



Case # BZA-05-22-00585

Charleston County BZA Meeting of July 11, 2022

Applicant/Property Owner: David Wertan of Nevonna Homes, LLC

Representative: Jeffrey T. Spell, Attorney at Law

Property Location: 1632 Wappoo Drive – St. Andrews Area

TMS#: 351-12-00-009

Zoning District: Low Density Residential (R-4) Zoning District

Request: Variance request to remove a 24" DBH Grand Poplar Tree and a 27" DBH Grand triple Magnolia Tree for a proposed single-family residence.

Requirement:

The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 9 Development Standards, Article 9.2 Tree Protection and Preservation, Sec. 9.2.5.B. Tree Removal states, "Grand Trees and Protected Trees that do not meet the above criteria may be removed only where approved by the Board of Zoning Appeals, and shall be replaced according to a schedule determined by the Board. The Zoning and Planning Director will make recommendations to the Board concerning the number, species, DBH or caliper, and placement of such Trees."



A. General.

1. All Grand Trees and any other Trees required to remain on a site must be protected during construction and Development of a Parcel. Tree protection must be shown on all Development plans prior to site plan approval. A site inspection of the Tree barricades must be scheduled by the Applicant with the Zoning and Planning Department for approval prior to the issuance of permits or the start of Development activities.
 2. Prior to issuance of a Zoning Permit, a pre-construction planning conference is required for on-site Tree preservation with the Zoning and Planning Director or staff representative, the Applicant(s), and any appropriate parties for determining if there is need for additional Tree protection techniques and for designating placement of Tree barricades, construction employee parking, temporary construction office, and dumpsters.
- B. Prior to the start of Land Development activities, protective Tree barricades shall be placed around all Required Trees in or near Development areas. The barricades shall be constructed of wood, metal, or plastic fencing or other materials approved by the Zoning and Planning Director, and include a top rail. Tree barricades shall be placed beneath the canopy Drip Line or one-and-one-half feet times the DBH of the Tree as a radius from the trunk, whichever is greater. Other protective devices or construction techniques may be used as approved by the Zoning and Planning Director. Three inches of mulch shall be installed and maintained within all Tree barricade areas. The mulch shall remain in place throughout Development activities. The area within the Tree barricade shall remain free of all Building materials, dirt, fill, and other construction debris, vehicles, and Development activities. All Required Trees are also subject to the requirements of Sec. 9.4.6, *Landscape Materials Standards*, and Article 11.3, *Enforcement Responsibility and Complaints*.
- C. In no case shall any paving, filling, grading, Building, or construction footing occur or be placed within three times the DBH in inches from the trunk of the Tree, unless otherwise approved by the Board of Zoning Appeals.
- D. Limited Clearing and Grubbing may be authorized by the Zoning and Planning Director prior to the installation of Tree barricades on sites that exhibit unusually heavy undergrowth and where access to the interior of the site and its Protected Trees is impractical. Limited Clearing shall be for the express purpose of accessing the property and Protected Trees to erect the Required Tree barricades and silt fencing. Such limited Clearing shall be done with hand tools, push or walk-behind equipment, or lightweight bush-hog type equipment designed for brush and undergrowth Clearing and which is not capable of removing vegetation greater than three inches in diameter. Under no circumstances may metal-tracked bulldozers, loaders, or similar rider/operator equipment be allowed on site until the Tree barricades are erected and a Zoning Permit is issued.
- E. Limited encroachments into the area located within Tree barricades may be allowed by the Zoning and Planning Director provided that encroachments do not constitute more than 25 percent of the protected area beneath a Tree and do not occur in the area located within three times the DBH in inches from the trunk of the Tree unless otherwise approved by the BZA. Any paving, Grading, trenching, or filling of the protected area must be pre-approved by the Zoning and Planning Director or the Board of Zoning Appeals, as required by this Ordinance, and may require specific construction techniques to preserve the health of the Tree. When grading and construction within the protected area of a Tree has been approved, all damaged roots shall be severed clean.
- F. Prior to issuance of a Zoning Permit for uses other than Single-Family Detached Residential, the following numbers of Trees with a DBH of eight inches or greater shall be preserved and protected pursuant to the requirements of this Ordinance. Preservation and protection of native Trees is to be prioritized.
1. 20 Trees per acre; or
 2. Any number of Trees with a combined DBH of at least 160 inches per acre.
- G. When Lots lack a sufficient number of Trees to meet the requirement for DBH/number of Trees per acre, this requirement shall be fulfilled by existing Trees and must equal 40 inches per acre combined DBH. On Lots with less than 40 inches per acre combined DBH, additional Trees shall be planted on the Lot equaling or exceeding 40 inches per acre combined DBH. Planting schedules shall be approved by the Zoning and Planning Director.
- H. Required drainage improvements, such as Detention and retention ponds and wetlands, may be subtracted from the area used to calculate Tree preservation requirements.

Sec. 9.2.5 Tree Removal

- A. Permits for Tree removal may be approved where one or more of the following conditions are deemed to exist by the Zoning and Planning Director:
1. Trees are not required to be retained by the provisions of this Article.



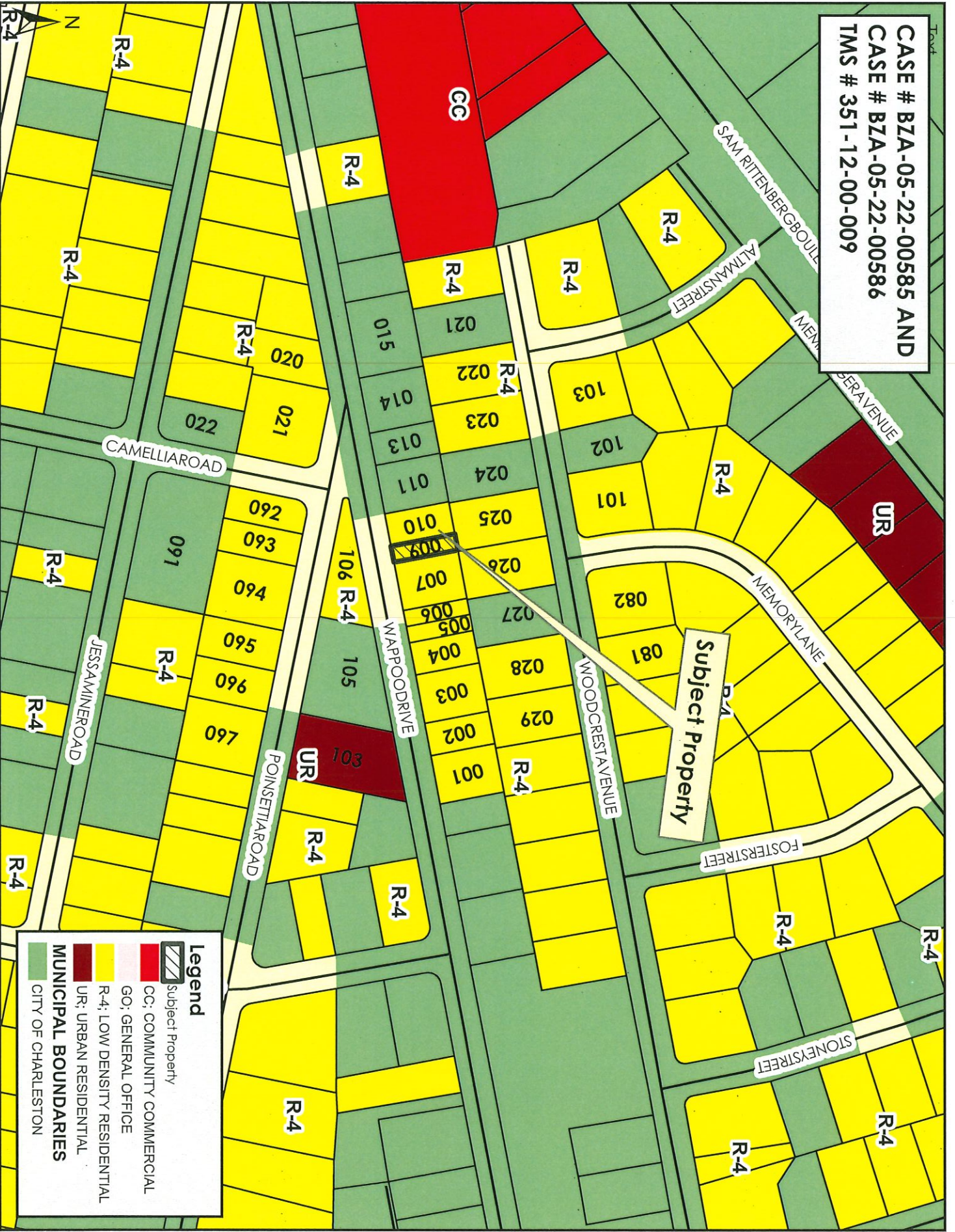
2. Trees are diseased, dead, or dying. Documentation may be submitted by a qualified tree care professional and approved by the Zoning and Planning Director;
 3. Trees pose an imminent safety hazard to nearby Buildings, pedestrian, or vehicular traffic (as determined by the Zoning and Planning Director or a qualified construction professional); or
 4. Removal of Required Trees has been approved by the Board of Zoning Appeals.
- B.** Grand Trees and Protected Trees that do not meet the above criteria may be removed only where approved by the Board of Zoning Appeals, and shall be replaced according to a schedule determined by the Board. The Zoning and Planning Director will make recommendations to the Board concerning the number, species, DBH or caliper, and placement of such Trees.
- C.** In the event that a Tree poses a serious and imminent threat to public safety due to death, disease, or damage resulting from emergencies including, but not limited to, fires, flooding, storms, and natural disasters, the Zoning and Planning Director may waive requirements of this Article. Documentation shall later be submitted for review outlining the threat to public safety which initiated the removal. Documentation must include any written findings by a qualified professional and photographs supporting the Tree Removal emergency.
- D.** The Zoning and Planning Director may require replacement of Required Trees that are removed where it is determined that death or disease resulted from negligence.
- E.** Violations and penalties are specified in **CHAPTER 11, *Violations, Penalties, and Enforcement***, of this Ordinance.

