

CITY OF FLORENCE, SOUTH CAROLINA
BOARD OF ZONING APPEALS
DECEMBER 22, 2022 AGENDA

I. Call to Order

II. Approval of Minutes

Regular meeting held on October 27, 2022. No meeting held on November 17, 2022.

III. Approval of 2023 Meeting Dates – fourth Thursday of each month except for November

January 26	April 27	July 27	October 26
February 23	May 25	August 24	November 16
March 23	June 22	September 28	December 28

IV. Public Hearing and Matter in Position for Action

BZA-2022-15 Request for a variance from the fence requirements for a parcel located at 110 South Guerry Street, in the NC-6.2 zoning district; identified as Tax Map Number 90061-12-008.

V. Public Hearing and Matter in Position for Action

BZA-2022-16 Request for a variance from setback requirements for the buildings located at 1250 and 1260 Celebration Boulevard, in the CG zoning district; identified as Tax Map Numbers 00100-01-144 and 00100-01-245.

VI. Adjournment

The next meeting is scheduled for January 26, 2023.

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

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

MEMBERS ABSENT: Larry Adams and Larry Chewning

In the absence of Chairman Larry Chewning, Co-Chairman Nathaniel Poston chaired the meeting.

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

CALL TO ORDER: Chairman Poston called the meeting to order at 6:01 p.m.

APPROVAL OF MINUTES: Chairman Poston introduced the September 22, 2022 minutes. Ms. Moses moved that the minutes be approved as submitted, Mr. Mitchell seconded the motion to approve; voting in favor of approving the minutes was unanimous (4-0).

Miriam Jones-Singley arrived

PUBLIC HEARINGS AND MATTERS 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.

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

Mr. Mitchell asked if the owner was willing to tear down the older building; Mrs. Zlotnicki confirmed that the owner had indicated that he did plan to take it down but didn't give a time frame for its removal. Chairman Poston asked if the accessory building in question was already constructed; she said that yes, it was. The smaller pre-existing building isn't visible from the street. Mr. Chico asked about the rear setback from the house; she said the GIS line shown on the map is not quite right, but the owner gave a measurement of 12 feet for the rear setback of the house. She reiterated that the setbacks weren't really the problem, the problem is that the accessory building is in the front yard. Chairman Poston said it looks like removing the old shed and moving the new one back towards the rear property line would help with the location problem. He asked if the variance could have the condition that he remove the old building to help with location and area. Mrs. Zlotnicki confirmed that attaching conditions to the variance was absolutely appropriate.

Mr. Chico asked if staff had heard from the neighbors; Mrs. Zlotnicki said that she hadn't received any phone calls about this request.

Chairman Poston asked how the City became aware of this situation; she said that a Codes Enforcement officer observed it while driving around.

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

The applicant, Maynard Parker, was sworn in. He said he had letters from his neighbors saying they had no issues with the building. He plans to remove the old shed because it has termite damage. He still has some things inside that he will move into the new shed. The lot is very small with no back or side yard.

Ms. Moses asked Mr. Parker if he was able to move the new shed back; he said it's not a permanent fixture so yes, he can move it. Chairman Poston asked Mr. Parker what time frame would work for him; he said he's working 6 days a week so would need at least a couple of months.

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

Mr. Chico asked the City if he would need another variance for the rear setback; Mrs. Zlotnicki said that was up to the Board, that it could specify what setback was acceptable. Mr. Dudley said that they could use the same setback as the existing shed since it's an existing nonconformity. Mrs. Zlotnicki listed out the possible conditions for the benefit of the Board: removal of the old building and relocation of the new one so it's at least parallel to the front of the house, within 90 days.

Mr. Chico moved that the variance be granted with those conditions, based on the following findings of fact:

1. That a variance from the terms of the *Unified Development Ordinance* will not be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, result in an unnecessary hardship, in that: **this is a corner lot of small size in which the distance between the house and the back property line is only 12 feet, so there is not enough room for the shed in the rear of the property.**
2. That the spirit of the *Unified Development Ordinance* will be observed, public safety and welfare secured, and substantial justice done because: **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, namely: **The small size of the property and the orientation of the house 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, in that: **This corner lot was developed in the 1940s and the house was built with a minimum back yard with minimum setbacks. 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 *Unified Development Ordinance* to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property by: **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, because: **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, bringing it into compliance and significantly reduce the total area consumed by accessory buildings.**

Mr. Mitchell seconded the motion to approve. The motion to conditionally approve the variance as requested passed unanimously (5-0).

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.

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

Mr. Chico asked if there was a public right of way between the property line and Cemetery Street; Mr. Johnston said there is, but they cannot allow them to extend the building over the property line into the right of way. Mr. Mitchell asked about closing the street, but Mr. Johnston said abandoning a street takes City Council approval as well as that of all the adjacent property owners. They must also ensure that everyone has frontage to a street.

There being no further questions for staff, Chairman Poston opened the public hearing. The applicant, Alan Poston, was sworn in. He mentioned that he already owns the house and lots on the south side of Cemetery Street, except for the house on the corner of Charlotte Street.

Chairman Poston asked if he'd received any complaints from neighbors; he said no. Mr. Johnston said that the City hadn't received any phone calls from neighbors either. Mr. Poston said that when he learned that he was required to put in larger bathrooms, he realized the building had to be enlarged to accommodate them and all the storage he needs. Mr. Mitchell asked the applicant if it would help his situation if the Board approved a variance letting him build to the property line; he said it sure would.

