



Case # BZA-10-22-00620

Charleston County BZA Meeting of December 5, 2022

Applicant/Property Owner: Christopher Tift Mitchell
Representative: Ross Appel, Esq. of McCullough, Khan, Appel
Property Location: 2151 Welch Avenue – James Island
TMS#: 343-06-00-049
Zoning District: Low Density Residential (R-4) Zoning District

Request:

Variance request for three (3) existing accessory structures:

- To reduce the required 5' interior side setback by 3.4' to 1.6' and to reduce the required 20' front/street side setback along Stonewood Drive by 19.3' to 0.7' at the closest point for an existing one-story accessory building;
- To reduce the required 5' interior side setback by 4.6' to 0.4' and to reduce the required 20' front/street side setback along Stonewood Drive by 1.5' to 18.6' at the closest point for an existing uncovered deck;
- To reduce the required 20' front/street side setback along Stonewood Drive by 18.9' to 1.1' at the closest point for an existing uncovered pergola; and
- To increase the maximum 30% building coverage by 3.6% to 33.6%

Requirement:

The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 4 Base Zoning Districts, Article 4.2 Measurements, Computations and Exceptions, Sec. 4.2.3 Setbacks, F. Setbacks on Corner and Double-Frontage Lots, states, "On Corner and Double-Frontage Lots, Front Setback standards will apply to each Lot Line that borders a street. The remaining Lot Lines will be subject to Side Setback standards. There is no Rear Lot Line."

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 20' front/street side setbacks, 5' interior side setbacks, and maximum building cover of 30% of the lot.



- E. **Front Setbacks on Narrow Ingress/Egress Easements.** Where a Lot abuts an ingress/egress Easement with a width of less than 50 feet, and is used as a primary access point to the Lot as indicated on an approved Plat recorded prior to April 21, 1999, the required Front Setback shall be measured from the centerline of the Easement, provided all Building Code and fire/safety requirements are met. There shall be a minimum 25 foot Setback between the edge of the Easement to the front of any Structure.
- F. **Setbacks on Corner and Double-Frontage Lots.** On Corner and Double-Frontage Lots, Front Setback standards will apply to each Lot Line that borders a street. The remaining Lot Lines will be subject to Side Setback standards. There is no Rear Lot Line.
- G. **Reduction for Public Purpose.** When an existing Setback is reduced because of conveyance to a federal, state or local government for a public purpose and the remaining Setback is at least 50 percent of the required minimum Setback for the district in which it is located, then that remaining Setback will be deemed to satisfy the minimum Setback standards of this Ordinance.
- H. **One Time Subdivision of a Nonconforming Lot of Record Existing Prior to April 21, 1999.** A one time subdivision creating one Lot from a Nonconforming 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 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 Side Setback required for the Zoning District. The Side Setback from the edge of the Easement will only be utilized to create one proposed Lot from the provision of a One Time Subdivision of a Nonconforming Lot of Record Existing Prior to April 21, 1999
- I. **Setbacks for Waterfront Lots.** Setbacks for Waterfront Lots shall be in accordance with the standards contained in Article 4.24, *Waterfront Development Standards*, of this Ordinance.

Sec. 4.2.4 Building Height and Structure Height

- A. **Fences or Walls.**
 - 1. In the case of Fences or Walls, height shall be measured from ground level on the higher side of the Fence or Wall.
 - 2. Fences and Walls shall not limit or obstruct the flow of water in natural drainage courses or Drainage Easements. Fences built within an Easement may be removed for Utility purposes with all costs for removal and restoration borne by the Property Owner. Fences across or through overland drainage areas shall not inhibit the flow of overland surface water.
- B. **Exceptions to Height Limits.** Unless otherwise expressly stated, the height limitations of this Ordinance shall not apply to any of the following:
 - 1. Farm Buildings in any Agricultural Zoning District (see Sec. 4.1.3, *Zoning District Hierarchy*);
 - 2. Electrical power transmission lines;
 - 3. Roof-mounted Solar Collectors;
 - 4. Belfries, cupolas, spires, domes, monuments, flagpoles, chimneys, radio/television receiving antennas, or chimney flues; or
 - 5. Bulkhead, elevator, water tank, or any other similar Structure or necessary mechanical appurtenance extending above the roof of any building, if such structure does not occupy more than 33 1/3 percent of the area of the roof.

Sec. 4.2.5 Building Coverage

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.

Sec. 4.2.6 One-Time Subdivision of Nonconforming Lot of Record Existing Prior to April 21, 1999



Uses are allowed in the S-3 District in accordance with the Use Regulations of CHAPTER 6, *Use Regulations*.