Sec. 9.2.6 Tree Replacement

- A.** Tree replacement shall be required accompanying Development on all non-exempt properties in the manner described below:
1. When replacement Canopy Trees are required in fulfillment of the requirements of this Article, they shall be no smaller than two and one-half-inch Caliper.
 2. The Zoning and Planning Director or Board of Zoning Appeals is empowered to require Trees of larger Caliper as determined appropriate for site-specific conditions and the circumstances, lawful or illegal, under which removal occurred.
- B.** When Trees of eight inches DBH or greater have been removed in violation of this Ordinance, replacement Trees shall be planted in the same general area according to a replacement schedule approved by the Zoning and Planning Director.
- C.** Where sites were cleared of Trees prior to the adoption of this Article or have been cleared subsequently for activities exempted from this Article, replacement Trees shall be planted, the combined Caliper of which equals or exceeds 40 inches per acre. Replacement schedules, including number, species, Caliper, and placement shall be approved by the Zoning and Planning Director.
- D.** The Tree Fund is established to receive monies exacted from tree removal violation fines or other Tree removal mitigation, to include, but not limited to, removal, damage, destruction, or as defined in Sec. 9.2.1.C of this Chapter, and as a form of mitigation when planting of the Required Trees is determined to be detrimental to the overall health of existing Trees or impractical for the intended site design. The Zoning and Planning Director shall impose a Tree Mitigation fee based on the current market retail value of two-and one-half inch Caliper Trees installed to the American Association of Nurserymen Standards. The Applicant shall provide a minimum of two quotes from local (tri-county area) contractors for review and fee determination by the Zoning and Planning Director. If the Applicant disagrees with the amount of the Tree Mitigation fee imposed, they may file appeal with the Board of Zoning Appeals in accordance with the provisions contained in this Ordinance. All Tree Mitigation fees collected shall be paid to the County Treasurer and placed in an account established exclusively for public beautification through the planting of trees in Charleston County.
- E.** When Trees have been removed through an approved mitigation program and the project will not be completed for any reason (i.e., bankruptcy, abandonment, change in ownership, etc.), the owners of the Subject Property are responsible for the mitigation of the removed Trees as outlined and agreed or subject to Sec. 9.2.6.D of this Chapter.

Sec. 9.2.7 Inspections and Final Approval

Case # BZA-05-22-00585 AND
Case # BZA-05-22-00586
TMS # 351-12-00-009



Legend

- Subject Property
- CC: COMMUNITY COMMERCIAL
- GO: GENERAL OFFICE
- R-4: LOW DENSITY RESIDENTIAL
- UR: URBAN RESIDENTIAL

MUNICIPAL BOUNDARIES

CITY OF CHARLESTON

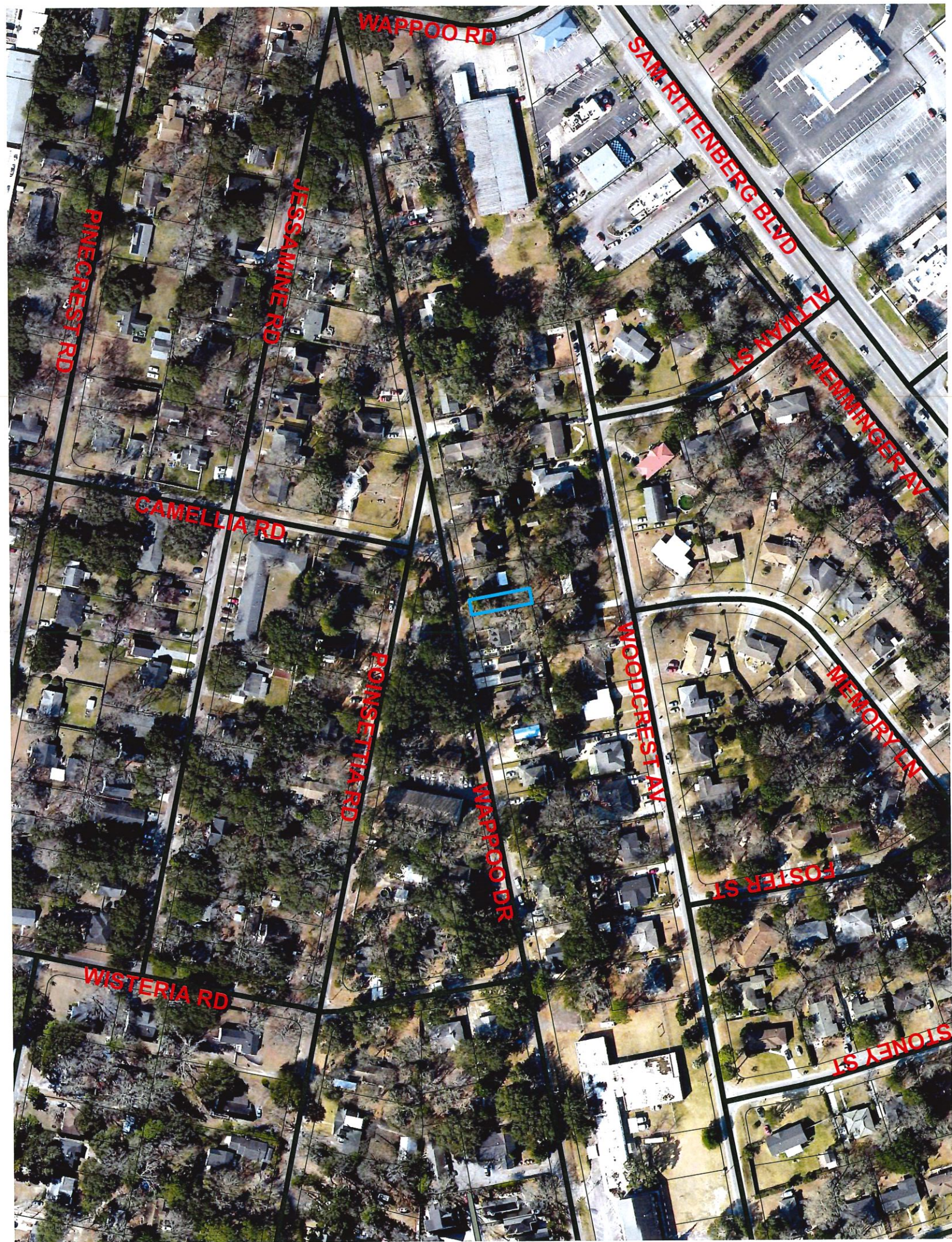
WOODCREST AV

WAPP00 DR

POINSETTIA RD

CAMELLIA RD





Case # BZA-05-22-00585

BZA Meeting of July 11, 2022

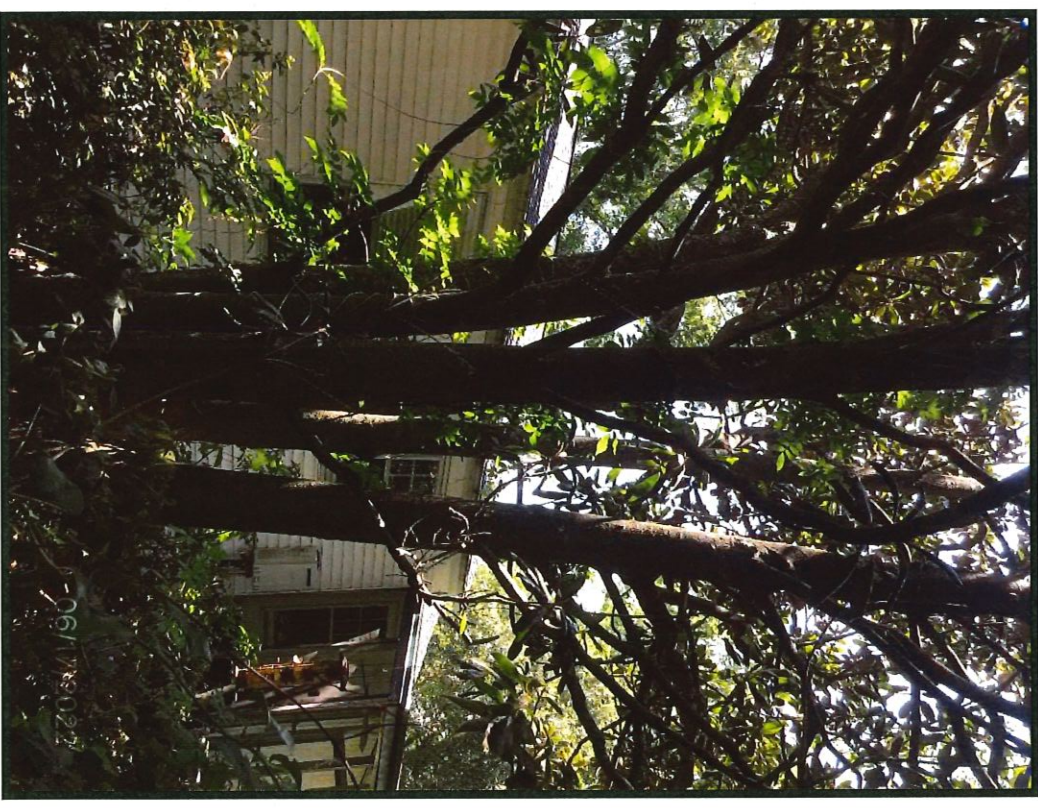
Subject Property: 1632 Wappoo Drive – St. Andrews Area

Proposal: Variance request to remove a 24" DBH Grand Poplar Tree and a 27" DBH Grand triple Magnolia Tree for a proposed single-family residence.



