



TOWN OF WARRENTON

Community Development Department

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STAFF REPORT

August 19, 2024

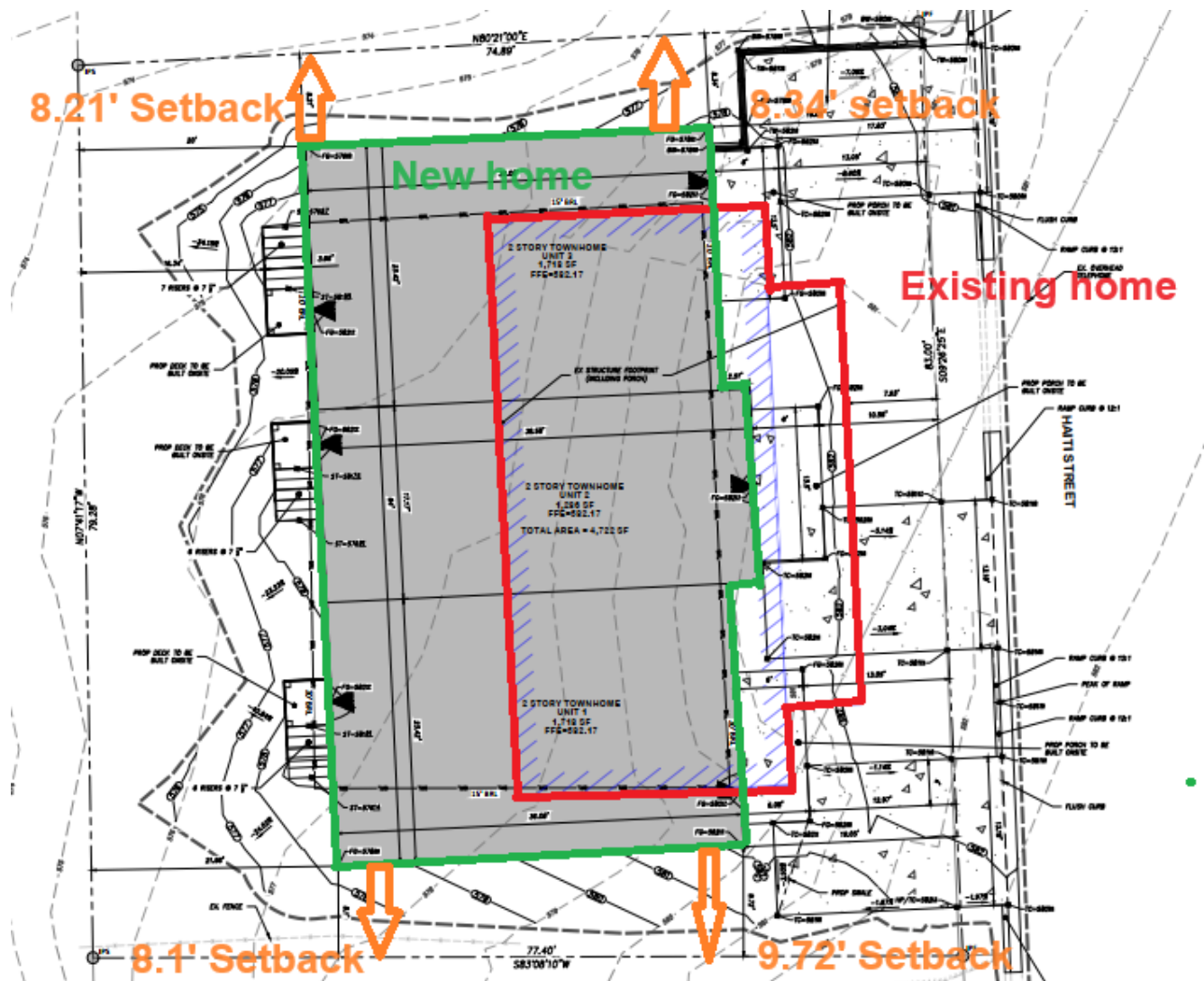
Property Owner(s) / Applicant:	Fauquier Habitat for Humanity/ Melanie Burch
Application #	BZA #2024-2
Location:	130-134 Haiti Street
PIN:	6984-44-8436-000
Acreage:	0.1417 Acres (6,176 Square Feet)
Zoning	Residential R-6
Comprehensive Plan Designation:	Medium Density Residential
Land Use:	Residential, Three-Family Dwelling
Request:	The Applicant is seeking approval of a Variance from Zoning Ordinance Article 3-4.3.4, to allow the construction of a three-family dwelling within the required side yard setback.
Recommendation:	Staff recommends the Board of Zoning Appeals approve BZA #2024-2 per the pattern motion of approval dated September 3, 2024.