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

Mr. Chico asked staff if there was any precedence for zero setback; Mr. Johnston said that the Central Business District downtown was the only zoning district that permitted zero lot lines. Mr. Chico asked about the impact on driver visibility at the street intersections if the building was built to the lot line. Mr. Johnston said it looked like there was plenty of space, but that was something staff would look at as part of their site plan review. Mr. Chico said it looked like it would be a significant distance from the intersections, so he doesn't think there's a visual obstruction issue. Mr. Johnston said one corner of the building would touch the apron of the road, but it's in the middle of the block.

Mr. Mitchell asked about it being a triangular lot. Mr. Johnston said that gives them limits to expansion because it has frontage on three streets. At least one residence on Cemetery Street would be closer to commercial zoning this way. Ms. James-Singley confirmed that the building wouldn't interfere with visibility; Mr. Johnston assured her that as part of the review process, staff would make sure that the sight triangles were not compromised.

Ms. Moses asked Mr. Poston how his parking would be affected. He said that all the existing parking spaces and driveways were in the front of the lot on East Palmetto Street, and since he owns the property on Cemetery Street, employees could park there if necessary. Ms. James-Singley asked him about adding markings for parking spaces. He said they aren't there because they are waiting to build the new addition, but he'll add parking lines once the construction is complete. Mr. Johnston said the expansion would require that parking be provided and clearly marked as part of standard site plan review.

Chairman Poston said he would abstain from voting unless needed to break a tie since he's acting as chairman.

Mr. Chico moved that the request for the variance be granted, based on the following findings of fact:

1. That a variance from the terms of the *Unified Development Ordinance* will not be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, result in an unnecessary hardship, in that: **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. This 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, which is the downtown area of the City.**
2. That the spirit of the *Unified Development Ordinance* will be observed, public safety and welfare secured, and substantial justice done because: **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 of 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, namely: **That the 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, in that: **This property does have a unique layout and is surrounded by three different streets which limits 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 *Unified Development Ordinance* to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property by: **The current setbacks for a commercial building in the Commercial General district would restrict the owner's desire to expand their building for his business needs to the extent requested.**
6. That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance, because: **The proposed 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 proposal is in line with future land use along East Palmetto Street, Commercial Auto-Urban.**

Ms. James-Singley seconded the motion to approve. The motion to approve the variance as requested passed unanimously (5-0).

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.

Chairman Poston introduced the request and asked staff for their report. Mr. Johnston gave the staff report as submitted to the Board of Zoning Appeals. He mentioned that one concern with there being nine houses that back onto Third Loop Road is that if the variance is granted, the other homeowners will ask for their own taller fences. He showed photos of a large brick fence elsewhere in the neighborhood. He said that the City did receive one complaint from a neighbor who is concerned about noise bouncing off the fence onto his property. The City also received a phone call from the HOA president. The HOA will need to approve the request as well. There is some question about the status of the HOA, but the Planning and Enabling Act requires that HOA approval be obtained as well.

Ms. Moses asked if the City could get approval from the HOA before the Board grants a variance; Mr. Johnston said they could, but Mr. Fazio said it wasn't clear if the HOA is legally active. They want to hear from the Board before looking at his request. Mr. Dudley said the Board could do it either way: make HOA approval a condition of the variance. Mr. Chico asked for clarification on whether there is an official HOA or not. The City is not clear on whether it's functioning or not. Mr. Chico said he's not comfortable requiring HOA approval as a condition of the variance if it's unclear whether it's an official entity or not. Mr. Johnston said it's a legal question. Mr. Dudley said that planning staff doesn't enforce HOA rules, but if the City is made aware of them, it can't issue permits that conflict with them. Ms. James-Singley asked if the City could require proof from the HOA; Mr. Dudley said it could, if there's a dispute as to its legitimacy and if there is something in the restrictive covenants that affects the request. The HOA president did call staff to inform the City that the HOA does exist. The statement that it's an active HOA is taken at face value.

Mr. Chico asked what would happen if the Board granted the variance and the HOA disagreed with it, and if Mr. Fazio raised the fence, would the HOA go after him? Mr. Johnston said that the City can't supersede the HOA so he couldn't build the fence tomorrow if the Board approved the variance tonight. Chairman Poston asked if there was an 8 foot fence on record in that neighborhood; Mr. Johnston said those are complaint driven; the City doesn't have one on record.

City wide variances have been issued on fence heights in the past. Mr. Chico asked where the person who is concerned about reflected noise lives; they live on Third Loop Road. There are trees along the fence. Chairman Poston asked about the buffer Mr. Johnston mentioned; he explained that new neighborhoods containing residential lots with double frontage require buffering along the rear to mitigate noise and visibility. The requirement is 20-25' deep with trees and shrubs, but such a bufferyard wasn't required when Queensferry was built.

Chairman Poston asked if there were any other questions of staff. There being no further questions for staff, he opened the public hearing. He swore in Nicholas Fazio, the applicant.

Mr. Fazio said they want to raise the fence because they're the second house from the stoplight and the road is raised slightly there and there's no privacy because of that. He wants to take the visual aspect away from the stoplight.

Ms. James-Singley asked if he was aware of the HOA; he said that he was at a meeting about it, but it's completely voluntary and they were discussing putting together an official HOA by filing legal documents,

but he hasn't heard anything else about it. Chairman Poston asked about it being voluntary; Mr. Fazio said they moved in in 2006 and there wasn't one at that time. Since then, some people have gotten together and formed a volunteer one, but Mr. Fazio doesn't know of any official capacity. He's never participated in that. He's waiting to talk to people on it and is willing to work with them but doesn't want his permit contingent on something that's not even a legal entity.