Subject Property

27" DBH Grand triple Magnolia Tree



Subject Property

24" DBH Grand Poplar Tree

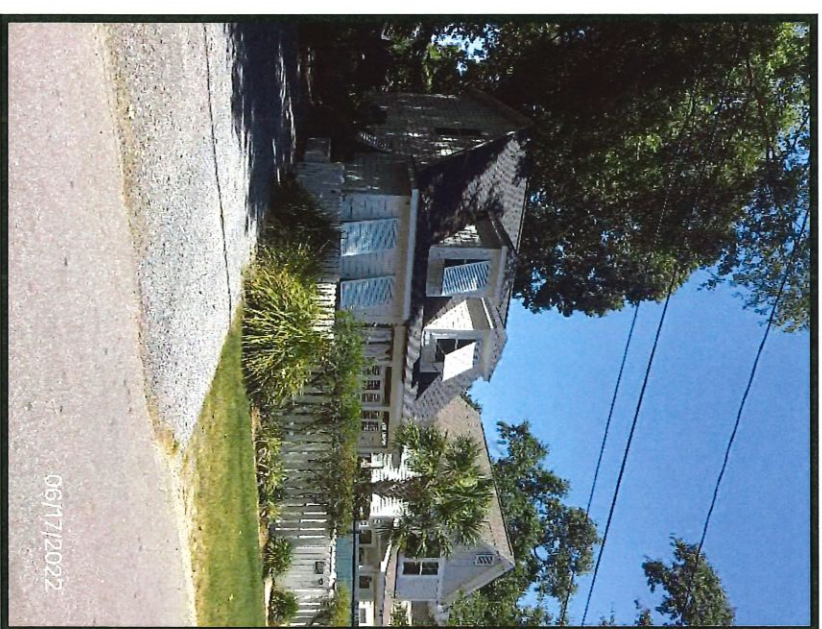


Adjacent Properties

1628 Wappoo Drive

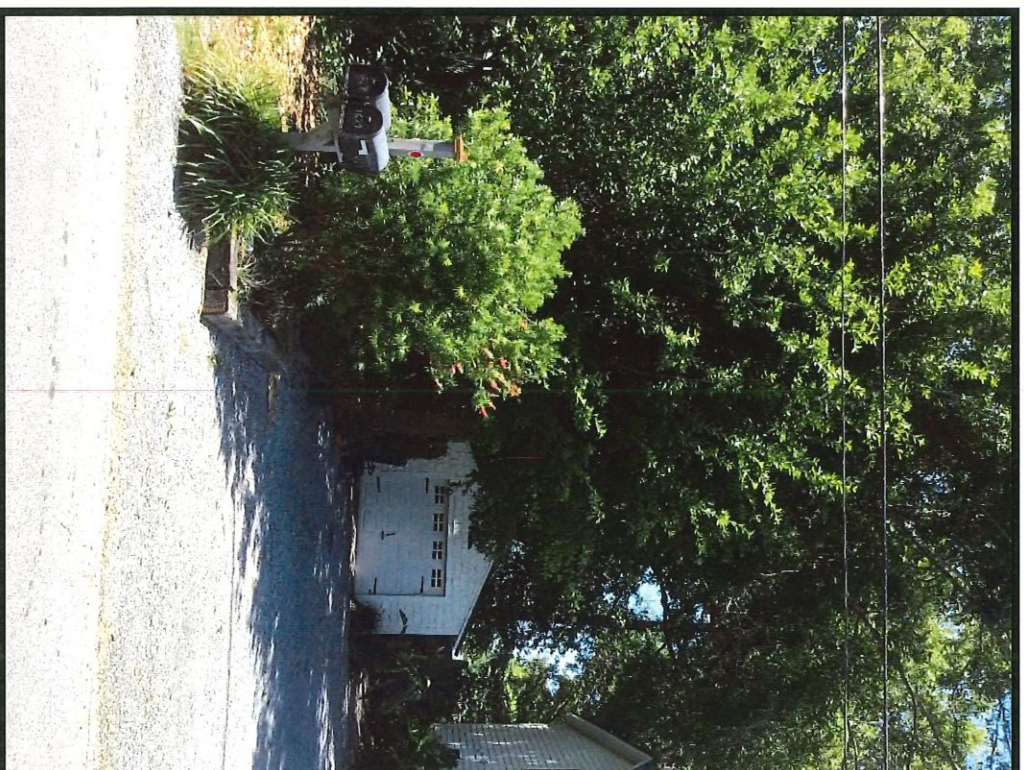


1624 Wappoo Drive

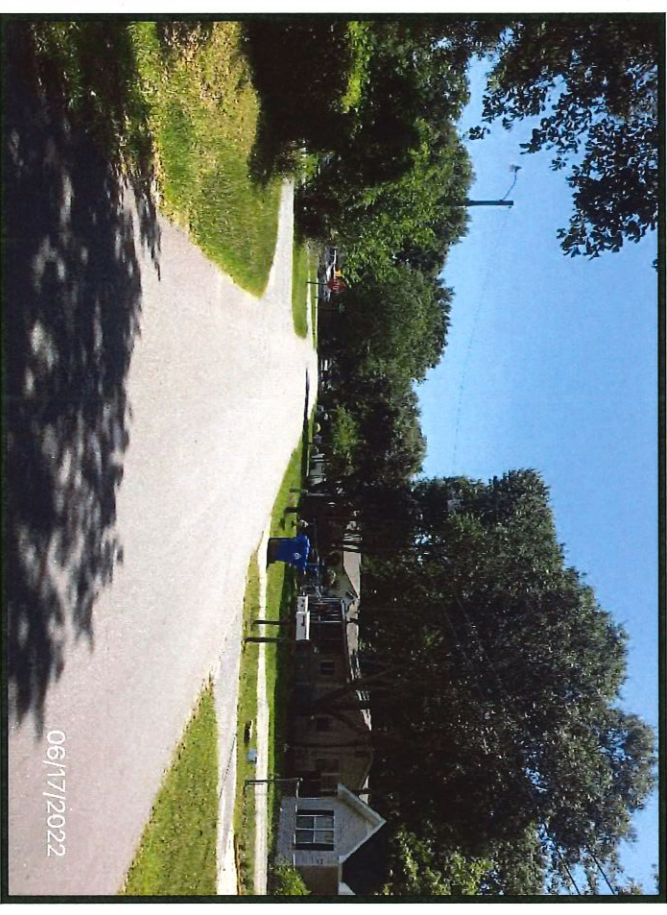


Adjacent Garage

1624 Wappoo Drive



Wappoo Drive



Staff Review

BZA-05-22-00585

and

BZA-05-22-00586

Staff Review:

The applicant and property owner, David Wertan of Nevonna Homes, LLC, represented by Jeffrey T. Spell, Attorney at Law, is requesting two (2) variances for a proposed single-family residence at 1632 Wappoo Drive (TMS # 351-12-00-009) in the St. Andrews Area of Charleston County. The subject property and adjacent properties are located in the Low Density Residential (R-4) Zoning District in the Pinecrest Gardens subdivision.

1. Case # BZA-05-22-00585: Variance request to remove a 24" DBH Grand Poplar Tree and a 27" DBH Grand triple Magnolia Tree for a proposed single-family residence; and

2. Case # BZA-05-22-00586: Variance request to reduce the required 5' interior side setback by 0.6' to 4.4' at the closest point and to increase the maximum building coverage by 0.1% to 30.1% for a proposed single-family residence.

Charleston County Zoning and Land Development Regulations Ordinance (ZLDR) Requirements:

Case # BZA-05-22-00585: Chapter 9 Development Standards, Article 9.2 Tree Protection and Preservation, Sec. 9.2.5.B. Tree Removal states, "Grand Trees and Protected Trees that do not meet the above criteria may be removed only where approved by the Board of Zoning Appeals, and shall be replaced according to a schedule determined by the Board. The Zoning and Planning Director will make recommendations to the Board concerning the number, species, DBH or caliper, and placement of such Trees."

Case # BZA-05-22-00586: Chapter 4 Base Zoning Districts, Article 4.2 Measurements, Computations and Exceptions, Sec. 4.2.5 Building Coverage states, "Building Coverage is the proportion, expressed as a percentage of a Lot covered by Buildings (principal and accessory) or roofed areas, as measured along the outside wall at ground level, and including all projections, other than fire escapes, canopies and the first two feet of a roof overhang. Swimming Pools (excluding the pool decking) shall be included in Building Coverage."

Article 4.12 R-4, Low Density Residential District, Sec. 4.12.3 Density/Intensity and Dimensional Standards requires 5' interior side setbacks.

Requests:

The subject property is an existing lot of record. It is 2,550 sq. ft. or approximately 0.059 acres in size and is undeveloped. The site plan depicts a proposed residence with a 677 sq. ft. footprint and a 91 sq. ft. covered front porch.

The applicant's letter of intent describes the requests, "We would ask that you approve our request to remove the 24" DBH grand Poplar tree that is near the right property line

and the 27" triple grand Magnolia tree at this time.

First, the grand poplar is over 100 years old and is in deteriorating condition according to the arborist the average life span of a poplar is 50-80 years, poplar trees are known to be fragile trees and lose limbs in storms and do damage to homes and other structures. The roots would also do damage to the new home and the neighbor's garage. Second, the magnolia consists of a half dozen trunks of varying size with the largest being 9 inches at DBH, it also hangs over the neighbor's home and is in deteriorating condition and would cause damage to the new home.

We want to build the attached home and pride ourselves on providing affordable homes throughout the community, we recently built two new homes a house over from this lot on 25-foot lots and they are really nice and have great owners enjoying the convenience, safety and affordability of living in this area.

We purchased this lot after buying those two from the same family and we verified the availability of water and sewer and have actually already paid tap fees and impact fees and had the water and sewer connections installed by the CPW for the new home.

We are 'in tune' with the original developers plan to provide smaller affordable homes and provide affordable housing and look forward to seeing it come to fruition."

Subject Property History:

On July 6, 2020, the BZA denied the applicant's request to remove a 24" DBH Grand Poplar Tree and a 27" DBH Grand triple Magnolia Tree for a proposed single-family residence. Please see the BZA's Final Decision and Order on Variance Application # BZA-03-20-00388 and the Summary of the July 6, 2020 BZA Meeting. The Order states that the request did not satisfy approval criteria 4 and 6.

The applicant appealed the BZA's decision to Charleston County Circuit Court and requested pre litigation mediation. Due to various reasons, the mediation did not occur, and the Appellant dismissed the case. The Charleston County Legal Department advised the Appellant to reapply for a Zoning Variance because by that time the required 12 month waiting period to reapply had passed.

Staff conducted a site visit on the subject property on June 17, 2022. Please review the attachments for further information regarding this request.

Planning Director Review and Report regarding Approval Criteria of §3.10.6:

§3.10.6(1): *There are extraordinary and exceptional conditions pertaining to the particular piece of property;*

Response: **The vacant property may be extraordinary and exceptional because it is 2,550 square feet in size (approximately 25' wide by approximately 100' long). Additionally, the building area is significantly impacted by the Grand Trees. The applicant's letter of intent states, "The lots in Pinecrest are 25 X 125 or 2550 sq ft and the building area is significantly impacted by the grand**

trees." Furthermore, the applicant's letter of intent states, "All the lots in the Pinecrest Subdivision were laid out to be 25 feet wide X 125 foot deep and thus most homes are closer than 5' to the sideline and have a larger than 30% lot coverage." Therefore, the requests may meet this criterion.

§3.10.6(2): *These conditions do not generally apply to other property in the vicinity;*
Response: These conditions do not generally apply to the other property in the vicinity. The Pinecrest Gardens subdivision was platted in 1929. The plat states, "All lots 25' x 125' unless otherwise shown." Since 1929, the majority of the lots in the subdivision were combined and are now wider than 25'. In addition, adjacent properties contain single-family residences. The applicant's letter of intent states, "The neighborhood was developed in 1929 and there are existing homes on most lots so this would not apply to the existing homes but is only applicable to the building of a new home where some older trees exist." Therefore, the requests may meet this criterion.

§3.10.6(3): *Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;*

Response: The application of this Ordinance, Article 9.2 Tree Protection and Preservation, Sec. 9.2.5.B. Tree Removal, and Article 4.2 Measurements, Computations and Exceptions, Sec. 4.2.5 Building Coverage, and Article 4.12 R-4, Low Density Residential District, Sec. 4.12.3 Density/Intensity and Dimensional Standards to 1632 Wappoo Drive would prohibit the construction of the proposed residence. The applicant's letter of intent states, "There is no way to build a new home without the removal of the trees." In addition, the applicant's letter of intent states, "We have had a modern custom home plan designed to best fit on the lot and without the variances it would not be able to be built as they are overly restrictive." Therefore, the requests may meet this criterion.

