals Motion Worksheet**

Case Number:   BZA-2022-12   Nature of Request:   Accessory Building 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 *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 27, 2022

**APPEAL NUMBER:** BZA-2022-13

**VARIANCE REQUEST:** Variance request from the rear and side setback requirements in Table 2-6.1.1 in the *Unified Development Ordinance* for a commercial building.

**LOCATION:** 1256 East Palmetto Street

**TAX MAP NUMBER:** 90117-22-002

**OWNER OF RECORD:** Margaret M. Poston Trustee – Alan Poston

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

**ZONING DISTRICT:** CG - Commercial General

**Land Use and Zoning**

Jackie Poston’s gas station is located on East Palmetto Street at South Jeffords Road. It is in the Commercial General zoning district. The City’s Future Land Use Plan designates this area as Commercial Auto-Urban. The applicant first brought this variance request to the Board September 24, 2020 with the Site Plan shown as Attachment I. The open storage structure on the back of the building was not correctly drawn on the initial site plan presented to the Board. The engineer, Mike Padgett, updated the site plan to properly represent the footprint of the existing building with the corrected site plan receiving approval from the Board on March 25, 2021 (Attachment H).

The owner is now proposing that the commercial addition to Jackie Poston’s Store reflect the site plan as shown on Attachment F. The applicant seeks to expand the existing building beyond previously approved variances to the east and south. There has been no new construction on the building since receiving initial variance approval in 2020.

**Site and Building Characteristics**

The lot is 0.43 acres in size. It is about 155 feet wide at its widest point, 75 feet wide at its narrow end, and approximately 140 feet long. The parcel is surrounded on three sides by three different streets; East Palmetto Street to the north; Cemetery Street to the south; and South Jeffords Street to the east. The applicant is updating the initial variance request from the rear and side setback requirement of 40 feet and 20 feet respectively to allow for future expansion of the building. Jackie Poston’s existing 960 square foot building was constructed in 1975.

### **Variance Request**

The applicant is asking for a variance from the rear and side setback requirement of Table 2-6.1.1 of the *Unified Development Ordinance*, which requires a 40 foot rear setback between the building and the rear property line and a 20 foot side setback between the building and the side property line. The Board previously approved setback variances that resulted in a rear setback of 4 feet and a side setback of 18 feet.

The proposed expansion of the building would require an encroachment of 40 feet into the prescribed rear setback resulting in a 0 foot rear setback and an encroachment of 5 feet into the prescribed side setback resulting in a 15 foot side setback. Cemetery Street is a City maintained road and would not be able to permit the proposed building to be built over the rear property line and encroach into the right-of-way.

The following information is included as submitted by the **applicant**:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: **Very unusual lot geometry, unusual adjacent roads, etc. In order for the current conditions to improve, the setbacks will not work.**
- b. These conditions do not generally apply to other property in the vicinity as shown by: **The City and County GIS/Zoning Maps, standing on the property and looking around, Google Earth, etc.**
- c. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: **Does not allow it to be utilized to its best and highest potential use.**
- 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: **It will allow for remodeling that will vastly improve the current condition making it look better than it does.**

### **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: **This building was constructed prior to the adoption of the Unified Development Ordinance. The old City of Florence Zoning Ordinance allowed a 20-foot rear setback instead of the current 40 and a 10 foot side setback instead of the current 20 foot requirement. The lot is surrounded on three sides by streets limiting the options for expansion. The only zoning district which allows a zero foot setback for commercial buildings is the Central Business District (CBD), which is the downtown area of the City.**
2. That the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done: **The east side of the property requiring the 5-foot setback variance will be adjacent to commercial property. The south side of the property requiring the 20-foot setback variance is adjacent to residential property and will result in less space between the two disparate uses. The Building Code will require additional fire safety measures due to the proximity to the property line. Emergency space available to motor vehicles will be reduced.**

3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **This commercial parcel is essentially surrounded on all sides by roads limiting expansion possibilities.**
4. That these conditions do not generally apply to other property in the vicinity: **This property does have a unique layout and is surrounded by three different streets which does limit the property owner from purchasing adjacent property. Other properties in the vicinity do not have reduced setbacks. The only zoning district which allows a zero foot setback for commercial buildings is the Central Business District (CBD), which is the downtown area of the City.**
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: **The current setbacks for a commercial building in the Commercial General district would restrict the owner's desire to expand the building for his business needs to the extent requested. The required setbacks do not prohibit the current utilization of the property and a previous variance was approved for expansion of the store.**
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 building expansion of approximately 2,000 square feet to the existing gas station is a continuation of a use that has existed since 1975. The current proposal requires a greater variance request than initially requested and approved by the Board. The proposal is in line with future land use along East Palmetto Street, Commercial Auto-Urban, but is counter to the prescribed *Unified Development Ordinance* setbacks for this zoning district.**