Chairman Poston asked if the 8 foot portion would only affect the rear fence line; Mr. Fazio confirmed that it was. The perimeter fences along the sides belong to the neighbors, and they said they're okay with it. No one has spoken to him about it.

Mr. Chico asked staff how the City measures a fence if the elevation of the road is variable. Mr. Johnston deferred to Mr. Dudley, who said it would be measured from the base of the fence to determine the average elevation.

Chairman Poston asked Mr. Johnston for clarification that if the variance is granted, it would not apply if the HOA was proved to be legitimate and the fence height opposed to the restrictive covenants. He agreed that the City cannot grant the variance unless the HOA approves of it. If the HOA does not legally exist, the variance would stand. Mr. Chico clarified that they could grant the variance and the City will verify the existence of the HOA and their restrictive covenants, and if they don't exist at this time, the variance could be granted. Staff will verify with the City attorney.

Ms. Moses asked if they grant the variance before the HOA is legitimized, could they still stop it? Mr. Dudley said that the variance will stand if the HOA isn't a legal entity at this time, even if it becomes one afterwards.

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

Ms. Moses moved that the request for the variance be granted, based on the following findings of fact:

1. That a variance from the terms of the *Unified Development Ordinance* will not be contrary to the public interest when, because of special conditions, a literal enforcement of the provision will, in this individual case, not result in an unnecessary hardship, in that: **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' landscape bufferyard would be required between the homes and Third Loop Road.**
2. That the spirit of the *Unified Development Ordinance* will be observed, public safety and welfare secured, and substantial justice done because: **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, namely: **Queensferry neighborhood was constructed with 9 homes backing up to Third Loop Road. If a neighborhood were constructed today with this layout, a 25' landscape 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, in that: **Nine other homes in Queensferry also back up to Third Loop Road.**
5. That because of these conditions, the application of the *Unified Development Ordinance* to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property by: **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, because: **Property owners adjacent to 1307 Queensferry Road may object to the proposal of an 8' fence or this could create a critical mass of requests from property owners along Third Loop Road for the same fence height variance.**

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

ADJOURNMENT: As there was no further business, Ms. James-Singley moved to adjourn the meeting; Mr. Chico seconded, and the motion passed unanimously (5-0). The Board adjourned at 7:14 p.m. The next regular meeting is scheduled for November 17, 2022, which is a week early because the fourth Thursday of November is Thanksgiving Day.

Respectfully submitted,

Alane Zlotnicki, AICP
Senior Planner

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

DATE: December 22, 2022

APPEAL NUMBER: BZA-2022-15

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

LOCATION: 110 South Guerry Street

TAX MAP NUMBER: 90061-12-008

OWNER OF RECORD: 1 Runners Comfortable Living LLC

APPLICANT: Ronald Garguilo

ZONING DISTRICT: Neighborhood Conservation – 6.2

Land Use and Zoning

The parcel is located at 110 South Guerry Street. It is in the Neighborhood Conservation - 6.2 zoning district, as are the homes adjacent to it along King Avenue. This district permits the residential uses of single family detached homes and duplexes. *Unified Development Ordinance* Section 3-8.1.2 governs all residential fencing. Table 3-8.1.2 specifies that fences in front yards must be less than or equal to 4 feet in height and have a transparency of 50% (e.g., picket fence). Furthermore, *Unified Development Ordinance* Section 3-8.1.2D mandates the finished side of the fence shall face outward toward any adjacent rights-of-way.

Site and Building Characteristics

The parcel is 42 feet wide and 65 feet deep or approximately 0.06 acres in size. The 700 square foot single-family detached home was constructed in 1940. The house fronts South Guerry Street and is located between West Evans Street to the north and King Avenue to the south. The homeowner constructed a 5 foot high wooden privacy fence in the front yard of his home on the south side of the property and in the side yard of his home on the north side of the property. The wooden fence constructed in the front yard is not in compliance with the *Unified Development Ordinance*. Codes Enforcement alerted the applicant who then applied for a variance.

Variance Request

The applicant is asking for a variance from the requirements of Section 3-8.1.2 of the *Unified Development Ordinance* regarding the maximum fence height, opacity, and orientation specifications permitted in a residentially zoned area. The owner is asking for a variance from the height and opacity requirements in Table 3-8.1.2 of the *Unified Development Ordinance*. The variance request is for the 5 foot wooden privacy fence to remain. The fence height is 1 foot above that permitted and has no transparency. The fence is incorrectly oriented with the finished side away facing away from adjacent rights-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: *The security of the property and its belongings, the security of oneself, crime and the*

deterrent of crime, foot traffic walking next to the home where people were creating a path from the neighbor's home and duplex to the rear.

