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**REQUEST:** Application by Paul Wallace Jr, requesting a variance from Unified Development Ordinance Sec. 2.4 District Development Standards: Setbacks

**PROPERTY LOCATION:** 2066 Mountain Laurel Road

**TAX MAP NUMBER:** TM# 0088G-08-008.00

**ZONING DISTRICT:** Rural Neighborhood (RN) District

**HEARING NOTICES:** Published The Lancaster News 1/20/2024  
Notices mailed 1/19/2024  
Signs posted 1/19/2024  
Agenda posted online and in Administration Building Lobby 1/30/2024

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**OVERVIEW:**

The applicant is requesting a variance from Unified Development Ordinance (UDO) Section 2.4 District Development Standards: Setbacks, to allow a 10-foot side setback instead of 20 feet.

***Background***

The subject property is approximately 0.651 acres and is located at 2066 Mountain Laurel Road, southeast of the City of Lancaster. The property is zoned Rural Neighborhood (RN) District. The applicant discovered that their proposed 864 square foot accessory structure would cover the existing septic drain field. If the structure was built 10 feet into the side setback, the structure would not encroach into the drain field. Since accessory structures over 600 square feet in area must meet the same setbacks as a principal structure. In this case the correct setbacks would be 20 feet from adjacent TM Number 0088G-0B-007.00.

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**RELATION TO THE UNIFIED DEVELOPMENT ORDINANCE:**

***UDO Section 2.4, Purpose/Limitations***

The following tables outline the primary development standards for each base zoning district in Lancaster County. For development on infill lots and additions to existing development, the standards in Chapter 1 shall also apply.

SECTION 2.4 STANDARD		ZONE: Rural Neighborhood (RN)
<b>1. DEVELOPMENT STANDARDS</b>		
A. District/Development Area (min)		n/a
B. Development/District Exterior Setback/ Buffer		n/a
C. Density (max)		n/a
D. Open Space (min)		Exempt
E. Park Space (min)		Exempt
<b>2. LOT STANDARDS</b>		
A. Lot Area (min)		1.0 acre
B. Lot Width at Front Setback (min)		130 lf
C. Pervious Surface (min)		50%
<b>3. PRINCIPAL BUILDING</b>		
A. Principal Front Setback (min)		40 ft
B. Street Side/Secondary Front Setback (min)		20 ft
<b>C. Side (from adjacent lot) Setback (min)</b>		<b>20 ft</b>
D. Rear Setback (min)		25 ft
E. Other Standards		n/a
<b>4. ACCESSORY STRUCTURE</b>		
A. Side Setback		5 ft
B. Rear Setback		5 ft
C. Other Standards		See Below (1, 2)
<b>5. PARKING CONFIGURATION</b>		
A. Parking Location per Section 9.3		7.2.3
B. Parking in Exterior Setback/Buffer		n/a
<b>6. BUILDING HEIGHT</b>		
A. Principal Building (max)		35 ft
B. Accessory Structure (max)		35 ft
C. Additional Height Permitted with Additional Setback		1 ft additional height permitted with each 2 ft horizontal setback

1. **Accessory structures over 600 sf must comply with principal setback requirement.**
2. No accessory structures may be located on corner lots between the street and wall line of the principal structure.
3. For any nonresidential structure which is located immediately adjacent to a single-family residential use or district, the lot boundary line minimum distance shall be determined as follows: For every foot building height, the developer shall provide setbacks equal to the height of the building. At no time shall the setback be less than what is indicated in the above table.
4. The Development/ District Exterior Setback/ Buffer shall not apply between adjacent LI and HI districts. A waiver of these requirements may be granted by the Administrator for LI and HI lots existing at the adoption date of this ordinance which do not meet the specified minimum District/ Development Area. In such instances the building setback standards for the AR District shall apply. A waiver of these requirements may also be granted by the Administrator in order to permit access to an adjacent railroad right-of-way.

**Proposed placement of accessory structure:**



*Proposed accessory structure location off Mountain Laurel Road*

## *UDO Section 9.2.12, Variances - Standard of Review*

### **A. PURPOSE/LIMITATIONS**

**1. Purpose:** The variance process administered by the Board of Zoning Appeals is intended to provide limited relief from the requirements of this ordinance in those cases where strict application of a particular requirement will create a practical difficulty or unnecessary hardship prohibiting the use of the land in a manner otherwise allowed under this ordinance.