#### **Attachments**

- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Future Land Use Map
- E. Site Photos
- F. Site Plan with Variances Approved (pink) & Currently Requested (green)
- G. Site Plan with Variances Approved (September 24, 2020 & March 25, 2021) & Requested (October 27, 2022)
- H. Site Plan with Variances Approved September 24, 2020 & March 25, 2021
- I. Previous Site Plan (Variance Granted March 25, 2021)
- J. BZA Motion Worksheet





**BZA 2022-13 Attachment B**  
**Location Map 1256 East Palmetto Street**









Attachment E: Site Photos



Facing West towards Jackie Poston's Store



Facing North towards East Palmetto Street: Rear Open Storage Shed to be Enclosed & Expanded



Facing West towards Cemetery Street





Facing Southwest towards Cemetery Street – Open Storage Shed to be Enclosed & Expanded

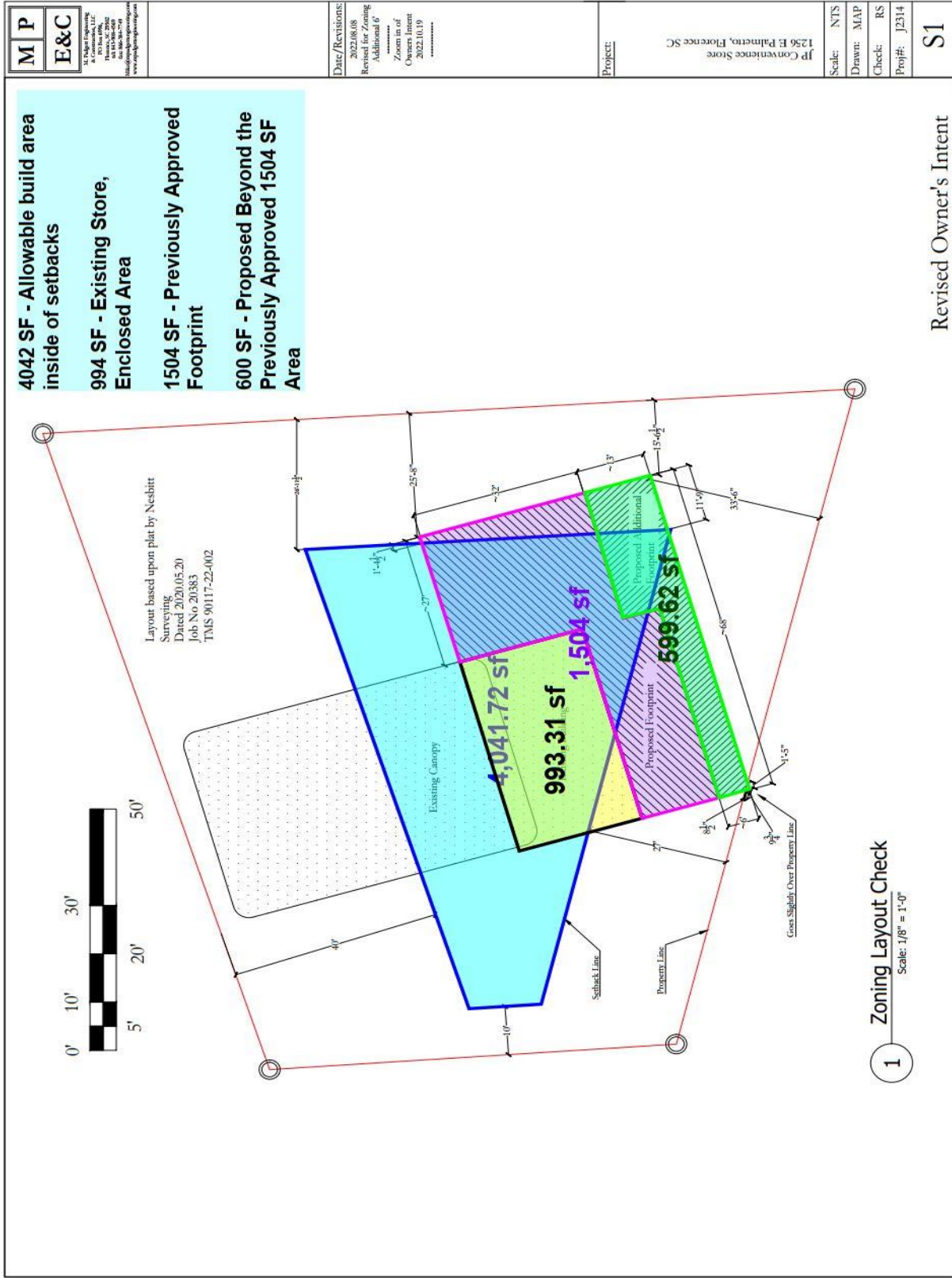


Facing North towards East Palmetto Street

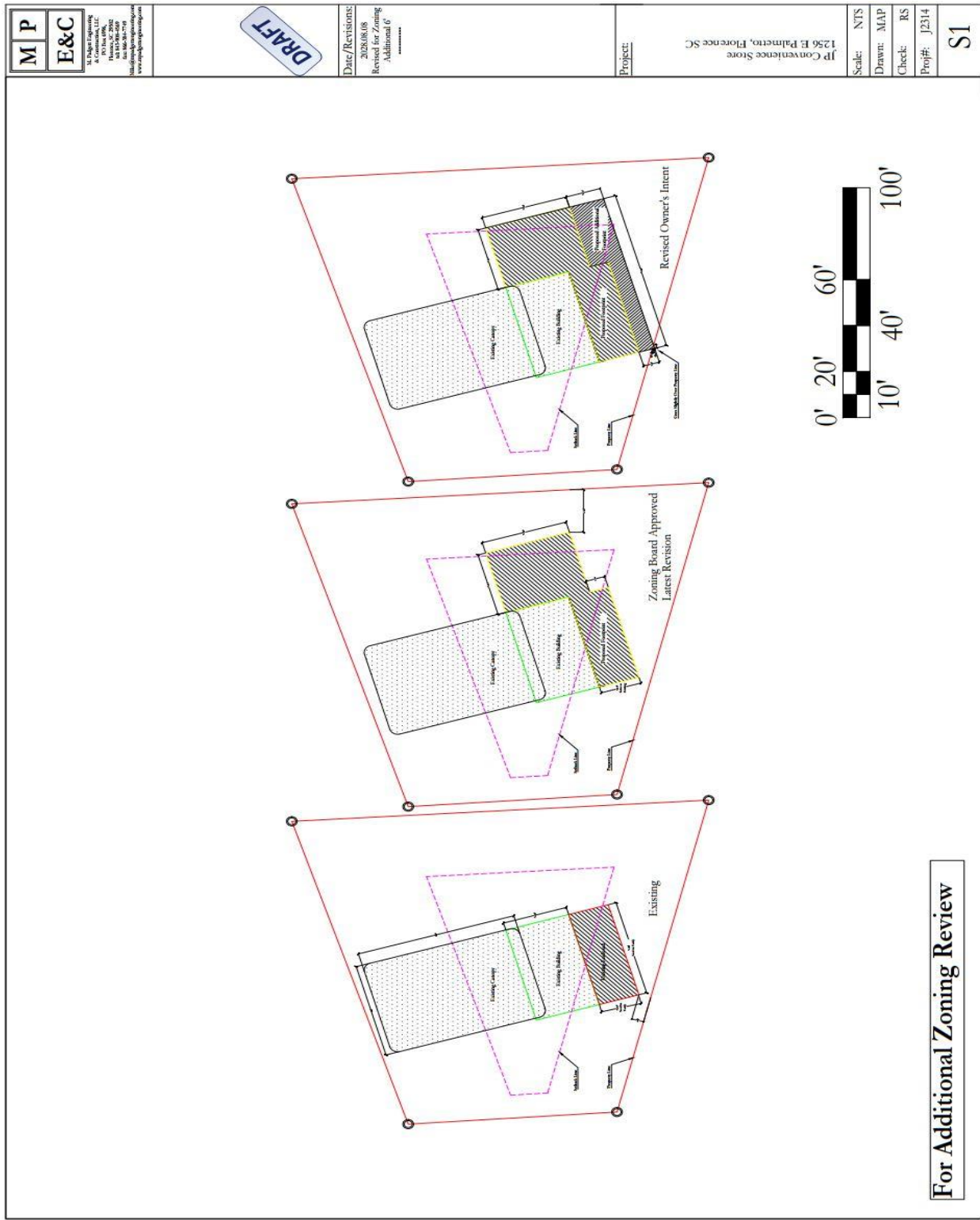


Facing East towards South Jeffords Street

Attachment F: Site Plan with Variances Approved (pink) & Currently Requested (green)