- b. These conditions do not generally apply to other property in the vicinity as shown by: *No response given.*
- 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: *The security and wellbeing of the property, and tenants' belongings. The fence was put up to stop theft, and security and foot traffic and gathering of neighbors hanging out outside the property.*
- 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: *I believe the variance should not affect the neighborhood as we are trying to prevent crime, and create desirable curb appeal, and create a sense of safety.*

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 owner describes a history of theft, loitering, and trespassing on his property. A fence is a reasonable deterrent, but a fence that meets the requirements of the Ordinance could satisfy the owner's purpose.*
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, opacity, and orientation of fences in the front 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: *The homeowner has experienced unwanted and/or illegal activity on his property requiring action to prevent future wrongdoing.*
4. That these conditions do not generally apply to other property in the vicinity: *Other properties in the vicinity would most likely have a similar experience.*
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 residential fence requirements would not prevent the use of the home as a single-family residence; however, the owner would like relief from theft, loitering, trespassing, and noise. A wooden picket fence constructed to City standards could also mitigate these same complaints.*
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 110 South Guerry Street may object to allowing a variance from the Unified Development Ordinance residential fence requirements and this could create a critical mass of requests from adjacent property owners asking for the same residential fence variances.*

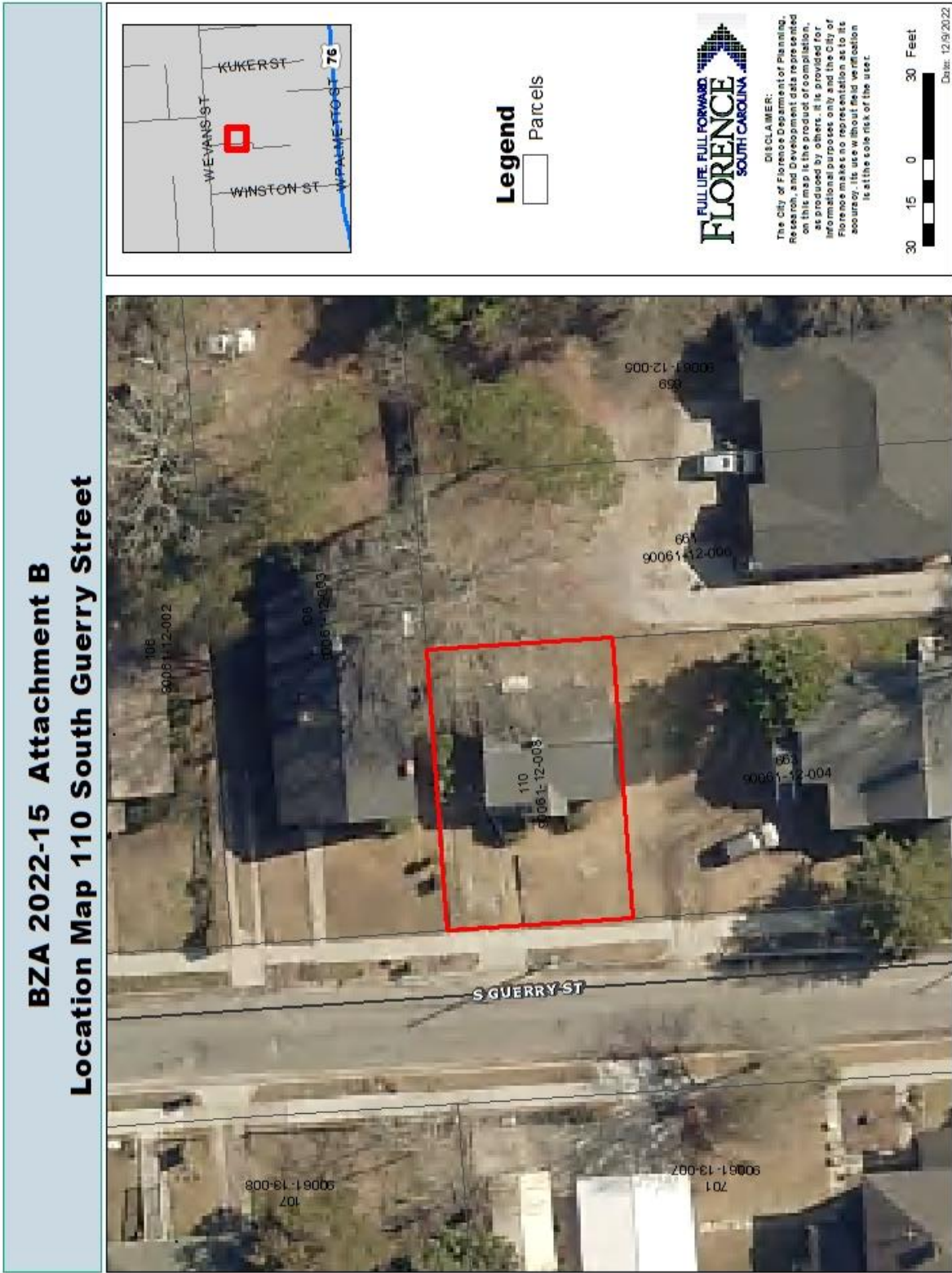
Attachments

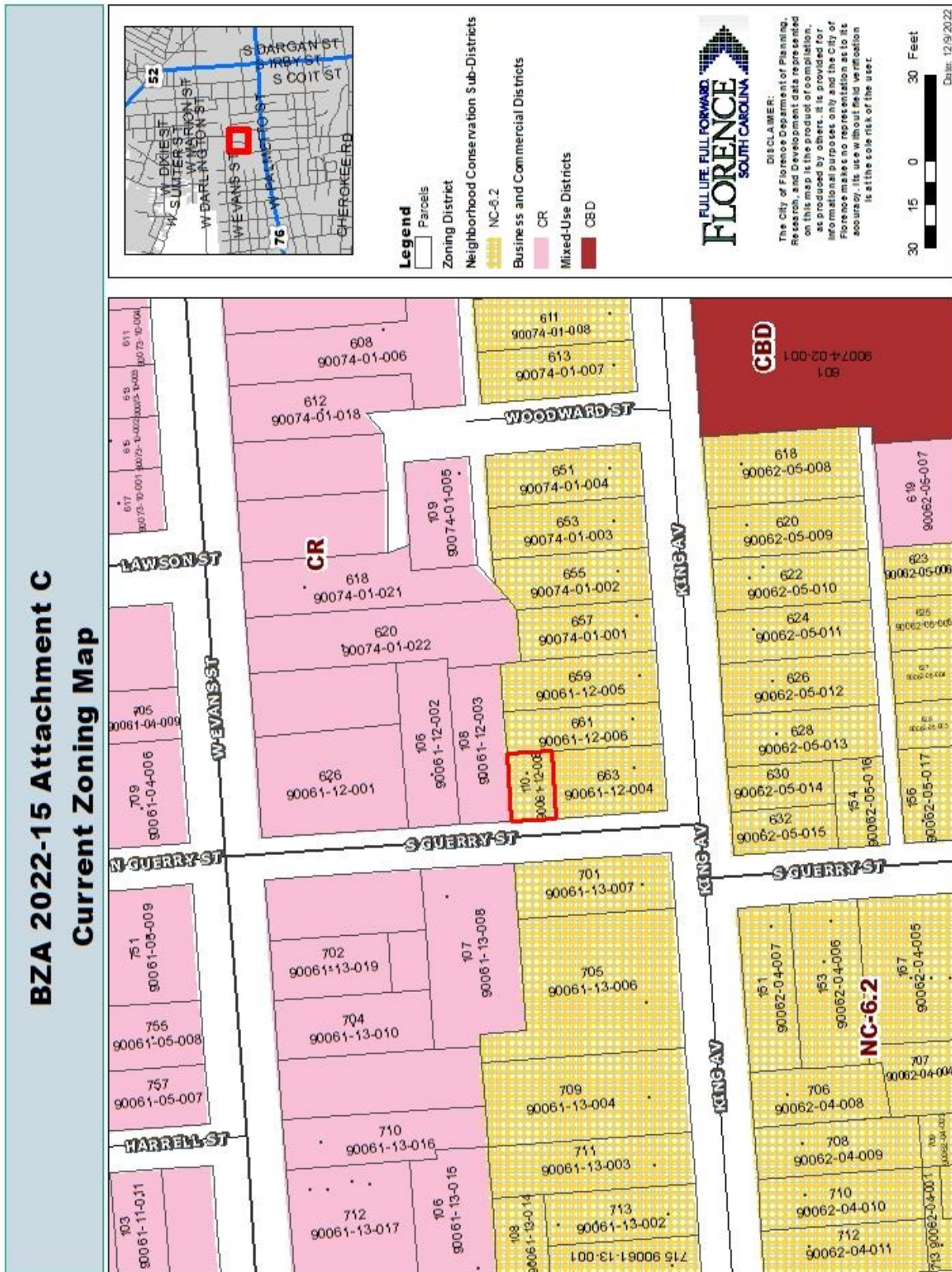
- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Future Land Use Map
- E. Table 3-8.1.2 from the *Unified Development Ordinance*
- F. Section 3-8.1.2D from the Unified Development Ordinance
- G. Site Photos
- H. BZA Motion Worksheet

Attachment A: Vicinity Map



Attachment B: Location Map





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 ¹
Maximum Height ³	Up to 4', subject to this Section.	6'	6'	6' ^{1,2}
Minimum Setback	N/A; 0', subject to this Section.	0'	0', but at least 1' from sidewalk and/or 5' from street	0' ¹
Transparency	50%	0%	50%	0%

TABLE NOTES:

¹ A lower fence height, increased setback, or minimum transparency may be required to assure safe alley passage.

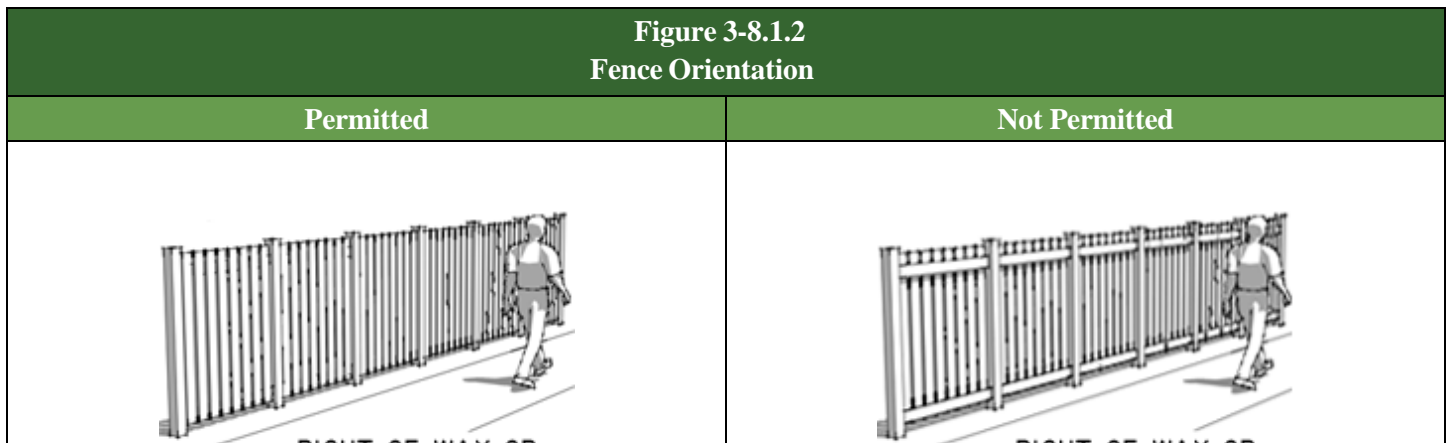
² Fences or walls in rear yards abutting CG, CBD, AC, DS, IL, or IH districts may be a maximum of 8' in height

³ Fences or walls in excess of maximum allowed height shall require a variance from the Board of Zoning Appeals.