**2. Financial Hardship Not Sufficient Ground for Variance:** It is not intended that variances be granted merely to remove inconveniences or financial burdens that the requirements of this ordinance may impose on property owners in general or to increase the profitability of a proposed development.

**3. Use Variances Not Permitted:** In no event shall the Board of Zoning Appeals grant a variance which would allow the establishment of a use which is not otherwise allowed in a land development district or which would change the land development district classification or the district boundary of the property in question. Nor shall the Board grant a variance which would allow the establishment of a use set forth herein as requiring certain conditions or standards under conditions or standards less than those minimums.

**4. Authority Limited to this Ordinance/ Conflicts with other Laws Prohibited:** In no event shall the Board of Zoning Appeals grant a variance which would conflict with the International Building Code, as amended, or any other state code unless otherwise authorized by duly enacted applicable laws and regulations.

### **C. FORMAL REVIEW**

#### **1. Action by the Board of Zoning Appeals**

- a. Upon receipt of the request for a variance from the Administrator, the Board of Zoning Appeals shall hold a quasi-judicial hearing on the request.
- b. After conducting the hearing, the Board of Zoning Appeals may: deny the application; conduct an additional public hearing on the application; or grant the application. It shall take a majority vote of the Board to grant a variance.
- c. A decision by the Board of Zoning Appeals shall be made within 30 days of the date of the hearing.
- d. The Board of Zoning Appeals, as established by Lancaster County, shall hear and decide requests for variances from the requirements of the standards for the Flood Damage Prevention standards located in Chapter 8.

#### **2. Standard of Review**

- a. **General Variance Requests:** The Board of Zoning Appeals shall not grant a variance unless and until it makes all of the following findings:
  - i. That there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this ordinance;
  - ii. That if the applicant complies with the provisions of the ordinance, the property owner seeking the variance can secure no reasonable return from, or make no reasonable use of his property;

- iii. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings located in the same land development district;
- iv. That the variance will not materially diminish or impair established property values within the surrounding area;
- v. That the special conditions and circumstances referenced in iii, above, result from the application of this ordinance and not from the actions of the applicant;
- vi. That the variance is in harmony with the general purpose and intent of this ordinance and preserves its spirit;
- vii. That the variance is the minimum necessary to afford relief; and
- viii. That the public health, safety and general welfare have been assured and substantial justice has been done.

***UDO Section 1.1.4, Purpose and Intent***

The regulations contained in the UDO have been adopted in accordance with the Comprehensive Plan for Lancaster County, South Carolina, as adopted, in order to:

- A.** Promote a strong, diverse economy that supports a wide variety of businesses and enterprises.
- B.** Provide sustainable, well-managed growth that maintains quality of life, protects open space and environmental quality, retains the natural character of the region, and maximizes the efficiency of the infrastructure investments.
- C.** Promote a safe and healthy environment with good air and water quality.
- D.** Support increased collaboration among jurisdictions on issues that transcend boundaries, including growth management, transportation, and environmental concerns, in a manner that recognizes both regional and local needs.
- E.** Promote community leadership and cooperative volunteerism for all residents.
- F.** Create high quality educational opportunities that are available to all residents.
- G.** Encourage community and stakeholder collaboration in development decisions, which are predictable, fair, and cost effective.
- H.** Preserve open space, farmland, natural beauty, and critical environmental areas.
- I.** Strengthen and direct development towards existing communities.
- J.** Encourage mix of land uses with compact building design and walkable neighborhoods.
- K.** Create a range of housing opportunities and choices.
- L.** Foster distinctive, attractive communities with a strong sense of place.

***UDO Section 1.4.7 Accessory Uses and Structures***

The purpose of this section is to establish standards for accessory uses and structures in Lancaster County's land use jurisdiction. Except as provided elsewhere in this chapter, it shall be unlawful for any person to erect, construct, enlarge, move, or replace any accessory use or structure without first obtaining a Zoning Permit from the Administrator.

**A. GENERAL**

- 1. Accessory Uses and Structures:** Accessory uses and structures may only be used for purposes permitted in the district in which they are located.
- 2. Not for Dwelling Purposes:** Accessory structures shall not be used for dwelling purposes except as approved Accessory Dwelling Units (see Section 5.2.3).
- 3. Building Permits May Be Required:** Depending on the size of the structure and the incorporation of various improvements (e.g., electrical, plumbing), a building permit may also be required.