§3.10.6(4): *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;*

Response: The authorization of the variances may be of substantial detriment to adjacent properties or to the public good and the character of the R-4 Zoning District may be harmed if the variances are granted. The removal of these trees has the potential to structurally damage the foundations of existing structures located on the adjacent properties (1628 and 1624 Wappoo Drive). In addition, the Grand Poplar tree appears to be located on the property line of two properties (the subject property and 1624 Wappoo Drive). Furthermore, the request to reduce the required 5' interior side setback by 0.6' to 4.4' at the closest point and to increase the maximum building coverage by 0.1% to 30.1% may create a stormwater

issue between the subject property and 1628 Wappoo Drive. Therefore, the requests may not meet this criterion. However, the applicant's letter of intent contends, *"Affordable housing or starter homes were intended to built on these smaller lots and providing the smaller affordable home is definitely to the public good and provides a nice new safe place for a residence in accordance with the plan of the original development and would cause no detriment to adjacent properties but would increase their value and make their homes safer as well."* If the board chooses to approve one or both of the requests, potential negative impacts should be mitigated, as suggested by Staff in the BZA's action below.

§3.10.6(5): The Board of Zoning Appeals shall 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, should a variance be granted, may not be considered grounds for a variance;

Response: The variances do not allow a use that is not permitted in this zoning district, nor does it extend physically a nonconforming use of land or change the zoning district boundaries. Therefore, the requests meets this criterion.

§3.10.6(6): The need for the variance is not the result of the applicant's own actions;

Response: The need for the variances is the result of the applicant's own actions. The applicant/property owner, Nevonna Homes, LLC purchased the property on January 29, 2020 in its existing configuration and existing conditions (i.e. Grand trees). The applicant/property owner is a developer, did his due diligence, and knew exactly what he was buying. The tree survey would have shown these trees are Grand trees. Therefore, the requests may not meet this criterion. However, the applicant's letter of intent contends, *"The first tree the poplar is by far exceeded it's life expectancy and needs to be removed and the magnolia has numerous trunks none of which exceed 24 inches but only when combined is it considered a grand tree, these trees should have probably been removed by the previous owner but she was elderly and on a restricted income and they were allowed to remain but now need to be removed for the lot to be used for its original intended purpose."* Furthermore, the applicant's letter of intent contends, *"...the lots was designed for a smaller home and a smaller home plan has been designed to specifically fit on the lot and it is aesthetically pleasing, the existing homes for example the one to the left of the lot sits within 1-2 feet of the property line and is typical for the area."*

§3.10.6(7): *Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of the Ordinance;*

Response: **Granting of the variances may not substantially conflict with the Comprehensive Plan or the purposes of the Ordinance if the Board finds that the strict application of the provisions of the Ordinance results in an unnecessary hardship and the trees and stormwater are mitigated as suggested by Staff in the BZA's action below. Therefore, the requests may meet this criterion.**

Board of Zoning Appeals' Action:

According to Article 3.10 Zoning Variances, Section §3.10.6 Approval Criteria of the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)*, (adopted July 18, 2006), The Board of Zoning Appeals has the authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship (§3.10.6A). A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Zoning Appeals makes and explains in writing their findings (§3.10.6B Approval Criteria).

In granting a variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare (§3.10.6C).

The Board of Zoning Appeals may approve, approve with conditions or deny:

Case # BZA-05-22-00585: Variance request to remove a 24" DBH Grand Poplar Tree and a 27" DBH Grand triple Magnolia Tree for a proposed single-family residence; and

Case # BZA-05-22-00586: Variance request to reduce the required 5' interior side setback by 0.6' to 4.4' at the closest point and to increase the maximum building coverage by 0.1% to 30.1% for a proposed single-family residence

for property located at 1632 Wappoo Drive (TMS # 351-12-00-009) in the St. Andrews Area of Charleston County] based on the BZA's "Findings of Fact," unless additional information is deemed necessary to make an informed decision. In the event the Board decides to approve the application, the Board should consider the following conditions recommended by Staff:

- 1. The applicant shall provide a mitigation plan from a structural engineer outlining impacts that may be caused to the existing building and foundation adjacent to the 24" Poplar Tree and solutions to mitigate those impacts caused by the removal of the tree. The plan shall be submitted to the Planning Director for review and approval prior to Zoning Permit approval for construction, and the applicant shall contract with a building professional to carry out the recommendations.**

2. The applicant shall mitigate the removal of the trees by depositing funds (equivalent to 51" DBH) into the Charleston County Tree Fund as described in Sec. 9.2.6 of the *Charleston County Zoning and Land Development Regulations*.
3. The applicant shall use stormwater mitigation measures, such as the use of rain barrels or rain gardens, to reduce the flow of stormwater.



**Board of Zoning Appeals
Final Decision and Order on Variance
Application # BZA-03-20-00388 for property
located at 1632 Wappoo Drive
(St. Andrews Area of Charleston County)**

Findings of Fact

The Charleston County Board of Zoning Appeals ("BZA") makes the following findings of fact pursuant to S.C. Code Ann. §6-29-800 and the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)* Article 3.10, §3.10.6. Based on the evidence presented at the hearing to include the Planning Department staff review and pursuant to the *Charleston County ZLDR* §3.10.6, the Charleston County BZA finds that David Wertan of Nevonna Homes, LLC ("the Applicant" and "the Property Owner") filed an application for a Variance for the property identified as TMS # 351-12-00-009 and located at 1632 Wappoo Drive in the St. Andrews Area of Charleston County, South Carolina. The Applicant requests a Variance for the removal of a 24" DBH Grand Poplar tree and a 27" DBH Grand triple Magnolia tree for a proposed single-family residence. The Applicant filed this request on March 23, 2020 and the BZA heard the Applicant's request on July 6, 2020.

The BZA finds that authorization of this variance request will be of substantial detriment to adjacent properties or to the public good, and the character of the Single Family Residential (R-4) Zoning District will be harmed. The removal of these trees has the potential to structurally damage the foundations of existing structures located on the adjacent properties (1628 and 1624 Wappoo Drive). In addition, the Grand Poplar tree appears to be located on the property line of two properties (the subject property and 1624 Wappoo Drive). Therefore, the request does not meet this criterion.

The BZA also finds that the need for the variance is the result of the applicant's own actions. Mr. Wertan is a developer, did his due diligence, and knew exactly what he was buying. The tree survey would have shown these trees are Grand trees. Per Charleston County records, the lot is listed as undevelopable and the applicant Nevonna Homes, LLC purchased the property on January 29, 2020 in its existing configuration and existing conditions (i.e. Grand trees). Therefore, the request does not meet this criterion.

Conclusions of Law

The BZA is authorized pursuant to S.C. Code Ann. §6-29-800 and the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)* §3.10.5 to hear and approve, approve with conditions, or deny zoning variances. Based upon the findings of fact, the Board of Zoning Appeals concludes as a matter of law that the applicant's request for the zoning variance does not satisfy the following Approval Criteria in the *Charleston County (ZLDR)* §3.10.6:

Approval Criteria §3.10.6 (4): "The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance ;" and

Approval Criteria §3.10.6 (6): "The need for the variance is not the result of the applicant's own actions."

THEREFORE, the Charleston County Board of Zoning Appeals denies the Variance for the removal of a 24" DBH Grand Poplar tree and a 27" DBH Grand triple Magnolia tree for a proposed single-family residence.

Any person with a substantial interest may appeal the Board of Zoning Appeals' decision to the Circuit Court of Charleston County within 30 calendar days after the decision of the Board of Zoning Appeals is mailed.

Jenny J. Werking, AICP
BZA Secretary

Date issued: July 6, 2020
Date mailed to parties in interest: July 17, 2020

**CHARLESTON COUNTY
BOARD OF ZONING APPEALS
SUMMARY OF JULY 6, 2020 MEETING**

Members Present

Mr. Robert Woodul, Acting Chair, Mr. Joseph A. Boykin, Mr. Ross Nelson, Mr. Sammuel McConnell, Jr., Mr. H. Bernard Freeman, and Mr. Thomas Goldstein.

Members Absent

Chair, Mr. William H. Ray, Vice-Chair, Ms. Lauri Lechner, and Ms. Morgan Allison.

Staff Members Present

Kelvin Huger, BZA Attorney; Jenny Werking, Planner II and Secretary for the BZA; Sally Brooks, Planner III; Jennifer Stiles, Planner II; Edgar Sada, Planning Technician I; and Joshua Downey, Code Enforcement Officer.

Notification Procedures

Staff has met the requirements of state law and *Section 3.1.6 of the Charleston County Zoning and Land Development Regulations Ordinance* for notification for all cases to be heard by the BZA at this meeting. The notification procedures were completed by staff 15 calendar days prior to this meeting as follows:

- | | |
|-------------------------|---|
| June 19 th : | Site Visits and Postings were completed by this date. |
| June 19 th : | Letters were mailed to property owners within 500' for the Special Exception request for the sale of alcoholic beverages onsite, within 300' for all other requests, and to Parties in interest for all cases. These notifications are above and beyond the state requirements. |
| June 19 th : | Notice of this meeting was published in the <i>Post and Courier</i> . |

In absence of both the Chair and Vice-Chair, the legal staff, Mr. Huger, conducted an election among the present members to determine who should conduct the meeting. Mr. Goldstein made a motion to elect Mr. Woodul to conduct the July 6th BZA meeting. Mr. Boykin seconded the motion. The motion to elect Mr. Woodul was unanimous and therefore granted.

The July 6, 2020 BZA meeting was called to order at 4:11 p.m. by Mr. Woodul.

Minutes

Mr. Goldstein made a motion to approve the June 15, 2020 meeting minutes. Mr. Boykin seconded the motion and the vote carried unanimously.

CASE#: BZA-03-20-00385

Jake M. Serrano, of Live Oak Consultants, LLC, the applicant, and Richard L. Hudson, of 9801 Highway 78, LLC, the property owner, submitted a Variance request to delay installation of the required 10' perimeter land use landscape buffer adjacent to a railroad easement at 7505 Corporation Way in the North Area of Charleston County, TMS # 390-00-00-452. Industrial (I) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in *Article 3.10 Zoning Variances, §3.10.6 Approval Criteria* of the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)* had been satisfied. Mr. Goldstein made a motion to approve the Variance with the following condition: (1) The applicant shall submit a landscape plan for Planning Staff's review and approval that at minimum meets the Buffer Type A landscaping requirements to be installed if and when the railroad is improved. Mr. Boykin seconded the motion. The motion to approve the application was unanimous and therefore granted with the above referenced condition.

