

BOARD OF ZONING APPEALS



STAFF REPORT DEPARTMENT OF GROWTH MANAGEMENT

MEETING DATE:	December 5, 2023
PROJECT:	15 Meriwether Court – Variance Request
PROJECT MANAGER:	Jordan Holloway, Senior Planner

APPLICATION REQUEST: The Applicant, BFL Builders, is requesting a variance for the following application (Attachment 1):

ZONE-11-23-018631 - The Applicant is requesting a variance from Unified Development Ordinance (UDO) Section 5.15.5.C to encroach 5' into the 10' side setback.

The property is identified by tax map number R610 039 00A 0388 0000 and is located at 15 Meriwether Court in the Neighborhood General – HD Zoning District. The BZA hearing was advertised in The Island Packet on November 19, 2023 (Attachment 2), the property was posted, and adjacent property owners were notified via certified mail.

INTRODUCTION: The subject property consists of a .174-acre parcel located at 15 Meriwether Court. The parcel is currently vacant/undeveloped. The Applicant is proposing to construct a single-family detached dwelling and carriage house on the site (Attachment 1). As the property is located within the Historic District, a Certificate of Appropriateness will be required prior to building permit issuance.

BACKGROUND: Section 5.15.5.C of the UDO requires a 10' side setback for a "cottage" building type as well as "additional building type". Due to the 34" caliper live oak that is situated towards the front of the lot, other building types would not be buildable on this lot. There is also a 30' drainage easement that runs along the rear property line and the top of bank for Verdier Cove, further constricting the developable area of the lot. Both "cottage" and "additional building type" homes require a 10' side setback. The Applicant is proposing to encroach 5' into the 10' side setback to preserve the 34" live oak on the property. Encroaching 5' into the side setback allows for 7' of separation from the tree to the home.

The Applicant has had an arborist assess the condition of the live oak, in which the arborist recommends fertilization, pruning, and building the house and porch on piers so as not to disturb the majority of the area under the canopy (Attachment 3).

BOARD OF ZONING APPEALS ACTIONS: As granted by the powers and duties set forth in Section 2.2.6.D.2 of the Unified Development Ordinance, the Board of

Zoning Appeals has the authority to take the following actions with respect to this application:

1. Approve the application as submitted by the Applicant;
2. Approve the application with conditions; or
3. Deny the application as submitted by the Applicant.

REVIEW CRITERIA & ANALYSIS: In assessing an application for a Variance, the Board of Zoning Appeals is required to consider the criteria set forth in Section 3.7.3 of the UDO. The seven criteria are provided below followed by a Staff Finding for each criterion.

As expressed in Section 3.7.3.B.1., a variance may be granted as applicable, and the application must comply with the following:

Unnecessary Hardship. A Variance from a dimensional or design standard may be granted by the Board of Zoning Appeals in an individual case of unnecessary hardship upon a finding that all the following standards are met:

1. Section 3.7.3.B.1.a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;

Finding. 15 Meriwether Court has a 34" live oak situated towards the front-center of the property, a 30' drainage easement at the rear property line, top of bank for Verdier Cove, and an awkward parcel shape that limits the buildable area of the lot.

2. Section 3.7.3.B.1.b These conditions do not generally apply to other property in the vicinity, particularly those in the same zoning district;

Finding. Other lots in this zoning district and neighborhood do not generally have the parcel shape, or the existing conditions of a rear drainage easement, top of bank for a cove, or the live oak that the subject property has.

3. Section 3.7.3.B.1.c Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property in a manner consistent with others in the zoning district;

Finding. The existing conditions on this lot are unique for the zoning district as well as the general neighborhood. The Applicant would not be requesting a variance if the 34" live oak was not located on the property. The Applicant is requesting to encroach 5' into the side yard setback to preserve the tree.

4. Section 3.7.3.B.1.d The need for the Variance is not the result of the Applicant's own actions;

Finding. The subject parcel was not created by the Applicant as it was an existing lot and the variance request is not the result of the Applicant's own actions.

5. Section 3.7.3.B.1.e The authorization of a Variance does not substantially conflict with the Comprehensive Plan and the purposes of this Ordinance;

Finding. The approval of the requested variance would not substantially conflict with the Comprehensive plan or the purposes of the ordinance.

6. Section 3.7.3.B.1.f The authorization of a Variance will not result in a substantial detriment to adjacent property or the public good, and the character of the District will not be harmed by the granting of the Variance;

Finding. The approval of the requested variance would not result in substantial detriment to adjacent property owners or the public good. The property to the east of the subject parcel is POA owned open space and then Thomas Heyward Street. The design of the structures will be reviewed by the Historic Preservation Commission through the Certificate of Appropriateness process to ensure compliance with the character of the district.

7. Section 3.7.3.B.1.g The reason for the Variance is more than simply for convenience or to allow the property to be utilized more profitably.

Finding. The reason for the variance is to allow the property to be utilized in a similar fashion as the other properties within the Landen Oaks neighborhood and the Neighborhood General – HD Zoning District.

CONCLUSION: Applying the seven variance criteria, the Board of Zoning Appeals must determine if the literal interpretation and enforcement of the UDO and provisions of the Ordinance would result in unnecessary hardship to the property owner(s). Findings of fact and using the criteria will be required.

ATTACHMENTS:

1. Application, Narrative, and Proposed Site Plan
2. Public Advertisement
3. Arborists Report