

222 Appletree Street- Setback Variance

June 25, 2026

The applicant is requesting relief from the zoning requirements for setbacks in the (R3) high-density residential zone. The applicant is requesting a variance for a reduction to one of the front setbacks, as this is a corner lot, required by section 14-603 of the Zoning Ordinance.

The subject property 222 Appletree Street is located at the corner of Appletree Street and East Cooper Street. The lot is 9,807 square feet and is zoned high-density residential. The applicant wishes to reduce one of the front setbacks from the required 20 feet to 10 feet. This would be a 10-foot variance from the requirements in the Zoning Ordinance. The front setback that the applicant wishes to reduce is the front of the lot that faces East Cooper Street, the fronts of the townhomes face Appletree Street. The property owner wishes to construct 4 townhomes that are each 43'5" in length and 22' wide.

Each townhome has its own driveway that fronts Appletree Street. Altering these driveways to serve the townhomes as rear loaded driveways could improve the streetscape along Appletree Street and remove potential conflict points.

The lot currently had a recently removed structure. The structure did not meet the 20' setback requirement either. The building also encroached 10' into the front setback that faces East Cooper Street. The previous building on the property was a legal nonconforming structure, as it was constructed before the setback requirements in the Zoning Ordinance were established.

Items for the BZA to consider and conditions for approval:

1. A 10' variance for the front setback facing East Cooper Street to be 10' instead of the required 20' setback in the Zoning Ordinance.
2. The Board may want to consider requiring a condition of approval that all of the townhomes are to be served by rear-loaded driveways.

As a reminder to the Board, section 14-404 of the Zoning Ordinance provides guidance for consideration of requested zoning variances. Here are some points the Board may find applicable here.

1. No variance from the provisions of this ordinance shall be granted unless the board of zoning appeals makes specific written findings of fact based directly on the standards and conditions imposed by this section. These standards are as follows:

- a. That by reason of exceptional narrowness, shallowness or shape of a particular piece of property at the time of enactment of this ordinance, or by reason of exceptional topographic conditions or other exceptional and extraordinary situation or condition of such piece of property, the strict application of any bulk standards contained within this ordinance would result in peculiar and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property.

This lot is a corner lot, so while that does not make it necessarily unique, the front that the variance is being requested would be a side setback if this property were not a corner lot and it would meet the side setback requirement. The previous structure on the property was set back 10' from the property line and other structures along East Cooper Street are setback about 10' from the property line. Future concerns may arise with East Cooper Street only having 30' of right-of-way if improvements need to be made or sidewalks are to be constructed.

- b. The variance is the minimum variance that will relieve such difficulties or hardship and make possible the reasonable use of the land, building, or structure.

The requested variance setback is the minimum size that would allow for there to be four townhomes on the lot.

- c. The variance will not authorize uses in a zone district other than those permitted by this ordinance.

The use is consistent with the zoning district and with surrounding uses.

- d. Financial considerations shall not be considered as a basis for granting a variance.

If the applicant were to remove one unit from the property, they would be able to comply with the setbacks. The financial yield the applicant would gain from having four townhomes versus three townhomes shall not be considered.

2. The board of zoning appeals, in making its findings of fact, may inquire into the following evidentiary issues, as well as any others deemed appropriate:

- a. The granting of the variance will not be detrimental to the public welfare, injurious to other property or improvements in the area in which the property is located or a substantial impairment to the intent and purpose of the zoning district where the property is located or the general provisions of the ordinance.

This use and proposed townhomes are consistent with what the zoning ordinance has intended for this area. The proposed townhomes will have the same setbacks as the current structure on the property, which will not change the effects of the property on surrounding properties.

- b. The proposed variance will not impair an adequate supply of natural light and air to adjacent property, substantially increase congestion in the public streets, increase the danger of fire, endanger the public safety, or impair property values within the neighborhood.

The proposed variance will not have any of these effects.

- c. The alleged difficulty or hardship has not been knowingly or intentionally created by any person who has an interest in the property.

The owner was aware that this property is a corner lot and that there are two front setbacks that would need to be met.

- d. The proposed variance is consistent with the spirit and intent of this ordinance and the adopted land use and transportation plan.

The variance would not be abnormal for the surrounding area or the surrounding uses allowed by the zoning ordinance. However, there could be potential impacts to East Cooper Street improvements. There are no current plans, but obtaining additional right-of-way in the future could be difficult if the variance is granted.

The Board may want to consider that this lot is a corner lot, making the setback requirements stricter than if it were an interior lot. The requested variance is to have one of the front setbacks be 10', if this was an interior lot, the setback requirement would be only 5'. The Board may also want to consider that the proposed setbacks will be the same as what the front setbacks were for the legal nonconforming structure on the property and some of the existing surrounding structures. The Board may also want to consider the rear-loaded driveways condition of approval mentioned above.