CASE#: BZA-03-20-00386

Christopher and JoAnn Ernst, of L and J Holdings, LLC, the applicant, Randy K. Wooten, the property owner, and Shane and Alexis Rogers, the property owners, submitted a Special Exception for a proposed Veterinary Services use

greater than the 1,500 sq. ft. maximum floor area in the RR-3 Zoning District at 3040 and 3048 Fickling Hill Road, Johns Island, Charleston County, TMS # 282-00-00-086 and 282-00-00-087. Rural Residential (RR-3) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in *Article 3.6 Special Exceptions, §3.6.5 Approval Criteria* of the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)* had been satisfied. Mr. Boykin made a motion to approve the Special Exception with the following condition: (1) Prior to zoning permit approval to establish the veterinary services use, the applicant shall complete the Site Plan Review process. Mr. Freeman seconded the motion. The motion to approve the application was unanimous and therefore granted with the above referenced condition.

Mr. Freeman recused himself from hearing Case# BZA-03-20-00387.

CASE#: BZA-03-20-00387

Andrew Todd-Burke, of HLA, Inc., the applicant, and Fang Yu Guan, of L + G Investments, LLC, the property owner, submitted a Variance request to encroach the protected area beneath two (2) Grand Oak trees in excess of twenty-five percent (25%) for a proposed stormwater detention pond at 4979 River Road and 3791 Betsy Kerrison Parkway, Johns Island, Charleston County, TMS# 202-00-00-073 and 202-00-00-174. Planned Development (PD) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in *Article 3.10 Zoning Variances, §3.10.6 Approval Criteria* of the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)* had been satisfied. Mr. Nelson made a motion to approve the Variance with the following conditions: (1) Prior to zoning permit approval, the applicant shall complete the Site Plan Review process; (2) The owner shall contract a Certified Arborist to devise a treatment plan for the requested trees through construction. The plan shall be reviewed and approved by the Planning Director prior to implementation; (3) If either of the requested trees die within 3 years of the construction of the stormwater detention pond, the applicant shall mitigate the DBH of the tree that dies by either (a) submitting a mitigation plan for review and approval indicating the installation of canopy trees no smaller than two and one-half (2.5) inches in caliper equaling inch per inch replacement, (b) by depositing funds into the Charleston County Tree Fund as described in §9.4.6 of the Charleston County Zoning and Land Development Regulations, or (c) a combination of both (a) and (b). The allotted mitigation shall be in place for each tree prior to its removal; and (4) Prior to zoning permit approval, the applicant shall install tree barricades around the Grand trees to be preserved, pursuant to §9.4.4 of the Charleston County Zoning and Land Development Regulations. Mr. Boykin seconded the motion. The motion to approve the application was unanimous and therefore granted with the above referenced conditions.

Mr. Freeman returned for the remainder of the meeting.

CASE#: BZA-03-20-00388

David Wertan, of Nevonna Homes, LLC, the applicant and the property owner, submitted a Variance request for the removal of a 24" DBH Grand Poplar tree and a 27" DBH Grand triple Magnolia tree for a proposed single-family residence at 1632 Wappoo Drive, in the St. Andrews Area of Charleston County, TMS# 351-12-00-009. Single Family Residential (R-4) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in *Article 3.10 Zoning Variances, §3.10.6 Approval Criteria* of the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)* had not been satisfied. Mr. Boykin made a motion to deny the Variance request stating that the application did not meet criteria 4 and 6. Mr. McConnell seconded the motion. The motion to deny the application was unanimous and therefore the application was disapproved.

The BZA had a 5-minute recess.

CASE#: BZA-03-20-00389

Brad Mitchell, the applicant, and Chad Dennis, the property owner, submitted a Special Exception request for the sale of alcoholic beverages onsite (beer, wine, and liquor) in a restaurant in the Maybank Highway Corridor Overlay (Commercial Transitional) Zoning District at 2901 Maybank Highway, Johns Island, Charleston County, TMS # 313-00-00-098. Maybank Highway Corridor Overlay (Commercial Transitional, CT) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in *Article 3.6 Special Exceptions, §3.6.5 Approval Criteria* of the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)* had been satisfied. Mr. Goldstein made a motion to approve the Special Exception with the following conditions: (1) The applicant/property owner shall complete the Site Plan Review process prior to obtaining a Zoning Permit to establish the proposed business; (2) The restaurant shall be limited to operating hours between 6:00 a.m. to 11:00 p.m. as required by the *Zoning and Land Development Regulations Ordinance*; (3) The applicant shall meet all requirements of the State of South Carolina for alcoholic beverage sales and provide proof of State approval to Zoning/Planning Staff, prior to Zoning Permit approval to establish the proposed business; and (4) The proposed 50' buffer along Maybank Highway shall contain a 10' multi-use path, street lighting, and landscaping plantings as determined by the Planning Director. Mr. Boykin seconded the motion. Mr. Goldstein, Mr. Boykin, Mr. Woodul, Mr. Nelson, and Mr. Freeman voted in favor of the motion. Mr. McConnell voted against the motion. A majority of the members present and voting voted in favor of the motion to approve the application. Therefore, the request was granted with the above referenced conditions.

CASE#: BZA-03-20-00390

Giles N. Branch, of Earthsource Engineering, the applicant, and Chad Dennis, the property owner, submitted a Variance request to reduce the required 25' (Type C) land use buffer by 12.5' to 12.5' on both sides of the property for the encroachment of a proposed building, parking, and vehicular use area at 2901 Maybank Highway, Johns Island, Charleston County, TMS# 313-00-00-098. Maybank Highway Corridor Overlay (Commercial Transitional, CT) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in *Article 3.10 Zoning Variances, §3.10.6 Approval Criteria* of the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)* had been satisfied. Mr. Freeman made a motion to approve the Variance with the following conditions: (1) The applicant/property owner shall complete the Site Plan Review process prior to obtaining a Zoning Permit to establish the proposed business; and (2) The proposed 50' buffer along Maybank Highway shall contain a 10' multi-use path, street lighting, and landscaping plantings as determined by the Planning Director. Mr. Boykin seconded the motion. The motion to approve the application was unanimous and therefore granted with the above referenced conditions.

CASE#: BZA-03-20-00391

Giles N. Branch, of Earthsource Engineering, the applicant, and Chad Dennis, the property owner, submitted a Variance request to locate a parking lot containing more than ten parking spaces in front of the proposed building at 2901 Maybank Highway, Johns Island, Charleston County, TMS# 313-00-00-098. Maybank Highway Corridor Overlay (Commercial Transitional, CT) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in *Article 3.10 Zoning Variances, §3.10.6 Approval Criteria* of the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)* had been satisfied. Mr. Boykin made a motion to approve the Variance with the following conditions: (1) The applicant/property owner shall complete the Site Plan Review process prior to obtaining a Zoning Permit to establish the proposed business; and (2) The proposed 50' buffer along Maybank Highway shall contain a 10' multi-use path, street lighting, and landscaping plantings as determined by the Planning Director. Mr. Goldstein seconded the motion. Mr. Boykin, Mr. Goldstein, Mr. Woodul, Mr. Nelson, and Mr. Freeman voted in favor of the motion. Mr. McConnell voted against the motion. Two thirds of the members present and voting, voted in favor of the motion to approve the application. Therefore, the application was granted with the above referenced conditions.

CASE#: BZA-03-20-00392

Giles N. Branch, of Earthsource Engineering, the applicant and Chad Dennis, the property owner, submitted a Variance request from Article 5.4, Section 5.4.10 and Article 9.3, Section 9.3.10: Omit required pedestrian walkways that provide a direct connection from the street to the main entrance of the proposed building and to abutting properties at 2901 Maybank Highway, Johns Island, Charleston County, TMS# 313-00-00-098. Maybank Highway Corridor Overlay (Commercial Transitional, CT) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in *Article 3.10 Zoning Variances, §3.10.6 Approval Criteria* of the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)* had been satisfied. Mr. Nelson made a motion to approve the Variance with the following conditions: (1) The applicant/property owner shall complete the Site Plan Review process prior to obtaining a Zoning Permit to establish the proposed business; and (2) The proposed 50' buffer along Maybank Highway shall contain a 10' multi-use path, street lighting, and landscaping plantings as determined by the Planning Director. Mr. Boykin seconded the motion. Mr. Nelson, Mr. Boykin, Mr. Woodul, Mr. Goldstein, and Mr. Freeman voted in favor of the motion. Mr. McConnell voted against the motion. Two thirds of the members present and voting, voted in favor of the motion to approve the application. Therefore, the application was granted with the above referenced conditions.

CASE#: BZA-04-20-00393

Ingrid and Michele Brusseau, the applicants and the property owners, submitted a Special Exception request to establish a Short-Term Rental, Extended Home Rental (EHR) in the Single Family Residential (R-4) Zoning District at 311 Stinson Drive in St. Andrews Area of Charleston County, TMS # 350-09-00-098. Single Family Residential (R-4) Zoning District standards apply.

Findings: After hearing the Staff Review, the applicant's presentation, and any public comments concerning this application, the board determined that all items in *Article 3.6 Special Exceptions, §3.6.5 Approval Criteria* of the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)* had been satisfied. Mr. Woodul made a motion to approve the Special Exception with the following conditions: (1) Prior to zoning permit approval, the applicant shall complete the Site Plan Review process; (2) The use shall comply with all requirements of Article 6.8.; and (3) The property owner shall be responsible for ensuring that tenants comply with the Charleston County Noise Ordinance. Mr. Nelson seconded the motion. The motion to approve the application was unanimous and therefore granted with the above referenced conditions.

Additional Business

The BZA voted to adopt the revised Draft Rules of Procedure. Mr. Boykin made a motion to adopt the revised Draft Rules of Procedure. Mr. Woodul seconded the motion. The motion to adopt the revised Draft Rules of Procedure was unanimous and therefore granted.

The BZA will hear six new cases, five variance cases and 1 Special exception case, at the July 20, 2020 BZA public hearing at 4:00 p.m. The BZA will hear three new cases, two variance cases and 1 Special Exception case, at the August 3, 2020 BZA public hearing at 5:00 p.m. Mrs. Werking reported that 3 board members have completed continuing education training, 1 board member completed 1.5 hours, and 4 board members need 3 hours of continuing education training by the end of the year.

Adjournment

There being no further business, the board adjourned at 7:34 p.m.

Respectfully submitted,



Jenny J. Werking, AICP
Secretary to the BZA



BP0857953

PGS:

7

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, that We, **Michael A. Graham a/k/a Michael Graham and Teresa Stone, and The Estate of Geraldine R. Graham** (hereinafter whether singular or plural the "Grantor") in the State aforesaid, for and in consideration of the sum of **FORTY THOUSAND AND 00/100(\$40,000.00) DOLLARS**, and subject to the restrictions, exceptions and limitations hereinafter set forth, if any, to the Grantor paid by **Nevonna Homes, LLC**, (hereinafter whether singular or plural the "Grantee") have granted, bargained, sold and released, and, by these presents, do grant, bargain, sell and release unto the said **Nevonna Homes, LLC**, its Successors and/or Assigns, forever, in fee simple, the following described real property, to-wit:

All that lot, piece or parcel of land, together with the buildings and improvements thereon, situate, lying and being in St. Andrews Parish, Charleston County, State of South Carolina, known as Lot 41, Block H, on a plat of Pinecrest Gardens, made by Richard C. Rhett, Surveyor, in September, 1929, and recorded in the RMC Office for Charleston County in Plat Book E, at Page 98, to which reference is made. Measuring and containing on the front on Wappoo Drive. Twenty-five feet (25') and the same on the back line by One Hundred feet (100') in depth; be the said dimensions a little more or less; butting and bounding to the North on lands now or formerly of Legare; to the East on Lot 42, in Block H, to the South on Wappoo Drive; and to the West on Lot No. 40 in Block H on said plat of Pinecrest Gardens.

