



**TOWN OF FORT MILL  
BOARD OF ZONING APPEALS MEETING  
October 20, 2014  
112 Confederate Street  
6:00 PM**

**AGENDA**

**CALL TO ORDER**

**APPROVAL OF MINUTES**

Regular Meeting: July 21, 2014      *[Pages 2-5]*

**PUBLIC HEARING ITEMS**

1. **CASE # 2014-419**  
**Patricia Brohm**  
**400 Unity Street**  
**Tax Map # 020-04-26-001**  
**Zoning District: R-10**  
  
Applicant is requesting a variance from the zoning ordinance to allow a 6' privacy fence to extend beyond the principal structure in a front yard (corner lot). *[Pages 6-14]*
  
2. **CASE # 2014-420**  
**Walter W Hartness Jr.**  
**102 Meacham Street**  
**Tax Map # 020-06-01-057**  
**Zoning District: R-10**  
  
Applicant is requesting a variance from the zoning ordinance to allow a detached carport in front of a primary residence, and a reduction of the 5' side yard setback requirement. *[Pages 15-24]*
  
3. **CASE # 2014-422**  
**George McGuigan**  
**120 E. Hill Street**  
**Tax Map # 020-04-22-007**  
**Zoning District: R-15**  
  
Applicant is requesting a variance from the zoning ordinance to allow a reduction of the 5' side yard setback requirement for an accessory structure. *[Pages 25-30]*

**ADJOURN**

**MINUTES  
TOWN OF FORT MILL  
BOARD OF ZONING APPEALS  
July 21, 2014  
6:00 PM**

Present: Jim Thomas, Jay McMullen, Becky Campbell, Rhonda McCall, Planning Director  
Joe Cronin

Absent: Terri Murray

Guests: Raymond Leamer, Don Lambert, Jon Hattaway

Acting Chairman Thomas called the meeting to order at 6:00 pm and welcomed everyone in attendance.

**WELCOME & INTRODUCTION**

Planning Director Cronin introduced Rhonda McCall, who was recently appointed to the board by town council. Planning Director Cronin added that there was another new member, Terri Murray, who was out of town and unable to attend the meeting. Planning Director Cronin stated that David Bowman had accepted an appointment to the York County Hospitality Tax Committee and would be giving up his seat on the Board of Zoning Appeals. Former Chairman Butch Cowart had chosen not to apply for reappointment and has since rolled off the Board. Former member Hynek Lettang was appointed the Planning Commission in April.

**ELECTION OF CHAIR & VICE-CHAIR FOR 2014**

Since this was the first meeting in nearly a year, Planning Director Cronin stated that a new Chair and Vice-Chair would need to be elected for 2014. Acting Chairman Thomas opened the floor for nominations.

Mr. McMullen nominated Mr. Thomas to serve as Chairman for 2014. Ms. Campbell seconded the motion. Acting Chairman Thomas asked if there were any additional nominations. There being none, Acting Chairman Thomas called for a vote. The motion to approve Mr. Thomas as Chair was approved by a vote of 4-0.

Ms. Campbell nominated Mr. McMullen to serve as Vice-Chairman for 2014. Ms. McCall seconded the motion. Chairman Thomas asked if there were any additional nominations. There being none, Chairman Thomas called for a vote. The motion to approve Mr. McMullen as Vice-Chair was approved by a vote of 4-0.

**DISCUSSION OF STANDING MEETING DATE & TIME**

Planning Director Cronin stated that the standing meeting date and time for the Board of Zoning Appeals was set for the third Monday of each month at 6:00 PM. Chairman Thomas asked if

anyone wished to discuss changing the standing meeting date and time. No recommendations were made, and the consensus was to keep the meeting date as the third Monday at 6:00 PM.

### **APPROVAL OF MINUTES**

Mr. McMullen made a motion to approve the minutes of the August 19, 2013, meeting as submitted by staff. Ms. Campbell seconded the motion. The motion was approved by a vote of 4-0.

### **PUBLIC HEARING ITEMS**

1. **Variance request from the Fort Mill School District (225 Munn Road):** Planning Director Cronin provided a brief overview of the applicant's request, the purpose of which was to allow light poles in excess of 18' in height, which exceeded the zoning requirement for the LC District. These lights would be installed as part of the planned site improvements related to the expansion of Fort Mill High School.

Chairman Thomas opened the public hearing. John Hattaway of Cumming Construction spoke on behalf of the School District. Mr. Hattaway stated that the taller lights would be needed to provide better lighting at the site for safety and convenience. This would also reduce the total number of lights needed on the site. Mr. Hattaway added that there were several existing poles at the school that exceeded 18' in height, and the new poles would be consistent with those already on site.

Chairman Thomas asked if anyone else wished to speak. There were no other speakers, and the public hearing was closed.

Mr. McMullen asked Mr. Hattaway if all proposed fixtures would project light downward. Mr. Hattaway responded that they would.

Ms. McCall asked if there would be any adverse impact to any existing residences as a result of approving the variance. Mr. Hattaway stated that there were no residences in the immediate vicinity of the proposed lights.