Sec. 4.11.3 Density/Intensity and Dimensional Standards

All Development in the S-3 District shall be subject to the following Density/Intensity and Dimensional Standards:

Table 4.11.3, S-3 Density/Intensity and Dimensional Standards		
	Non-Waterfront Development Standards	Waterfront Development Standards
MAXIMUM DENSITY	3 Principal Dwelling Units per acre	
MINIMUM LOT AREA	14,500 square feet if no water or sewer is available 12,500 square feet if water or sewer is available	0.5 acre
MINIMUM LOT WIDTH	70 feet with public water and public sewer 80 feet without public water and/or public sewer	100 feet
MINIMUM LOT WIDTH AVERAGE	N/A	125 feet
MINIMUM SETBACKS		
Front/Street Side	25 feet	
Interior Side	15 feet	
Rear	25 feet	
WETLAND, WATERWAY, AND OCRM CRITICAL LINE SETBACK	N/A	35 feet
WETLAND, WATERWAY, AND OCRM CRITICAL LINE BUFFER	N/A	15 feet
MAXIMUM BUILDING COVER	30% of Lot	
MAXIMUM HEIGHT	35 feet	

Effective on: 9/10/2017, as amended

Sec. 4.11.4 Other Regulations

Development in the S-3 District shall comply with all other applicable regulations of this Ordinance, including the standards of CHAPTER 9, *Development Standards*.

ARTICLE 4.12 R-4, LOW DENSITY RESIDENTIAL DISTRICT

Sec. 4.12.1 Purpose and intent

The R-4, Low Density Residential Zoning District implements the Urban/Suburban Mixed Use policies of the *Comprehensive Plan*.

Sec. 4.12.2 Use Regulations

Uses are allowed in the R-4 Zoning District in accordance with the Use Regulations of CHAPTER 6, *Use Regulations*.

Sec. 4.12.3 Density/Intensity and Dimensional Standards

All development in the R-4 District shall be subject to the following Density/Intensity and Dimensional Standards:



Table 4.12.3, R-4 Density/Intensity and Dimensional Standards

	Non-Waterfront Development Standards	Waterfront Development Standards
MAXIMUM DENSITY	4 Principal Dwelling Units per acre	
MINIMUM LOT AREA	5,000 square feet with public water and sewer 10,000 square feet with public water or sewer 14,500 without public water and sewer	12,000 square feet
MINIMUM LOT WIDTH	50 feet	90 feet
MINIMUM LOT WIDTH AVERAGE	N/A	100 feet
MINIMUM SETBACKS		
Front/Street Side	20 feet	
Interior Side	5 feet	
Rear	10 feet	
WETLAND, WATERWAY, AND OCRM CRITICAL LINE SETBACK	N/A	35 feet
WETLAND, WATERWAY, AND OCRM CRITICAL LINE BUFFER	N/A	15 feet
MAXIMUM BUILDING COVER	30% of lot	
MAXIMUM HEIGHT	35 feet	

Effective on: 9/10/2017, as amended

Sec. 4.12.4 Other Regulations

Development in the R-4 District shall comply with all other applicable regulations of this Ordinance, including CHAPTER 9, *Development Standards*.

ARTICLE 4.13 MHS, LOW-DENSITY MANUFACTURED HOUSING SUBDIVISION DISTRICT

Sec. 4.13.1 Purpose and Intent

The MHS, Low-Density Manufactured Home Subdivision district implements the Urban/Suburban Mixed Use policies and the housing policies of the Comprehensive Plan.

Sec. 4.13.2 Use Regulations

Uses are allowed in the MHS district in accordance with the Use Regulations of Chapter 6, *Use Regulations*.

Sec. 4.13.3 Density/Intensity and Dimensional Standards

Table 4.13.3, MHS Density/Intensity and Dimensional Standards

	Non-Waterfront Development Standards	Waterfront Development Standards
MAXIMUM DENSITY	6 Principal Dwelling Units per acre	
MINIMUM LOT AREA	5,000 square feet	12,000 square feet
MINIMUM LOT WIDTH	50 feet	90 feet
MINIMUM LOT WIDTH AVERAGE	N/A	100 feet
MINIMUM SETBACKS		



Boat Slip A docking space alongside a pier, wharf, or mooring dolphins in which a waterborne boat may be moored. For purposes of this Ordinance and in the absence of an authorized quantity of Boat Slips by state or federal regulating agencies, a Boat Slip shall be considered a minimum length of 25 feet for side mooring and 15 feet for stern moorings.

Boat Yard A land-based operation primarily for the repair and service of boats, including any incidental storage of boats in the process of being repaired.

Bona Fide Forestry Operation The property is eligible for, and actually used for forestry or timber operations, and written application has been approved by the County Assessor for the special assessment for agricultural use for the property in question pursuant to SC Code Sec. 12-43-220, SC Department of Revenue Regulation 117-1780.1., and other applicable statutes, rules and regulations.

Botanical Garden A place, generally open to the public for a fee, where a wide variety of Plants are cultivated for scientific, educational, or ornamental purposes.

Brewbar A Bar, Lounge, or Restaurant which produces on the permitted premises a maximum of 2,000 barrels a year of beer for sale on the premises as allowed by SC Code Title 61, Chapter 4, as amended.

Bridge A Structure, including supports, erected over a depression or an obstruction, as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads.

Buffer, Landscape A vegetated area of varying width designed exclusively to provide screening between adjoining properties, Rights-of-Way, Parking Lots and Structures, as described in Article 9.4, *Landscaping, Screening, and Buffers*, of this Ordinance.

Buffer, Wetland An area of varying width , providing a visual, spatial, and ecological transition zone between the OCRM Critical Line and land Development. The Wetland Buffer is designed to protect water quality and wildlife habitat.