This being the same property conveyed to Michael Graham, Pamela Justice, and Teresa Stone by Deed of Distribution of the Estate of Adolphus F. Graham dated October 5, 2005 and recorded in Book S557 at Page 181 in the ROD Office for Charleston County. And this being the same property where Pamela D. Justice conveyed her interest to Michael A. Graham by deed dated October 28, 2005 and recorded in Book C560 at Page 646 in the ROD Office for Charleston County. And this being the same property where Geraldine R. Graham received a one third interest in the property pursuant to an order of William J. Crane, Jr. in Case No. 88-DR-10-1698 in the Family Court for Charleston County.

SUBJECT to any and all restrictions, covenants, conditions, easements, rights of way and all other matters affecting subject property of record in the Office of the ROD for Charleston County, South Carolina.

TMS Number: 351-12-00-009

Grantee's Address: 2020 Wappoo Hall Rd, Charleston, SC 29412

Payne Law Firm, LLC
280 Seven Farms Drive, Suite A
Daniel Island, SC 29492

Together with all and singular the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

*TO HAVE AND TO HOLD all and singular the said premises before mentioned unto the said Grantee, **Nevonna Homes, LLC**, and its Successors and/or Assigns forever.*

And the Grantor does hereby bind the Grantor and the Grantor's Heirs, Executors and Administrators, to warrant and forever defend all and singular the said premises unto the said Grantee hereinabove named and the Grantee's Successors and/or Assigns against the Grantor and the Grantor's Heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

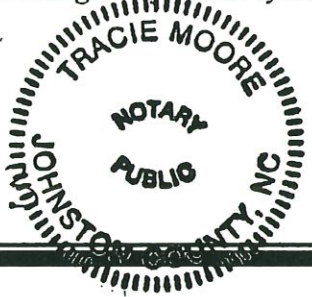
WITNESS our hands and seals this 28 day of January, 2020 and in the Two Hundred Forty Fourth (224th) year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Bethany Lane
Witness #1
Jay Adams
Witness #2

Michael A. Graham
Michael A. Graham *

NAMES MUST BE SIGNED EXACTLY AS THEY ARE TYPED	
STATE OF <u>North Carolina</u>)	ACKNOWLEDGMENT
COUNTY OF <u>Johnston</u>)	
THE FOREGOING instrument was acknowledged before me by Michael A. Graham and on this <u>28</u> day of January, 2020.	
<u>Tracie Moore</u>	
Notary Public for: My Commission Expires: <u>05.13.2022</u> 2020-096KM	



* AKA Michael Graham

WITNESS our hands and seals this 29 day of January, 2020 and in the Two Hundred Forty Fourth (224th) year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:


Witness #1


Teresa Stone


Witness #2

NAMES MUST BE SIGNED EXACTLY AS THEY ARE TYPED

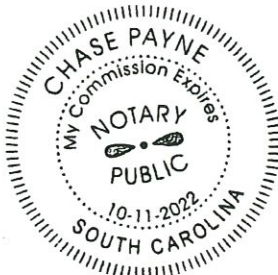
STATE OF SC)

COUNTY OF Berkely)

ACKNOWLEDGMENT

THE FOREGOING instrument was acknowledged before me by Teresa Stone on this _____ day of January, 2020.


Notary Public for: SC
My Commission Expires: 10-11-2022
2020-096KM



WITNESS our hands and seals this 28 day of January, 2020 and in the Two Hundred Forty
Fourth (224th) year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Estate of Geraldine R. Graham

Bethany Lao
Witness #1

Michael A. Graham
by Michael A. Graham, Personal Representative

[Signature]
Witness #2

NAMES MUST BE SIGNED EXACTLY AS THEY ARE TYPED

STATE OF NC)
COUNTY OF Johnston)

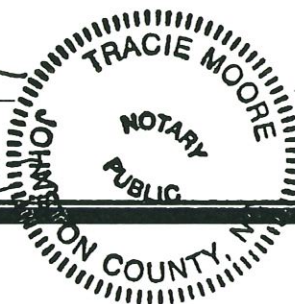
ACKNOWLEDGMENT

THE FOREGOING instrument was acknowledged before me by Michael A. Graham,
Personal Representative of the Estate of Geraldine R. Graham on this 28 day of January, 2020.

[Signature]
Notary Public for:

My Commission Expires:
2020-096KM

5.13.2



STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

)

) AFFIDAVIT

)

Date of Transfer of Title

January 29, 2020

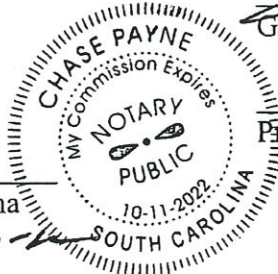
PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.
2. The property is being transferred by Michael A. Graham, ^ATeresa Stone, and Michael A. Graham, Personal Representative of The Estate of Geraldine R. Graham TO Nevonna Homes, LLC ON January 29, 2020.
3. Check one of the following: The deed is:
(a) x subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
(b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
(c) _____ EXEMPT from the deed recording fee because (Exemption n/a) (Explanation, if required: n/a) If exempt, please skip items 4-6 and go to Item #7 of this affidavit.
4. Check one of the following if either item 3(a) or item 3(b) above has been checked.
(a) x The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$40,000.00
(b) The fee is computed on the fair market value of the realty, which is n/a
(c) The fee is computed on the fair market value of the realty as established for property tax purposes which is n/a
5. Check YES _____ or NO X to the following: A lien or encumbrance existed on the land, tenement or realty before the transfer and remained on the land, tenement or realty after the transfer. If "YES", the amount of the outstanding balance of this lien or encumbrance is n/a.
6. The DEED Recording Fee is computed as follows:
(a) \$40,000.00 the amount listed in Item #4 above
(b) _____ the amount listed on Item #5 above (no amount, please zero)
(c) \$40,000.00 subtract Line 6(b) from Line 6(a) and place the result here.
7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as Grantor, Grantee or Legal Representative.
8. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year or both.

SWORN to before me this
01/29/2020

Notary Public for South Carolina

My Commission expires: 12-11-2022



Grantor, Grantee or Legal Representative

Nevonna Homes LLC

Print or Type Name Here

Deborah M. Werten,
member

Aka Michael Graham

RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document



Filed By:

PAYNE LAW FIRM LLC
280 SEVEN FARMS DRIVE
SUITE A
DANIEL ISLAND, SC 29492 (BULLET COURIER)

RECORDED

Date: February 4, 2020

Time: 3:47:43 PM

Book

0857

Page

953

DocType

Deed

Michael Miller, Register
Charleston County, SC

MAKER:

GRAHAM MICHAEL A AL

Note:

RECIPIENT:

NEVONNA HOMES LLC

of Pages: 7

Recording Fee	\$ 15.00
State Fee	\$ 104.00
County Fee	\$ 44.00
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 163.00

Original Book:

Original Page:

AUDITOR STAMP HERE

RECEIVED From ROD

Feb 10, 2020

Peter J. Tecklenburg

Charleston County Auditor

PID VERIFIED BY ASSESSOR

REP RJB

DATE 02/11/2020

36

DRAWER Drawer 1
CLERK KLH



0857

Book



953

Page



02/04/2020

Recorded Date



7

Pgs



Original Book



Original Page



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Doc Type



15:47:43

Recorded Time



WELCOME REAL PROPERTY RECORD SEARCH REAL PROPERTY BILL SEARCH PERSONAL PROPERTY SEARCH

MOTOR VEHICLE SEARCH CHECKOUT CONTACT US

\$0.00
CHECK OUT

[← RETURN](#)
 [⌂ SALES](#)
 [📄 TAX INFO](#)
 [🏠 ADDITIONAL PROPERTY INFO](#)
 [🖨️ PRINT](#)

Property Information

Current Owner:
NEVONNA HOMES LLC
2020 WAPPOO HALL RD
CHARLESTON SC 29412-2057

Property ID 3511200009
Physical Address 1632 WAPPOO DR
Property Class 905 - VAC-RES-LOT
Plat Book/Page /
Neighborhood 241401 ND01 Byrnes Down
Deed Acres 0.0000

Legal Description

Subdivision Name -PINECREST GARDENS Description -LT 41 BLK H Site Name -NXT TO 1
 628
 PlatSuffix E-98 PolTwp 005

Sales History

Book	Page	Date	Grantor	Grantee	Type	Deed	Deed Price
0857	953	1/29/2020	GRAHAM MICHAEL	NEVONNA HOMES LLC	<u>S</u>	<u>Ge</u>	\$40,000
C560	646	10/28/2005	GRAHAM MICHAEL	GRAHAM MICHAEL		<u>Ge</u>	\$27,000
S557	181	10/5/2005	GRAHAM A F	GRAHAM MICHAEL		<u>Ge</u>	\$9
P096	095	1/1/1971		GRAHAM A F		<u>Ge</u>	\$0

[← RETURN](#)
 [⌂ SALES](#)
 [📄 TAX INFO](#)
 [🏠 ADDITIONAL PROPERTY INFO](#)
 [🖨️ PRINT](#)

Application

BZA-05-22-00585



ZONING VARIANCE APPLICATION
Charleston County Board of Zoning Appeals (BZA)

Property Information			
Subject Property Address: 1632 Wappoo Drive, Charleston, SC 29407			
Tax Map Number(s): 351-12-00-009			
Current Use of Property: Residential vacant lot			
Proposed Use of Property: Residential new home			
Applicant Information (Required)			
Applicant Name (please print): David Wertan			
Name of Company (if applicable): Nevonna Homes, LLC			
Mailing Address: 2020 Wappoo Hall Road			
City: Charleston	State: SC	Zip Code: 29412	
Email Address: davidwertan@gmail.com		Phone #: 843-270-6455	
Applicant Signature: <i>David Wertan</i>		Date: 05/11/2022	
Representative Information (Complete only if applicable. Attorney, Builder, Engineer, Surveyor etc.)			
Print Representative Name and Name of Company: Attorney Jeffrey T Spell			
Mailing Address: 1721 Ashley River Road			
City: Charleston	State: SC	Zip Code: 29407	
Email Address: jeff@jeffspell.com		Phone #: 843-452-3553	
Designation of Agent (Complete only if the Applicant listed above is not the Property Owner.)			
I hereby appoint the person named as Applicant and/or Representative as my (our) agent to represent me (us) in this application.			
Property Owner(s) Name(s) (please print):			
Name of Company (if applicable, LLC etc.):			
Property Owner(s) Mailing Address:			
City:	State:	Zip Code:	Phone #:
Property Owner(s) Email Address:			
Property Owner(s) Signature:			Date:
FOR OFFICE USE ONLY:			
Zoning District: R-4	Flood Zone: X 492K	Date Filed: 3/25/2022	Fee Paid: \$300 check # 33
Application #: BZA-05-22-00585	TMS #: 351-12-00-009	Staff Initials: jfw	

Description of Request

Please describe your proposal in detail. You may attach a separate sheet if necessary. Additionally, you may provide any supporting materials that are applicable to your request (photographs, letter of support, etc.)