**B. LOCATION, MAXIMUM NUMBER, AND MAXIMUM AREA**

Standards	Single-Family/Two-Family Lots – Less than ½ Acre	Single-Family/Two-Family Lots – ½ Acre to 2 Acres	All Other Uses and Lots Larger than 2 Acres
1. Permitted Location	Side/rear yard only	Side/rear yard only	Permitted in all yards – may not be closer than 30 ft. to right-of-way
2. Maximum Number Permitted	2	2	No maximum
3. Maximum Building Footprint	750 sq. ft. per structure; Aggregate area no greater than 75% of the principal structure	1500 sq. ft. per structure; Aggregate area no greater than 75% of the principal structure	No maximum

**C. OTHER REQUIREMENTS**

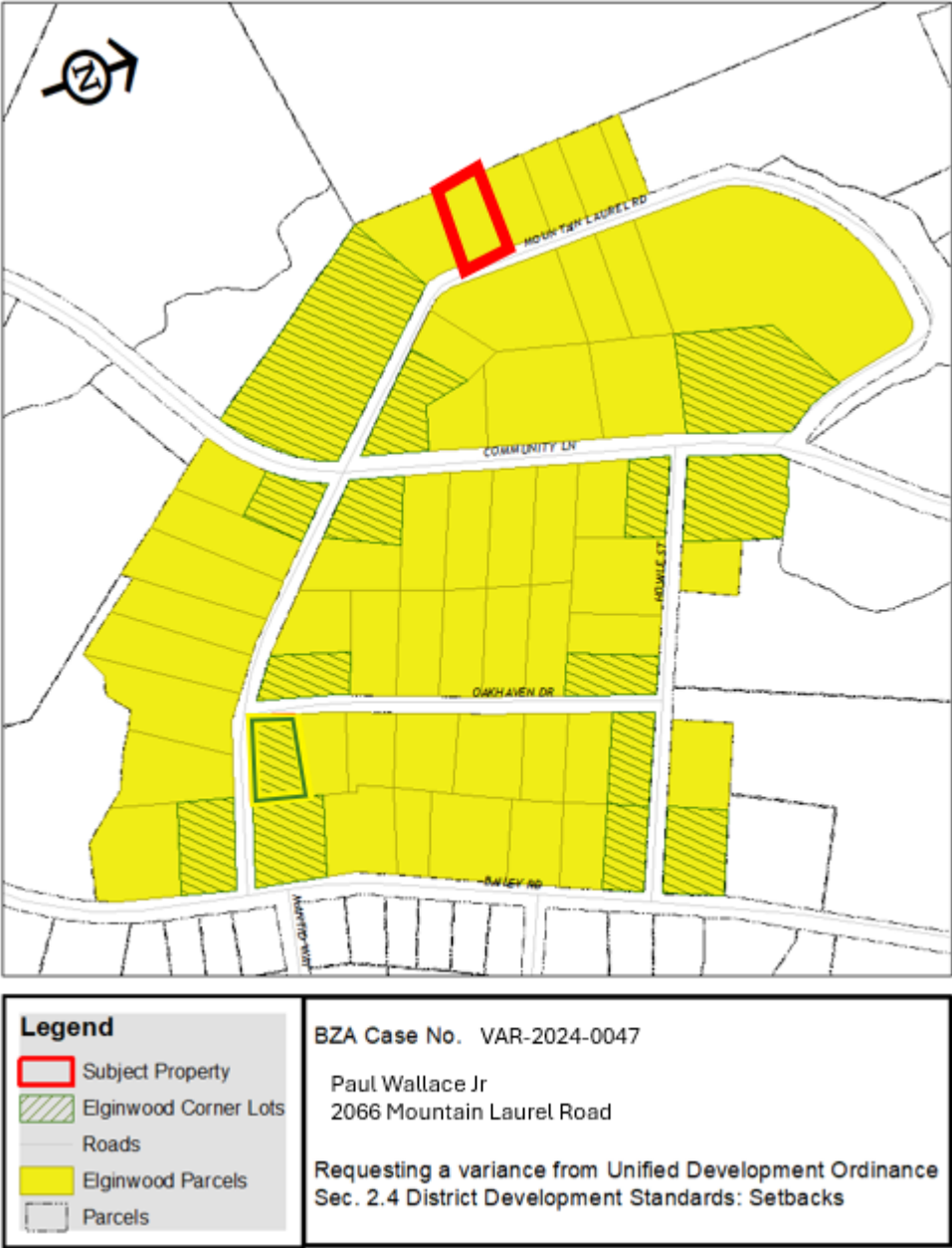
- 1. Distance to Single Family Dwelling:** No accessory uses and/or structures shall be closer than the distance specified in the currently-applicable building code to a single family dwelling; except that an unenclosed (open on all sides) carport and/or an unenclosed breezeway no wider than 9 feet at its widest point may be attached to or placed any distance from a principal building.
- 2. Lighting:** Exterior lighting for accessory uses and/or structures shall meet the requirements by which principal structures are governed as set forth in Chapter 7.

