

**STAFF REPORT
FOR THE
FLORENCE COUNTY BOARD OF ZONING APPEALS
February 7, 2012
BZA#2012-01**

SUBJECT: A variance request for a decrease in the rear yard setback requirement.

LOCATION: 1815 Wax Myrtle Drive, Florence County

TAX MAP NUMBER: 01251, Block 01, Parcel 098

OWNER OF RECORD: Allen and Ashley Abernethy

APPLICANT: Steven G. Mikell

LAND AREA: Approximately 6,489 sq. feet

Existing Land Use and Zoning:

The subject property has a single family residence on it and is zoned R-3, Single-Family Residential District in Florence County.

Surrounding Land Use and Zoning:

North: Single-family residential / R-3 /Florence County
West: Single-family residential / Un-zoned /Florence County
South: Single-family residential / R-3 /Florence County
East: Single-family residential / R-3 /Florence County

Staff Analysis:

Background:

The subject property is currently zoned R-3, Single-Family Residential District.

The minimum rear yard setback requirement for an R-3, Single-Family Residential District is 25 feet.

The applicant is proposing an addition to the rear of the structure on the property that would intrude into the rear yard setback requirement by 11 feet.

The applicant is requesting a variance from Section 30-30. Table III of the Florence County Code of Ordinances to allow for a rear yard setback of 14 feet

Access and Circulation:

The property is currently accessed by way of Wax Myrtle Drive.

Sec. 30-293. – Board of zoning appeals (c)

Powers of board of appeals; variances; special exceptions; remand; stay; hearing; decisions and orders. The board of appeals has the following powers:

- (1) To hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance;
- (2) To hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:
 - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
 - b. These conditions do not generally apply to other property in the vicinity;
 - 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; and
 - d. 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 Board of Zoning appeals is to review questions (a,b,c,d) and use them to determine the findings of fact to make their decision.

Variance Request:

(A) The applicant is requesting a variance to allow for a rear yard setback of (14) fourteen feet in an R-3, Single-Family Residential District.

(B) **Sec. 30-30. Table III: Zoning Setbacks**, establishes a 25-foot rear yard setback in the R-3, Single-Family Residential District.

(C) Additionally, the following information is included as submitted by the actual application:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows:

Applicant's response:

The property owners purchased the subject property in March 2005 as a starter home and are happy with their home, their neighbors and their surrounding area. They are now expecting their second child and believe that the proposed addition

will allow them the flexibility to adapt to the needs of their family and to continue enjoying their home in the way in which they are accustomed, without being subject to the constraints that the addition of a new family member would place on their existing space.

- b. These conditions do not generally apply to other property in the vicinity as shown by:

Applicant's response:

The property owners cannot definitively speak to all conditions applying to other properties in the area, however, the owners would assert that they believe that numerous changes have occurred to properties in their neighborhood since they acquired their property including addition of outbuildings, privacy fences, decks and similar structures that have been added by their neighbors in an effort to increase the beneficial use and enjoyment of their property.

- 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:

Applicant's response:

The property owners believe that the strict application of the ordinance would be detrimental to their full use and enjoyment of the property as it would force them to continue using and occupying the same space even after the addition of a new family member. The owners are not presently in a position to purchase another home and, frankly, do not desire to do so at the present time as they are content with their location and neighbors.

- 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:

Applicant's response:

The owners believe that the nature of the subdivision has changed somewhat from that originally envisioned by the developer as a fair number of the homes are now utilized as rental homes. While this condition would not in and of itself be a reason for the requested variance, owners believe that expectations of renters will vary from that of owners. The character of the neighborhood has also changed by the addition of out buildings and the like, as mentioned above, and owners themselves have even installed an approximate 6 foot tall privacy fence around their back yard. The proposed addition would meet all requirements of the protective covenants for the neighborhood concerning appearance and materials used, and would be at least partially obscured from outside view due to its location near the center of the existing structure and the existing privacy fence. The proposed addition would still leave an approximate rear setback of 15 feet, would be an attractive, permanent addition to the property and neighborhood, and would increase the tax basis for the County.

Section 30-293 (c, 2, d) Board of Zoning Appeals

The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance.

Attachments:

1. Location Map
2. Zoning Map
3. Aerial Map
4. Site Plan