Removal of two trees necessary to build new home.

Applicant's response to Article 3.10 Zoning Variances, §3.10.6 Approval Criteria

Zoning Variances may be approved only if the Board of Zoning Appeals finds that the proposed use meets all 7 of the approval criteria. In evaluating your request, the members of the board will review the answers below as a part of the case record. You may attach a separate sheet if necessary.

1. Are there extraordinary and exceptional conditions pertaining to the subject property? Explain:

the lots in Pinecrest are 25 X 125 or 2550 sqft and the building area is significantly impacted by the grant trees.

2. Do these conditions generally apply to other property in the vicinity or are they unique to the subject property? Explain:

the neighborhood was developed in 1929 and there are existing homes on most lots, so this would not apply to the existing homes but is only applicable to building a new home where some older trees exist.

3. Because of these extraordinary and exceptional conditions, does the application of this Ordinance to the subject property effectively prohibit or unreasonably restrict the utilization of the property? Explain:

there is no way to build a new home without the removal of the trees.

4. Will the authorization of a variance be a substantial detriment to adjacent property or to the public good? Will the character of the zoning district be harmed if this variance is granted? Explain:

affordable housing or starter homes were intended to built on these smaller lots and providing the smaller affordable home is definitely to the public good and provides a nice new safe place for a residence in accordance with the plan of the original development and would cause no detriment to adjacent properties but would increase their value and make their homes safer as well.

5. The BZA shall 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 Zoning Variance is granted shall not be considered grounds for granting a Zoning Variance. Does the variance request meet this criterion?

the variance does not allow for a use that is not permitted by zoning.

6. Is the need for the variance the result of applicant's own actions? Explain:

No the first tree the poplar is by far exceeded it's life expectancy and needs to be removed and the magnolia has numerous trunks none of which exceed 24 inches but only when combined is it considered a grand tree, these trees should have probably been removed by the previous owner but she was elderly and on a restricted income and they were allowed to remain but now need to be removed for the lot to be used for its original intended purpose.

7. Does the variance substantially conflict with the Charleston County Comprehensive Plan or the purposes of the Ordinance? Explain:

no granting of the variance would not conflict with the comprehensive plan or ordinance.

In granting a variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

Charleston County Board of Zoning Appeals

RE: Tree variance

1632 Wappoo Drive, Charleston, SC 29407

Board Members,

We would ask that you approve our request to remove the 24" DBH grand Poplar tree that is near the right property line and the 27" triple grand Magnolia tree at this time.

First, the grand poplar is over 100 years old and is in deteriorating condition according to the arborist the average life span of a poplar is 50-80 years, poplar trees are known to be fragile trees and lose limbs in storms and do damage to homes and other structures. The roots would also do damage to the new home and the neighbors garage.

Second, the magnolia consists of a half dozen trunks of varying size with the largest being 9 inches at DBH, it also hangs over the neighbors home and is in deteriorating condition and would cause damage to the new home.

We want to build the attached home and pride ourselves on providing affordable homes throughout the community, we recently built two new homes a house over from this lot on 25 foot lots and they are really nice and have great owners enjoying the convenience, safety and affordability of living in this area.

We purchased this lot after buying those two from the same family and we verified the availability of water and sewer and have actually already paid tap fees and impact fees and had the water and sewer connections installed by the CPW for the new home.

We are "in tune" with the original developers plan to provide smaller affordable homes and provide affordable housing and look forward to seeing it come to fruition.

Thanks, Sincerely,

A handwritten signature in black ink that reads "David Wertan". The signature is written in a cursive, flowing style.

David Wertan

Site Plan
Floor Plans/Elevations
Plat

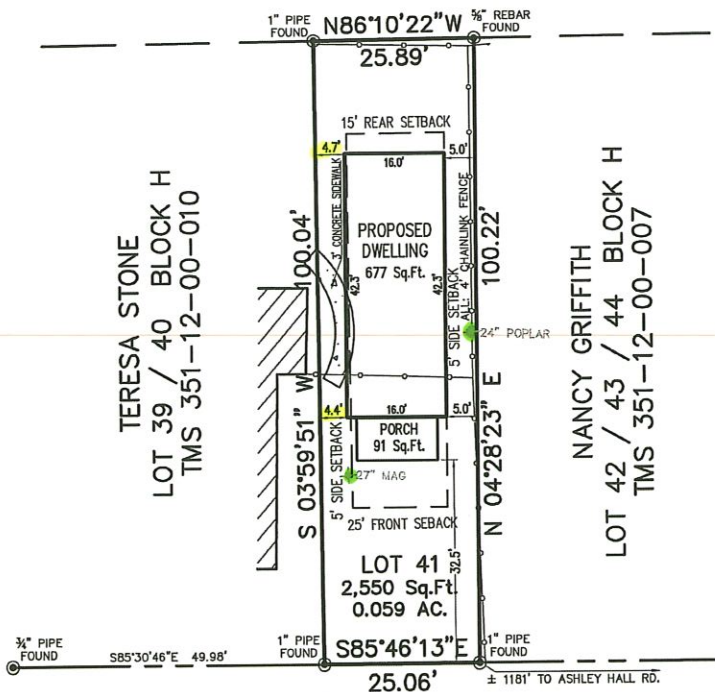
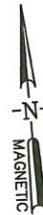
BZA-05-22-00585

and

BZA-05-22-00586

**FOR PERMITTING
PURPOSES ONLY**

HENDERSON JEAN LIVING TRUST
LOT 16 BLOCK A
TMS 351-11-00-025



CONSTRUCTION NOTES:

1. THIS PROPERTY MAY BE SUBJECT TO DEED RESTRICTIONS, EASEMENTS, RIGHTS-OF-WAY AND RESTRICTIVE COVENANTS NOT SHOWN. BUILDER IS RESPONSIBLE TO VERIFY ANY AND ALL PRIOR TO CONSTRUCTION.
2. BUILDER IS RESPONSIBLE FOR VERIFYING ZONING AND SETBACKS PRIOR TO CONSTRUCTION.
3. BUILDER IS RESPONSIBLE FOR TAKING MEASURES TO PREVENT DECKS, PORCHES OR STEPS FROM ENCROACHING INTO THE SETBACKS.
4. BUILDER IS RESPONSIBLE FOR VERIFYING STRUCTURE PLACEMENT, ORIENTATION AND DIMENSIONS PRIOR TO CONSTRUCTION.
5. BUILDER IS RESPONSIBLE FOR VERIFYING FLOOD ZONE AND DESIGN FLOOD ELEVATION.
6. BUILDER IS RESPONSIBLE FOR TAKING MEASURES TO PREVENT EXCESSIVE INCREASE IN DRAINAGE RUN-OFF ONTO ADJACENT PROPERTIES.

FLOOD ZONE: X
F.I.R.M.: 45019C 0492 J
EFFECTIVE: NOV. 17, 2004
COMMUNITY NO: 455413
COMMUNITY NAME: CHARLESTON COUNTY

ZONING: R-4

SETBACKS:
FRONT: 25'
REAR: 15'
SIDE: 5'
MINIMUM LOT SIZE: 7,250 Sq.Ft.
MAXIMUM COVERAGE: 30% BUILDING
MAXIMUM HEIGHT: 35'

*A VARIANCE MUST BE GRANTED BEFORE
THIS SITE PLAN CAN BE APPROVED

WAPPOO DRIVE (50' R/W)

NOTES & REFERENCES:

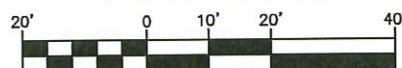
1. REFERENCE PLAT BY RICHARD C. RHETT RECORDED IN THE CHARLESTON CO. R.M.C. OFFICE IN PLAT BOOK E AT PAGE 98.
2. THIS SURVEY DOES NOT REFLECT A TITLE SEARCH AND IS BASED ENTIRELY ON THE ABOVE REFERENCED DOCUMENT(S). ANY EASEMENTS OR ENCUMBRANCES OF RECORD NOT SHOWN ON THE REFERENCE PLAT MAY NOT BE SHOWN ON THIS SURVEY.
3. CERTIFICATION IS TO THE PARTY/PARTIES FOR WHOM THIS SURVEY WAS PREPARED AND IS NOT TRANSFERABLE TO ANY OTHER INSTITUTIONS OR INDIVIDUALS.
4. FLOOD ZONES ARE SUBJECT TO ONGOING FLOOD STUDIES AND MUST BE VERIFIED BY THE CHARLESTON COUNTY FLOOD PLANE MANAGER.
5. ZONING AND SETBACKS ARE A LEGAL MATTER AND MUST BE VERIFIED BY THE PROPER CHARLESTON COUNTY OFFICIAL.

LEGEND:

- — — — — PROPERTY LINE
- — — — — ADJACENT PROPERTY LINE
- — — — — ROAD RIGHT-OF-WAY LINE
- — — — — BUILDING SETBACK LINE
- ⊙ — — — — — PROPERTY CORNER FOUND
- — — — — — PROPERTY CORNER SET
- ⊕ — — — — — UTILITY POLE
- — — — — CHAIN LINK FENCE

BUILDING COVERAGE:			
HOUSE	677 S.F.	26.5 %	
COVERED PORCH	91 S.F.	3.6 %	
DRIVEWAY AND SIDEWALK	N/A S.F.	N/A %	
TOTAL BUILDING AREA*	768 S.F.	30.1 %	
LOT AREA	2,550 S.F.		

GRAPHIC SCALE



(IN FEET)
1 inch = 20 ft.

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION, AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS A SURVEY AS SPECIFIED THEREIN; ALSO THERE ARE NO VISIBLE ENCROACHMENTS OR PROJECTIONS OTHER THAN SHOWN.