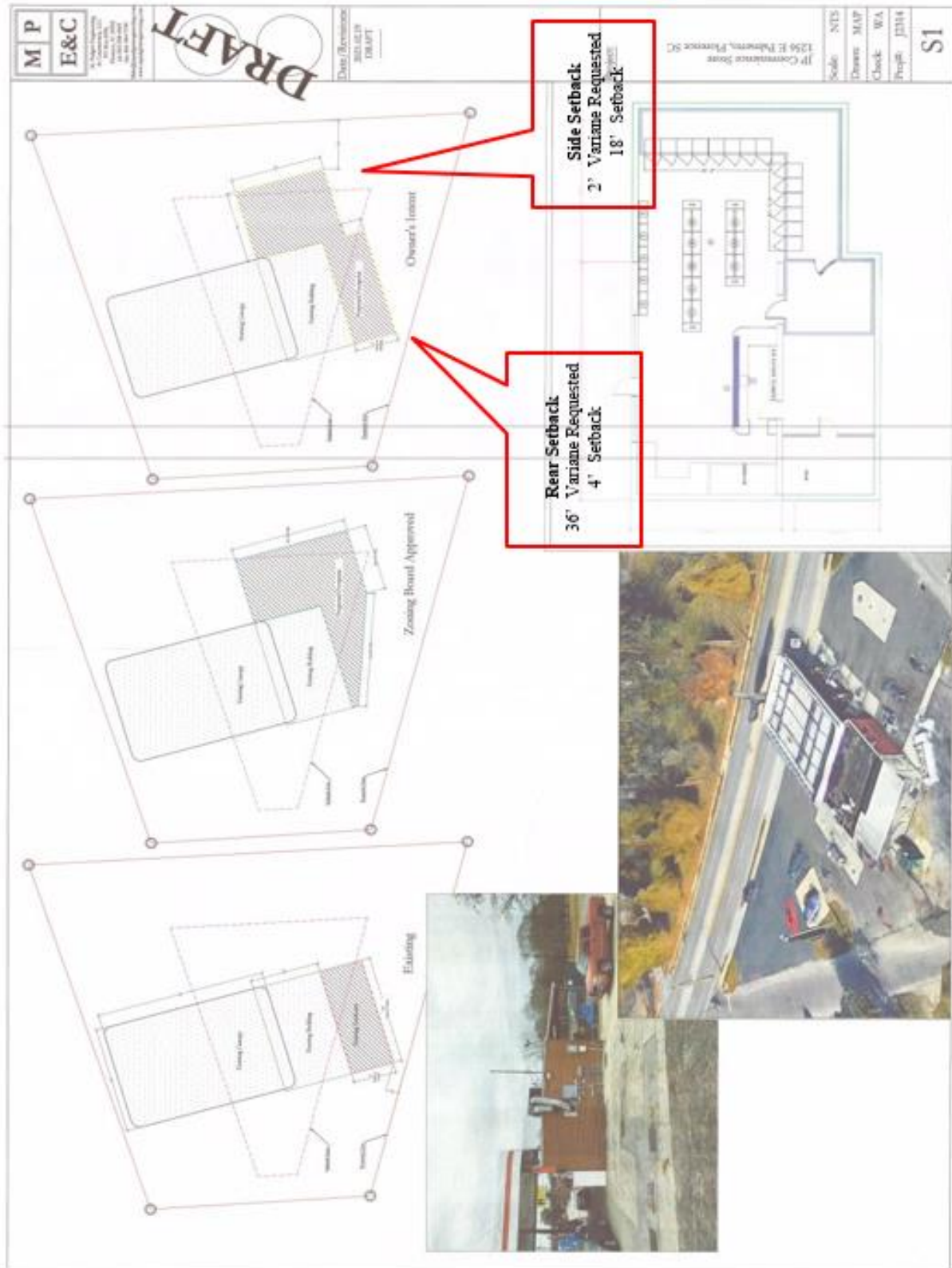


Attachment G: Site Plan with Variances Approved (September 24, 2020 & March 25, 2021) and Requested (October 2022)