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

D. Orientation.

1. The finished side of all fences shall face outward toward any adjacent rights-of-way. See **Figure 3-8.1.2, Fence Orientation.**



Attachment G: Site Photos



110 South Guerry Street



5' Wooden Privacy Fence in Front Yard



View from 663 King Avenue to the South



View from 661 King Avenue to the East



Wooden Fence along Southern Property Line

Board of Zoning Appeals Motion Worksheet

Case Number: BZA 2022-15 Nature of Request: Fence Height, Opacity & Orientation 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: December 22, 2022

APPEAL NUMBER: BZA-2022-16

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

LOCATION: 1250 and 1260 Celebration Boulevard

TAX MAP NUMBERS: 00100-01-144 and 00100-01-245

OWNERS OF RECORD: T & B Holdings LLC and B E Sang Development LLC

APPLICANT: Dr. Brian E. Sang

ZONING DISTRICT: CG - Commercial General

Land Use and Zoning

The properties are located at 1250 and 1260 Celebration Boulevard. 1250 Celebration Boulevard is the location of Edward Jones Investment Company, and 1260 Celebration Boulevard is the location of Palmetto Smiles Dental Practice. Both parcels are in the Commercial General zoning district. The City's Future Land Use Plan designates this area as Commercial Autourban. The applicant seeks to build a 2,116 square foot addition to the northwest side of the existing dental office at 1260 Celebration Boulevard.

Site and Building Characteristics

The lots of 1250 and 1260 Celebration Boulevard are both currently approximately 0.632 acres in size. Palmetto Smiles is proposing to purchase land from 1250 Celebration Boulevard to accommodate their dental office expansion. Palmetto Smiles was constructed in 2016 and currently has an area of about 4,000 square feet. At the time of construction, the parcel was zoned B-3, which required a 35 foot front setback, 5 foot side setbacks, and a 20 foot rear setback. The existing building and proposed building meet those requirements.

Variance Request

The owner of Palmetto Smiles, Brian Sang, wants to construct a 46 foot by 46 foot addition to the northwest side of the existing building. In 2018, the *Unified Development Ordinance* was adopted with significantly larger setbacks required for the new zoning designation of Commercial General compared to those for the previous zoning of B-3.

The variances being requested for 1260 Celebration Boulevard (Palmetto Smiles) are from the side setback requirements of Table 2-6.1.1 of the *Unified Development Ordinance*, which requires a 20-foot side setback for buildings in the Commercial General district. The request is for a 9 foot front setback, a variance of 11 feet.

The applicant at 1250 Celebration Boulevard (Edward Jones) is asking for a variance from the rear setback requirement of Table 2-6.1.1 of the *Unified Development Ordinance*, which requires a 40-foot rear setback for buildings in the Commercial General district. The request is for a 27 foot rear setback, a variance of 13 feet. The variance is required because the proposed sale of land and subsequent summary plat will alter existing property lines.

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: ***There are pre-existing structures on the property.***
- b. These conditions do not generally apply to other property in the vicinity as shown by: ***These two property owners want to redistribute the lot at 1250 to enable 1260 to expand the building.***
- 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: ***Requiring the 40' rear setback for 1250 and 20' side setback for the expansion of 1260 would make the desired site plan impossible.***
- 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 area is characterized by commercial structures which often meet the old setbacks of 20' rear and 5' side, so these would not be out of character.***

Issues to be Considered

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

1. That a variance from the terms of this Ordinance will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will in an individual case, result in an unnecessary hardship: ***The existing building has been on the lot since 2016. The addition is to the side of the building with a vast majority being blocked by Edward Jones limiting change to the Celebration Boulevard streetscape. The existing structures are an obstacle to meeting current setbacks. Relaxing the setback requirements would allow the owner to develop his property as desired.***
2. That the spirit of the Ordinance will be observed, public safety and welfare secured, and substantial justice done: ***The addition will not be any closer to Celebration Boulevard. 1250 and 1260 Celebration will not meet rear and side setbacks respectively, but their proximity will not merit any additional building or fire safety measures. Spatially, the new construction will have minimal impact to the buildings on adjacent properties. The proposed changes would have met the setbacks in the previous zoning ordinance.***
3. That there are extraordinary and exceptional conditions pertaining to the particular piece of property: ***The current built environment and property lines are not conducive for the business expansion of 1260 Celebration Boulevard.***
4. That these conditions do not generally apply to other property in the vicinity: ***The buildings in this zoning district were constructed to B-3 standards requiring smaller setbacks. Expansion of the existing building is severely limited by current setbacks and land availability.***

5. That because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: ***Strict adherence to the Ordinance would prohibit any change to the existing building and disallow the owner to expand his business.***

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 addition is to the side of the existing building at 1260, and the location of 1250 is not changing. The variance will have limited impact on the two parcels and minimal impact on other adjacent properties.***