REQUEST

The applicant is requesting a variance from Article 3-4.3.4 of the Zoning Ordinance to reconstruct a three-family dwelling or "Triplex" within the side setback of the subject property.

The proposed location for the three-family dwelling would require a variance of approximately 7' on each side of the parcel from the required 15' side setback. The request for the variance of side yard setback comes from the inability to meet minimum side yard setback requirements due to the size of the home being required to meet minimum size and design standards for a triplex based on Universal Design Standards and accessibility requirements.

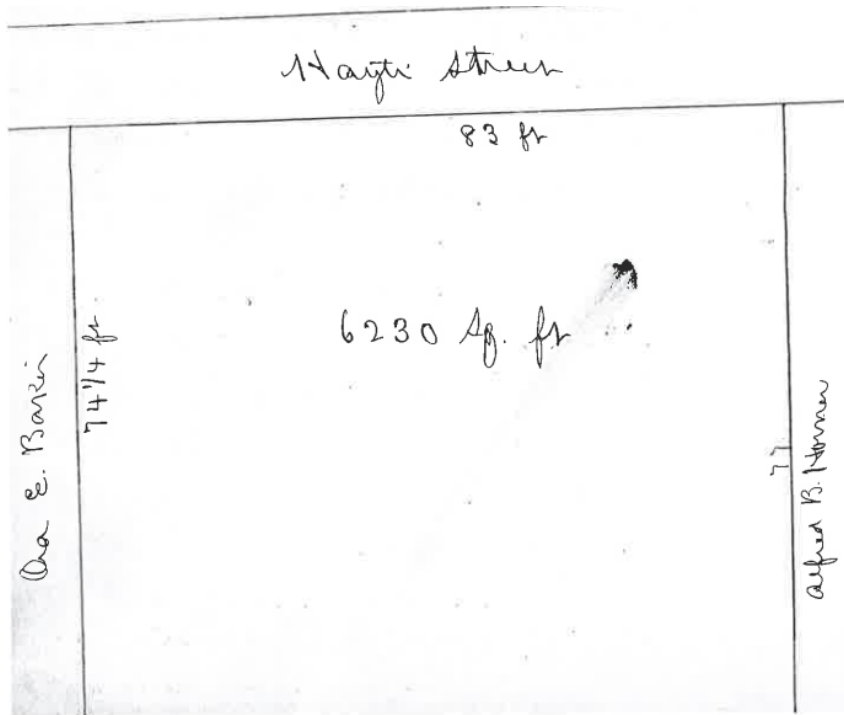
(130-134 Haiti Street Proposed Lot Layout)



BACKGROUND

The subject property was created from two separate lots of record as part of an estate division in 1895 as recorded in Deed Book 86 page 297. The lot contained approximately 6,230 square feet at the time of its sale in 1914 as recorded in Deed Book 110 page 302.

(Lot Depiction from 1914 Deed)



The property is zoned Residential (R-6) and has remained R-6 since at least 1991. Prior Zoning Maps indicate that the lot was zoned R-B in the 1950's, and R-7 (Replaced by R-6 in 1991). The lot is currently 0.1417 acres (6,176 square feet) in size, and fronts along Haiti Street for approximately 83 feet.

A structure labeled as "colored tenements" also known as "multi-family housing" appears on a Sanborn Map dated 1924, but the structure did not appear in a deed of record until 1969. Staff estimates the structure was constructed sometime between 1914 and 1924 based off of the Sanborn Map. The applicant acquired the subject property on October 31, 2019, via deed recorded in Deed Book 1612, Page 287. Adjacent uses are single-family detached dwellings and a two-family dwelling.