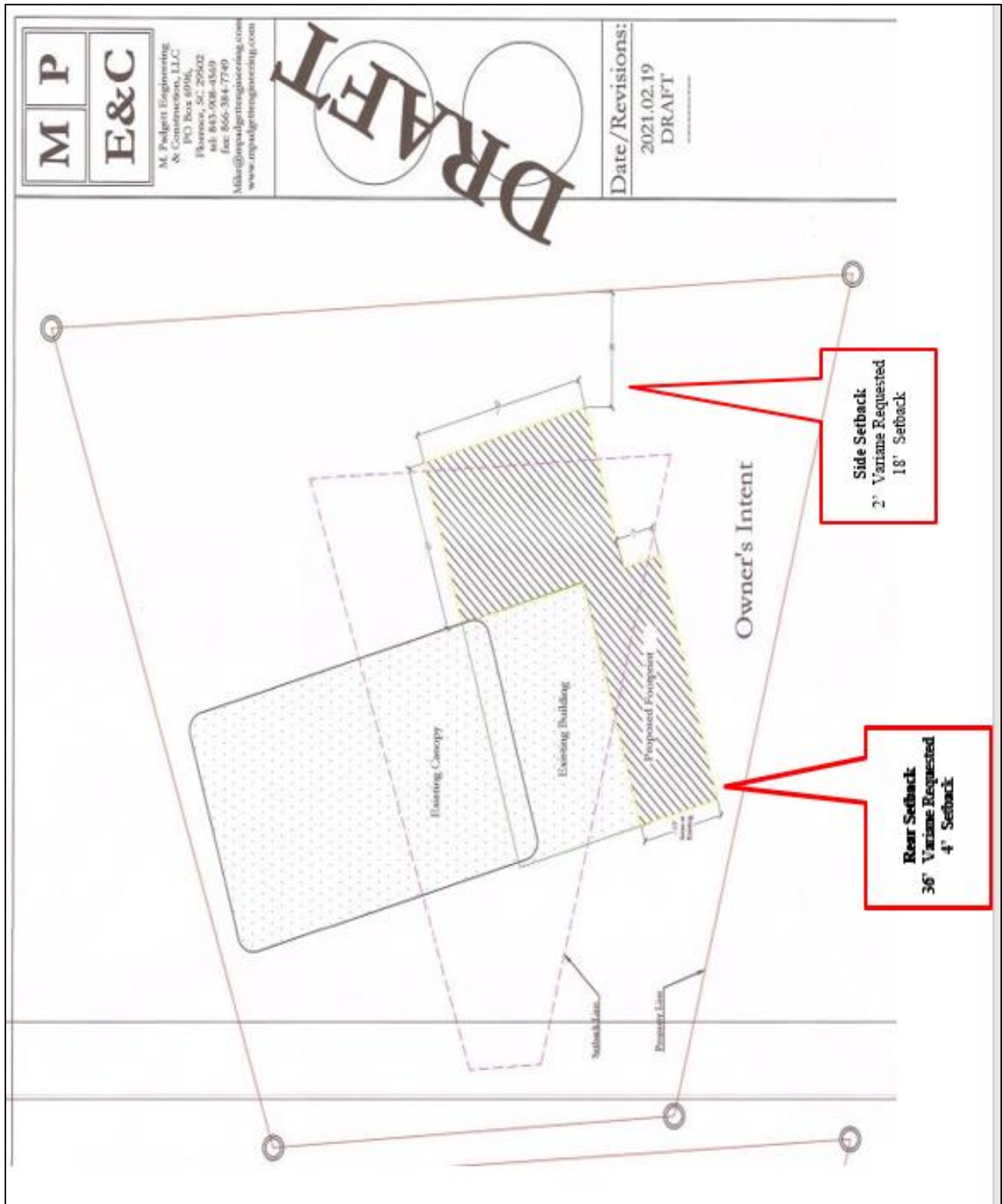




Attachment H: Site Plan with Variances Approved September 24, 2020 & March 25, 2021



Attachment I: Previous Site Plan (Variance Granted March 25, 2021)



**Board of Zoning Appeals Motion Worksheet**

Case Number:                   BZA 2022-13                   Nature of Request:           Rear & Side 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 27, 2022

**APPEAL NUMBER:** BZA-2022-14

**VARIANCE REQUEST:** Request for a variance from the fence height restriction from Table 3-8.1.2 of the *Unified Development Ordinance*

**LOCATION:** 1307 Queensferry Road

**TAX MAP NUMBER:** 12515-01-040

**OWNER OF RECORD:** Nicholas & Monica Fazio

**APPLICANT:** Nicholas & Monica Fazio

**ZONING DISTRICT:** Neighborhood Conservation - 15

**Land Use and Zoning**

The parcel is located at 1307 Queensferry Road. It is in the Neighborhood Conservation-15 zoning district, as is everything adjacent to it. This district permits single family detached houses only. Section 3-8.1.2 of the *Unified Development Ordinance* governs all residential fencing and Table 3-8.1.2 specifies that fences in rear yards must be less than or equal to 6 feet tall. Furthermore, footnote 3 specifies fences or walls over the maximum allowed height must get BZA approval.

**Site and Building Characteristics**

1307 Queensferry Road is located with the Queensferry Subdivision. The parcel is 120 feet wide and 195 feet deep or approximately 0.53 acres in size. The single-family detached home fronts Queensferry Road and backs up to Third Loop Road. The rear of the home currently has a 5 foot tall brick fence with 5 ½ foot columns encompassing the backyard.

**Variance Request**

The applicant is asking for a variance from the requirements of Table 3-8.1.2 of the *Unified Development Ordinance* regarding the maximum fence height permitted in a residentially zoned area of 6 feet. The owner is asking for a variance to increase the height of the existing fence from 5 feet to 8 feet, and the fence columns from 5 ½ feet to 8 ½ feet, a difference of 3 feet. The increase in fence height would only apply to the portion of fence in the rear yard running parallel to Third Loop Road.