Building Any Structure having a roof supported by columns or Walls and intended for the shelter, housing, or enclosure of any individual, Animal, Plant, process, equipment, goods, or materials of any kind. When a portion thereof is completely separated from every other portion by a dividing Wall (or firewall when applicable) without openings, then each such portion shall be deemed to be a separate Building.

Building Code The Building Code of Charleston County.

Building Coverage The proportion, expressed as a percentage, of the area 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.

Building Height The vertical distance between the base flood elevation, or ground level if the Structure is not in a Flood Hazard Area as defined by the Federal Emergency Management Agency (FEMA), and:

1. The average height level between the eaves and ridge line of a gable, hip or gambrel roof; or
2. The highest point of a mansard roof; or
3. The highest point of the coping of a flat roof.

Building Height



Gable, Hip, or Gambrel Roof Mansard Roof Flat Roof

CASE # BZA-10-22-00620
TMS# 343-06-00-049

Subject Property

R-4

WELCH AVENUE

HINSON AVENUE

R-4

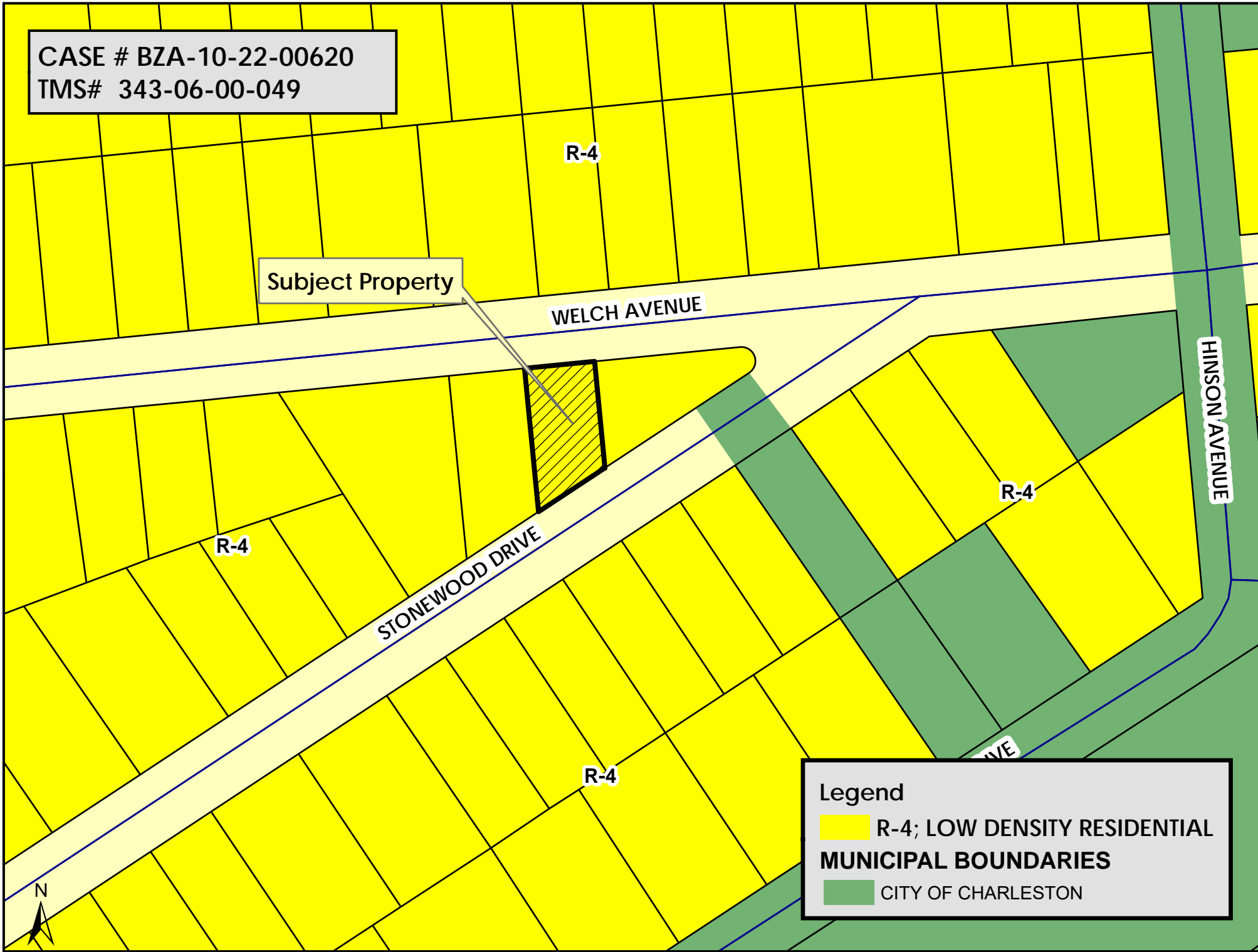
STONEWOOD DRIVE

R-4

R-4

Legend

-  R-4; LOW DENSITY RESIDENTIAL
-  CITY OF CHARLESTON

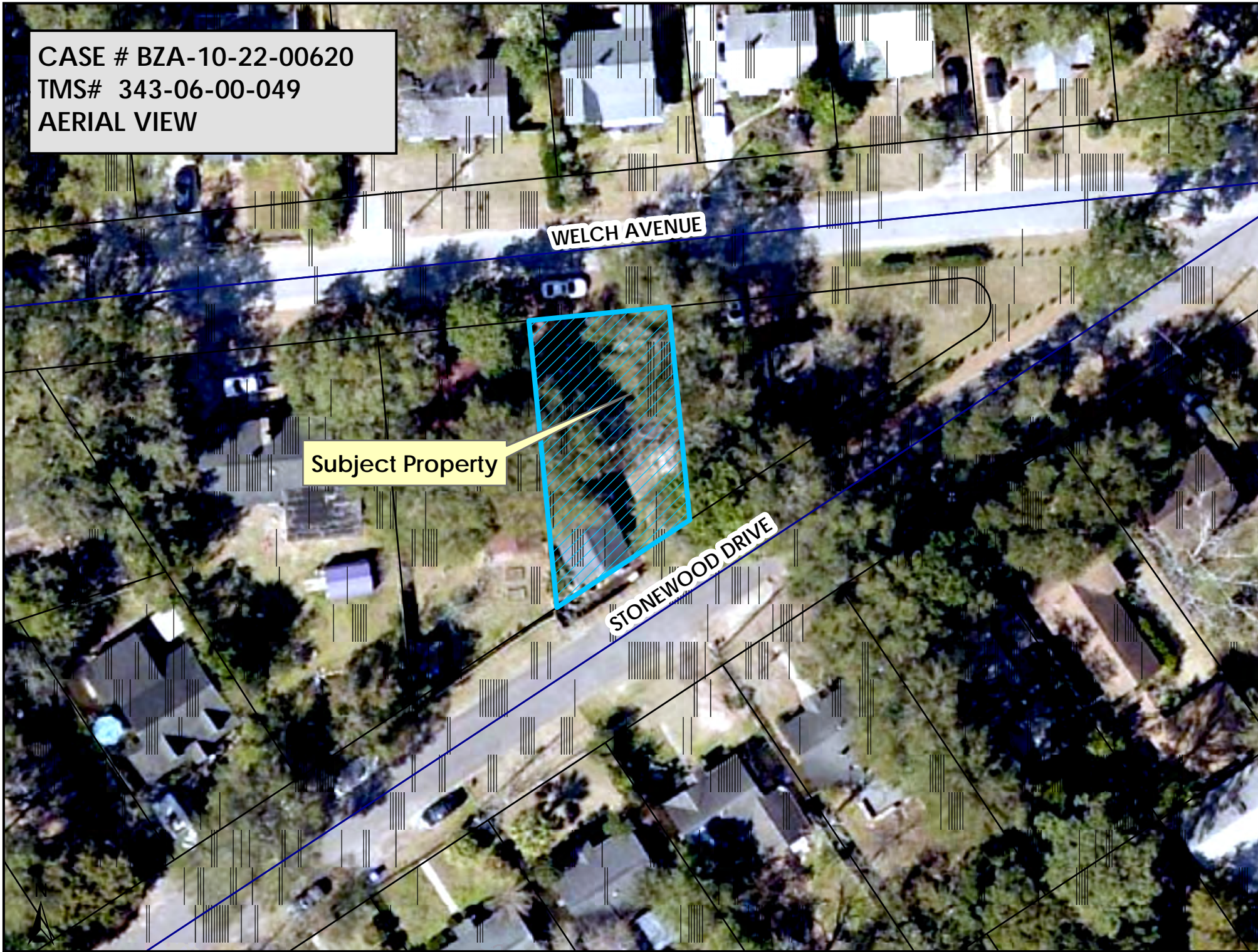


