



Town of
INDIAN TRAIL
 north carolina

P.O. Box 2430
 Indian Trail, North Carolina 28079
 Telephone (704) 821-5401
 PLANNING AND NEIGHBORHOOD SERVICES

Variance Staff Report

Case: VAR 2011-005 Providence Hills Garage		
Reference Name	4903 Claybrooke Court Attached Garage Setback Encroachment	
Proposed Request	Variance Relief from Section: <ul style="list-style-type: none"> 510.040 B- Lot Size, Density, Setback and Height Table 	
Existing Site Characteristics	Existing Zoning	SF-1 (Single-Family Residential)
	Existing Use	Single Family Home
	Site Acreage	0.587 Acres (25,569.72 square feet.)
Applicant	Steve and Suzanne Leighton, property owners	
BOA Hearing Date	July 28, 2011	
Location	4903 Claybrooke Court	
Tax Map Number(s)	07-147-185	
Plan Consistency	Designation	Antioch Suburban Mix Village
	Consistent with Request	Generally Complies

Project Summary

Request: Variance from Section 510.040 of the Unified Development Ordinance (UDO) to provide relief from the 12 foot minimum side yard setback associated with an attached garage addition to the existing home (see Attachment 1).

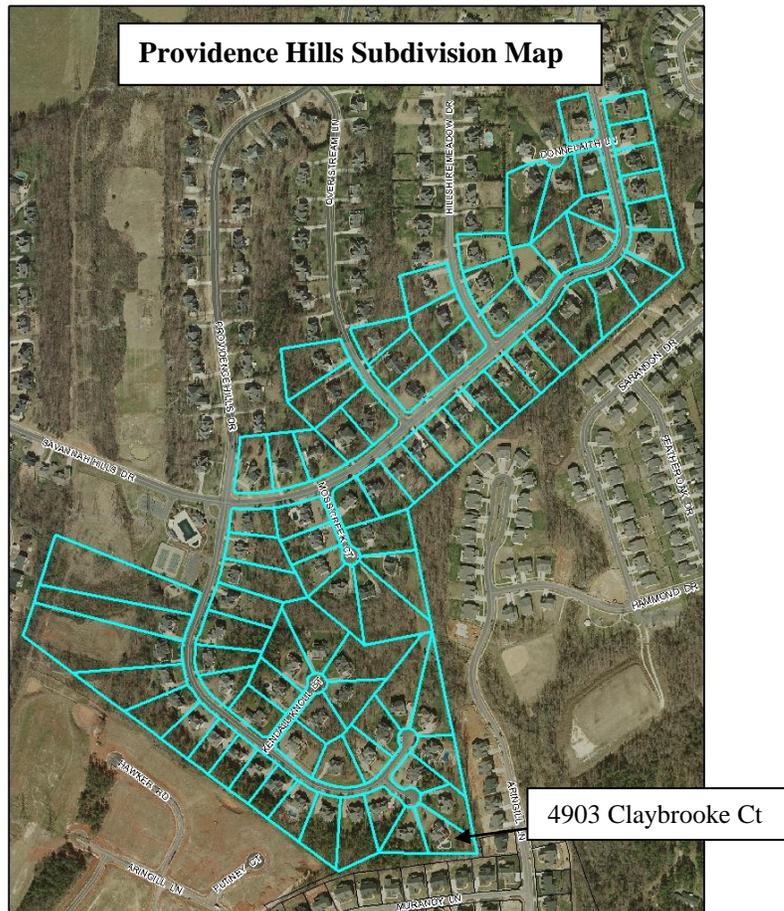
Background

This variance request is the result of a garage addition that encroaches on the required side yard setback. On August 19, 2010 the Town issued a zoning permit to expand upon the existing attached garage. The plot plan submitted with the application indicated the required setbacks would be met (see Attachment 2). After the garage was completed, the as-built survey (see Attachment 3) showed the garage addition to be 10.8 feet off the left side yard property line, thereby encroaching 1.2 feet into the minimum 12 feet building setback. The result was a nonconforming situation whereby the only legal way to permit the structure is a variance. The applicant was therefore denied a zoning certification for the addition. As a result, the home owner is requesting a variance in order to comply with the Town's zoning ordinance.