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: **This property is one of the few in the development that backs up to Third Loop Road.**

2. These conditions do not generally apply to other property in the vicinity as shown by: **Does not apply to homes that don't back up to Third Loop Road.**
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 right to quiet enjoyment of our property. The road noise and view of constant traffic are a disturbance.**
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: **Bricks used for the fence will be the same color and type of those currently on the wall. Existing trees will partially hide the wall.**

### **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 Queensferry neighborhood was constructed with 9 homes backing up to Third Loop Road creating "through lots". If a neighborhood were constructed today with this layout, a 25 foot landscaped bufferyard would be required between the homes and Third Loop Road. Because of the lack of a bufferyard, the homeowner experiences greater traffic noise and visibility from Third Loop Road in the backyard.**
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 the height of fences in the rear yard of residentially zoned properties and mitigate the impact to adjacent properties.**
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: **Queensferry neighborhood was constructed with 9 homes backing up to Third Loop Road. If a neighborhood were constructed today with this layout, a 25 foot landscaped bufferyard would be required between the homes and Third Loop Road. Without this bufferyard, traffic noise and road visibility are amplified.**
4. That these conditions do not generally apply to other property in the vicinity: **Nine other homes in Queensferry also back up to Third Loop Road.**
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 Ordinance regarding fence height would not prevent the use of the home as a single-family residence; however, the owner would like relief from the noise and visible disturbance caused by Third Loop Road.**
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: **Property owners adjacent to 1307 Queensferry Road may object to the proposal of an 8 foot fence, or this could create a critical mass of requests from property owners along Third Loop Road for the same fence height variance.**