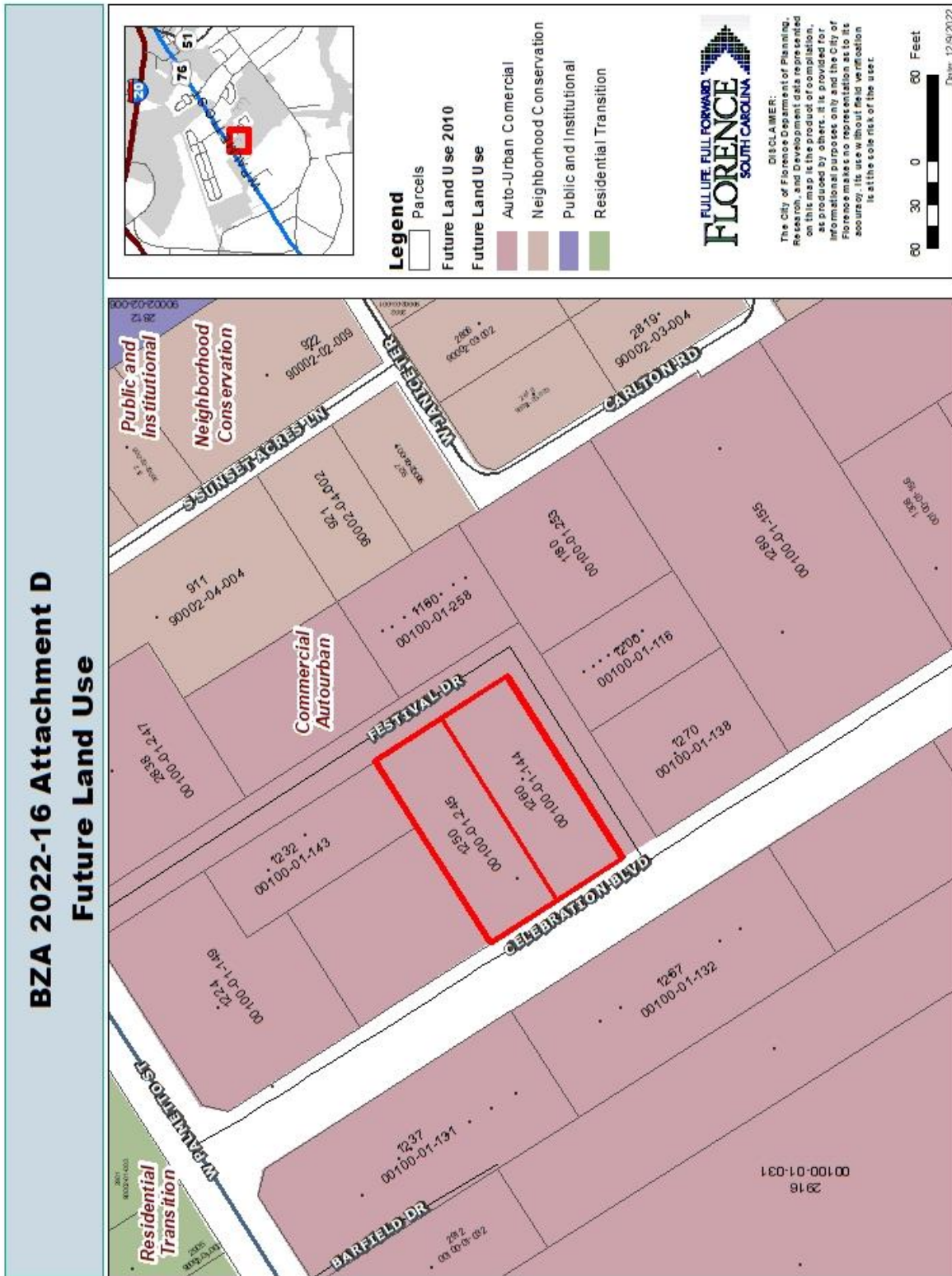
Attachments

- A. Vicinity Map
- B. Location Map
- C. Zoning Map
- D. Future Land Use Map
- E. Site Plan for Proposed Addition
- F. Proposed Property Line & Addition Aerial
- G. Setback Comparisons
- H. Floor Plan with Proposed Addition
- I. Site Photos



Attachment B: Location Map





Attachment F: Proposed Property Line & Addition Aerial



Red Line = proposed subdivision property line

Yellow Hook = proposed addition of portion to existing parcel

Blue Square = addition to Palmetto Smiles building (1260)

Zoning District: CG Commercial General

Required Setbacks: Front: 50'
(Table 2-6.1.1) Side: 20'
Rear: 40'

Attachment G: Setback Comparisons

Unified Development Ordinance:

Table 2-6.1.1 Nonresidential and Mixed Use Lot and Building Standards							
District / General Use Type	Lot Width ¹	Build-to Line	Minimum Setback ²			Minimum Landscape Surface Ratio	Maximum Building Height
			Front	Side (Min./Total)	Rear		
General Commercial (CG)							
Retail	200'	N/A	50'	20' / 50'	40'	15%	38' -See F., Below.
Office / Overnight Accommodations	200'	N/A	50'	20' / 50'	40'	15%	
All Other Uses	100'	N/A	50'	20' / 50'	40'	15%	