CASE # BZA-10-22-00620
TMS# 343-06-00-049
AERIAL VIEW

WELCH AVENUE

Subject Property

STONEWOOD DRIVE





WELCH AV

STONEWOOD DR



EDISTO AV

HINSON AV

RIVERLAND DR

WELCH AV

EMERSON ST

STONEWOOD DR

SEROY ST

GOLFVIEW DR

MAYBANK HWY

Case # BZA-10-22-00620

BZA Meeting of December 5, 2022

Subject Property: 2151 Welch Avenue – James Island

Proposal: Variance request to reduce the required 5' interior side setback, to reduce the required 20' front/street side setback along Stonewood Drive, and to increase the maximum building coverage for three (3) existing accessory structures.



Subject Property

Existing one-story accessory building



Subject Property

Existing uncovered pergola and uncovered deck



Subject Property



Stonewood Drive



Staff Review:

The applicant and property owner, Christopher Tift Mitchell, represented by Ross Appel, Esq. of McCullough, Khan, Appel, is requesting a variance to reduce the required 5' interior side setback, to reduce the required 20' front/street side setback along Stonewood Drive, and to increase the maximum building coverage for three (3) existing accessory structures at 2151 Welch Avenue (TMS # 343-06-00-049) on James Island in Charleston County. The subject property and all surrounding properties are located in the Low Density Residential (R-4) Zoning District.

More specifically, the applicant is requesting:

- To reduce the required 5' interior side setback by 3.4' to 1.6' and to reduce the required 20' front/street side setback along Stonewood Drive by 19.3' to 0.7' at the closest point for an existing one-story accessory building;
- To reduce the required 5' interior side setback by 4.6' to 0.4' and to reduce the required 20' front/street side setback along Stonewood Drive by 1.5' to 18.6' at the closest point for an existing uncovered deck;
- To reduce the required 20' front/street side setback along Stonewood Drive by 18.9' to 1.1' at the closest point for an existing uncovered pergola; and
- To increase the maximum 30% building coverage by 3.6% to 33.6%

The subject property is 0.10 acres and contains a single-family home that was constructed in 1950 per Charleston County records, an unpermitted one-story accessory building that was converted to an unpermitted Accessory Dwelling Unit (ADU), an uncovered pergola, and an uncovered deck. The applicant would like to bring all the existing unpermitted accessory structures into compliance.

Applicable ZLDR requirement:

The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 4 Base Zoning Districts, Article 4.2 Measurements, Computations and Exceptions, Sec. 4.2.3 Setbacks, F. Setbacks on Corner and Double-Frontage Lots, states, "On Corner and Double-Frontage Lots, Front Setback standards will apply to each Lot Line that borders a street. The remaining Lot Lines will be subject to Side Setback standards. There is no Rear Lot Line."

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 20' front/street side setbacks, 5' interior side setbacks, and maximum building cover of 30% of the lot.

Applicable ZLDR Chapter 12 Definitions, Article 12.1 Terms and Uses Defined:

Building Coverage The proportion, expressed as a percentage, of the area 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.

Staff conducted a site visit on the subject property on November 14, 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: **There are extraordinary and exceptional conditions pertaining to the subject property. The applicant's letter of intent states, "The subject property, pinched between the triangular intersection of Welch Ave. and Stonewood Drive, is trapezoidal in shape, unlike a majority of lots in Riverland Terrace, including those in the immediate vicinity. This impacts the buildable footprint of the lot when factoring in the R-4 setbacks. The property (approximately 0.1 acres) is smaller in terms of area compared to its neighbors. 2157 Welch Ave. is approximately 0.3 acres and 2153 Welch Ave is approximately 0.15 acres. The lot's small size and trapezoidal shape produce a very narrow building envelope once R-4 setbacks are considered. Finally, extraordinary, and exceptional circumstances are present due to the existence of certain structures (one story ADU, pergola, deck) inadvertently built without permits and in the setback." 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 applicant's letter of intent states, "The subject property is uniquely configured in terms of size and location when compared to the properties in the vicinity. Moreover, it does not appear that any of the other surrounding properties have unpermitted structures located in the setbacks." 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 4.2 Measurements, Computations and Exceptions, Sec. 4.2.3 Setbacks, F. Setbacks on Corner and Double-**

Frontage Lots, 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 **and** Article **may unreasonably restrict the utilization of the property. The applicant's letter of intent states, "The subject property cannot be sold until the aforementioned setback encroachments are resolved. Resolving these issues through an after-the-fact variance will avoid economic waste and unnecessary hardship to my client that would ensue if these structures would have to be torn down. Moreover, the primary dwelling on the lot is relatively small (approximately 937 sq. ft., per the included site plan). The accessory structure is necessary to make reasonable use of the property in modern times." Therefore, the request 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: Authorization of this request may not be of substantial detriment to adjacent properties or to the public good. Therefore, the character of the R-4 Zoning District may not be harmed by the granting of this variance. The applicant's letter of intent states, "The structures at issue were built sometime between 2011 and 2012. Since that time, there have been no complaints regarding these structures. Accessory structures, including ADUs, are common throughout Riverland Terrace and are consistent with the character of the neighborhood." Thus, the request may meet 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 may be the result of the applicant's own actions. However, the applicant's letter of intent contends, "When the accessory structures were completed between 2011 and 2012, my client did not realize he needed to secure zoning variances for the setback encroachments. He relied on his contractor to navigate this process. He has since learned more about the process and seeks after the fact approval to come into compliance with the ZLDR." Therefore, the request may meet 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 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. In addition, the applicant's letter of intent states, "Accessory structures, including ADUs, are common throughout Riverland Terrace. These uses are consistent with the Urban/Suburban Mixed Use policies set forth in the Comprehensive Plan." Therefore, the request 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-10-22-00620 [Variance request to reduce the required 5' interior side setback, to reduce the required 20' front/street side setback along Stonewood Drive, and to increase the maximum building coverage for three (3) existing accessory structures at 2151 Welch Avenue (TMS # 343-06-00-049) 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. In the event the Board decides to approve the application, the Board should consider the following condition recommended by Staff:

- 1. The applicant shall obtain all necessary permits for the unpermitted accessory structures including permits to convert the existing one-story accessory building to an Accessory Dwelling Unit (ADU).**

ZONING VARIANCE APPLICATION

Charleston County Board of Zoning Appeals (BZA)

Property Information			
Subject Property Address:		2151 Welch Avenue, Charleston, SC 29412	
Tax Map Number(s):		343-05-00-049	
Current Use of Property:		Single Family Residence	
Proposed Use of Property:		Single Family Residence (No Change in Use)	
Zoning Variance Description:			
Applicant Information (Required)			
Applicant Name (please print):		Christopher Tift Mitchell	
Name of Company (if applicable):			
Mailing Address:		P.O. Box 1668	
City:	Folly Beach	State:	SC
		Zip Code:	29439
Email Address:		tift@tiftproperties.com	Phone #:
		843-514-8566	
Applicant Signature:			Date:
Representative Information (Complete only if applicable. Attorney, Builder, Engineer, Surveyor etc.)			
Print Representative Name and Name of Company: Ross Appel, Esq. / McCullough Khan Appel			
Mailing Address: 2036 eWall Street			
City:	Mt. Pleasant	State:	SC
		Zip Code:	29464
Email Address:		ross@mklawsc.com	Phone #:
		843-937-9798	
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 (S13K)
		Date Filed:	10/27/2022
		Fee Paid: \$250 credit card	
Application #:	BZPA-10-22-00620	TMS #:	343-06-00-049
		Staff Initials: jfw	

ce the required 20' front/street side setback along Stonewood Drive to up to 1.1' at the

Description of Request

Uncovered Pergola - side setback along Stonewood Drive to up to 0' at the closest point. (

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.)

Mitchell seeks the following after-the-fact variances from Art. 4.12, Sec. 4.12.3 for the following issues depicted in the enclosed site plan.:

1. Accessory Dwelling Unit - Request to reduce the required 5' interior side setback by 3.4' to 1.6' and to reduce the required 20' front/street side setback along Stonewood Drive up to 0.7' at the closest point. Structure built between 2011 and 2012.
2. Uncovered Deck - Request to reduce the required 5' interior side setback by 4.6' to 0.4' and to reduce the required 20' front/street setback along Stonewood Drive up to 18'6 at the closest point.
3. Uncovered Pergola - Request to reduce the required 20' front/street side setback along Stonewood Drive up to 1.1' at the closest point.
4. Lot Coverage - Total Lot Coverage (excluding uncovered deck and pergola) is 33.6%. Requesting a 3.6% variance from R-4's 30% max.

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:

elming

The subject property, pinched between the triangular intersection of Welch Ave. and Stonewood Drive, is trapezoidal in shape, unlike the majority of lots in Riverland Terrace, including those in the immediate vicinity. This impacts the buildable footprint of the lot when factoring in the R-4 setbacks. The property (approximately 0.1 acres) is smaller in terms of area compared to its neighbors. 2157 Welch Ave. is approximately 0.3 acres and 2153 Welch Ave is approximately 0.15 acres. The lot's small size and trapezoidal shape produce a very narrow building envelope once R-4 setbacks are considered. Finally, extraordinary and exceptional circumstances are present due to the existence of certain structures (one story ADU, pergola, deck) inadvertently built without permits and in the setback.

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

The subject property is uniquely configured in terms of size and location when compared to the properties in the vicinity. Moreover, it does not appear that any of the other surrounding properties have unpermitted structures located in the setbacks.

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

The subject property cannot be sold until the aforementioned setback encroachments are resolved. Resolving these issues through an after-the-fact variance will avoid economic waste and unnecessary hardship to my client that would ensue if these structures would have to be torn down. Moreover, the primary dwelling on the lot is relatively small (approximately 937 ft2., per the included site plan). The accessory structure is necessary to make reasonable use of the property in modern times.

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:

The structures at issue were built sometime between 2011 and 2012. Since that time, there have been no complaints regarding these structures. Accessory structures, including ADUs, are common throughout Riverland Terrace and are consistent with the character of the neighborhood.

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?

This request neither seeks a change in use nor a physical expansion of a nonconformity. It does not seek a zoning map change. The request does not seek to make the utilization of the profit more profitable. Rather, the purpose of the after-the-fact variance request is to allow the current zoning violations to be resolved in a manner that avoids economic waste and unnecessary hardship.

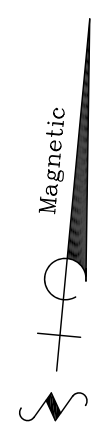
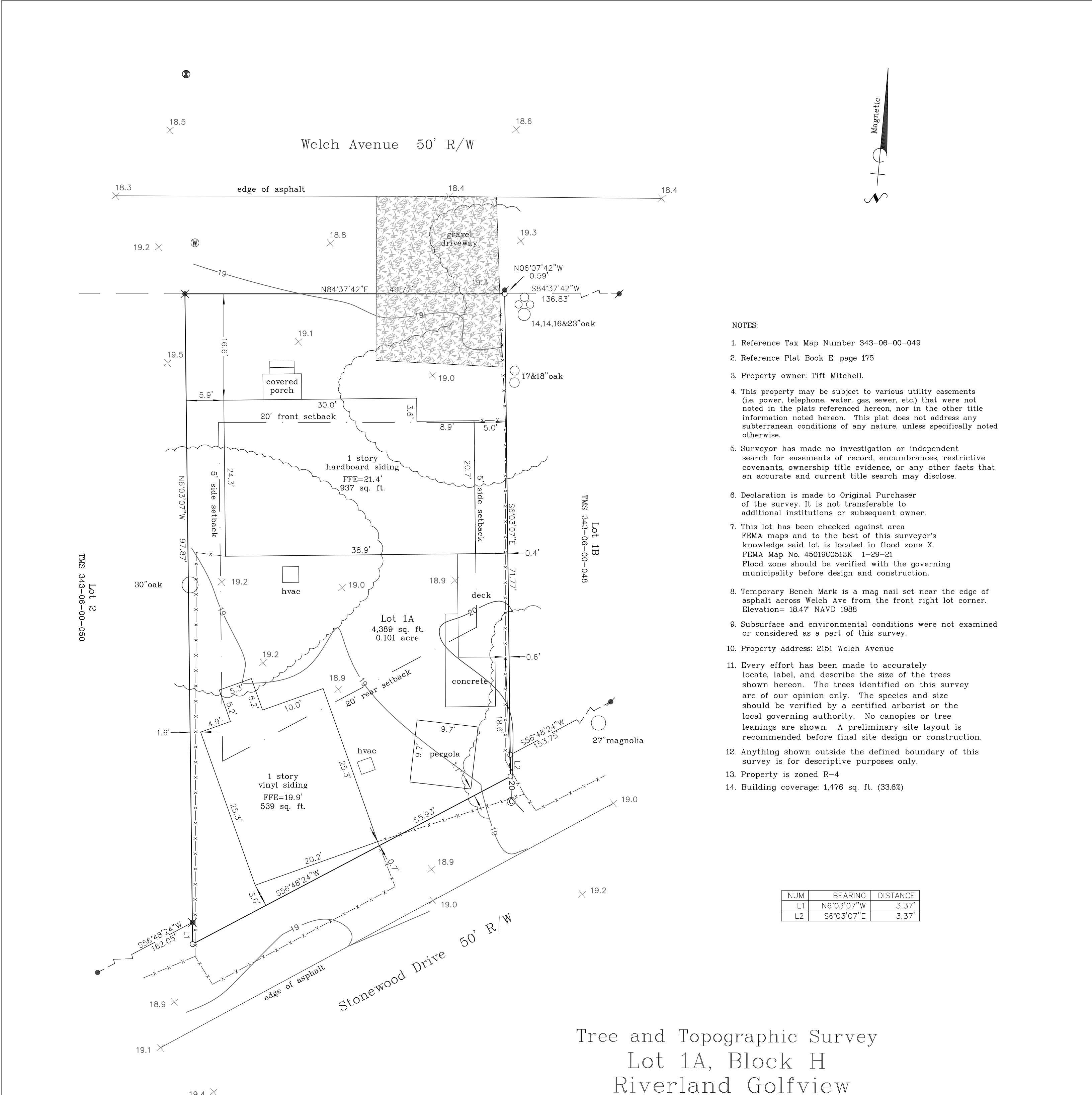
6. Is the need for the variance the result of your own actions? Explain:

When the accessory structures were completed between 2011 and 2012, my client did not realize he needed to secure zoning variances for the setback encroachments. He relied on his contractor to navigate this process. He has since learned more about the process and seeks after the fact approval to come into compliance with the ZLDR.

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

Accessory structures, including ADUs, are common throughout Riverland Terrace. These uses are consistent with the Urban/Suburban Mixed Use policies set forth in the Comprehensive Plan.

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.

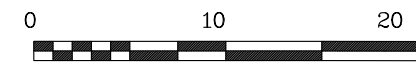


- NOTES:
- Reference Tax Map Number 343-06-00-049
 - Reference Plat Book E, page 175
 - Property owner: Tift Mitchell.
 - This property may be subject to various utility easements (i.e. power, telephone, water, gas, sewer, etc.) that were not noted in the plats referenced hereon, nor in the other title information noted hereon. This plat does not address any subterranean conditions of any nature, unless specifically noted otherwise.
 - Surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.
 - Declaration is made to Original Purchaser of the survey. It is not transferable to additional institutions or subsequent owner.
 - This lot has been checked against area FEMA maps and to the best of this surveyor's knowledge said lot is located in flood zone X. FEMA Map No. 45019C0513K 1-29-21. Flood zone should be verified with the governing municipality before design and construction.
 - Temporary Bench Mark is a mag nail set near the edge of asphalt across Welch Ave from the front right lot corner. Elevation= 18.47' NAVD 1988
 - Subsurface and environmental conditions were not examined or considered as a part of this survey.
 - Property address: 2151 Welch Avenue
 - Every effort has been made to accurately locate, label, and describe the size of the trees shown hereon. The trees identified on this survey are of our opinion only. The species and size should be verified by a certified arborist or the local governing authority. No canopies or tree leanings are shown. A preliminary site layout is recommended before final site design or construction.
 - Anything shown outside the defined boundary of this survey is for descriptive purposes only.
 - Property is zoned R-4
 - Building coverage: 1,476 sq. ft. (33.6%)

NUM	BEARING	DISTANCE
L1	N6°03'07"W	3.37'
L2	S6°03'07"E	3.37'

Tree and Topographic Survey
 Lot 1A, Block H
 Riverland Golfview
 Located on
 James Island
 Charleston County, South Carolina

FIELD DATE: March 3, 2022 SCALE 1"= 10'
 REVISED: October 19, 2022 (SCDOT quitclaim along Stonewood Drive and coverage)



