



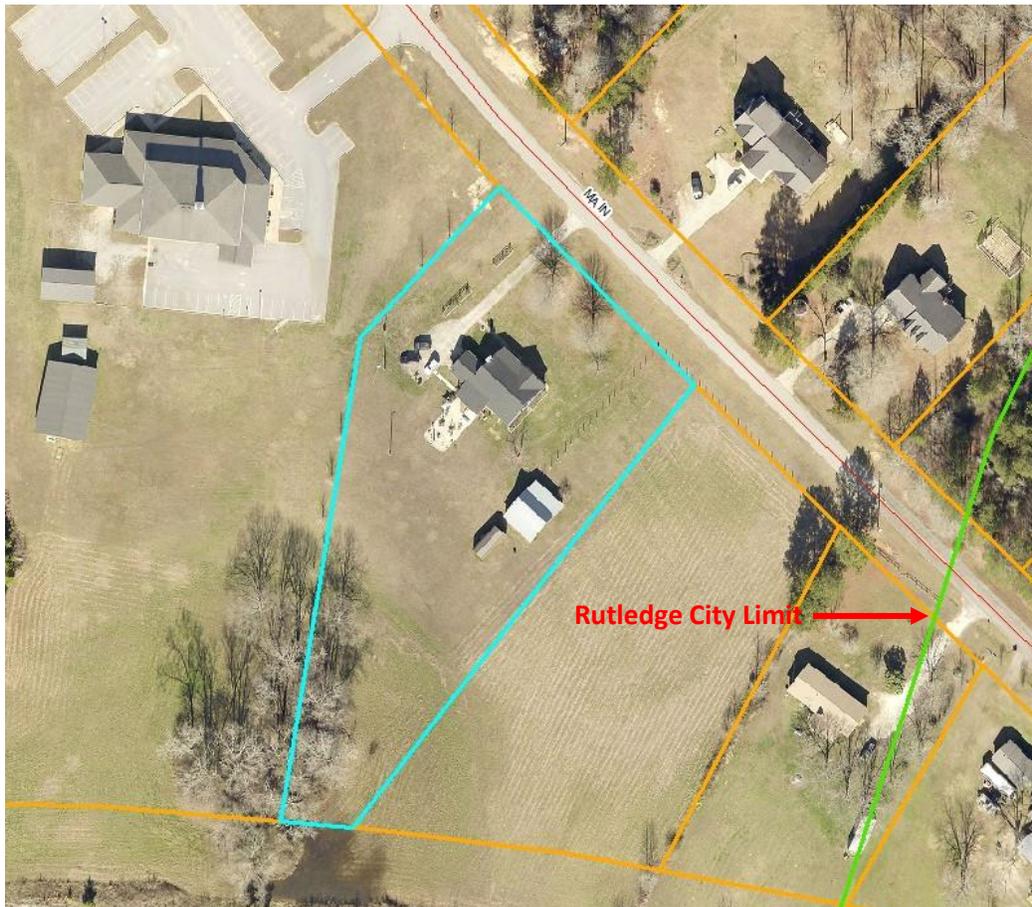
STAFF REPORT

MORGAN COUNTY PLANNING COMMISSION

**PETITION FOR: CONDITIONAL USE – ACCESSORY DWELLING
VARIANCE – MAXIMUM SQUARE FOOTAGE**

Property location:	1380 W. Main Street
Property tax parcel:	012-173
Acreage:	2 acres
Applicant:	Gloria Brown
Property Owner:	Gloria Brown
Existing Use:	Single Family Dwelling
Proposed Use:	Single Family Dwelling with Accessory Dwelling in garage
Variance:	Allow more square footage for Accessory Dwelling

Summary



Gloria Brown is requesting conditional use approval of an accessory dwelling and approval for a variance to the maximum square footage allowed for an accessory dwelling. The property is located at 1380 W. Main Street, just outside of Rutledge and next to the Union Springs Baptist Church.

The applicant has a three bedroom house with an attached garage. The house was constructed in 1999 and has 2294 heated square feet with 3 bedrooms. The applicant has stated that she is in poor health. One disabled daughter lives with her. Her other daughter and two grandsons have moved into the house to provide assistance to the ailing family members. One grandson uses the third bedroom, while the daughter and second grandson are currently sleeping in the garage.

The applicant is seeking an accessory dwelling that would be located over a two car garage. The variance would be for an additional 480 square feet which would bring the total square footage for the accessory dwelling to 1280. See attached plans. The applicant is aware that, should the accessory dwelling be approved, the total square footage may not be granted.



The applicant did not indicate where the proposed garage would be located but Staff assumes it would be at the end of the existing concrete pad. The existing pad most likely does not have the footings necessary for building construction, so the existing concrete cannot be used for the building. The City of Rutledge requires a minimum of 20' between buildings. If the proposed garage, at the size requested, was placed at the end of the existing concrete pad,

centered on the concrete driveway, the building would encroach into the side setback by one foot. The building would have to moved forward that distance (which would require the existing concrete to be removed and replaced, or off centered on the existing concrete toward the house (which has enough distance to still allow the required separation) to avoid a setback issue.

Chapter 7.2 Accessory Dwellings and Accessory Building Apartments

Section 7.2.1 Purpose and Intent

It is the purpose of this chapter to regulate the establishment of accessory dwellings within or in conjunction with single-family dwellings, and apartments within accessory buildings, while preserving the character of single-family neighborhoods. The primary purpose of this chapter shall be to permit establishment of additional living quarters within single-family residential neighborhoods in order to make it possible for adult children to provide care and support to a parent or other relatives in need of assistance. A maximum of one accessory dwelling or accessory building apartment shall be permitted as subordinate to a new or existing single-family dwelling if the accessory dwelling or accessory building apartment and lot meet the requirements of this chapter. No accessory dwelling or accessory building apartment shall be constructed prior to the construction of the principal dwelling.

Section 7.2.2 Conditional Use Required for Accessory Building Apartments and Detached Accessory Dwellings

An accessory dwelling may be located within, or constructed as an addition to, a principal dwelling as a permitted use. A detached accessory dwelling or an apartment located within or attached to an accessory building shall require conditional use approval. If an existing structure meets or exceeds the maximum square footage and an additional separate dwelling exceeding the maximum square footage for an Accessory Dwelling is desired, the property must be split to allow for a second principal dwelling, or a Variance must be requested in addition to the Conditional Use.

Section 7.2.3 Lot Standards.

Accessory dwellings and accessory building apartments may be constructed on lots of any size provided that all other applicable zoning requirements are met. Compliance with all requirements of the county health department for on-site sewerage and well regulations is required. An accessory dwelling or accessory building apartment shall not be served by a driveway separate from that serving the principal dwelling. Accessory dwelling and accessory building apartments shall share an electrical meter and address with the principal dwelling.

Section 7.2.4 Occupancy Standards

All lots containing accessory dwellings and accessory building apartments shall be owner occupied. No lot shall be occupied by more than one family. This limitation shall be interpreted to accomplish its purpose, which is to ensure that the approval of an accessory dwelling or accessory building apartment shall not increase the overall density of a single-family residential neighborhood. "Owner-occupied" shall mean a property owner who makes his or her legal residence at the site, as evidenced by voter registration, vehicle registration, or similar means, and resides at the site more than six months of any given year, and at no time receives rent for the owner-occupied unit.

Section 7.2.5 Subdivision

The accessory dwelling, accessory building containing an apartment, or the lot on which such accessory dwelling or accessory building apartment is located, shall not be subdivided or otherwise segregated in ownership from the principal dwelling unit or the land on which the principal dwelling unit is located.

Section 7.2.6 Size and Connectivity

An accessory dwelling located within or attached to a principal dwelling shall be connected by conditioned space. Accessory dwellings attached to a principal dwelling cannot be attached by a breezeway or unconditioned space such as a garage. Detached accessory dwellings are limited to 800 heated square feet and 1,000 square feet total (including unheated square footage such as garages and porches). Detached accessory dwellings may be on a slab or crawlspace foundation only; no basements are allowed. Accessory building apartments are limited to 800 heated square feet and must have 2 hour rated separation from the rest of the accessory building.

Section 7.2.7 Architectural Design

The addition of an accessory dwelling, attached or detached, shall be allowed only if the single-family appearance and character of the lot and neighborhood are maintained. The design of the accessory dwelling shall be consistent with the design of the principal dwelling and shall maintain the style, appearance and character of the principal dwelling, and shall use matching materials, colors, window style, and comparable roof appearance. Detached accessory dwellings must be stick built on site; manufactured homes, storage containers, metal buildings or pre-built wood framed structures shall not be used as accessory dwellings.

Section 7.2.8 Entrances and Stairs

Only one entrance shall be allowed per fronting street. Exterior stairways shall not be constructed on the front of the principal dwelling or accessory building apartment.

Section 7.2.9 Affidavit Recording Requirements

Prior to issuance of a building permit by the Planning and Development office, the applicant shall record the affidavit with the Morgan County Clerk of Court and provide a copy of the recorded affidavit. Said affidavit shall identify the address and legal description of the property and state the following: the property owner resides in either the principal dwelling for more than six months each year, that the owner will notify any prospective purchaser of the property of the limitations and requirements of this chapter, and that the permit will be revoked if the accessory dwelling unit at any time fails to meet the requirements of this chapter. The document shall run with the land and bind all current and future property owners, and the owner's assigns, beneficiaries and heirs.

Section 7.2.10 Enforcement

Morgan County retains the right (with reasonable notice) to inspect the accessory dwelling or accessory building apartment for compliance with this chapter.

Section 21.3.1 Required Findings from Conditional Use Approval from the Morgan County Zoning Ordinance:

1. Adequate provision is made by the applicant to reduce any adverse environmental impacts of the proposed use to an acceptable level;
2. Vehicular traffic and pedestrian movement on adjacent streets will not be substantially hindered or endangered;
3. Off-street parking and loading, and the entrance to and exit from such parking and loading, will be adequate in terms of location, amount and design to service the use;
4. Public facilities and utilities are capable of adequately serving the proposed use;
5. Granting the request would not be an illogical extension of a use which would introduce damaging volumes of (1) agricultural, (2) commercial, (3) industrial, or (4) high density apartment use into a stable neighborhood of well-maintained single family homes, and likely lead to decreasing surrounding property values, neighborhood deterioration, spreading of blight, and additional requests of a similar nature which would expand the problem;
6. Granting the request would not lead to congestion, noise and traffic hazards or overload public facilities, current or planned;
7. Granting the request would conform to the general expectation for the area population growth and distribution according to the Comprehensive Land Use Plan;
8. Granting the request would not lead to a major negative change in existing (1) levels of public service, (2) government employees or (3) fiscal stability;
9. Granting the request would not have a "domino effect," in that it becomes the opening wedge for further rapid growth, urbanization or other land-use change beyond what is indicated in the Comprehensive Land Use Plan.

From the Morgan County Zoning Ordinance. Section 20.3.1, Required Findings for Variance Approval:

1. There are extraordinary and exceptional conditions pertaining to the property because of size, shape and topography;
2. The literal application of this Ordinance would create an unnecessary hardship;
3. A variance would not cause substantial detriment to public good and impair the purposes and intent of this Ordinance;
4. A variance would not confer upon the property of the applicant any special privilege denied to other properties in the district;
5. The special circumstances surrounding the request for the variance are not the result of acts of the applicant;
6. The variance is not a request to permit a use of land, buildings, or structures which is not permitted by right or by conditional use in the district;
7. The zoning proposal is consistent with all standards and criteria adopted by Morgan County; The variance is the minimum variance that will make possible an economically viable use of the land, building or structure.

Staff Comments

When submitting the application, the applicant was anxious about the variance request. Staff advised her to ask for what she wanted and the size could be reduced by the Boards if necessary.

For reference, the only 2 accessory dwelling variances for additional square footage were granted because both applicants had already purchased plans when the regulation was changed. The approved square footages were 1,102 (2019) and 1,044 (2020). Approval of this variance would create a new precedent.

5/3/21

To the Planning and Zoning Board:

My name is Gloria Brown. I live at 1380 West Main Street.

I am petitioning you all to request a variance in a garage apartment that I would like to build at the end of the driveway.

This will provide enough room for my oldest daughter, Veronica Nelson and one of her sons to move in. My house is a three bedroom home so her other son can continue to live in the main house with me.

I understand that 800 square feet is the allowable amount but it's not quite enough space to give them to make this apartment a home.

We are requesting this because my daughter and her sons help me out a lot at the house. I'm getting older. My health is not what it used to be. My youngest daughter, Angela has epilepsy, diabetes, neuropathy, severe migraines that have been treated with botox shots in the head. She also battles depression, anxiety, and PTSD.

Veronica can't afford to buy a home here in Morgan County and we can't afford to have her and her sons not live here to help us. I really need her help.

We are a family that helps each other and if you will grant this variance, you will be helping us to help each other.

Thank you,
Gloria Brown

