Case # BZA-09-19-00358
Charleston County BZA Meeting of November 4, 2019

**Applicant/ Property Owner**  David N. Page and Loren M. Tilson

**Property Location:**  1609 Bur Clare Drive – James Island

**TMS#:**  427-09-00-040

**Zoning District:**  Single Family Residential (R-4) Zoning District

**Request:**  Variance request to reduce the required 25' front/street side setback by 18.5' to 6.5' for a proposed carport.

**Requirement:**
The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 4 Base Zoning Districts, Article 4.10 R-4, Single Family Residential 4 District, Section 4.10.3 Density/Intensity and Dimensional Standards requires a 25' front/street side setback.
§4.9.2 Use Regulations

Uses are allowed in the S-3 district in accordance with the Use Regulations of Chapter 6.
Effective on: 11/20/2001, as amended

§4.9.3 Density/Intensity and Dimensional Standards

All residential and nonresidential development in the S-3 district shall be subject to the following density, intensity and dimensional standards:

<table>
<thead>
<tr>
<th>S-3 DENSITY/INTENSITY AND DIMENSIONAL STANDARDS</th>
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<tbody>
<tr>
<td>MAXIMUM DENSITY</td>
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<tr>
<td>MINIMUM LOT AREA</td>
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<tr>
<td>MINIMUM LOT WIDTH</td>
</tr>
<tr>
<td>MINIMUM SETBACKS</td>
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<tr>
<td>Front/Street Side</td>
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<tr>
<td>Interior Side</td>
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<tr>
<td>Rear</td>
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<tr>
<td>OCRM Critical Line</td>
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<tr>
<td>MAXIMUM BUILDING COVER</td>
</tr>
<tr>
<td>MAXIMUM HEIGHT</td>
</tr>
</tbody>
</table>

[1] Minimum lot area of 12,500 sq. ft. if water or sewer is available.
[2] 80 feet without public water and/or public sewer.

Effective on: 11/20/2001, as amended

§4.9.4 Other Regulations

Development in the S-3 district shall comply with all other applicable regulations of this Ordinance, including the development standards of Chapter 9. All waterfront property subdivided after April 21, 1999 shall be subject to the provisions of the Waterfront Development Standards contained in Article 4.22 of this Chapter. Existing lots of record on the waterfront shall be subject to the provisions of Wetlands, Waterways and OCRM Critical Line contained in Article 9.7.

Effective on: 11/20/2001, as amended

§4.9.5 One Time Subdivision of Non-Conforming Lot of Record Existing Prior To April 21, 1999

A one time subdivision creating one lot from a non-conforming lot of record (lot existing prior to April 21, 1999) shall be allowed, if each lot resulting from the subdivision meets the minimum lot area of the S-3 zoning district. An Ingress/Egress Easement may be utilized to access a proposed lot (singular) to the rear of the property. The setback from the edge of the easement will be the required side setback required for Zoning District. The side setback from the edge of the easement will only be utilized to create one (1) proposed lot from the provision of: ONE TIME SUBDIVISION OF A NON-CONFORMING LOT OF RECORD EXISTING PRIOR TO APRIL 21, 1999.

Effective on: 11/20/2001, as amended

ARTICLE 4.10 R-4, SINGLE FAMILY RESIDENTIAL 4 DISTRICT

§4.10.1 Purpose and intent

The R-4, Single Family Residential district implements the Suburban Residential/Residential Low Density (Urban/Suburban Area) policies of the Comprehensive Plan.

Effective on: 11/20/2001, as amended

Charleston County Zoning and Land Development Regulations (ZLDR)
§4.10.2 Use Regulations

Uses are allowed in the R-4 district in accordance with the Use Regulations of Chapter 6.
Effective on: 11/20/2001, as amended

§4.10.3 Density/Intensity and Dimensional Standards

All residential and nonresidential development in the R-4 district shall be subject to the following density, intensity and dimensional standards:

<table>
<thead>
<tr>
<th>Table 4.10.3, R-4 Density/Intensity and Dimensional Standards</th>
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</thead>
<tbody>
<tr>
<td><strong>R-4</strong></td>
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<tr>
<td><strong>DENSITY/INTENSITY AND DIMENSIONAL STANDARDS</strong></td>
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<tr>
<td><strong>MAXIMUM DENSITY</strong></td>
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<td></td>
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<tr>
<td><strong>MINIMUM LOT AREA</strong></td>
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<tr>
<td>With Public Water AND Sewer</td>
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<tr>
<td>7,250 square feet</td>
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<tr>
<td>With Public Water OR Sewer</td>
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<tr>
<td>10,000 square feet</td>
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<tr>
<td>Without Public Water AND Sewer</td>
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<tr>
<td>14,500 square feet</td>
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<tr>
<td><strong>MINIMUM LOT WIDTH</strong></td>
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<tr>
<td>60 feet</td>
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<tr>
<td><strong>MINIMUM SETBACKS</strong></td>
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<tr>
<td>Front/Street Side</td>
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<tr>
<td>25 feet</td>
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<tr>
<td>Interior Side</td>
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<tr>
<td>5 feet</td>
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<tr>
<td>Rear</td>
</tr>
<tr>
<td>15 feet</td>
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<tr>
<td>OCRM Critical Line</td>
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<tr>
<td>35 feet</td>
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<tr>
<td><strong>MAXIMUM BUILDING COVER</strong></td>
</tr>
<tr>
<td>30% of lot</td>
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<tr>
<td><strong>MAXIMUM HEIGHT</strong></td>
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<tr>
<td>35 feet</td>
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</tbody>
</table>

Effective on: 11/20/2001, as amended

§4.10.4 Other Regulations

Development in the R-4 district shall comply with all other applicable regulations of this Ordinance, including the development standards of Chapter 9. All waterfront property subdivided after April 21, 1999 shall be subject to the provisions of the Waterfront Development Standards contained in Article 4.22 of this Chapter. Existing lots of record on the waterfront shall be subject to the provisions of Wetlands, Waterways and OCRM Critical Line contained in Article 9.7.
Effective on: 11/20/2001, as amended

§4.10.5 One Time Subdivision of Non-Conforming Lot of Record Existing Prior To April 21, 1999

A one time subdivision creating one lot from a non-conforming lot of record (lot existing prior to April 21, 1999) shall be allowed, if each lot resulting from the subdivision meets the minimum lot area of the R-4 zoning district. An Ingress/Egress Easement may be utilized to access a proposed lot (singular) to the rear of the property. The setback from the edge of the easement will be the required side setback required for Zoning District. The side setback from the edge of the easement will only be utilized to create one (1) proposed lot from the provision of: ONE TIME SUBDIVISION OF A NON-CONFORMING LOT OF RECORD EXISTING PRIOR TO APRIL 21, 1999.
Effective on: 11/20/2001, as amended

ARTICLE 4.11 M-8, MIXED STYLE RESIDENTIAL 8 DISTRICT

§4.11.1 Purpose and Intent

The M-8, Mixed Style Residential district implements the Mixed Style Residential/Residential Moderate Density (Urban/Suburban Area) policies of the Comprehensive Plan.
Subject Property: 1609 Burr Clare Drive - James Island
BZA Meeting of November 4, 2019
Case #: BZA-09-19-00358
Staff Review:

The applicants and property owners, David N. Page and Loren M. Tilson, are requesting a variance for the reduction of the required 25' front/street side setback along Bur Clare Drive by 18.5' to 6.5' for a proposed carport at 1609 Bur Clare Drive, (TMS: 427-09-00-040) on James Island. The subject property and adjacent properties to the north and east are located in the Single Family Residential (R-4) Zoning District. The adjacent property to the west is located in the Folly Road Corridor Overlay (Neighborhood Commercial) Zoning District. The adjacent property to the south is located in the City of Charleston’s jurisdiction.

The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 4 Base Zoning Districts, Article 4.10 R-4, Single Family Residential 4 District, Section 4.10.3 Density/Intensity and Dimensional Standards requires a 25' front/street side setback.

The subject property is 0.48 acres and contains a single family home that was constructed in 1950 per Charleston County records. The proposed carport measures 16.5' x 30' and would be located 6.5' from the front property line along Bur Clare Drive.

Staff conducted a site visit on the subject property on October 15, 2019. 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 0.48-acre property may be extraordinary and exceptional because it contains a single family home that is located 32.4' from the front property line along Bur Clare Drive. The home was built in 1950 per Charleston County records and does not contain a garage or carport. Therefore, the request meets this criterion.

