

REPORT TO THE BOARD OF ZONING APPEALS

DATE: November 20, 2025

SUBJECT: Case #252994– 1252 Braygood Drive - Request approval of a Variance to allow an accessory structure to encroach into the rear yard setback and be closer to the property line than the height of the structure

INTRODUCTION:

- Applicant Duvall Pools (Clifton Duvall), on behalf of the property owner David Salazar, requests a Variance to allow construction of an accessory structure to have a setback less than the height of the accessory structure (see Exhibits 3, 5 & 6).
- The subject property is located on the east side of Braygood Drive, zoned R-1: Low Density Residential (Exhibit 1), and surrounded by R-1 zoning districts.

BACKGROUND:

- The single-family dwelling was built in 2006 and is Lot 79 of the Braystone Park Subdivision, Phase 3.
- A pool permit was issued in July (2025) by the Building and Codes Division.
- After the pool construction was completed, construction began on the accessory structure. However, Development Staff were notified of the accessory structure being built without a permit.
- The pool company assumed the issued pool permit included review and approval of the accessory structure.

KEY POINTS:

1. The requested Variance would allow a new accessory structure to be located five (5) feet from the rear property line (see Exhibit 3).

- The accessory structure is proposed to be used as an outdoor kitchen and storage area as part of an existing pool and patio.
- The accessory structure will be approximately 400 square feet (20 feet x 20 feet) (see Exhibit 6).
- There is a swimming pool, fire pit, sun deck, and landscaping in the backyard of the property.
- No portion of the accessory structure (except the roof overhang) will be located within the 5-foot utility easement along the east property line.
- The applicant has proposed to provide landscaping along the rear of the structure (along the fence line) for additional screening (see Exhibit 4).

2. The Zoning Ordinance requires accessory structures have a setback from a property line equal to or greater than its height, but in no case shall an accessory structure be located closer than five (5) feet from a property line or other building or structure.

- The accessory structure is proposed to be approximately twelve (12) feet in height and therefore would need to be twelve (12) feet from the property line.
- The applicant has requested the accessory structure be placed five (5) feet from the east property line and approximately six (6) feet from the principal structure.
- The cover letter states relocation of the structure could obstruct pool access, create

noncompliance with the HOA standards, and incompatibility with the primary dwelling (see Exhibit 3).

3. The accessory structure is required to be constructed in a like manner to the principal building in terms of architectural style, roof style, and building material per §151.025(D)(1)(b)(3) (a). The applicant has stated the accessory structure will be compatible with the exterior finishes of the primary structure.

- The accessory structure will have a gable roof, shingles, and wood posts (see Exhibits 3 & 4).
- The applicant states the structure has been designed to be architecturally compatible with the home.
- The Braystone Park Subdivision has an active Homeowners Association (HOA), and the property owner obtained approval before construction of the accessory structure. The Town does not enforce HOA rules (see Exhibit 7).

4. There are alternatives to placing an accessory structure within five (5) feet of a property line:

- The size and dimensions could be reduced to meet the setback parameters for accessory structures.
- The applicant could construct an open-air arbor structure without a solid roof would be exempt from the setback regulations; however, this would not provide the applicant with shelter from the elements (rain, sun, wind, etc.).
- The applicant could construct a “modified” arbor structure. The portion of the accessory structure is within the required accessory structure setback could be an open arbor while the portion of the accessory structure outside of the required side yard could be roofed over, providing some protection from the elements. This alternative, based on the exact measurements, could still not provide the applicant with a sufficient amount of protection from the elements.

To grant a variance, the Board must find there are exceptional physical conditions with the property making strict application of the requirements of the Zoning Ordinance an undue hardship or practical difficulty depriving the owner of reasonable use of the property. The Zoning Ordinance states a Variance may only be granted if it will not cause “substantial detriment” to the public good and will not substantially impair “the intent of the Zoning Ordinance.”

The Ordinance requires the Board to review a specific set of criteria, Section 151.309(F)(1), in considering each request. The Board must find the request meets the criteria based upon the evidence presented. If the request does not meet the criteria, it must be denied (see Exhibit 8).

STAFF RECOMMENDATION:

Staff cannot recommend approval, as the property has no physical hardship preventing an accessory structure to the rear of the dwelling.

ATTACHMENTS:

[Exhibit 1 Vicinity Map & Contact Information.pdf](#)
[Exhibit 2 Conditions of Approval 11.14.25..pdf](#)
[Exhibit 3 Cover Letter 10.29.25.pdf](#)
[Exhibit 4 Renderings 11.6.25.pdf](#)
[Exhibit 5 Applicant Photos 10.29.25.pdf](#)
[Exhibit 6 Site Layout 10.29.25.pdf](#)
[Exhibit 7 Homeowner's Association Letter 10.29.25.pdf](#)
[Exhibit 8 Standard for Variance 11.14.25.pdf](#)

PROPOSED MOTION:

(BASED ON THE APPLICANT'S REQUEST): To approve a Variance to allow an accessory structure to be constructed and closer to the rear property line than the height of the structure at 1252 Braygood Drive subject to the conditions in Exhibit 2.