2008 Zoning Ordinance:

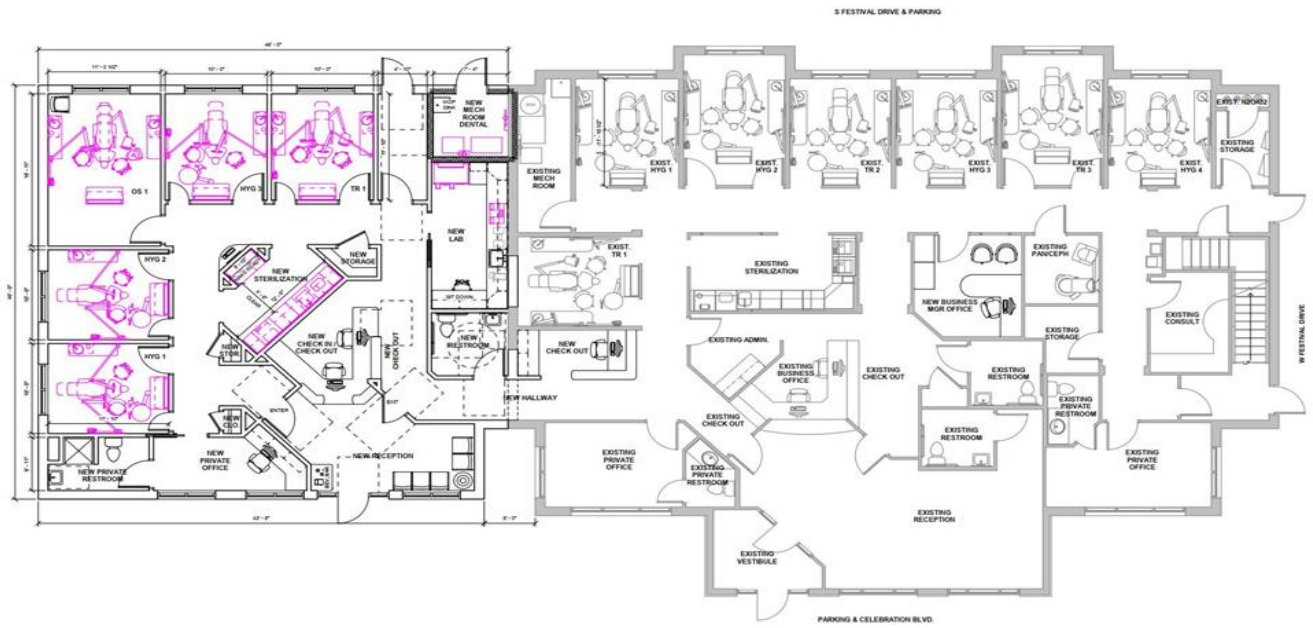
**Section 2.5 Table III: Schedule of Lot Area, Yard, Setback,
Height, Density, Floor area, and Impervious Surface
Requirements for Residential, Business And Rural Districts**

District	Minimum Lot Area (a)		Lot Width (ft) (b)	Front Yard Setback	Side Yard Setback		Rear Yard Setback		Max Hgt. (ft) (c)	Max Impervious Surface Ratio (%)	Max. Floor Area Ratio: Non- Res. Uses (d)
	Residential	Non- Residential			Res	Non Res	Res	Non Res			
R-1	15,000	30,000	100	25	10	50	30	60	38	40	0.25
R-2	10,000	20,000	80	25	8	25	25	50	38	45	0.30
R-3	6,000	12,000	50	25	5	25	25	50	38	45	0.30
R-4	6,000	12,000	50	25	5	25	20	40	38	45	0.30
R-5	6,000	12,000	50	25	5	25	20	40	4 stories	70	0.30
B-1	5,000	5,000	50	35	5	5	20	20	38	70	0.30
B-2	5,000	5,000	50	35	5	5	20	20	38	80	0.50
B-3	5,000	5,000	50	35	5	5	20	20	(e)	90	None
B-4	NA	None	None	None	NA	None	NA	None	(e)	100	None
B-5	NA	10,000	10,000	35	NA	10	NA	25	(e)	90	None
B-6	NA	10,000	10,000	35	NA	10	NA	25	(e)	90	None
RU-1	15,000	15,000	15,000	35	10	10	30	30	38	40	0.25
RU-2	87,120	43,560	43,560	35	15	50	30	60	38	20	0.15

Notes To Table III

- a - Lot area is expressed in square feet.
 - b - Measurement from front property line.
 - c - Measurement from average elevation of finished grade of the front of the structure.
 - d - Total floor measured as a percent of total lot area
 - e - There is no maximum; provided side and rear setbacks shall increase by one (1) foot for each two (2) feet in height over thirty-five (35) feet for buildings outside of the B-4 District; further provided that approval of buildings over thirty-five (35) feet shall be based on fire ladder capabilities as determined by the Fire Department with jurisdiction.
- NA = Not Applicable

Attachment H: Floor Plan with Proposed Addition



Attachment I: Site Photos



Front of Palmetto Smiles – 1260 Celebration Boulevard



Corner of Festival Drive & Celebration Boulevard



Approximate Property Line between 1250 & 1260 Celebration Boulevard looking East



1250 (Background) & 1260 (Foreground) – View from Festival Drive



Southside of Palmetto Smiles – View from Festival Drive



Location of Addition – Rear of Buildings



Side and Rear Property Stake for 1250 – View looking South



Property Line between 1250 & 1260 Celebration Boulevard looking East



Location of Addition – Rear of Buildings



Side and Rear Property Stake for 1250 – View looking North

Board of Zoning Appeals Motion Worksheet

Case Number: BZA 2022-16 Nature of Request: Building Setback 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: