

# Sumter City-County Board of Zoning Appeals

October 12, 2011

**BOA-11-24, 202 N. Purdy St. (City)**

A variance of 15 ft. from the rear setback requirement of 25 ft. per Section 3.b.5.b. and a variance of 8 ft. from the fence setback requirement as outlined in Section 4.f.8. of the City Zoning Ordinance.



Appeals - Variance - Special Exception

# Sumter City-County Board of Appeals

October 12, 2011

## BOA-11-24, 202 N. Purdy St. (City)

### I. THE REQUEST

**Applicants:** Edward P. Monroe, III

**Status of the Applicants:** Project Architect/Representative for Property Owners

**Request:** A variance of 15 ft. from the rear setback requirement of 25 ft. per Section 3.b.5.b. and a variance of 8 ft. from the fence setback requirement as outlined in Section 4.f.8. of the City Zoning Ordinance.

**Location:** 202 N. Purdy St. (Near the corner of W. Calhoun St. & N. Purdy St.)

**Present Use/Zoning:** Vacant & Residential/ R-9 (Residential-9)

**Tax Map Reference:** 228-06-01-034

### II. BACKGROUND

The applicant is requesting two variances – a 15 ft. rear yard setback variance for the principal structure and an 8 ft. setback variance for a 7 ft. tall brick fence with 8 ft. columns.

The graphics/photos to the right show the existing conditions at the project site. If granted, the variance would allow for the construction of an attached 2-car garage with second story living accommodations attached to the principal structure via a covered walk. In addition, a brick fence would be constructed to act as a buffer between development on the subject property and the adjacent dwelling.



*Above:* 405 W. Calhoun St. – view of existing dwelling.

*Below Left:* Current rear yard of 405 W. Calhoun St. – the existing dwelling is +/-10 ft. from the rear property line delineated by the wooden fence.

*Below Right:* The two parcels outlined below will be joined to create one tract of land with the proposed building addition located in the vicinity of the previous structure.



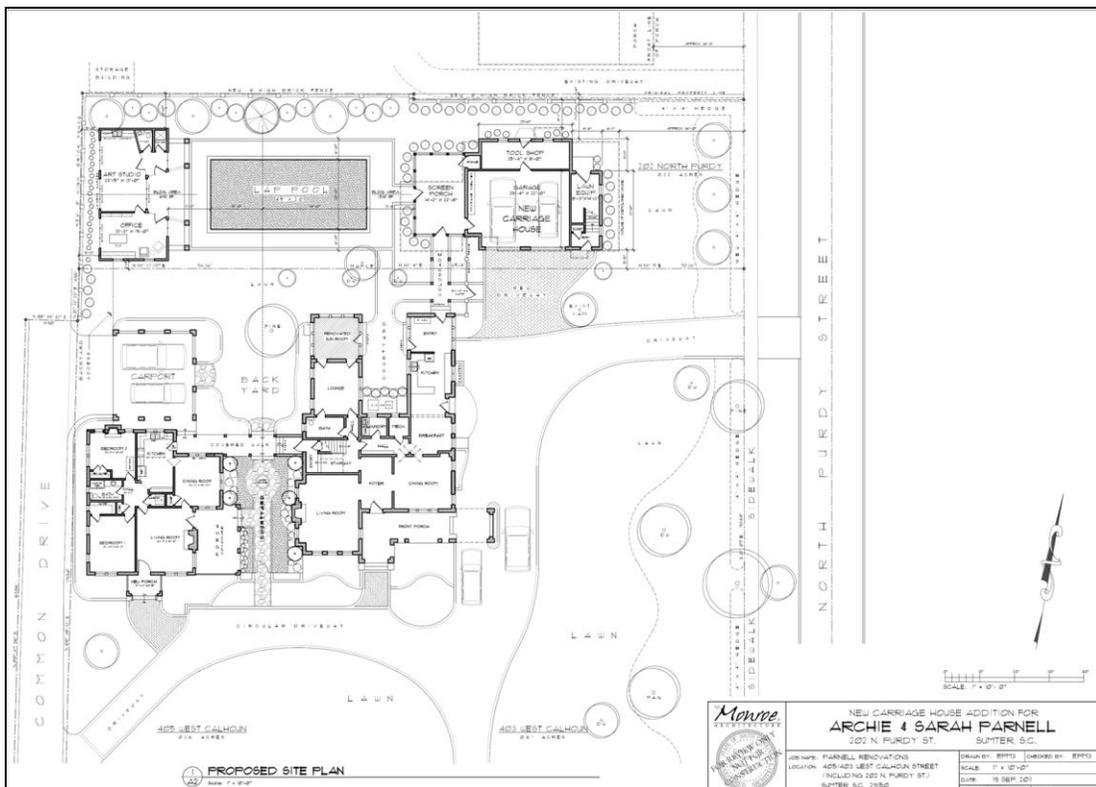
As proposed, 202 N. Purdy St. would become part of the property at 405 W. Calhoun St. to create a +/-1.19 acre tract. The graphics below depict the proposal.

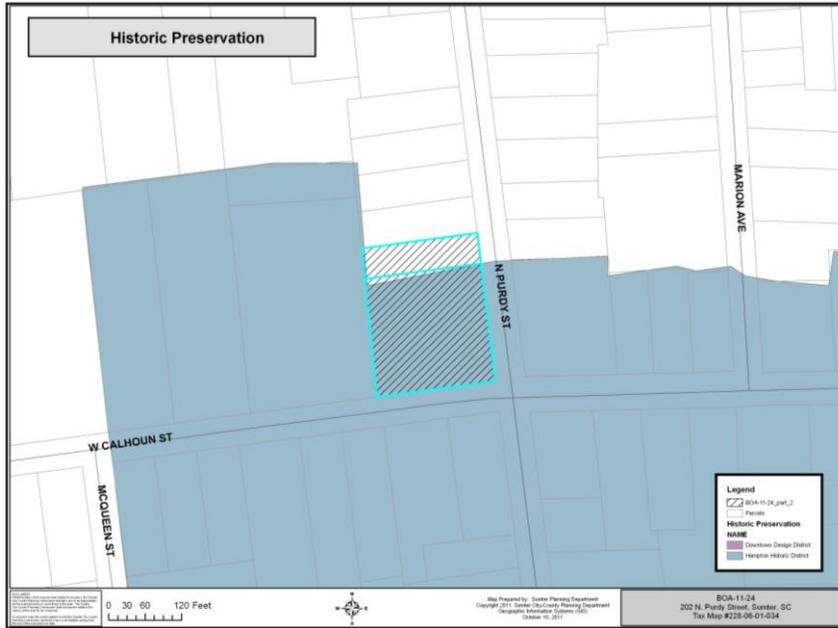


Above: 202 N. Purdy St. – the vacant space is where the proposed addition would be located.

Below Left (1): Corner of Calhoun & Purdy prior to demolition of 202 N. Purdy St.

Below Right (2): Corner of Calhoun & Purdy with proposed addition in vicinity of previous dwelling, the red line represents the approximate location of the proposed brick wall.





As shown in the map to the left, the property under review is partially located within the Hampton Park Historic Overlay. As such, site development is subject to R-9 development standards as well as the design review criteria outlined in *Article 1, Section M: Certificates of Appropriateness, Criteria for Issuance*; and the *Sumter, South Carolina Design Review Guidelines Manual*.

All additions/new construction within the Hampton Park Overlay District must be reviewed by the Historic Preservation Design Review Committee (HPDRC), and determined to be in conformity with all applicable design guidelines in addition to required zoning development standards.

Because this request requires variances to be granted prior to construction, all plans will be forwarded to the HPDRC for review and approval should the requested variances be granted.

### III. THE REQUEST

The applicant is seeking a 15 ft. rear setback variance in order to locate a principal structure 10 ft. from the rear property line and an 8 ft. setback variance in order to place a 7 ft. tall brick fence with 8 ft. tall columns on the common property line between 202 and 204 N. Purdy St.

In order for the Board of Appeals to grant a variance from the Zoning Ordinance, the proposed variance request must meet all four-parts of a State mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

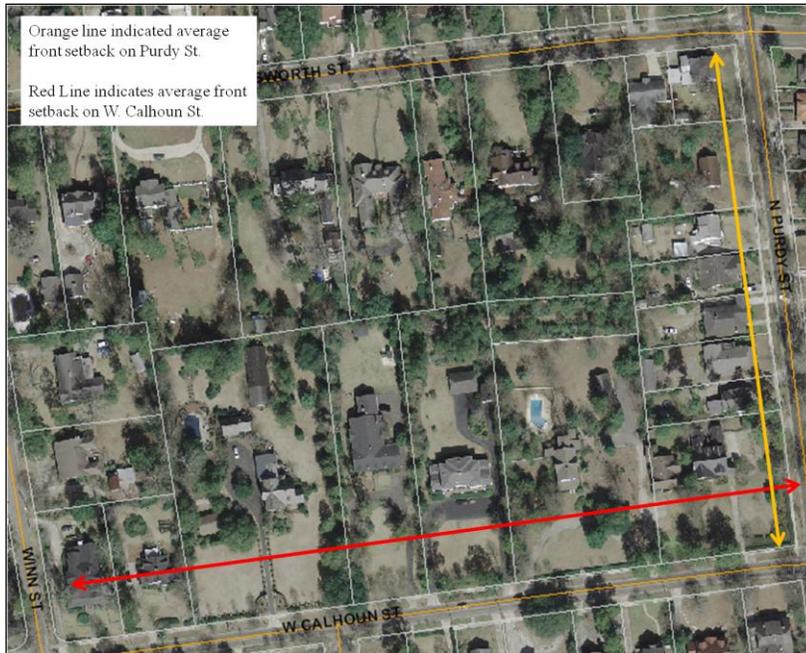
The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

#### IV. FOUR-PART TEST

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property.*

##### *Building Setback:*

The subject property was originally platted and developed circa 1920. At that time, the lots developed fronting on W. Calhoun St. were estate lots with substantially larger front setbacks and side spacing between structures than those commonly seen in other parts of the Hampton Park District. At the same time, the lots developed fronting on Purdy St. have front setbacks and side spacing more in keeping with contemporary R-9 development standards.



As shown in the graphic to the left, the subject property is at the corner of W. Calhoun and N. Purdy Streets where the rhythm and spacing of two distinct types of lot development intersect.

Historically 202 N. Purdy St. has been its own stand-alone residential lot with a N. Purdy St. frontage, and the property line between 202 and 204 N. Purdy St. was considered to be a side setback. When 202 N. Purdy was demolished and combined with the 405 W. Calhoun St. in an effort to

create a rear yard for the 405 W. Calhoun St. property, the former side property line then became a rear property line—subject to a 25 ft. setback where a 10 ft. setback was once required.

Because the property is within the Hampton Park Historic District Design Review Overlay, development must comply with both R-9 development standards and the standards as outlined in the *Sumter, South Carolina Design Review Guidelines Manual*. Specifically the guidelines applicable to this proposed development relate to front and side setbacks which create the street rhythm.

*#89) Setbacks for new construction should be consistent with adjacent structures.*

- a. *New construction should conform with the minimum zoning requirements for setbacks on a required lot and be compatible with the setbacks of adjacent structures.*

*#88) New construction should maintain the rhythm and spatial distances between buildings.*

- a. *Side yard setbacks for new construction should maintain the rhythm and spatial arrangements found along the street*

*Streetscapes throughout Sumter have certain rhythms which are created by the spatial distances between buildings. These distances vary from block to block depending on the size of lots and density of construction. This spacing creates a distinct pattern and new construction should reinforce rather than disturb this rhythm.*

As shown in the graphic to the right, there are two distinct street rhythms and building spacing on W. Calhoun and N. Purdy Streets. Because the established rhythm and spacing intersects at this corner, requiring a 25 ft. rear setback interferes with the established pattern of development on N. Purdy St. creating an intrusive change at street level as opposed to compatible development that is consistent with the Design Review Guidelines.



#### *Fencing:*

Fence locations are dictated by Section 4.f.8.

**4.f.8. Height, Fencing Materials, and Proximity Regulations for Fences Allowed in Required Yards:** *A solid fence or wall not over five (5) feet in height is permitted outright in any side or rear yard provided; that said fence is no closer than twelve (12") inches from a street right-of-way line. Where a fence is in fact over five feet in height, said fence may not be permitted within six feet of a structure on an adjacent property. In addition, a solid fence which is over six (6) feet in height must be an additional one (1) foot from the adjacent structure for every foot in height. No fence may exceed eight (8) feet in height...*

This means that if you were to construct an 8 ft. tall fence it would have to be 9 ft. away from any structure on an adjacent lot.

As shown in the photo to the left, the orange line marks the property line between 202 and 204 N. Purdy St. At the rear of the property almost sitting on the property line is an accessory structure that is grandfathered non-

conforming with respect to setbacks that is almost on the common property line. Because the structure is not 5 ft. from the property line as it would be required today, under Section 4.f.5, any new solid fence over 5 ft. tall constructed on 202 N. Purdy St. would have to be inset at least the height of the fence plus 1 ft. (i.e. 8 ft. tall fence must be 9 ft. away from the building) from the common property line resulting in excessive loss of yard space.

**2. *These conditions do not generally apply to other property in the vicinity.***

These conditions do not apply to other properties in the vicinity, all subject properties north of the location are outside of the Hampton Park design overlay and are not subject to additional development review and design criteria to which this location is subject. Additionally, this is a corner lot with two street frontages where two distinct patterns of development converge. Because of the established pattern of development and overlapping layers of regulation, development at this site offers a complexity that adjacent properties are not influenced by. Additionally, other properties in the vicinity already have established fence locations that are grandfathered and/or neighboring accessory structures are not sitting on the common property line.

**3. *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.***

Current lot configurations, established patterns of development and the applicable regulations make development at this location much more complex. Without the granting of the requested variances, development as depicted would not be possible.

**4. *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.***

The authorization of a variance will not substantially impact adjacent properties, the public good, or harm the character of the district. The granting of these variances will allow the applicant to remedy on-site issues related to usable yard space while implementing development compatible with the Hampton Park District while buffering the adjacent neighboring property from the possible impacts of more intense use to the rear of the property.

**V. STAFF RECOMMENDATION**

Staff recommends approval of BOA-11-24.

**VI. DRAFT MOTIONS for BOA-11-24**

- A. I move that the Zoning Board of Appeals approve BOA-11-24, subject to the findings of fact and conclusions attached as Exhibit I.
- B. I move that the Zoning Board of Appeals deny BOA-11-24 subject to the following findings of fact and conclusions.
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-11-24.

**VII. ZONING BOARD OF APPEALS – OCTOBER 12, 2011**

The Sumter City-County Board of Appeals at its meeting on Wednesday, October 12, 2011, voted to accept staff recommendation and approve this request subject to the findings of fact and conclusions as shown on Exhibit 1 (attached).

# Exhibit 1

## Order on Variance Application

### Sumter Board of Appeals

BOA-11-24, 202 N. Purdy St. (City)  
October 12, 2011

Date Filed: October 12, 2011

Permit Case No. BOA-11-24

The Sumter Board of Appeals held a public hearing on Wednesday, October 12, 2011 to consider the appeal of Edward P. Monroe, III; 571 Yuma Court, Sumter SC 29150 for a variance from the strict application of the Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant  **has** -  **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:



The subject property was originally platted and developed circa 1920. At that time, the lots developed fronting on W. Calhoun St. were estate lots with substantially larger front setbacks and side spacing between structures than those commonly seen in other parts of the Hampton Park District. At the same time, the lots developed fronting on Purdy St. have front setbacks and side spacing more in keeping with contemporary R-9 development standards.

Because the property is within the Hampton Park Historic District Design Review Overlay, development must comply with both R-9 development standards and the standards as outlined in the *Sumter, South Carolina Design Review Guidelines Manual*. Specifically the guidelines applicable to this proposed development relate to front and side setbacks which create the street rhythm.

Because the established rhythm and spacing intersects at this corner, requiring a 25 ft. rear setback interferes with the established pattern of development on N. Purdy St. creating an intrusive change at street level as opposed to compatible development that is consistent

with the Design Review Guidelines.

As shown in the photo on the previous page, the orange line marks the property line between 202 and 204 N. Purdy St. At the rear of the property almost sitting on the property line is an accessory structure that is grandfathered non-conforming with respect to setbacks that is almost on the common property line. Because the structure is not 5 ft. from the property line as it would be required today, under Section 4.f.5, any new solid fence over 5 ft. tall constructed on 202 N. Purdy St. would have to be inset at least the height of the fence plus 1 ft. (i.e. 8 ft. tall fence must be 9 ft. away from the building) from the common property line resulting in excessive loss of yard space.

2. The Board concludes that these conditions  **do** -  **do not** generally apply to other property in the vicinity based on the following findings of fact:

All subject properties north of the location are outside of the Hampton Park design overlay and are not subject to additional development review and design criteria to which this location is subject. Additionally, this is a corner lot with two street frontages where two distinct patterns of development converge. Because of the established pattern of development and overlapping layers of regulation, development at this site offers a complexity that adjacent properties are not influenced by. Additionally, other properties in the vicinity already have established fence locations that are grandfathered and/or neighboring accessory structures are not sitting on the common property line.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property  **would** -  **would not** effectively prohibit or unreasonable restrict the utilization of the property based on the following findings of fact:

Current lot configurations, established patterns of development and the applicable regulations make development at this location much more complex. Without the granting of the requested variances, development as depicted would not be possible.

4. The Board concludes that authorization of the variance  **will** -  **will not** be of substantial detriment to adjacent property or to the public good, and the character of the district  **will** -  **will not** be harmed by the granting of the variance based on the following findings of fact:

The authorization of a variance will not substantially impact adjacent properties, the public good, or harm the character of the district. The granting of these variances will allow the applicant to remedy on-site issues related to usable yard space while implementing development compatible with the Hampton Park District while buffering the adjacent neighboring property from the possible impacts of more intense use to the rear of the property.

THE BOARD, THEREFORE, ORDERS that the variance is  DENIED –  GRANTED, subject to the following conditions:

Approved by the Board by majority vote.

Date issued: \_\_\_\_\_

\_\_\_\_\_  
Chairman

Date mailed to parties in interest: \_\_\_\_\_

\_\_\_\_\_  
Secretary

**Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.**