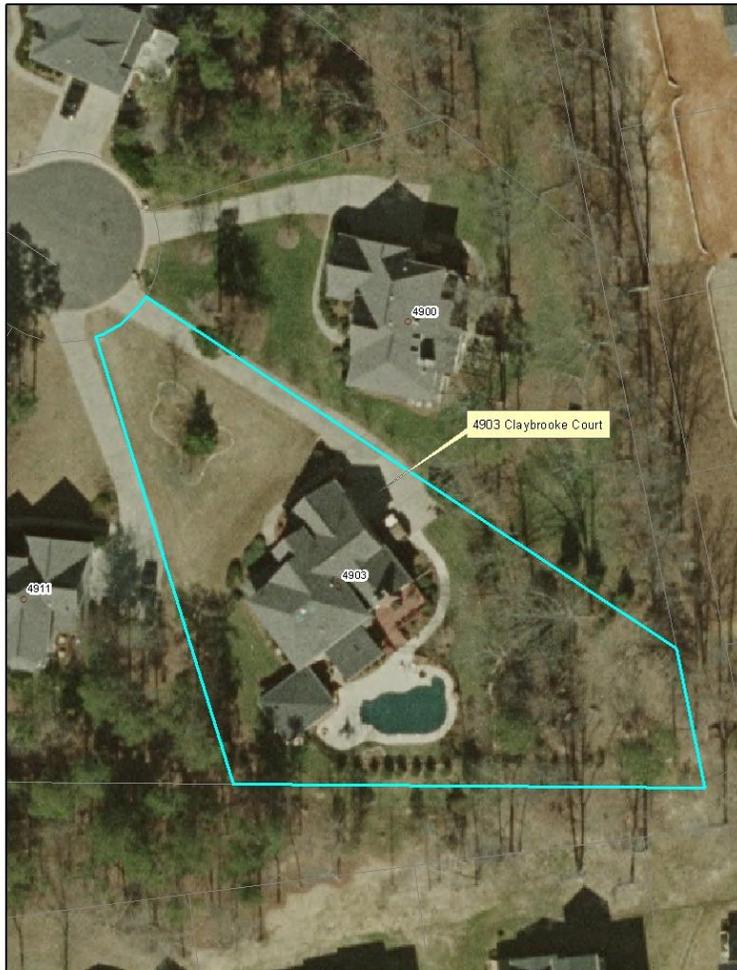
Analysis

Site and Adjacent Properties

The subject property is located in the Providence Hills subdivision at the end of a cul-de-sac at 4903 Claybrooke Court. The neighborhood is zoned Single Family Residential (SF-1) and lies partially within Indian Trail and partially within the Town of Matthews. Providence Hills was approved under the County and partially annexed by the Town in 2001. The remaining Union County portion of the subdivision was annexed into the Town in 2003. It is fully built-out, consisting of 96 lots with an average lot size of 28,858 square feet and a minimum lot width of 100 feet. Many of the homes in the neighborhood were built with side-loading, attached garages, including the subject property.



The subject parcel, , is situated at the end of a cul-de-sac, giving it a somewhat irregular lot shape with side yard property lines that narrow toward the front of the lot (see the aerial photo below).



Aerial view of the subject property



The parcel is just over half an acre in size. The home itself was built in 1997 and has 3,576 square feet of finished floor area. The garage addition matches the materials of the house and conforms to UDO Chapter 1310 Integrity and Design Standards for residential development (see attachment 4). The addition was approved by the Home Owners' Association (H.O.A.) and is in general harmony with the surrounding housing in the neighborhood.

The subdivision was approved, as many are, with slightly different setbacks than those required for the SF-1 zoning classification. The setbacks identified on the recorded plat for Providence Hills are as follows:

	<u>Providence Hills</u>	<u>SF-1 Single-Family</u>
Front Yard	40 feet	40 feet
Side Yard	12 feet	15 feet
Rear Yard	40 feet	40 feet

Because this lot is situated at the end of the cul de sac it has a very narrow street frontage, the result of which is a very deep front setback (105 feet) in order to meet the minimum lot width of 100 feet. There are only two other lots in the subdivision with front setbacks of 100 feet or more. The irregularity of the lot’s shape creates a corresponding irregular building envelope, with little room for expansion of the existing home.