§3.10.6(2): These conditions do not generally apply to other property in the vicinity;
Response: These conditions are unique to the subject property and do not generally apply to other properties in the vicinity. The adjacent property to the west is located in the Folly Road Corridor Overlay (Neighborhood Commercial) Zoning District. Therefore, the request meets 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 4.10 R-4, Single Family
Residential 4 District, Section 4.10.3 Density/Intensity and Dimensional Standards may not unreasonably restrict the utilization of the property; however, it would prohibit the proposed carport in the desired location. The applicant’s letter of intent contends, “The current setback requirement for a carport adjacent to a 60 ft. right-of-way road is measured 25 feet from the front property line. While this may seem reasonable under the majority of circumstances, in this particular instance this would require the demolition of a 6 ft. privacy fence as well as 600 sq. ft. of additional paved surface situated next to a 20’ x 15’ sunroom and crawlspace access point.” Therefore, the request meets 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: Authorization of this request will not be of substantial detriment to adjacent properties or to the public good. Therefore, the character of the R-4 Zoning District will not be harmed by the granting of this variance. The applicant’s letter of intent states, “In terms of aesthetics, the carport will be constructed from wood and similar to that of a pergola [applicant provided a sample picture] with the exception being that the roof will be enclosed on all sides and consist of two layers of substrate, functioning as a ‘green roof’ (similar to a raised bed garden). Ground cover plants and low growing grass will be used to finish the roof.” Thus, the request meets this criterion.

§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 variance does 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 request 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 variance is the result of the applicant’s own actions. However, the applicant’s letter of intent states they are concerned about privacy, safety, drainage, fungus, mold, and insect infestation if they are required to locate the carport adjacent or to the rear of the
existing house. Therefore, the request meets this criterion.

§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 variance does 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. Therefore, the request meets 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-09-19-00358 [Variance request for the reduction of the required 25’ front/street side setback along Bur Clare Drive by 18.5’ to 6.5’ for a proposed carport at 1609 Bur Clare Drive, (TMS: 427-09-00-040) on James Island in Charleston County] based on the BZA’s “Findings of Fact”, unless additional information is deemed necessary to make an informed decision.
Variances Application

This application must be complete and submitted in person to the Zoning/Planning Department in order to apply for a Variance. Please read the entire form prior to completing the application. The applicant shall receive a copy of this completed form at the time the application is filed. This application will be returned to the applicant within fifteen (15) working days if these items are not submitted with the application or if any are found to be inaccurate:

1) Completed Variance application signed by the current property owner(s).
2) Copy of Current Recorded Deed to the property. If the applicant is not the owner of the property, the Current Property Owner(s) must sign and print the Designation of Agent found below.
3) Restrictive Covenants & Posted Notice Affidavits signed by the applicant or current property owner(s).
4) A letter of intent signed by the applicant or property owner(s) stating the reason for the request that explains why this request should be granted and how it meets the Approval Criteria of §3.10.6. All proposed Variances, except single family, shall satisfy the Site Plan Review process and attend at least one Site Plan Review meeting prior to submitting this application.
5) An accurate, legible Site Plan drawn to Engineers Scale must be attached. The site plan must show property dimensions, dimensions and locations of all existing and proposed structures and improvements, parking areas, Grand trees (24" DBH or greater), wetlands (properties containing DHEC-OCRM Critical Line areas must contain an up to date DHEC-OCRM signature on the site plan or plat), holding basins and buffers when applicable.
   One 24 x 36 copy and twenty (20) 11 x 17 copies.
6) Copy of a legible Approved and Recorded Plat showing present boundaries of property.
7) Check made out to "Charleston County" or cash. $250 fee. Grand tree variances are $250 for one tree, add $50 for each additional tree.

Applicant Name: Mailing Address: City, State, Zip Code: Daytime Phone: Subject Property Address: Variance Description: SETBACK VARIANCE FOR CARPORT
Applicant Signature

Date 9-20-2019

Applicant Email Address DAVID. N. PAGE @ GMAIL.COM

Designation of Agent (Complete only if owner is not applicant): I hereby appoint the person named as Applicant above as my (our) agent to represent me (us) in this application.