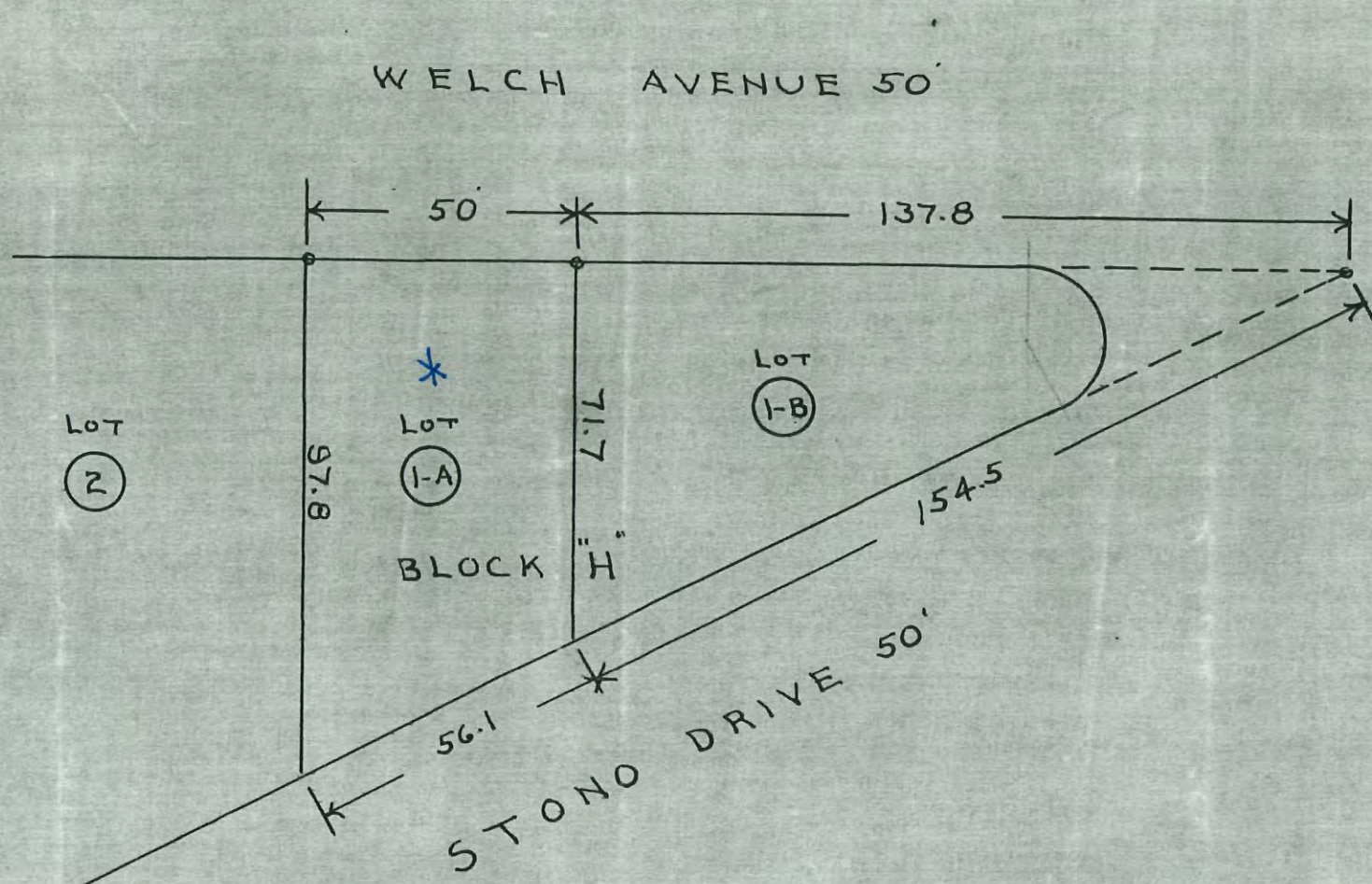
- LEGEND:
- 5/8" rebar found
 - 1' open pipe found
 - ⊗ 1' crimped pipe found
 - 5/8" rebar set
 - ⊗ temporary bench mark
 - ⊙ sanitary sewer cleanout
 - ⊙ water meter
 - x-x- 6' wood fence
 - ~ tree canopy
 - 19- contour line
 - 19.8 x spot elevation



2551 Ashley River Road
 Charleston, SC 29414
 Phone: (843) 571-5191
 Fax: (843) 571-7447
 palmettolandsurveying@gmail.com



James G. Penington
 James G. Penington, P.L.S. No. 10291
 Palmetto Land Surveying, Inc.
 2551 Ashley River Road
 Charleston, S.C. 29414 571-5191



Register, Mason Conveyance Office,
Charleston County, S.C.

Recorded by filing in Book C-55,
page 503 at 8:30 o'clock April 14,
1952. This tracing provided by
and original (in white print) de-
livered to George J. Incott, Julius E.
Cogswell, Rutherford Wood

PLAT SHOWING RESUBDIVISION OF LOT 1,
BLOCK "H", LOCATED IN RIVERLAND
GOLFVIEW, JAMES ISLAND, CHARLESTON
COUNTY, S.C. AS SHOWN ON A PLAT RECORDED IN
BOOK Z-50 PAGE 123. MADE AT REQUEST OF
MERRIMAC REALTY CO.

SCALE 1"=30' MARCH 31, 1952 BY Joseph Feedle C.E.