Variance Request

This request is associated with Section 510.040 of the UDO, which provides setback regulations within the Town.

510.040 Lot and Building Standards

A. General

1. This section establishes basic lot and building standards for all development in R districts. The standards that apply vary on the basis of zoning, building type and development type.
2. All residential and nonresidential development in R districts must comply with the lot and building standards of Table B, except as otherwise expressly provided in this ordinance.
3. Rules for measuring compliance with the lot and building standards established in Table 510.040B and applicable exceptions to the standards can be found in General Review Procedures Chapter.

Section 510.040B states all residential development must comply with the lot and building standards of the ordinance. Since Providence Hills was approved prior to the Town’s ordinance the setbacks established at the time of approval shall apply. As noted in the table above, there is a three foot difference between the side yard setbacks under the current ordinance and those on the recorded plat for Providence Hills. The lesser side yard setback for this subdivision therefore corresponds with a smaller encroachment of the addition, 1.2 feet.

Outside Agencies

Staff routed the variance request to outside agencies for comment. The Fire Marshal had no comment. NCDOT stated they have no comments or major concerns with this project. Public Works stated that water and sewer would not be available for this parcel if a separate meter were to be requested for the bonus room and bath above the garage. In response, the applicant has stated they have no intention of separating the utilities for this property as the addition is not to be used as an accessory apartment, but rather as a “teen room” for their children and their children’s friends.

Required Findings

Under UDO Chapter 380, the Board of Adjustment, when considering whether to approve an application for a variance request, shall review and evaluate the following:

- 1. Whether the permit is in the Town's Jurisdiction according to the table of permissible uses:**
The subject permit is within the Town's jurisdiction to regulate single-family residential uses and its accessory uses.
- 2. Whether the application is complete.**
Staff is of the opinion that the application for VAR2011-005 is complete.
- 3. The Board will consider whether the application complies with all of the applicable requirements of this ordinance.**
The facts show that VAR 2011-005 would not be in compliance with the requirements set forth by the Unified Development Ordinance however the subject application is for a Variance of the Sections regulating setbacks.

Under UDO Section 380.020, the Board of Adjustment must make these required considerations of public health, safety, and welfare. The Board of Adjustment's authority in the review of this variance application is broad and the Board may approve with conditions if it concludes, based upon the information submitted at the hearing, that the proposed request finds that:

- 1. Strict compliance with the UDO will cause the applicant not to be able to make any reasonable use of their property; and**
- 2. The hardship suffered by the applicant is solely the applicant's, and is not suffered by any other neighbors and/or the general public; and**
- 3. The hardship suffered by the applicant relates solely to the applicant's land, rather than any personal circumstances on the applicant's part; and**
- 4. The hardship suffered by the applicant is unique (or nearly so), rather than being shared by many surrounding properties; and**
- 5. The hardship suffered by the applicant is not the result of the applicant's own actions; and**
- 6. The variance will neither result in the extension of a nonconforming situation in violation of UDO DIVISION 1400, Nonconformities, nor authorize the initiation of a nonconforming use of land.**

If one of these findings cannot be made, then the Board must move to deny the variance request, stating for the record why the Board has decided to do so.

Summary

The Town has provided its analysis of this variance request in the above staff report, and now offers this into the record for the Board's consideration.

Staff Contact

Keith Sorensen
Planning Technician
(704) 821-5401 ext. 226
kas@planning.indiantrail.org

Attachment 1- Application/Letter of Intent

Attachment 2- Original Zoning Permit Application for the addition

Attachment 3- As-Built Physical Survey

Attachment 4- UDO Chapter 1310 Integrity and Design Standards

Attachment 1
Application/Letter of Intent

Attachment 2
Original Zoning Permit Application for the addition

Attachment 3
As-Built Physical Survey

Attachment 4

UDO Chapter 1310 Integrity and Design Standards