



BOARD OF ZONING ADJUSTMENT REGULAR MEETING AGENDA

Wednesday, April 6, 2022 – 4:30 p.m.
City Council Chamber, 141 N. Ross Street, Auburn, AL

Drew Goodner, Chair

Kimberly White, Vice Chair

Frost Rollins

Emmy Sorrells

Marty Heffren

Laticia Khalif, Supernumerary

Mary Boyd, Supernumerary

ROLL CALL

APPROVAL OF MINUTES

BZA Meeting – March 2, 2022

CHAIRMAN'S OPENING REMARKS

"Any persons aggrieved by any decision of the Board may within fifteen (15) days after such decision appeal to the Circuit Court having jurisdiction according to Section 908.02 of the Zoning Ordinance of the City of Auburn, Alabama."

NEW BUSINESS

1. Variance to Table 5-2 Lot Area, Setback, Bulk Regulations and Parking Requirements:
Neighborhood Conservation District BZ-2022-005

Request: Variance of 28' to the required 42' rear setback to allow an addition to be constructed up to 14' from the rear setback

General Location: 933 Terrace Acres Circle

Zoning District: Neighborhood Conservation District (NC)

Applicant: Thomas and Josceline Steiner

OTHER BUSINESS

CHAIRMAN'S COMMUNICATION

STAFF COMMUNICATION

ADJOURNMENT

AUBURN BOARD OF ZONING ADJUSTMENT

March 2, 2022

MINUTES

The Auburn Board of Zoning Adjustment (BZA) met in a regular session on March 2, 2022 at 4:30 p.m. in the City Council Chambers of the Public Safety Building located at 141 North Ross Street.

MEMBERS PRESENT Emmy Sorrells, Kim White, Drew Goodner, Frost Rollins;
Supernumeraries: Laticia Khalif, Mary Boyd

MEMBERS ABSENT Marty Heffren

STAFF PRESENT Scott Cummings, Executive Director of Development Services; Steve Foote, Planning Services Director; Katie Robison, Principal Planner; Logan Kipp, Principal Planner; Jay Howell, Planner; Morgan Shepard, Planner; Jessica Harmon, Administrative Assistant

APPROVAL OF MINUTES

Mr. Goodner made a motion to approve the minutes of the February 2, 2022 meeting.

Ms. Sorrells seconded the motion. The motion passed with a vote of 5-0.

CHAIRMAN'S COMMUNICATION

"Any persons aggrieved by any decision of the Board may within fifteen (15) days after such decision appeal to the Circuit Court having jurisdiction, according to Section 908.02 of the Zoning Ordinance of the City of Auburn, Alabama."

"The Board consists of five regular members and two supernumeraries. The supernumeraries participate in all discussions but only vote when necessary to assure four voting members and have a board consisting of five members, when possible. All decisions are made with a roll call vote and a concurring vote of four members is required to approve an application for a variance."

NEW BUSINESS

1. Variance to Section 502.02(D), Performance Residential Developments, Twin House, of the *City of Auburn Zoning Ordinance* **BZ-2022-003**

Ms. Robison presented the request for a variance to the maximum allowed 30% Floor Area Ratio (FAR) for Twin Houses. The subject properties represent three lots located at 601-603 Harper Avenue and 306-308 Summer Hill Road in the Medium Density Residential District (MDRD) zoning district. Ms. Robison provided a review of the minimum standards required to approve a variance. Staff recommended denial based on the circumstances.

Mr. Goodner opened the public hearing.

The applicant, Joel Funderburk, provided details of this variance request and Gary Cantini spoke in favor of the variance.

After no further comments were received, the public hearing was closed.

Lot 14-A. Mr. Goodner made a motion to approve case BZ-2022-003, a variance of 10% to allow a maximum FAR of 40%, Ms. Sorrells seconded the motion.

A vote was taken, and the motion passed by a vote of 4-1, with Kim White dissenting.

Members Drew Goodner, Frost Rollins, Emmy Sorrells and Laticia Khalif voted for approval of case BZ-2022-003, Kim White voted against approval of case BZ-2022-003.

Lot 14-B. Mr. Goodner made a motion to approve case BZ-2022-003, a variance of 11% to allow a maximum FAR of 41%, Ms. Sorrells seconded the motion.

A vote was taken, and the motion passed by a vote of 4-1.

Members Drew Goodner, Frost Rollins, Emmy Sorrells and Laticia Khalif voted for approval of case BZ-2022-003, Kim White voted against approval of case BZ-2022-003.

Lot 15-B. Mr. Goodner made a motion to approve case BZ-2022-003, a variance of 10% to allow a maximum FAR of 40%, Ms. Sorrells seconded the motion.

A vote was taken, and the motion passed by a vote of 4-1.

Members Drew Goodner, Frost Rollins, Emmy Sorrells and Laticia Khalif voted for approval of case BZ-2022-003, Kim White voted against approval of case BZ-2022-003.

All three request were approved.

2. Variance to Section 429.07, Corridor Overlay Regulations on Fences and Screening, of the *City of Auburn Zoning Ordinance* BZ-2022-004

Mr. Howell presented a variance request to allow utility meters to be located on a building plane that faces a designated corridor East University Drive. The subject property is located at 1212 Gatewood Drive in the Corridor Redevelopment District - Suburban (CRD-S) zoning district. Mr. Howell provided a review of the minimum standards required to approve a variance. Staff recommended approval based on the circumstances and staff's findings.

Mr. Goodner opened the public hearing.

The applicant, David Slocum and general contractor, John Marshal, provided details of this variance request.

After no further comments were received, the public hearing was closed.

Mr. Goodner made a motion to approve Case BZ-2022-004, Variance to Section 429.07, Corridor Overlay Regulations on Fences and Screening, of the *City of Auburn Zoning Ordinance*, based on the staff conditions below:

1. Screening (fencing and landscaping) be provided for all utilities and appurtenances facing East University Drive in compliance with Section 429's materials and architecture requirements, such plans and improvements subject to review and approval by the Planning Director.
2. A minimum of 3' shall be provided between the face of utility meter boxes and any screening wall/fence as specified in applicable building codes.
3. Dimensions of the proposed screening fence to be consistent with the proposed plans submitted by the applicant. The fence height shall be consistent with the existing post heights (already inserted in the ground). If practical, horizontal boards will be used for fencing rather than vertical boards.

Ms. Khalif seconded the motion.

A vote was taken, and the motion passed by a vote of 5-0.

Members Drew Goodner, Frost Rollins, Emmy Sorrells, Kim White and Laticia Khalif voted for approval of case BZ-2022-004.

OTHER BUSINESS

CHAIRMAN'S COMMUNICATION – None

STAFF COMMUNICATION - None

The meeting was adjourned at 5:15 p.m.

Drew Goodner, Chair

Kim White, Vice Chair

City of Auburn Board of Zoning Adjustment
BZ-2022-005
933 Terrace Acres Circle

Meeting Date: April 6, 2022

Property Owner(s): Thomas and Joscelin Steiner

Request: Variance to the required 42' rear setback to allow an addition to be constructed up to 14' from the rear property line

Zoning Ordinance

Requires: Table 5-2: Lot Area, Setback, Bulk Regulations and Parking Requirements: Neighborhood Conservation District requires a rear setback of 42'

Location: 933 Terrace Acres Circle

Review by: Amber English, Planner

Current Zoning: Neighborhood Conservation (NC-15)

Surrounding Zoning/Use:

Direction	Zoning	Land Use
North	Neighborhood Conservation (NC-15)	Single-family residential
South	Neighborhood Conservation (NC-15)	Single-family residential
East	Neighborhood Conservation (NC-15)	Single-family residential
West	Neighborhood Conservation (NC-15)	Single-family residential

Property Description: The subject property is Lot 38-A of the Terrace Acres Subdivision and is approximately 34,995 square feet. A single-family residence was constructed on the property in 1964. According to the Lee County Tax Assessor's office, the home is 4,247 square feet. There is a notable amount of mature tree-growth on the property, particularly on the western (side) and northern (rear) property lines.

Discussion: The applicant wishes to enclose a portion of an existing patio to provide a bedroom and living space for a family member. The enclosure would create an additional 263 square feet of heated and cooled space, for a total of 4,510 square feet.

Prior Action Related to this Site:

Date	Action
1957	The subject property was created at Lot 38 with the recording of Terrace Acres Subdivision.
1964	Single-family home was constructed on the subject property.
1996	The subject property was resubdivided to become Lot 38-A with the recording of Redivision of Lots 37 and 38, Terrace Acres Subdivision.

Analysis: Applicable city zoning and state regulations require specific findings to support that a variance request meets the minimum standards for approval. Standards from the zoning ordinance are listed below with applicant provided justification and staff comments (*italicized*). The zoning ordinance requires that the applicant meet all of the following requirements (A-G):

- A. The granting of the variance shall be in harmony with the general purpose and intent of the regulations imposed by this Ordinance on the district in which it is located and shall not be injurious to the neighborhood or otherwise detrimental to the public welfare.**

The applicant states that the variance will allow the addition to be placed where it will have minimal impact on the other homes in the neighborhood. The addition will be within the footprint of the existing concrete patio.

The zoning ordinance states in Table 5-2: Lot Area, Setbacks, Maximum Impervious Surface and Parking Requirements: Neighborhood Conservation District that properties in the NC-15 zoning district must have a minimum rear setback of 42'. The home is a legally non-conforming structure that was constructed prior to the NC-15 zoning designation being placed on the property and does not comply with the established rear setback requirement. The main structure currently encroaches into the 42' setback, placed at approximately 25.8' from the rear property line. As it currently exists, the raised concrete patio is not considered part of the structure for setback purposes and is approximately 9' from the rear property line

The proposed plan to enclose a portion of the patio requires a variance of 28'. An amount of the existing impervious surface closest to the property line would be removed, and the addition would be constructed up to 14' from the property line at its closest point. The entirety of the addition would encroach within the setback, but the angled nature of the property creates less of an encroachment on the east side.

The property most affected by the variance is to the north at 1025 Terrace Acres Circle. The adjacent home's two-car garage is the portion of the residence closest to the subject property. Due to the angle of the subject property, the portion of the proposed addition that requires the greatest amount of variance is furthest from the adjacent home to the north. There is a significant amount of landscaping that provides a buffer between the two lots.

- B. The granting of the variance will not permit the establishment of any use, which is not permitted in the district.**

The applicant states that the variance will be used only for residential space. It does not permit the establishment of any use which is not permitted in the district.

Single-family homes are a permitted use in the Neighborhood Conservation (NC-15) zoning district.

- C. There must be proof of unique circumstances: There must exist special circumstances or conditions fully described in the findings, applicable to the land or buildings for which the variance is sought, which circumstances or conditions are peculiar to such land or buildings and do not apply generally to land or buildings in the district, and which circumstances or conditions are such that the strict application of the provisions of this Ordinance would deprive the applicant of the reasonable use of such land or buildings.**

The applicant states that the property is unique to other nearby properties when in 1996, a Redivision of Lots 37 and 38 was recorded, resulting in a significant portion of the 1964 home being within the 40-foot rear setback. The variance request is seeking only to change a portion of the current use of concrete patio into a one-story addition. Creating additional residential space where permitted would put the house visually out of character with other nearby properties.

The home is located on an unconventionally-shaped corner property, which is unique when compared to the majority of lots in the subdivision. When the house was constructed in 1964 the front door was oriented towards the long street frontage. No records are available to indicate that the house when constructed encroached into any setbacks.

The house orientation, when the current zoning regulations are applied, causes the largest setbacks (front and rear) to apply to the narrowest depth of the property. This also causes the home to be non-conforming with regards to setbacks, although it presumably would have been conforming at the time it was constructed. This is not common with the majority of properties in the surrounding vicinity, as most of the lots are longer than they are wide at the street. The lot has double frontage and is located on a curve. Hypothetically, if the home was oriented to face east, and the same plan was proposed, a variance would not be needed. Rather than having a 42' setback, the same property line would have a setback of 14'.

While the front setback requirement is 35', the home sits approximately 60' from the front property line, which is in line with other homes on this section of Terrace Acres Circle. Constructing an addition on the front portion of the property would be out of character with the surrounding homes.

- D. There must be proof of unnecessary hardship. It is not sufficient proof of hardship to show that greater profit would result if the variance were granted. Furthermore, the hardship cannot be self-created; nor can it be established on the basis by one who purchases with or without knowledge of the restrictions; it must result from the application of this Ordinance; it must be suffered directly by the property in question; and evidence of other variances granted under similar circumstances shall not be considered.**

The applicant states that the 1996 Redivision of Lots 37 and 38 created the hardship whereby a significant portion of the existing 1964 building is out of compliance with the current Ordinance.

The home is located on an unconventionally-shaped corner property. This coupled with placement of the NC-15 setbacks on the property after the home's construction could be interpreted as unnecessary hardships. Without information to the contrary, it appears that the current setbacks, which were not applicable to the lot when the house was constructed, create the need for the variance.

- E. That the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board of Zoning Adjustment is the minimum variance that will accomplish this purpose.**

The applicant states that the variance requested will reduce the current existing impermeable building footprint. The property will remain a single-family dwelling, same as other properties in the same zoning district.

The granting of the variance is not needed for the reasonable use of the land as a single-family residence. A variance of up to 28' is the minimum needed to allow construction of the proposed plan.

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

The applicant states that the proposed variance provides added green space from the property line compared to the existing hard surface structure. The addition will not be visible from the front and due to the property's topography, minimally visible from the side. The design of the addition provides greater privacy to the adjacent property owners than the current use and will fall within the shadow cast by the existing two-story building.

The variance requested should not impair an adequate supply of light and air to the adjacent properties, substantially increase the congestion in the public streets, increase the danger of fire or endanger the public safety. The City of Auburn does not determine property values.

- G. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by the Ordinance to other lands, structures, or buildings in the same district.**

The applicant states that the variance requested is for a single-family dwelling in a district of single-family dwellings.

Variances are considered on a case-by-case basis; the granting of a variance does not establish any precedent.

Summary: Based on a review of the requirements necessary for the approval of a variance listed in A-G above, staff finds that the requested variance meets the requirements for approval.

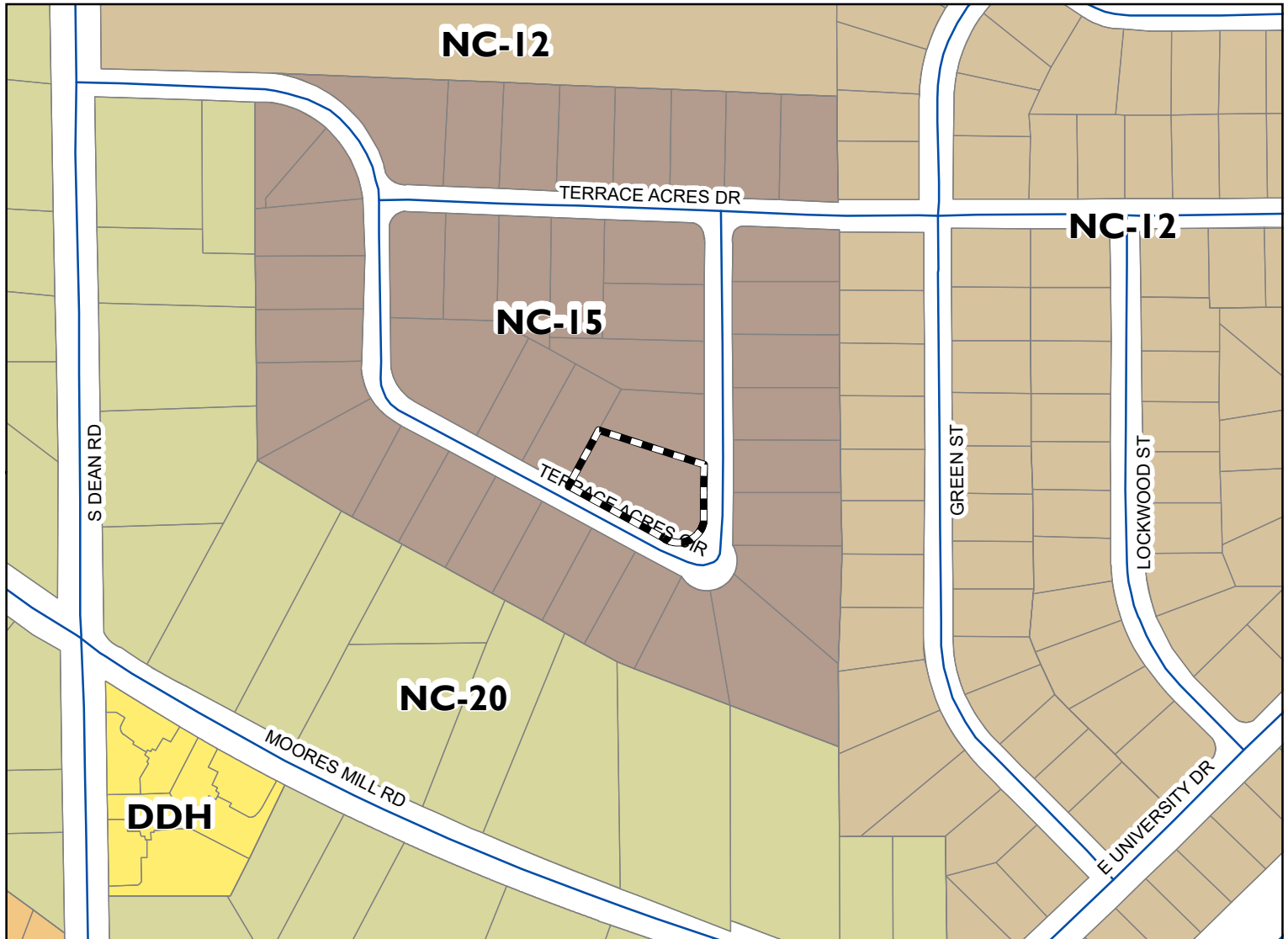
Recommendation: For the Board to approve the requested variance, it must concur with staff's findings that each of the criteria listed above in A-G have been met. Based on compliance with the review criteria, staff recommends approval of a variance of up to 28' to allow an addition to be constructed up to 14' from the rear property line with the following condition.

1. Construction to be consistent with the development plans submitted to the Board.

933 Terrace Acres Circle

Variance Request

BZ-2022-005

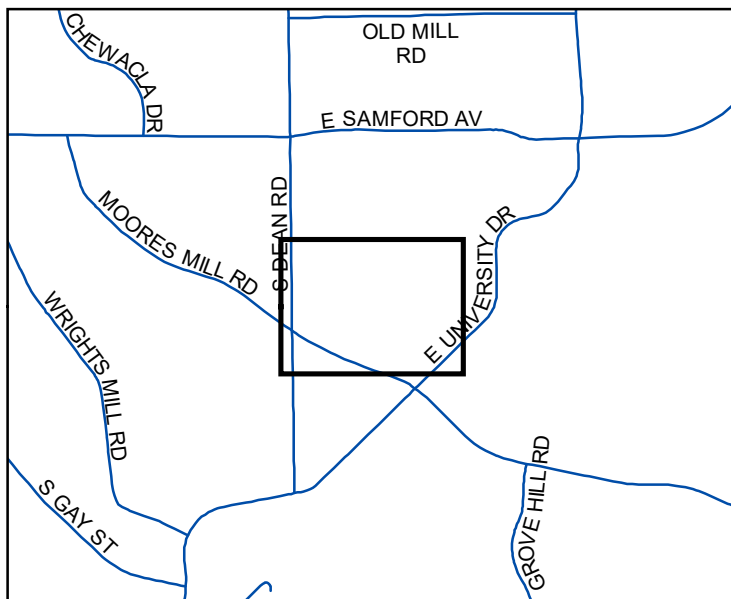


Subject Property



0 70 140 280
Feet
Planning Dept.
03/22/2022

Vicinity Map



The applicant requests a variance to Table 5-2 Lot Area, Setback, Bulk Regulations and Parking Requirements: Neighborhood Conservation District, of the City of Auburn Zoning Ordinance to allow an addition to be constructed in the rear setback. The subject property is located at 933 Terrace Acres Circle in the Neighborhood Conservation District (NC-15) zoning district.

PUBLIC HEARING NOTICE

The Board of Zoning Adjustment will hold a meeting **04/06/2022** at **4:30pm** in the Council Chambers of the Auburn Public Safety Building, located at 141 North Ross Street, Auburn, Alabama. Please call Amber English with the City of Auburn Planning Department at **(334)501-3044** for additional information.

The entire Board of Zoning Adjustment packet can be found at www.auburnalabama.org no less than five (5) days prior to the public meeting date. There is a direct link at <http://www.auburnalabama.org/bza/>

The City of Auburn, Alabama does not guarantee or warrant the accuracy of this map or any information contained herein. Information may contain errors and should be verified by an appropriately qualified, licensed and independent professional.

933 Terrace Acres Circle

Variance Request

BZ-2022-005

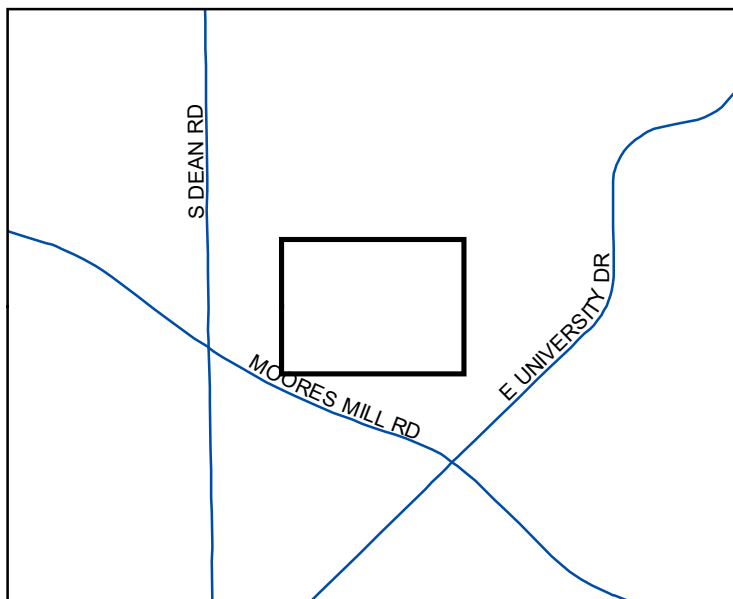


Subject Property



0 35 70 140
Feet
Planning Dept.
03/25/2022

Vicinity Map



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RECEIVED
PLANNING DEPT

MAR 14 2022

Case B2-2022-005

43 09 09 22 1
000 000.000
OWNER: JAMES
W. & S. 1990
LOT 38-A
ACRES 0.81
HARRIS, TX
2020

S 74°30'06" E (BEARING BASE)
208.99'

S 00°13'22" E(F)
104.90'(F)

Impervious surface to be removed
Proposed addition

Maximum Possible Building Area

WOOD
PLAY PEN

TETHERBALL
POLE

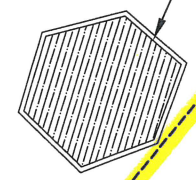
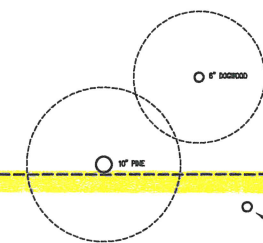
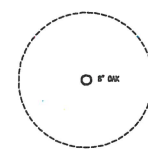
L=103.43'
R=50.00'
Ch BEAR=S 59°01'58" W
Ch=85.95'

N 61°42'32" W(F)
209.81'(F)

TERRACE ACRES DRIVE

SETBACKS:
NC15
FRONT 35'-0"
REAR 42'-0"
SIDE TOTAL 30'-0"
MIN. SIDE 14'-0"
ISR .32

N 28°13'27" E(F)
119.77'(F)

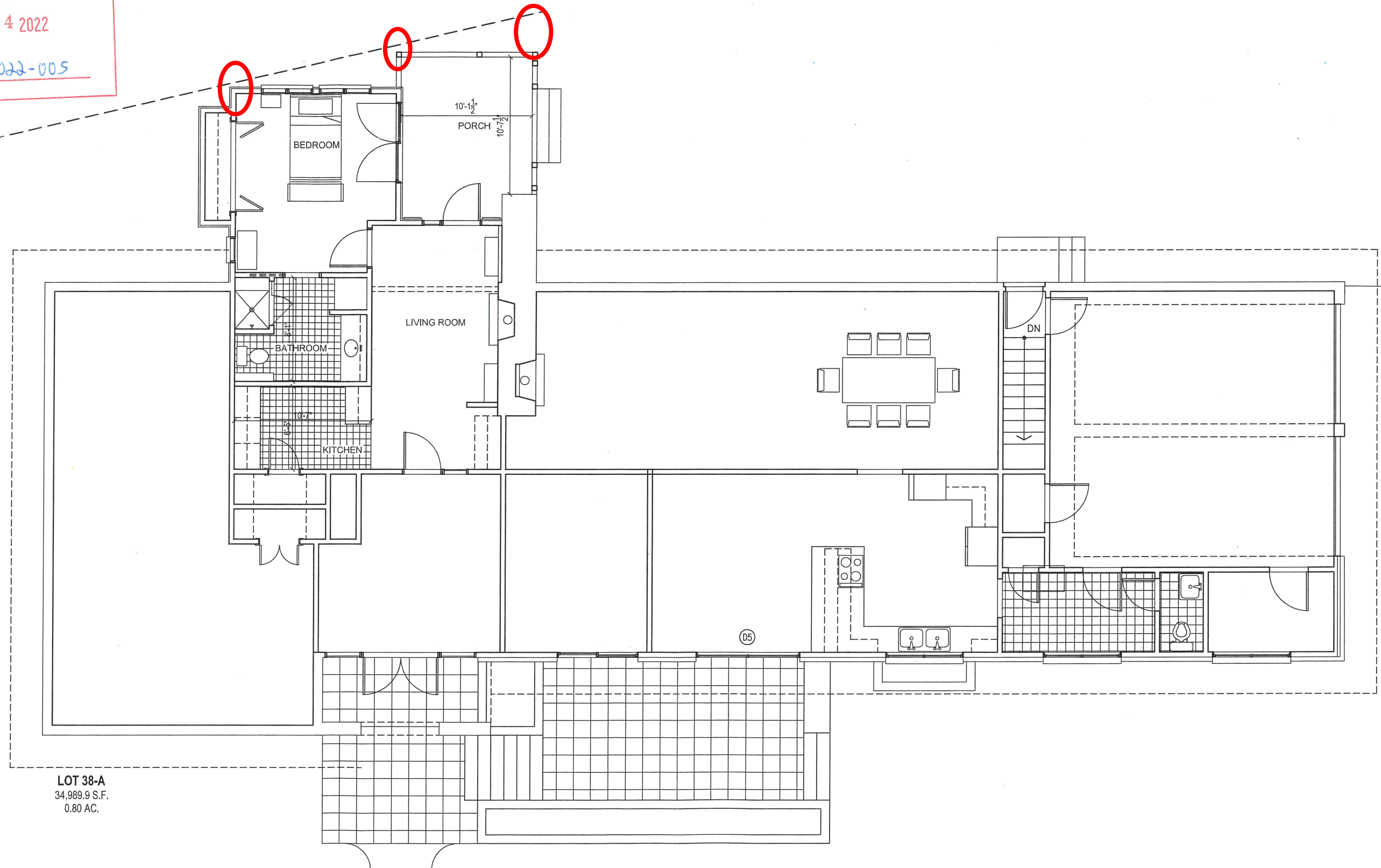


LOT 38-A
34,889 S.F.
0.81 AC.

RECEIVED
PLANNING DEPT

MAR 14 2022

Case PZ-2022-005





View from North-West corner. Awning, balcony, and patio will be removed. Footprint of the proposed addition will be smaller than existing patio. The proposed addition extends from the house to about mid-opening for the steps. Please see property survey for actual and proposed space.



View of patio while standing inside the house looking towards our neighbor's property at 1025 Terrace Acres Circle. The pole seen on right side photo is supporting the balcony off of the 2nd floor. The patio is on same grade / level as front door. As seen, the patio is higher at points than the adjoining neighbor's privacy fence. The proposed addition will provide greater privacy for our neighbor as the rear wall will have higher clerestory type windows.



The proposed addition will be on same grade / level as front door. As seen, the topography of the land descends to the back left corner in the picture. For a point of reference, the fence barely seen on the left side of the photo is our neighbor's 8 foot privacy fence.



Rear view from South-East. Because of the swale and descending land topography, the proposed addition will have minimal visual impact from the driveway side of the property and no visual impact from the front of the house.



Current zoning would support space to be constructed on the street side(s) of the house (front and driveway). However doing so would make the house visually out of character with other homes in the neighborhood and increase the impermeable building footprint.