Ms. McCall asked why the school property had been rezoned from Highway Commercial to Local Commercial. Planning Director Cronin stated that the rezoning took place several years ago when St. Philip Neri was seeking to expand into a new sanctuary. Since religious institutions are not permitted in the HC, staff recommended rezoning the church, the school, and the Fort Mill Armory from HC to LC, as each use would be permitted by right in the LC district.

There being no further discussion, Chairman Thomas called for a motion. Ms. Campbell made a motion to approve the variance as requested. Ms. McCall seconded the motion. The motion was approved by a vote of 4-0.

2. **Variance request from Don Lambert (422 Williamson Street):** Planning Director Cronin provided a brief overview of the applicant's request, the purpose of which was to reduce the side yard setback from 5' to 3', and to allow a detached carport to be located in front of the primary residence. Planning Director Cronin stated that the request had been

denied by staff because the zoning ordinance requires a 5' side yard setback, and because the code does not allow detached carports in front of a principal structure.

Chairman Thomas opened the public hearing. Don Lambert spoke in support of his request. Mr. Lambert stated that his car had been damaged by the recent hail storm, and he wanted to install a carport to protect his vehicle from further damage in the future. Mr. Lambert added that the lot was very narrow, and there was nowhere else to install a carport.

Chairman Thomas asked if anyone else wished to speak. There were no other speakers, and the public hearing was closed.

Mr. Thomas noted that there was an overhead power line between the street and the front corner of the house. This line is located above where the applicant is seeking to install a carport. Mr. Thomas questioned whether the carport would have sufficient clearance between the roof of the carport and the power line. Planning Director Cronin stated that he has inquired with the Building Official, Wayne Hunter, who stated that the carport would not have adequate clearance. This would not preclude the applicant from burying the power connection, however.

Ms. McCall stated that she did not have an issue with granting a variance on side yard setback given the narrowness of the lot; however, she expressed concern about setting a precedent allowing carports in front yards. Ms. McCall added that she thought there was sufficient room on the side yard to locate a carport behind the front corner of the residence, though the driveway may need to be extended. Ms. McCall also stated that the power line clearance would not be an issue if the carport was located behind the connection point at the front corner of the house.

There being no further discussion, Chairman Thomas called for a motion. Ms. Campbell requested that the two variances be taken up separately. There was no objection.

Ms. McCall made a motion to approve the variance request to reduce the side yard setback from 5' to 3'. Mr. McMullen seconded the motion. The motion was approved by a vote of 4-0.

Ms. Campbell made a motion to approve the variance request to allow a carport in front of the principal structure. The motion died for lack of a second.

Ms. McCall made a motion to deny the variance request to allow a carport in front of the principal structure. Mr. Thomas seconded the motion. The motion was approved by a vote of 3-1, with Ms. Campbell opposed.

- Variance request from Raymond Leamer (505 Harris Street):** Planning Director Cronin provided a brief overview of the applicant's request, the purpose of which was to allow a detached carport to be located in front of the primary residence. Planning Director Cronin stated that the request had been denied by staff because the zoning ordinance does not allow detached carports in front of a principal structure.

Chairman Thomas opened the public hearing. Raymond Leamer spoke in support of his request. Mr. Leamer stated that the right side of his property has very steep topography, which would make installing a carport in that location infeasible. Mr. Leamer added that a large portion of the left side of the property fell off away from the house, and was also located within the Dye Branch floodplain. Mr. Leamer added that the front yard was the only feasible place to install a carport.

Chairman Thomas asked if anyone else wished to speak. There were no other speakers, and the public hearing was closed.

Mr. Thomas asked the applicant to verify the location of the proposed carport. Mr. Leamer stated that he wished to install the carport on the front, left side of the residence.

Ms. McCall again stated that while she understood the reason for the request, she did not wish to set a precedent to allow carports in front yards unless there was substantial evidence that there was no other feasible place in which to install one.

Mr. McMullen noted that there was an existing pad on the left side of the house where a camper is currently parked. Mr. McMullen questioned why the carport could not be installed in that location. Mr. Leamer stated that he would need to add additional fill, and likely a retaining wall, to provide a wide enough space for a carport. This may also impact the floodplain on the left side of the house. Mr. Leamer stated that it would be a financial hardship to make additional improvements on that side of the house. Mr. McMullen stated that while he empathized with the applicant, a financial hardship is not sufficient cause under state law to qualify for a variance.

There being no further discussion, Chairman Thomas called for a motion. Mr. McMullen made a motion to deny the variance request to allow a carport in front of the principal structure. Ms. McCall seconded the motion. The motion was approved by a vote of 4-0.

There being no further business, the meeting was adjourned at 6:50 pm.

Respectfully submitted,

Joe Cronin  
Planning Director

**Town of Fort Mill  
Board of Zoning Appeals  
Item for Action**

**Item #1      CASE # 2014-419  
Patricia Brohm  
400 Unity Street  
Tax Map # 020-04-26-001  
Zoning District: R-10**

Applicant is requesting a variance from the zoning ordinance to allow a 6' privacy fence to extend beyond the principal structure in a front yard (corner lot). [Pages 6-14]

**Background / Discussion**

The Town has received a variance request from Ms. Patricia Brohm for two nonconformities related to an existing fence located at 400 Unity Street.