Owner Print Name
Date
Owner Mailing Address

Owner Signature
City, State, Zip Code

Owner Email Address

DAVID PAGE / Loren M. Tilsom
1409 BUR CLARE DR
CHARLESTON, SC 29412
615-815-0744

FOR OFFICE USE ONLY

Application #: Flood Zone: B2A-09-19-00358 X 6795
Zoning District: Fee Paid: $250 check # 0078
Date Filed: Zoning Officer: 9-20-19
TMS #: 427-09-00-040

Application for Variance
I am writing this letter to ask for your consideration in granting a setback variance with the intention of building a carport on the property located at 1609 Bur Clare Dr. on James Island.

The current setback requirement for a carport adjacent to a 60 ft. right-of-way road is measured 25 feet from the front property line. While this may seem reasonable under the majority of circumstances, in this particular instance this would require the demolition of a 6 ft. privacy fence as well as 600 sq. ft. of additional paved surface situated next to a 20' x 15' sunroom and crawlspace access point. My concerns with this approach are: first, that destruction of the fence would not only remove all measures of privacy, creating a direct line of sight into our home from the street, but more importantly would permit anyone unrestricted access to our sunroom where they could very easily break any one of the 8 glass sliding doors allowing immediate entry into our home; second, that paving the area will potentially damage our home by channeling runoff that would normally be absorbed into the ground, into or under our crawlspace. The crawlspace under our home is already subject to increased levels of humidity which has resulted in the presence of both fungi and mold, as well as wood-consuming insects (An investigation was opened with Charleston County earlier this year in relation to shoddy work performed by a contractor attempting to correct these issues – Case No. BIS-03-19-01845).

Section 4.2.3.D of Charleston County building codes indicates "where a lot abuts a dedicated street (that has been accepted for street maintenance) with a right-of-way width of less than 50 feet, the required front setback shall be measured from the centerline of the right-of-way, provided all building code and fire/safety requirements are met." Although the right-of-way for Bur Clare is 60 feet in width, I ask that in this instance the exception outlined in 4.2.3.D be applied and projected to a required setback of 30 feet from the centerline (if 49.9 ft. = 25 ft. from the centerline, or approximately 0.5 feet in setback per foot right-of-way, then a 60 ft. right-of-way would be equal to 30 feet of required setback). The closest point of the carport will be located an additional 5 feet from the projected requirement, for a total distance of 35 feet as measured from the centerline of the road (or 25 feet from the edge of the road).

Codes also state that "fences, hedges and walls may be located within any required setback, provided that no fence, wall or hedge shall obstruct the view of vehicular access to any roadway between three (3) and ten (10) feet in height above grade" (4.2.3.A.2). In contrast to a fence or walls, the carport will consist of no more than a roof atop 6 8x8 lumber posts, resulting in greater visibility with regard to vehicular and pedestrian traffic. In addition to this, our property is not located along a waterfront or marsh so the concern of obstructing a neighboring property from these views is a non-issue.

In terms of aesthetics, the carport will be constructed from wood and similar to that of a pergola (see attached image) with the exception being that the roof will
be enclosed on all sides and consist of two layers of substrate, functioning as a "green roof" (similar to a raised bed garden). Ground cover plants and low growing grass will be used to finish the roof.

With all of these things taken into consideration, I simply ask that in full accordance with all concerns for public safety, I be permitted to build a carport within the boundaries of my property as an investment in the value of my home and to protect what I have already invested in my vehicles.

Thank you.

Sincerely,

David Page  
1609 Bur Clare Dr  
Charleston, SC 29412
Example of a pergola (our carport will not be quite as ornamental, but similar in design)
BURL CLARE DRIVE (60' R/W)

LOT 14, TM'S 427-09-00-041
LOT 15, TM'S 427-09-00-054

20,859 Sq.Ft.
0.48 AC.

TWO STORY WOOD FRAME DWELLING

NOTES & REFERENCES:
1. REFERENCE PLAT BY W. L. GAILLARD RECORDED IN THE CHARLESTON CO. R.O.O. OFFICE IN PLAT BOOK F AT PAGE 48
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.

CLOSING SURVEY
LOT 15, BURL CLARE
TM'S 427-09-00-040
1609 BURL CLARE DRIVE
LOCATED ON JAMES ISLAND
CHARLESTON COUNTY, SC

BEING CONVEYED TO
LOREN M. TILSON
DATE: JANUARY 8, 2019 SCALE: 1" = 20'

ATLANTIC SURVEYING, INC.
1030 GARDNER ROAD
P.O. BOX 30804
CHARLESTON, SOUTH CAROLINA 29417
PHONE: (843)765-5669 FAX: (843)765-7411