ANALYSIS

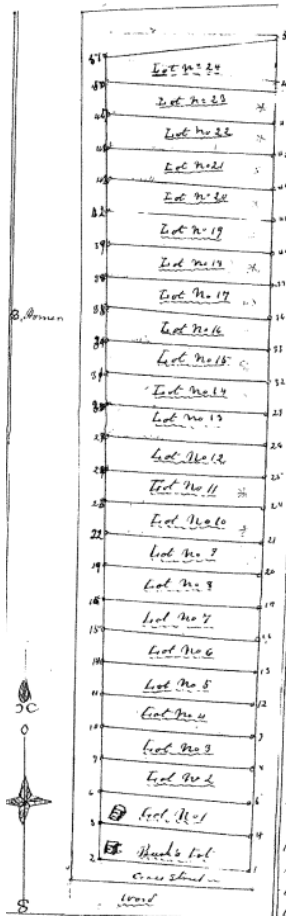
The applicant has requested a variance of the required side yard setback, due to the existing lot's non-conforming size. These lots were created prior to the first Town Zoning Ordinance in 1955. As shown in the lot depiction from a deed dated June 29th, 1872, the subject property and adjacent lots along Haiti Street were created as long, narrow parcels that have never met the lot size requirements for their respective Zoning district.

Staff Report, Board of Zoning Appeals

BZA #2024-2

August 19, 2024

(Lot Depiction from 1872 Deed)



The current Zoning Ordinance, under Article 3-4.3.4, requires the following lot size and setback for a three-family dwelling:

Use	Minimum	Minimum	Maximum	Minimum Setbacks		
	Lot Size (sq. ft.)	Lot Frontage (at front setback)	Lot Coverage (impervious surfaces)	Front	Side	Rear
Single-Family Dwelling	6,000	55 ft.	65%	20 ft.	8 ft.	20 ft.
Two-Family Dwelling	9,000	65 ft.	75%	20 ft.	15 ft.	20 ft.
Three-Family Dwelling	12,000	75 ft.	80%	20 ft.	15 ft.	20 ft.
Four-Family Dwelling	15,000	85 ft.	80%	20 ft.	15 ft.	20 ft.
Other Permitted Uses	6,000	55 ft.	65%	20 ft.	15 ft.	20 ft.

The proposed location for the three-family dwelling would require a variance of approximately 7' on each side of the parcel from the required 15' side setback. The request for the variance of side yard setback comes from the inability to meet minimum side yard setback requirements due to the size of the home being required to meet minimum size and design standards for a triplex based on Universal Design Standards and accessibility requirements.

Staff has reviewed the requested variance against the Virginia State Code and the Town of Warrenton Zoning Ordinance to determine if the request meets the criteria required to grant the variance. Below are the variance criteria with the staff's opinion on how the application meets each criterion. The BZA will need to determine if the application has provided sufficient proof that the request meets the standards for a variance as defined by Virginia State Code. Virginia State Code and the Zoning Ordinance define a variance as:

Variance – In the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the Ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the Ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

In granting a variance, the BZA may impose such conditions regarding a proposed structure's location, character, and other features or use as it may deem necessary in the public interest. The BZA may require a guarantee or bond to ensure compliance with the imposed conditions. The property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinances. Per the Virginia State Code,

Notwithstanding any other provision of law, general or special, a variance shall be granted if the evidence shows that the strict application of the terms of the Ordinance would:

1. Unreasonably restrict utilization of the property, or

The structure on the subject property appears to have been constructed between 1914 and 1924, which would pre-date the Town of Warrenton's first Zoning Ordinance in 1955 and make the structure legally non-conforming to the current setbacks required by the Zoning Ordinance.

The applicant has proposed to re-construct an existing three-family dwelling, maintaining the existing non-conforming use. However, due to the necessity of meeting current accessibility requirements, the applicant requires a reduction in the side yard setback to accommodate the increased size of the structure.

OR

2. that granting the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the Ordinance, or

The current lot size does not conform to the current or previous Ordinance requirement for a three-family dwelling but has historically been utilized for that purpose. The Ordinance currently requires that a three-family dwelling have a minimum lot size of 12,000 square feet. The existing lot is half of the required size. Prior Ordinances in 1959 and 1991 required a minimum lot size of 10,000 square feet and 12,000 square feet respectively; at no time in the past did the lot meet minimum size requirements for the use.

The lot is also encumbered by an existing 15' utility easement along the entire frontage of the property on Haiti Street. A variance would allow an existing use to be reconstructed to meet current code requirements without affecting the existing easement.

OR

3. *alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability."*

The applicant's statement of justification notes the increase in the size of the triplex is due to changes in universal design guidelines and Americans with Disabilities (ADA) construction requirements. A variance would allow the applicant to construct a dwelling that meets minimum building code requirements for ADA accessibility.

In addition to the three points above, no variance shall be authorized by the BZA unless it is determined that the request meets all five of the following criteria as listed in Zoning Ordinance Section 11-3.11.1 2. - *Standards for Variances*:

- a) *The property interest for which the variance is being requested was acquired in good faith, and any hardship was not created by the Applicant for the variance.*

The property was acquired in good faith by the applicant in 2019 by purchase of the property recorded in deed book 1612, page 287. The hardship was not created by the applicant, due to the age of the property and its pre-existing lot size of approximately 6,230 square feet, which is less than the minimum required for a three-family dwelling by Article 3-4.3.4 of the Zoning Ordinance.

- b) *The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area.*

The existing use of the subject property as a three-family dwelling will continue. The proposed triplex will be located across the street from single-family detached dwellings at 129 Haiti Street (6984-44-9454-000), 123 Haiti Street (6984-44-9451-000), and an existing duplex located at 131 Haiti Street (6984-44-9458-000). The impact to neighboring properties would be limited due to the area being primarily residential, and a continuation of the existing use as a three-family dwelling.

- c) *The condition or situation of the property is not of so general or recurring of a nature as to be adopted as an amendment to the Ordinance.*

This property is unique in that the Haiti Street neighborhood is comprised of narrow and deep lots as depicted on a subdivision plat from 1872. The unique nature of the property's condition does not lend itself to an amendment of the Ordinance that would apply to all properties located within the Town.

- d) *The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property.*

The existing three-family dwelling was constructed prior to the first Zoning Ordinance, but three-family dwellings have been a by-right permitted use in the district since approximately 1976, and prior to that as “apartments” in 1959. A variance to reduce the side yard setback by approximately 7’ would not change the existing residential use or change the Zoning district.

- e) *The relief or remedy sought by the variance application is not available through a special use permit process that is authorized in the Ordinance or the process for modification to the Zoning Ordinance at the time of the filing of the variance application.*

A Special Use Permit cannot provide relief from the setback requirements, nor are any waivers available for homes unable to meet setback requirements. The Zoning Ordinance does not allow for administrative approvals of setback reductions for non-conforming lots.

STAFF RECOMMENDATION

To grant a variance, the BZA must find that the application meets one of the first three criteria listed above regarding unreasonable utilization, alleviating a hardship, or accommodating a person with a disability. In addition, the variance must also meet all five of the remaining criteria noted above regarding good faith acquisition, no substantial detriment, not generally recurring, does not allow an unpermitted use, and is not available by other means.

Staff recommends that the variance application be granted due to the unique condition of the property. The imposition of a 15-foot-wide side-yard setback is a restriction on the reasonable use of the subject property, where the existing structure on the property has been utilized as a three-family dwelling since at least the 1920’s. A variance to reduce the side yard setback by 7’ will not be of substantial detriment to adjacent properties and will not result in a change in the use of the property. Staff recommends approving the Variance request to permit a reduction in side yard setback requirement to allow reconstruction of the existing triplex with the restriction that any accessory structures proposed on the triplex property such as porches, decks, and HVAC equipment do not extend beyond the allowable encroachments into the front and rear yard setbacks.

ATTACHMENTS

- A. Proposed Conditions of Approval / Proposed Motion for Denial
- B. Maps – Location, Zoning
- C. Photographs – Existing Conditions
- D. Existing Conditions Plat
- E. Proposed Lot Layout
- F. Variance Application Materials
- G. Building Plans for Triplex
- H. Deed of purchase-2019
- I. Historic Deed Research 1914-1969
- J. Utility Easement Agreement- 2020