**D. EXCEPTIONS**

The following accessory uses are exempt from the locational requirements of this section and the setback requirements in Chapter 2 as noted below:

- 1.** Transit shelters and bicycle racks may be located in the front or side yard as necessary.
- 2.** Backflow preventers and other customary utility structures may be located in the front yard as necessary.
- 3.** Gatehouses and gazebos, including security gatehouses, may be located in the front yard provided they do not have a footprint greater than 100 square feet.
- 4.** Neighborhood entrance ground signs may be located in the front or side yard of a lot according to the standards of Chapter 7.
- 5.** Neighborhood gatehouses including security gatehouses, may be located in the front yard provided they do not have a footprint greater than 250 square feet.
- 6.** Up to 2 small accessory uses and/or structures, child play structures, or backyard pens/coops located in the side or rear yard are exempt from the limitations in Chapter 2. To be considered exempt, such accessory buildings shall not, under the International Building Code, be required to obtain a building permit.

Findings of Fact - Property:



- The applicant is the owner of property located at 2066 Mountain Laurel Road, in the Elginwood subdivision. (Source: Application; Lancaster County Assessor’s Office Property Card) The property is measured using from plat book page 13053 is 0.651 acres.

- The property is zoned Rural Neighborhood (RN). (Source: Lancaster County Official Zoning Map)
  - The minimum lot size in RN is 1.0 acres (43,560 sq ft). (Source: Lancaster County UDO)
  
  - RN minimum setbacks for the principal structure(s) on site are found in *Section 2.4 of the Lancaster County Unified Development Ordinance (UDO)* and are as follows:
    - Front setback 40 ft
    - Side setback, yards or streets 20 ft
    - Rear setback 25 ft
  - RN minimum setbacks for accessory structures are different based on the accessory structure size. (Source: *Section 2.4 of the Lancaster County UDO*)
    - If the accessory structure is 600 square feet or less in area, then the accessory structure may be constructed at minimum five feet from the property line of either the side or rear yard.
    - If the accessory structure exceeds 600 square feet in area, then the accessory structure must meet the same setbacks as the principal use (being 40 feet from the front street, 20 feet from the side yard or side street, and 25 feet from the rear yard property line).
- The property is located in the Elginwood subdivision, and the following information was gathered using *Lancaster County's GIS data*:
  - Elginwood is primarily located between Community Ln, also known as S-29-362, and Bailey Rd, also known as S-172.
    - Both Bailey Rd and Community Ln are state-owned secondary roads.
  - Elginwood is served internally by additional state roads, including:
    - Howle St (S-585)
    - Mountain Laurel Rd (S-586 and S-642)
    - Oakhaven Dr (S-587)
  - The first sale of property in the Elginwood subdivision was recorded in 1965, meaning that the Elginwood subdivision was approved prior to Lancaster County's entry into zoning and subdivision regulations in 1994.
  - Elginwood is made up of 64 lots:
    - The smallest lot is 0.35 acres.
    - The largest lot is 6.41 acres.
    - The average lot size in the neighborhood is 1.13 acres.
    - 38 of the 64 lots are less than 1.0 acre in area and are sub-standard to today's UDO standards. These lots are grandfathered in at their current size. They may be increased in size but may not be reduced in size.
  - Elginwood has 15 lots that have two street frontages (corner lots):
    - The smallest corner lot is 0.64 acres.
    - The largest corner lot is 4.66 acres.
    - The average corner lot size is 1.26 acres.
    - Eight of the 15 lots are less than 1.0 acre in area and are sub-standard to today's UDO standards. These lots are grandfathered in at their current size. They may be increased in size but may not be reduced in size.



**ATTACHMENTS:**

1. Variance Application
2. Location Map
3. Deed
4. Recorded Plat

**STAFF CONTACT:**

Matthew Blaszyk, Planner  
[mblaszyk@lancastersc.net](mailto:mblaszyk@lancastersc.net) | 803-416-9380