

**Athens-Clarke County Planning Department
STAFF REPORT**
Request for Variance from the Athens-Clarke County Hearings Board
July 10, 2024
VAR-2024-06-1102

Petitioner	Jake Grant
Agent	David Matheny, AIA c/o Armentrout Matheny Thurmond, P.C.
Location	383 Milledge Circle
Project Number	VAR-2024-06-1102
Zoning	RS-15 (Single-Family Residential)
Tax Parcel Number	114D1 A024
Present Use	Residential
Proposed Use	Residential
Staff Recommendation	denial

SUMMARY:

The applicant seeks relief from ACC Code Section 9-7-3, regarding the limitation of maximum lot coverage on a parcel within an RS-15 (Single-Family Residential) zoning district. The applicant began construction of an outdoor pavilion, fire pit and kitchen in 2022, prior to zoning permit review and approval. Upon review, the project was determined to exceed maximum lot coverage and the applicant proposed replacing the front gravel drive with tire strips and mulch. The revised site plan was approved by staff but the proposed driveway work was not completed.

In January of 2024, the applicant constructed a fence in the side rear yard without prior approval. Code enforcement was called and upon inspection, found the walkways had already been installed. A zoning permit was submitted and approved with plans that called for the removal of the front drive, in order to meet lot coverage requirements. The applicant now seeks approval to allow existing paths, patio, and pavilion in the rear yard and circular driveway in front of the house to remain. Therefore, they have requested the following:

A. Variance to increase the allowable lot coverage from a maximum of 40% to 46%. (9-7-3).

STAFF EVALUATION:

In evaluating the above variance, Staff has reviewed the following standards found in Section 9-21-3 to determine whether the Athens-Clarke County Hearings Board should grant this request:

- 1. There are extraordinary and exceptional conditions pertaining to this particular piece of property in question because of its size, shape, character, or topography that do not apply generally to other land in the vicinity; and**

The subject property is .33 acres, or 14,322.1 square feet and is located on the south side of Milledge Circle, near the intersection with Westview Drive. It contains a house that was in place on this property by 1925, according to tax records. This property and surrounding lots are located in the Milledge Circle Local Historic District and are zoned RS-15 (Single-Family Residential).

It's unremarkable in its size, shape, character but does slope from front to back, with a change in elevation of about 8'. And though it falls just below the 15,000 square foot minimum lot size for new RS-15 parcels, there are many parcels in the general vicinity are also substandard in this respect. This nonconformity is not exceptional as the existing lot coverage would still exceed the maximum allowed if the parcel met the 15,000 square feet threshold.

A final plat was approved in 2021 that reconfigured the southeast lot line, adding a few hundred additional square feet to the subject property. This was intended to help with setback and lot coverage problems created by a porch addition constructed on the side of the house.

2. The strict application of the provisions of this title to this particular piece of property would create an undue and unnecessary hardship so that the granting of the variance is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant; and

The applicant states that use and enjoyment of the property by the disabled homeowner requires greater impervious lot coverage to have full access to back yard amenities. Since 2021, the applicant has started several projects prior to getting Certificate of Appropriateness (COA) or completing a zoning permit. In each case, the applicant submitted plans after construction had begun or was completed and those plans showed an acknowledgement for the need to reduce or remove the circular drive, in order to meet lot coverage requirements. The latest approved plan calls for the removal of the front circular drive entirely to accommodate the additional coverage from the walkways in the rear yard. Staff finds that the applicant has not adequately demonstrated the hardship.

3. The special conditions and circumstances do not result from the actions of the applicant; and

Work on the pavilion, fence, and walkway was started prior to the benefit of review. If planning staff had been able to review the scope of work prior to the walkway construction, staff would have made the applicant aware that lot coverage maximum had been met and required the applicant to submit a revised site plan. Therefore, the current conditions are completely the result of the applicant's actions.

4. The benefits of granting the variance will be greater than any negative impacts on the development of the adjacent uses and will further the purpose and intent of this title and the comprehensive plan of Athens-Clarke County; and

The applicant states that the walkway and driveway are both needed to maintain access to the yard and front door and will have no negative impacts to surrounding properties. The stated purpose of the RS district is to stabilize and protect owner occupied characteristics of the district and promote

and encourage a suitable environment for family life. Lot coverage is also intended to reduce impervious surface and associated rainwater runoff. In this case, the additional pavement could impact the amount of runoff to neighboring properties downslope.

Transportation and Public Works, Public Utilities and the Fire Marshall reviewed the plans and did not provide comments.

- 5. The variance, if granted, will represent the minimum variance that will afford relief from the identified hardship and will represent the least deviation possible from the zoning regulation and from the comprehensive plan.**

The applicant has identified ways to reduce or remove the front circular drive in previous approved site plans to remain compliant with lot coverage standards. Staff finds that the applicant has not adequately addressed how keeping the full circular drive and walkways represents the minimum variance required to afford relief.

RECOMMENDATION SUMMARY:

ACC Staff analysis of the requested variance finds the criteria have been addressed as follows and, as such, the Staff recommendation is to deny the requested variance.

- A. Variance to increase the allowable lot coverage from a maximum of 40% to 46%.

Upon staff review, the following criteria have not been fully met:

1. The subject property is just under the 15,000 square foot threshold for RS-15 properties but even if it was not substandard, would exceed lot coverage limits.
2. The applicant has had to propose changes in the driveway in response to additional coverage that was not reviewed. The current request does not address the hardship and is more of a convenience for the applicant.
3. The applicant constructed walkways prior to receiving staff approval, thereby creating the current circumstances.
4. The additional impervious surface could have impacts on neighboring properties downslope.
5. No variance would be needed if the proposed driveway mediation was implemented.

As all five criteria have not been deemed to be fully met, denial is recommended.