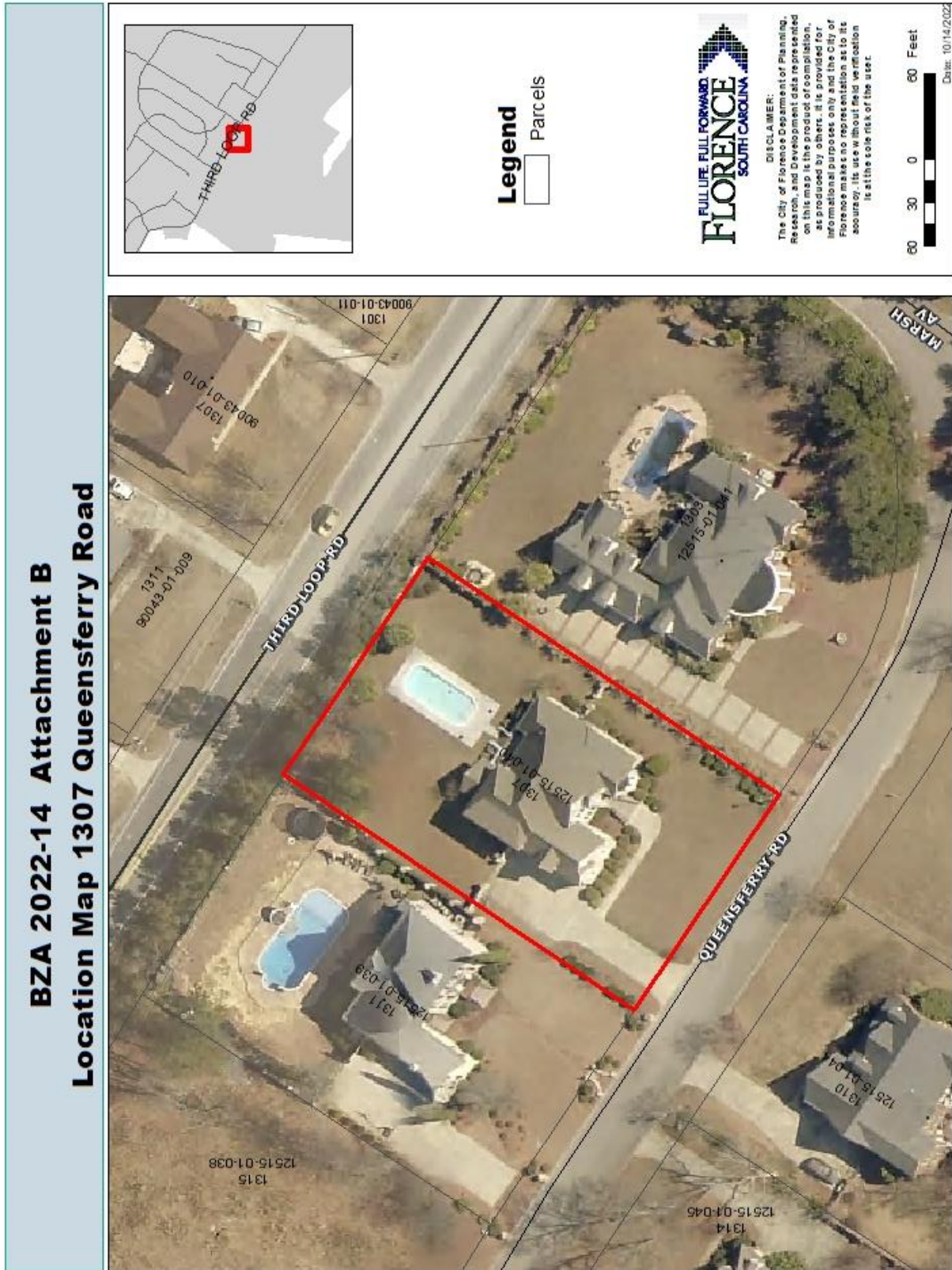
**Attachments**

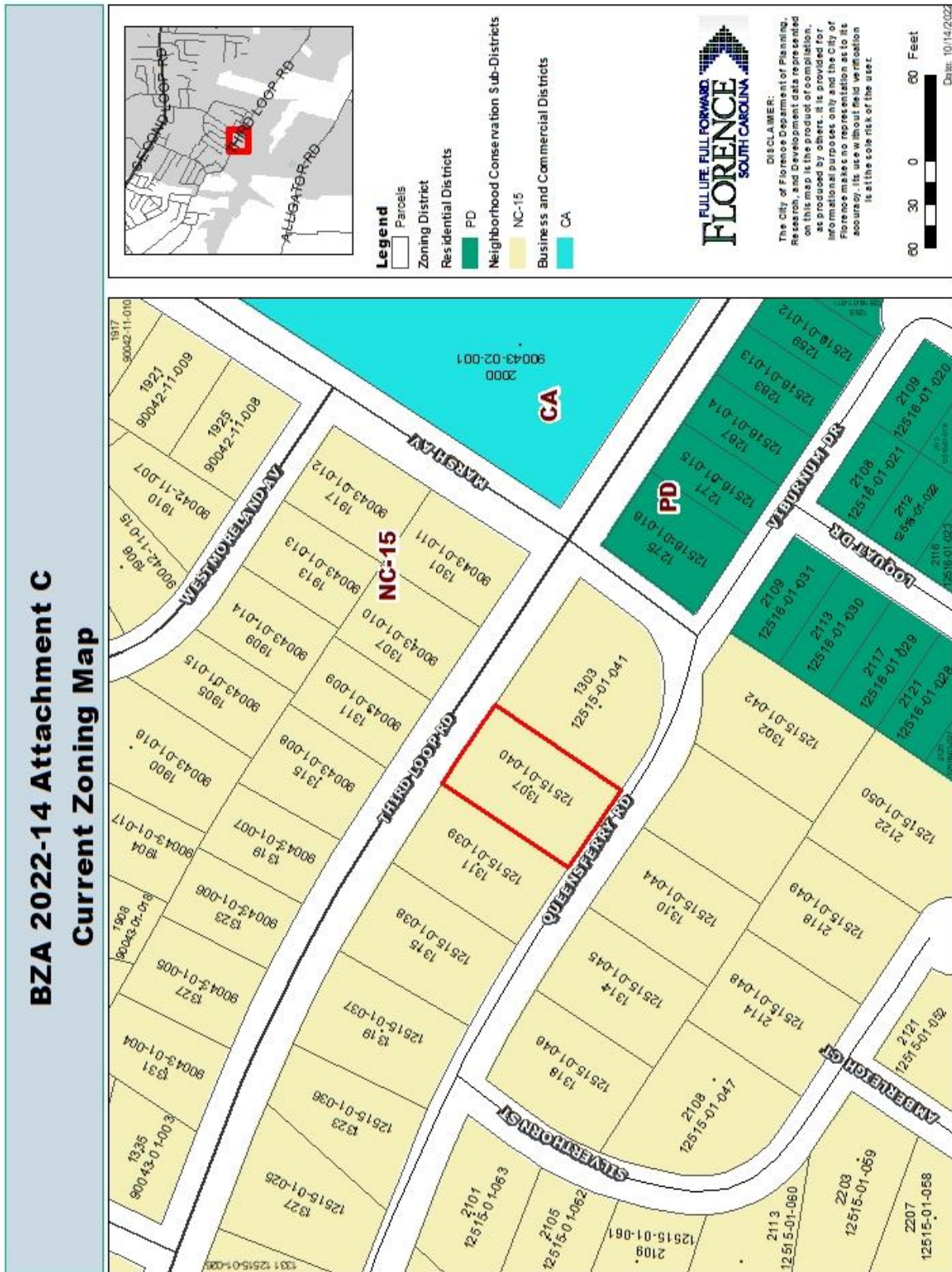
- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Future Land Use Map
- E. Table 3-8.1.2 from the Unified Development Ordinance
- F. Site Photos
- G. BZA Motion Worksheet