**SITE PLAN
BOUNDARY & TREE SURVEY**

**LOT 41 BLOCK H
PINECREST GARDENS
TMS 351-12-00-009**

**1632 WAPPOO DRIVE
SAINT ANDREWS PARISH
CHARLESTON COUNTY, SC**

BEING CONVEYED TO & PREPARED FOR
NEVONNA HOMES, LLC

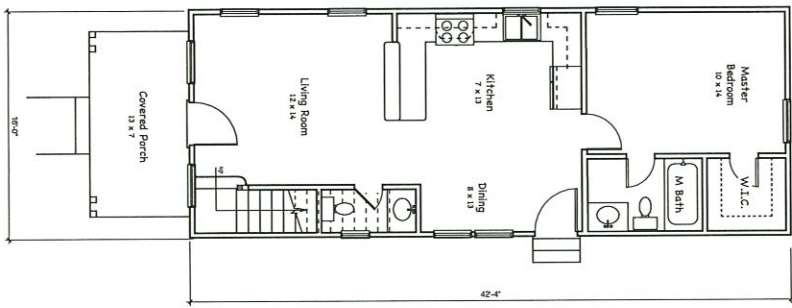
DATE: JANUARY 30, 2020 SCALE: 1" = 20'

REVISED: APRIL 7, 2020

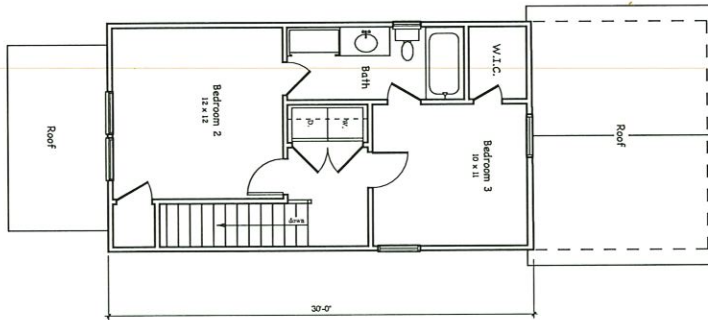
ATLANTIC SURVEYING, INC.

1058 GARDNER ROAD
P.O. BOX 30604
CHARLESTON, SOUTH CAROLINA 29417
PHONE (843)763-6669 FAX (843)766-7411

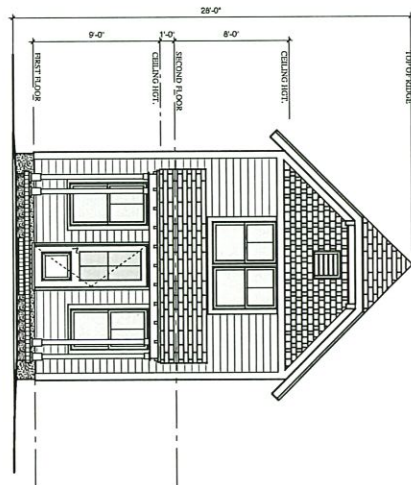
JOB #20-21708



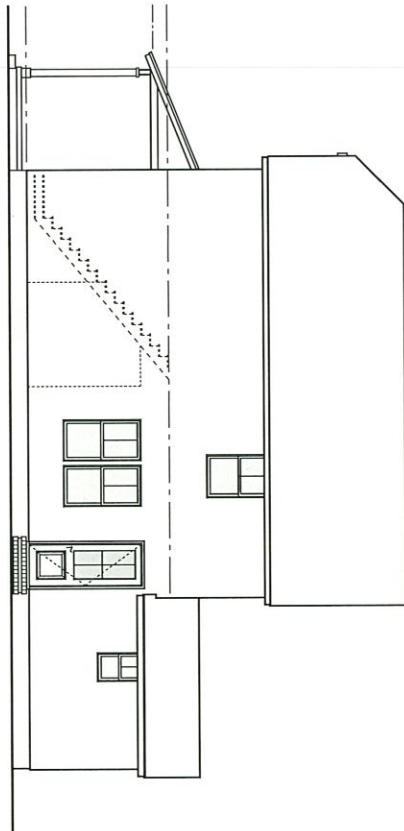
FIRST FLOOR PLAN
Scale: 1/8" = 1'-0"



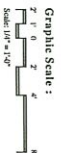
SECOND FLOOR PLAN
Scale: 1/8" = 1'-0"



FRONT ELEVATION
Scale: 1/8" = 1'-0"



RIGHT ELEVATION
Scale: 1/8" = 1'-0"



Area Tabulations:
First Floor: 144.00 sq. ft.
Second Floor: 144.00 sq. ft.
Total: 288.00 sq. ft.
Roof: 144.00 sq. ft.
Total: 432.00 sq. ft.

The Bexley Street Residence
1137 Bexley St.
Lot: 20 Block: 117
Park Circle
Charleston, South Carolina

CONCEPT PLANS & ELEVATIONS

CP-1

Conceptual Design (06/12/2013)
Preliminary AIA
Design Development
Final AIA
Construction
Project N° 1
Date: 06/12/2013
Sheet N° 1

R.M.C. Office Charleston County, State of S.C.
 Sept. 17 1929 at 1:36 P.M.
 plat Book 6 page 78. This plat placed
 in records for Universal Gardens Company.
 Julius C. Cogswell R.M.C.
 per order of 20

41.53 Ac. ss, lots, roads and
 Drives included.

Pinecrest Gardens

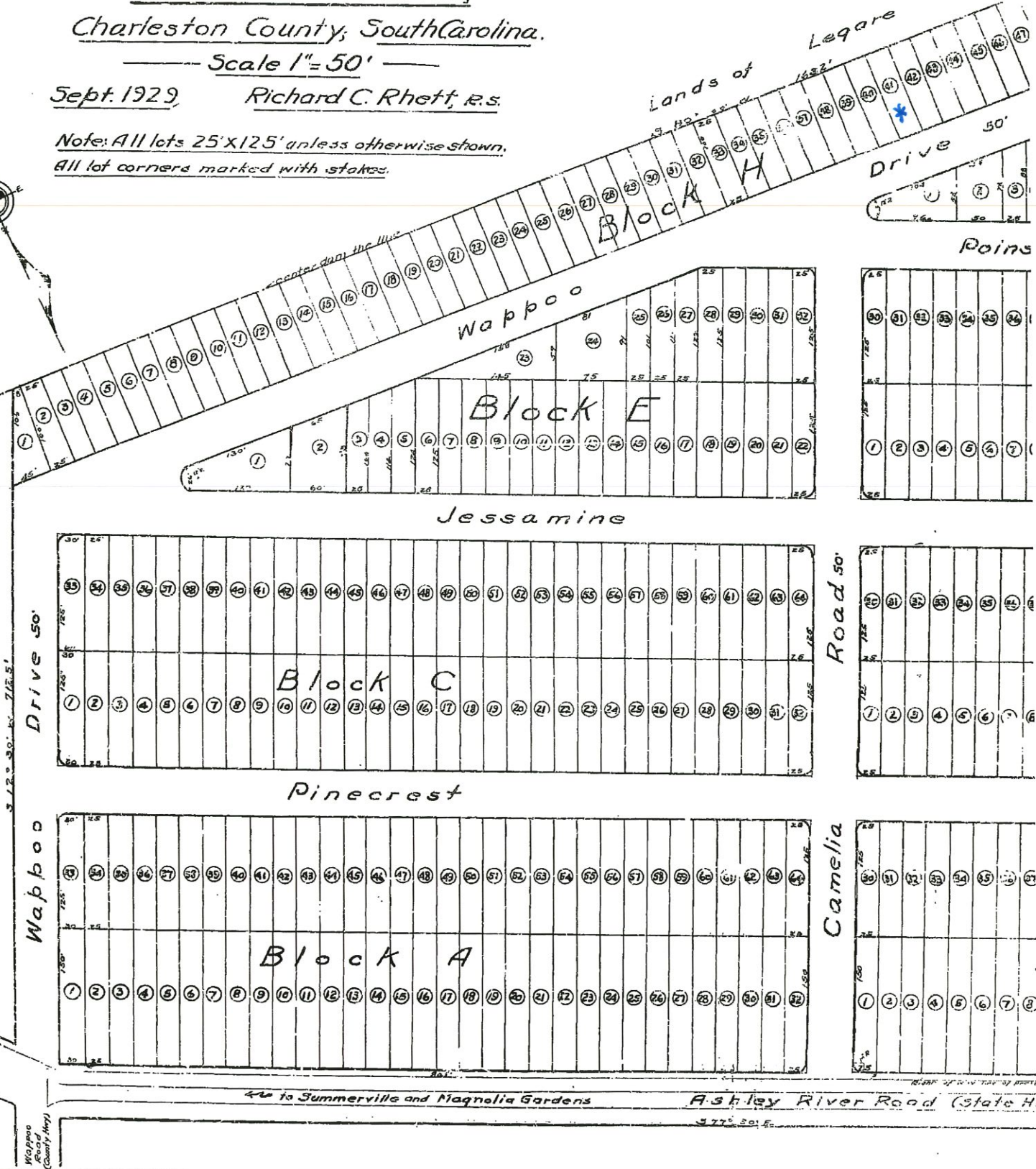
St. Andrews Parish,

Charleston County, South Carolina.

Scale 1" = 50'

Sept. 1929 Richard C. Rhett, R.S.

Note: All lots 25' x 125' unless otherwise shown.
 All lot corners marked with stakes.



U.S. 100-100000

ina.

Lands of Legore

Drive 50'

Block

Red 50. 450. 450.

Poinsettia

Road 50'

1500

lock F

samine

Road 50:

402250

Block D

Wistaria

Road 50

Camellia

Block B

Olivia Gordons

Ashley River Road (State Highway #64, concrete)

to Charleston →

7237A BOWEN
CHAMBERLAIN

Case # 7a. & 7b.

**Public Comment
Received before
6/29**

**BZA-05-22-00585
and
BZA-05-22-00586**

Jennifer Werking

From: stenney8@aol.com
Sent: Tuesday, June 21, 2022 11:21 AM
To: BZA
Subject: Case BZA-05-22-00585 and Case BZA-05-22-00586

Follow Up Flag: Follow up
Flag Status: Flagged

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Charleston County Zoning and Planning Department
4045 Bridgeview Drive
North Charleston, SC 29405

June 21, 2022

To whom it may concern:

This is in response to case number BZA- 5-22-00585, which is a request for a variance for the removal of a 24-inch Grand Popular tree and a 27-inch Grand Triple Magnolia tree for a single-family residence on lot 1632 Wappoo Drive. My daughter lives in 1628 Wappoo Drive. Part of the Magnolia tree in question is on her property with the roots from that tree running under the foundation of her home. The removal of that tree would cause the roots to die and deteriorate, thereby undermining the foundation on her home. Therefore, we must object strenuously to having that tree removed.

With respect to case number BAA-05 -22 -00586, which requests a variance to reduce the required 5-foot interior set back to 4.4 feet, we explained at the previous meeting on this subject this would create a drainage problem for our daughter's house. This is not acceptable, and we request that the Commission deny these variances.

I would like the opportunity to address the Board at the meeting scheduled to take place on July 11, 2022.

Sincerely,

Howard D. Sharman
22 Darcy Court
Charleston, SC 29414
(hsharm63@yahoo.com)