Article I, Section 7(M)(A) of the Town's Zoning Ordinance outlines the following requirement for fences:

- A. *Permit requirements: Any person wishing to erect, alter, or relocate a fence must first obtain a fence permit from the code enforcement officer. Fences not meeting the standards outlined in this section may be permitted by a special use permit. The code enforcement officer may exercise the power to impose reasonable conditions in granting a special use permit under the requirements and guidelines of this ordinance.*

The applicant, unaware of the required permit and/or zoning regulations, replaced a previous ≈ 4' chain link fence with the current 6' wooden privacy fence. Town staff sent a notice of Zoning Ordinance violation to Ms. Brohm on August 5, 2014 (attached). Ms. Brohm's written response dated August 7, 2014 (attached) along with follow up discussions noted her desire to bring the fence into conformance with the requirements of the ordinance. Therefore, the purpose of this request is to begin the process of obtaining proper permitting required for the existing 6' privacy fence.

The first request is to allow the fence to extend beyond the principal structure (residence) along the E. Hill Street frontage. Per Article I, Section 7(M)(B)(5):

- 5) *On corner lots, fences may not be permitted beyond the principal structure in side yards facing the adjoining street.*

The second request is to allow the fence to exceed 4' in height in a front yard. Front yard fences, if approved, may not exceed 4' in height per Article I, Section 7(M)(B)(2) as excerpted below:

- 2) *Front yard fences shall not exceed four feet in height and must be approved by the Code Enforcement Officer. Front yard fences cannot be located in any right-of-way.*

The applicant states that the reasons for the variance requests are to uphold a look of quality and to retain the functionality of the enclosed back yard space. The applicant notes that if the fence

were placed according to the Zoning Ordinance, the backyard would be cut in half and rendered useless.

Staff will note that while front yard fences may be approved, they can pose a potential visibility problem for traffic along neighboring roadways and should therefore be approved only in certain circumstances. Along E. Hill Street, the existing fence does block visibility for those exiting the existing driveway of the applicant's residence. Staff has provided pictures (attached) for consideration by the Board on this matter.

Pursuant to Section 6-29-800(A)(2) of the SC Code of Laws, the Board of Zoning Appeals has the power to:

Hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

- (a) there are extraordinary and exceptional conditions pertaining to the particular piece of property;
  - (b) these conditions do not generally apply to other property in the vicinity;
  - (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; and
  - (d) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.
- (i) The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit a variance, the governing body may require the affirmative vote of two-thirds of the local adjustment board members present and voting. Notwithstanding any other provision of this section, the local governing body may overrule the decision of the local board of adjustment concerning a use variance.

- (ii) In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use

as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

**Submitted by:**

Chris Pettit  
Assistant Planner / Zoning Administrator  
October 10, 2014



# TOWN OF FORT MILL

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DATE: 8-5-2014

Patricia A Brohm  
400 Unity Street  
Fort Mill, SC 29715

**RE: NOTICE OF ZONING ORDINANCE VIOLATION: FENCES**

Dear Ms Brohm,

The purpose of this letter is to inform you that a fence located at 400 Unity Street is in violation of the following Section(s) of the Zoning Ordinance for the Town of Fort Mill:

- Article I, Section 7-(M)
  - A: Building Permit Required
  - B(1): On corner lots, fences may not be permitted beyond the principal structure in side yards facing the adjoining street

We have attached a copy of the town's fence ordinance for your reference, as well as a photograph of the offending fence.

You are hereby ordered to bring this fence into compliance with the town's Zoning Ordinance within seventy-two (72) hours of receipt of this letter. Compliance may be achieved by removing the offending fence, or by applying for and obtaining a valid fence permit (if the fence is allowed by code).

Failure to correct this violation within the time specified may result in a fine of up to one hundred (\$100.00) dollars per day for each day the violation continues to occur.

If you have any questions about the contents of this letter, or if you wish to appeal the findings of the Zoning Administrator, please contact Joe Cronin by phone at (803) 547-2116 x 257 or by email at [jcronin@fortmillsc.gov](mailto:jcronin@fortmillsc.gov).

Sincerely,

Wayne Hunter  
Code Enforcement Officer

Joseph M. Cronin  
Planning Director/Zoning Administrator

Article I, Sec. 7. - General provisions.

M.

*Fences:*

A)

*Permit requirements:* Any person wishing to erect, alter, or relocate a fence must first obtain a fence permit from the code enforcement officer. Fences not meeting the standards outlined in this section may be permitted by a special use permit. The code enforcement officer may exercise the power to impose reasonable conditions in granting a special use permit under the requirements and guidelines of this ordinance.

B)

*Fencing requirements:*

1)

Fences shall be limited to a maximum height of six feet for rear and side yards and cannot extend beyond the principal structure into the front yard. For the property owners' protection, a six-inch setback from property lines shall be required.

2)

Front yard fences shall not exceed four feet in height and must be approved by the Code Enforcement Officer. Front yard fences cannot be located in any right-of-way.

3)

Fences shall be constructed with quality material and workmanship and be maintained in good repair. Materials must be approved by the code enforcement officer. Barbed wire, constantine wire, razor wire, or poultry wire are strictly prohibited.

4)

The finished side of fences shall face adjoining property and shall blend with the landscape.

5)

On corner lots, fences may not be permitted beyond the principal structure in side yards facing the adjoining street.

The sides and rear fence shall conform to the above guidance; however, due to the potential visibility problem, the construction of fences within the front yard will be restricted. The code enforcement officer may use the authority provided in subsection M.A). to issue a special use permit for front yards on a case-by-case basis for corner lots.

*(Amd. of 10-8-07)*

August 7, 2014

Mr. Joseph M. Cronin

[icronin@fortmillsc.gov](mailto:icronin@fortmillsc.gov)

**RE: NOTICE OF ZONING ORDINANCE VIOLATION: FENCES**

Dear Mr. Joe Cronin,

The purpose of this letter is a response to the 400 Unity Street fence compliance within the 72-hour response time about the alleged code violations. I apologize for not realizing I needed a building permit to replace and improve an existing fence.

When replacing my fence I had no intentions of not abiding by the Fort Mill ordinance. The old fence was damaged in a storm and unsightly, therefore I thought I was improving the looks of the neighborhood. I had spoken with both neighbors on either side, they both agreed to the replacement fence. I have had nothing but compliments from all of the neighbors saying this was long overdue. I am hoping we can resolve this by just applying for a building permit, if that is what is needed. If a permit is necessary please let me know where to apply, how much it will cost and if that will bring me into compliance.

As far as the second item, the fence going beyond the main structure of the home; I have enclosed photos of the fence that was there prior and existed for over forty-five years along the same exact fence line. I have also enclosed the neighbors' photos of their existing fence that follows the same criteria.

If you need to discuss it further please call me at 646-369-5361.

Sincerely,

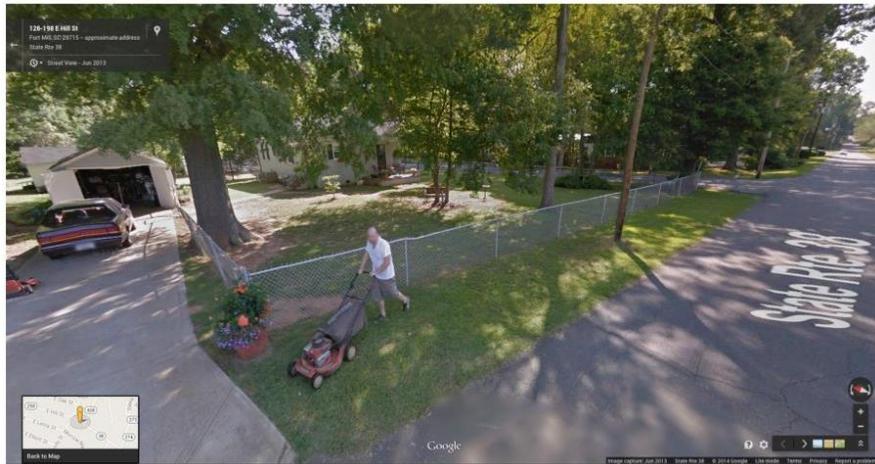
Tricia Brohm

400 Unity Street, Fort Mill, SC 29715

[triciaisagrammy@gmail.com](mailto:triciaisagrammy@gmail.com)



Neighboring fence below.



2014-419

Town of Fort Mill  
112 Confederate Street  
P.O. Box 159  
Fort Mill, South Carolina 29715

ZONING APPEALS BOARD  
VARIANCE APPEAL

Date Filed: 9/30/2014  
Owner's Name: Patricia Bohm  
Address: 400 Unity St, Fort Mill  
Telephone: \_\_\_\_\_  
Property Address: same  
Current Use: Residential  
Zoning District: R-10

ALL OF THE FOLLOWING QUESTIONS MUST BE ANSWERED

1. Describe the variance request: Variance to allow fence to extend beyond principal structure in side yard facing adjoining street
2. Why did the administrative official deny a permit? Article I, Section 7-(M) B (1): On corner lots, fences may not be permitted beyond the principal structure in side yards facing the adjoining street
3. Is the property, current uses or existing structures, nonconforming? Yes. If yes, how are they nonconforming? Fence extends beyond the principal structure in side yard facing the adjoining street
4. Describe any extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography: Due to being a corner lot the fence needs to be positioned where it is and was in order to maintain a look of quality + functionality
5. How do the extraordinary or exceptional conditions or literal interpretation of the provisions of the Zoning Code create an unnecessary hardship for the property owner? If fence was placed according to zoning the backyard would be cut in half and rendered useless

NOTICES OF APPEAL SHALL BE POSTED ON AFFECTED PROPERTY SO AS TO BE CLEARLY VISIBLE FROM A TRAVELED STREET. THE OWNER OR APPELLANT IS INSTRUCTED TO MAINTAIN POSTING AND TO BE RESPONSIBLE FOR NOTIFYING THE TOWN PROMPTLY IF THE SIGN IS DAMAGED OR REMOVED. FAILURE TO DO SO MAY DELAY BOARD ACTION.

Patricia Bohm 9/30/2014  
APPLICANT DATE

**York County Tax Map # 020-04-26-001  
Zoning Map**



**York County Tax Map # 020-04-26-001  
Aerial Map**





**Town of Fort Mill  
Board of Zoning Appeals  
Item for Action**

**Item #2      CASE # 2014-420  
Walter W Hartness Jr.  
102 Meacham St  
Tax Map # 020-06-01-057  
Zoning District: R-10**

Applicant is requesting a variance from the zoning ordinance to allow a detached carport in front of a primary residence, and a reduction of the 5' side yard setback requirement. [Pages 15-24]

**Background / Discussion**

The Town has received a variance request from Mr. Walter W. Hartness Jr. for two proposed nonconformities related to the installation of a 14' x 24' and a 24' x 24' detached carport (an "accessory use") at 102 Meacham Street.

The first request is to allow the detached carports in front of a primary residence. Under the Town's Zoning Ordinance, certain accessory structures shall not be permitted in front of primary structures.

Specifically, Article I, Section 7(G)(2) of the Town's Zoning Ordinance restricts the following accessory uses in front of principal structures:

- 2) *The following customary accessory uses **must not be in front of the principal structure** on a lot:*
- A) **Unattached private garages or carports,***
  - B) **Shed or tool room for the storage of equipment used in grounds or building maintenance,***
  - C) **Children's playhouse and play equipment,***
  - D) **Private kennel for family pets, provided they are of the type authorized by town Ordinance,***
  - E) **Private swimming pool and bath house or cabana,***
  - F) **Structures designed and used for purposes of shelter in the event of man-made or natural catastrophes,***
  - G) **Noncommercial flower, ornamental shrub, or vegetable garden greenhouse or slat house not over eight feet in height.***

The second request is to permit a reduction in the side yard setback requirement from five (5) feet to one (1) foot along the western property line adjacent to the industrial parking lot property and a reduction from five (5) feet to two (2) feet along the eastern property line adjacent to the neighboring residence (106 Meacham).

Article II, Section 2(5)(E) of the Town's Zoning Ordinance outlines the following setback requirement for accessory structures:

*E) Minimum side yard: R-10-Principal structure is ten feet **with accessory uses being five feet**. For side yard requirements pertaining to corner lots, see article I, section 7, subsection C.*

The applicant has stated that the purpose of the request is to protect his vehicles from the elements, specifically from the damaging hail storms that have occurred frequently in Fort Mill. Given the narrowness of the lot, the applicant believes that the proposed carport locations would be the only feasible locations.

Staff would like to note that there is an overhead utility line that crosses the proposed carport location along the eastern property boundary (adjacent to 106 Meacham). If a variance were to be granted to allow the carport to be installed at that location, the applicant would still be required to meet all of the requirements of the Building & Codes Department and/or the utility companies. Specifically, the applicant would be required to meet any clearance requirements or may be required to bury the utility lines prior to being able to install the carport.

Pursuant to Section 6-29-800(A)(2) of the SC Code of Laws, the Board of Zoning Appeals has the power to:

Hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

- (e) there are extraordinary and exceptional conditions pertaining to the particular piece of property;
  - (f) these conditions do not generally apply to other property in the vicinity;
  - (g) 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; and
  - (h) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.
- (iii)The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit a variance, the governing body may require the affirmative vote of two-thirds of the local adjustment board members present

and voting. Notwithstanding any other provision of this section, the local governing body may overrule the decision of the local board of adjustment concerning a use variance.

- (iv) In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

**Submitted by:**

Chris Pettit  
Assistant Planner / Zoning Administrator  
October 10, 2014

Town of Fort Mill  
112 Confederate Street  
P.O. Box 159  
Fort Mill, South Carolina 29715

ZONING APPEALS BOARD  
VARIANCE APPEAL

Date Filed: 10-1-14

Owner's Name: Walter W Hartness Jr.

Address: 102 Meacham St

Telephone: 803-448-7633

Property Address: 102 Meacham St.

Current Use: Residential

Zoning District: R-10

ALL OF THE FOLLOWING QUESTIONS MUST BE ANSWERED

1. Describe the variance request: - Accessory use less than 5' from side property line - Accessory use in front of principal structure
2. Why did the administrative official deny a permit? Requested locations of two carports do not comply with the requirements of Article II sec. 11 and Article I Sec. 7 G of the town's Zoning Ordinance
3. Is the property, current uses or existing structures, nonconforming?  If yes, how are they nonconforming?  
★ Previously approved to encroach into side setback for bedroom addition.

4. Describe any extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography:  
The size & shape of the property do not provide much opportunity for covered parking.

5. How do the extraordinary or exceptional conditions or literal interpretation of the provisions of the Zoning Code create an unnecessary hardship for the property owner?

By sticking w/ the ordinance, there would be nowhere to put carports. Carports already purchased. Would like to have vehicles covered.

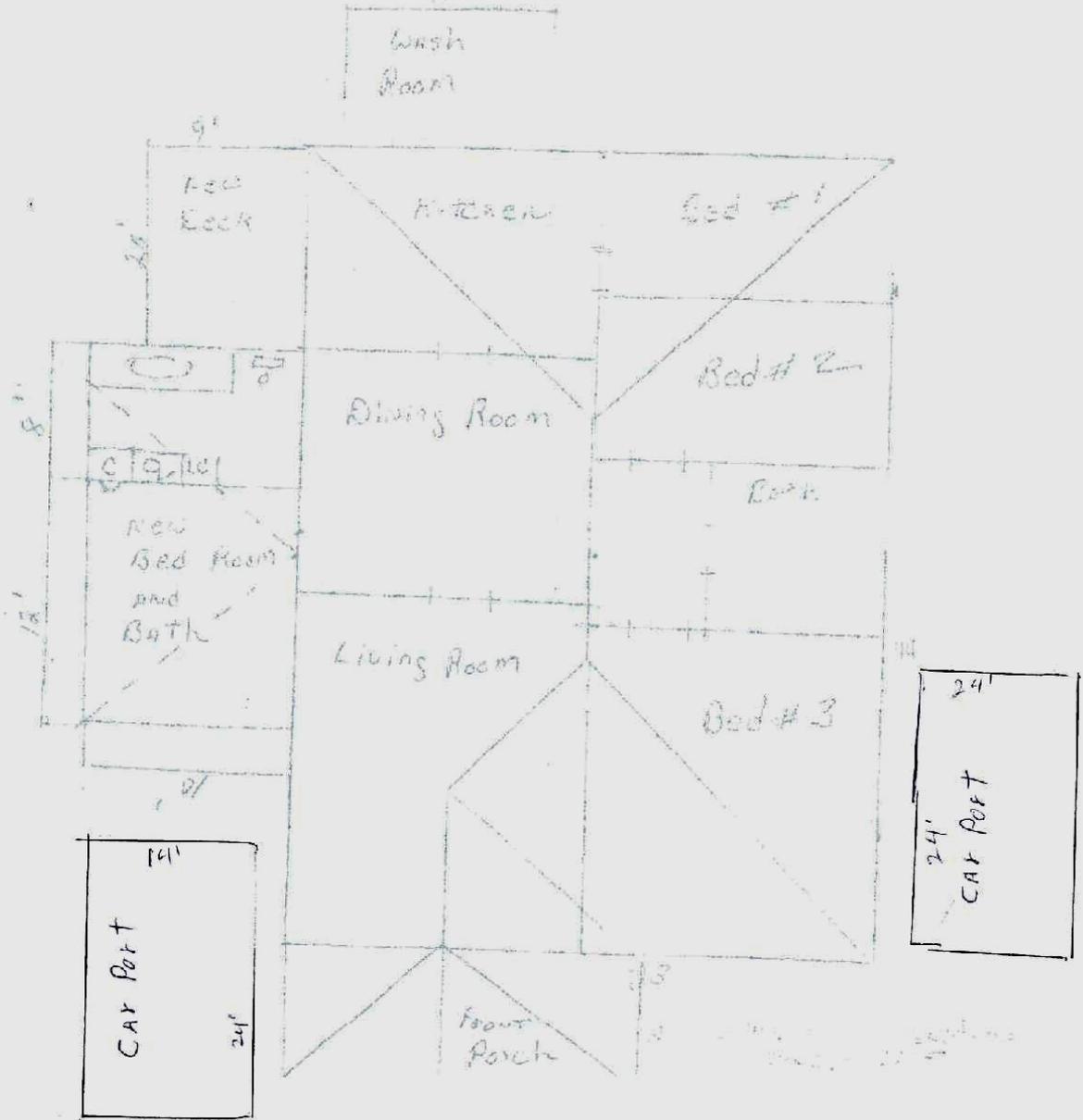
NOTICES OF APPEAL SHALL BE POSTED ON AFFECTED PROPERTY SO AS TO BE CLEARLY VISIBLE FROM A TRAVELED STREET. THE OWNER OR APPELLANT IS INSTRUCTED TO MAINTAIN POSTING AND TO BE RESPONSIBLE FOR NOTIFYING THE TOWN PROMPTLY IF THE SIGN IS DAMAGED OR REMOVED. FAILURE TO DO SO MAY DELAY BOARD ACTION.

Walter W Hartness  
APPLICANT

10-01-2014  
DATE

WALTER & Cindy HARTNESS 102 Breachum Street

25' x 44'



★ Carports not drawn to scale

10-2-14

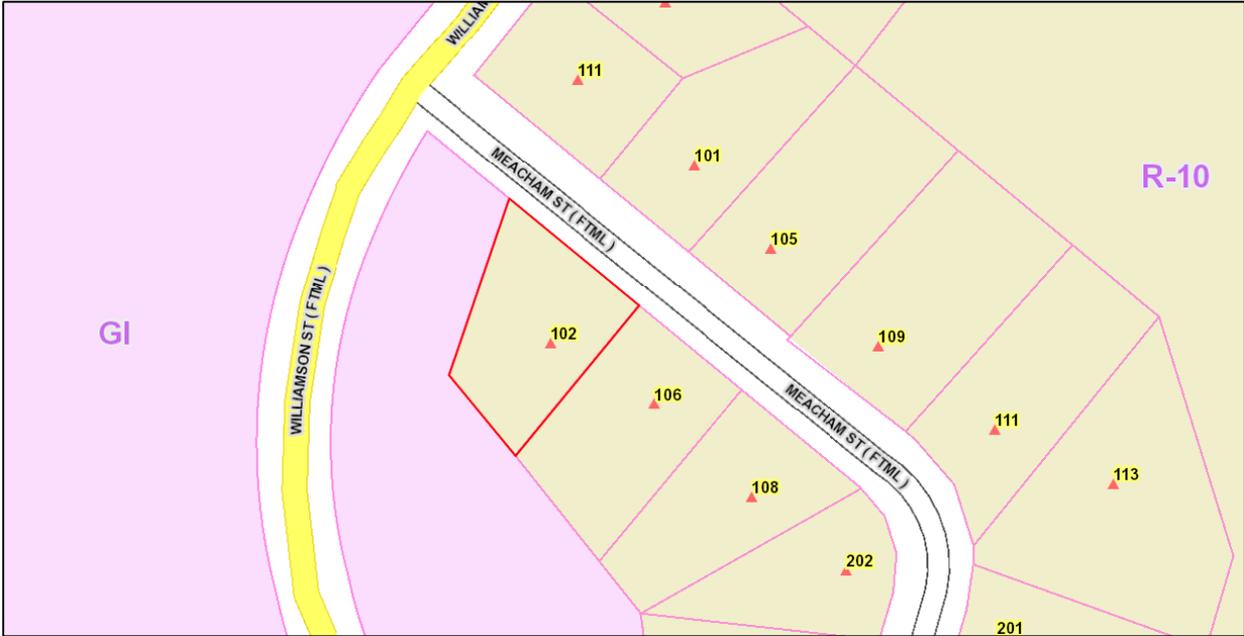
My name is Vicki Matthews. I live at  
106 Meacham St. Ft. Mill, SC 29715.

My neighbor is Walter Hartness. He lives  
at 102 Meacham St. He is wanting to  
build a carport on his property.

I do not have any problems with  
Mr. Hartness building this carport.

Vicki Matthews  
106 Meacham St.  
Ft. Mill, SC 29715  
704-778-6131 cell

**York County Tax Map # 020-06-01-057  
Zoning Map**



**York County Tax Map # 020-06-01-057  
Aerial Map**







**Town of Fort Mill**  
**Board of Zoning Appeals**  
**Item for Action**

**Item #3**     **CASE # 2014-422**  
**George McGuigan**  
**120 E. Hill Street**  
**Tax Map # 020-04-22-007**  
**Zoning District: R-15**

Applicant is requesting a variance from the zoning ordinance to allow a reduction of the 5' side yard setback requirement for an accessory structure. [Pages 25-30]

**Background / Discussion**

The Town has received a variance request from Mr. George McGuigan for a proposed non-conformity related to the installation of a detached carport (an “accessory use”) at 120 E. Hill Street.

The purpose of the request is to permit a reduction in the side yard setback requirement to less than five (5) feet for an accessory structure. At the time of this report, the applicant had not completed a design for the project and therefore did not have an exact request for a proposed setback. Previous discussions with the applicant have indicated that the request may be between six (6) inches to one (1) foot, however the applicant plans to provide the Board with the exact request prior to the scheduled public hearing on October 20, 2014.

Article II, Section 1(5)(E) of the Town’s Zoning Ordinance outlines the following setback requirement for accessory structures:

*E) Minimum side yard: R-25—Principal structure-20 feet with accessory uses being five feet. R-15—Principal structure-ten feet with **accessory uses being five feet**. For side yard requirements pertaining to corner lots, see article I, section 7, subsection C.;*

The applicant has stated that the purpose of the request is to protect his vehicles from the elements, specifically from the damaging hail storms that have occurred frequently in Fort Mill and the tree branches that frequently fall along the existing driveway and parking areas. Given the narrowness of the lot, the applicant believes that the proposed carport location would be the only feasible location.

Staff would like to note that there is an overhead utility line that crosses the proposed carport location. If a variance were to be granted to allow the carport to be installed at that location, the applicant would still be required to meet all of the requirements of the Building & Codes Department and/or the utility companies. Specifically, the applicant would be required to meet any clearance requirements or may be required to bury the utility lines prior to being able to install the carport.

Pursuant to Section 6-29-800(A)(2) of the SC Code of Laws, the Board of Zoning Appeals has the power to:

Hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the board makes and explains in writing the following findings:

- (i) there are extraordinary and exceptional conditions pertaining to the particular piece of property;
- (j) these conditions do not generally apply to other property in the vicinity;
- (k) 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; and
- (l) the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.
- (v) The board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance. Other requirements may be prescribed by the zoning ordinance.

A local governing body by ordinance may permit or preclude the granting of a variance for a use of land, a building, or a structure that is prohibited in a given district, and if it does permit a variance, the governing body may require the affirmative vote of two-thirds of the local adjustment board members present and voting. Notwithstanding any other provision of this section, the local governing body may overrule the decision of the local board of adjustment concerning a use variance.

- (vi) In granting a variance, the board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

**Submitted by:**

Chris Pettit  
Assistant Planner / Zoning Administrator  
October 10, 2014

4722

Town of Fort Mill  
112 Confederate Street  
P.O. Box 159  
Fort Mill, South Carolina 29715

ZONING APPEALS BOARD

VARIANCE APPEAL

Date Filed: \_\_\_\_\_

Owner's Name: George + Kathy McGuigan

Address: 120 E. Hill St. Fort Mill, SC 29715

Telephone: 704.737.4826 704.299.6918

Property Address: 120 E. Hill St. Fort Mill, SC 29715

Current Use: Primary residence

Zoning District: R-15



ALL OF THE FOLLOWING QUESTIONS MUST BE ANSWERED

1. Describe the variance request: We want to build a wooden carport behind our house at the end of driveway. The edge will be less than 5 feet from property line.

2. Why did the administrative official deny a permit? We have not requested a permit yet. We were told this type of structure may not conform to the zoning code.

3. Is the property, current uses or existing structures, nonconforming? No If yes, how are they nonconforming?  
\_\_\_\_\_  
\_\_\_\_\_

4. Describe any extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography:  
The driveway is close to the edge of the property line. We do not have another place the carport could be positioned.

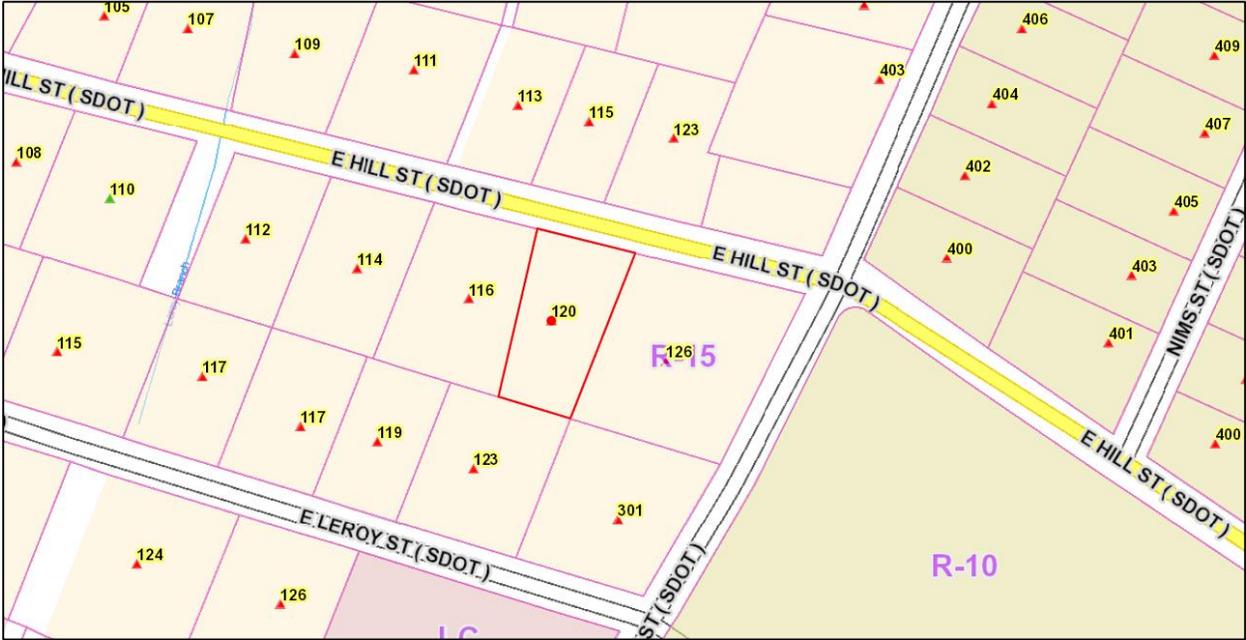
5. How do the extraordinary or exceptional conditions or literal interpretation of the provisions of the Zoning Code create an unnecessary hardship for the property owner?  
Exceptional condition: Our neighbor's large tree drops branches onto our cars. Hail damage to our cars also of \$4300.00.

NOTICES OF APPEAL SHALL BE POSTED ON AFFECTED PROPERTY SO AS TO BE CLEARLY VISIBLE FROM A TRAVELED STREET. THE OWNER OR APPELLANT IS INSTRUCTED TO MAINTAIN POSTING AND TO BE RESPONSIBLE FOR NOTIFYING THE TOWN PROMPTLY IF THE SIGN IS DAMAGED OR REMOVED. FAILURE TO DO SO MAY DELAY BOARD ACTION.

George W. McGuigan III  
APPLICANT Kathy McGuigan

DATE 8-23-14

**York County Tax Map # 020-04-22-007  
Zoning Map**



**York County Tax Map # 020-04-22-007  
Aerial Map**