**BZA 2022-14 Attachment A**  
**Vicinity Map 1307 Queensferry Road**

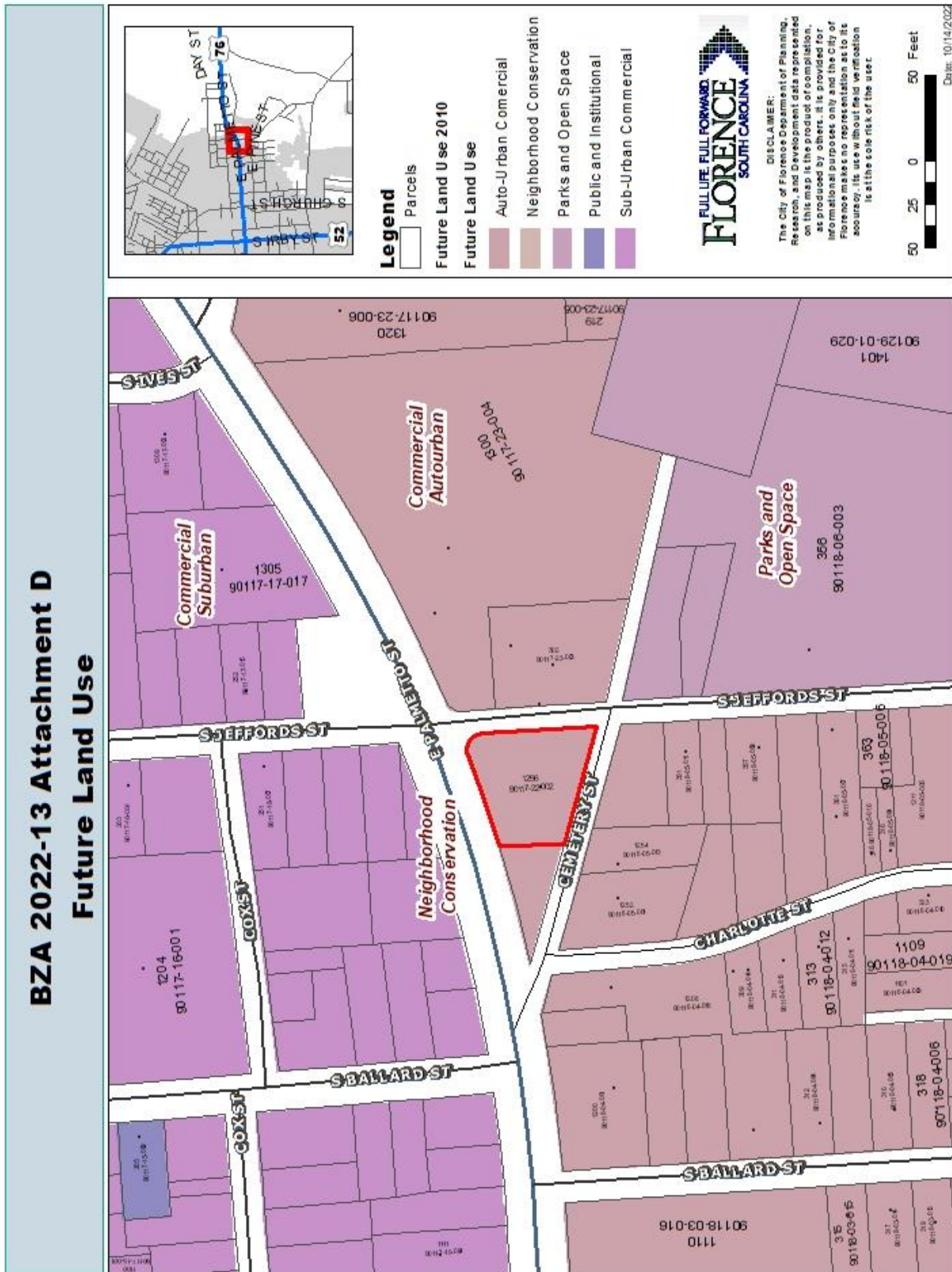












Attachment E: Table 3-8.1.2 from the *Unified Development Ordinance*

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 F: Site Photos



Front of House - 1307 Queensferry Road



View from Driveway towards Third Loop Road





Backyard View towards Third Loop Road



Fence in Rear Yard



5' Brick Fence with 5 ½' Columns



Current View of Third Loop Road over Fence



Top of Fence Proposed to be Raised



View of Brick Fence Parallel to Third Loop Road



**Board of Zoning Appeals Motion Worksheet**

Case Number:   BZA 2022-14   Nature of Request:   Fence Height 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: