Sumter City-County Zoning Board of Appeals

September 8, 2010

BOA-10-26, 4216 N Lake Cherryvale Dr. (County)

I. THE REQUEST

Applicant:	Donald Vargas
Status of the Applicant:	Property Owner
Request:	A variance from Article 4, Section G, 4.g.2.b.4: Accessory Buildings and Uses of the Sumter County Zoning Ordinance in order to place an additional accessory garage building in the front yard instead of the required side or rear yard.
Location:	4216 N Lake Cherryvale Drive
Present Use/Zoning:	Residential / GR
Tax Map Reference:	155-06-01-016

II. BACKGROUND

The applicant is proposing to construct a 620 sq. ft. detached garage on a 1.96 acre parcel where there is also an existing house and two detached outbuildings. The applicant has indicated that the new structure would be used to house his two vintage vehicles that are currently out in the weather. The area on the parcel where the applicant is proposing to construct this structure is considered the front yard as it is the area located in front of the house extending the full width of the lot (Article 10, Definitions, *Yard, Front*). The Sumter County Zoning Ordinance requires all detached garages to be located in the side or rear yard only.

Article 4, Section G, 4.g.2.b.4: Accessory Buildings and Uses:

Residential Accessory Buildings Location requirements	Detached garages shall only be located in the side or rear yard of a parcel and shall be located no further forward on the lot than the principal structure, etc.

The existing house is located about 100' from the road, on a large lot with many established trees. The house is visible in the background in the photo above and the location of the detached garage is directly in the foreground. The proposed shed is pictured below right.

The proposed garage is near the approximate location of a building that used to be on the property and was in front of the dwelling that pre-dated the existing house, and can be seen in the aerial below. The total square footage of the two accessory structures that are over 120 sf each is 908 square feet. The maximum square footage allotment for this parcel is 1,400 sf according to Article 4, Exhibit 8A.

The house pictured in the aerial was demolished and has been re-built in a location closer to the lake However; the old garage that was located in front of that dwelling is visible.

The property has a power line and slopes significantly toward the back, down toward the lake. The topography and the necessity of avoiding the power line and existing very large trees dictates the location of the garage.

When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

III. FOUR-PART TEST

1. ***There are extraordinary and exceptional conditions pertaining to the particular piece of property.***

   The location of the house, existing power lines and large trees, and the degree of slopes at the side and rear of this parcel do create extraordinary and exceptional conditions on this property. In addition, the house is built closer to the lake than other homes on the street, over 100 feet away from the road.

2. ***These conditions do not generally apply to other property in the vicinity.***

   These conditions do not generally apply to other properties in the vicinity. Other properties on the same side of this street do have sloping topography but most of the lots are much smaller and do not have many large trees or a power line in the side yard. Also, the homes are not built as close to the lake as this home, and therefore their backyards could easily accommodate garages.

3. ***Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.***

   The application of the ordinance does restrict the use of the property as a detached garage is a customary use and because of slope, it cannot be located behind the house. If the applicant were to proceed under the strict adherence to the ordinance, the applicant would have to construct the structure in the side yard no closer to the front property line than the principle structure. By doing so, the applicant would not be able to build the structure because of the location of power lines and the degree of slope. In addition, he would lose the character of his property because of having to cut down some very large trees in order to extend his driveway all the way down across his yard.

4. ***The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.***

   The authorization of a variance would not be a substantial detriment to the adjacent properties and to the public good. Because the structure will be located among a grove of trees and will be built with aesthetics in mind, it will not take away the character of the neighborhood. Allowing this structure in the desired location will preserve many very large trees.

IV. STAFF RECOMMENDATION

Staff recommends approval of this variance request with the condition that the proposed structure be built of complimentary materials and colors as the existing house. Staff feels the request meets all four conditions of the four part test. The topographical problems and protection of the existing large trees hinder the applicant from locating the structure within Ordinance requirements.

V. DRAFT MOTIONS for BOA-10-26

A. I move that the Zoning Board of Appeals approve BOA-10-26 subject to the findings of fact and conclusions.

B. I move that the Zoning Board of Appeals deny BOA-10-26 on the following findings of fact and conclusions:

C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-10-26.

VI. ZONING BOARD OF APPEALS – SEPTEMBER 8, 2010

The Sumter City-County Board of Appeals at its meeting on Wednesday, August 11, 2010, voted to approve this request subject to the findings of fact and conclusions on exhibit 1.

Exhibit 1
Order on Variance Application
Sumter Board of Appeals

BOA-10-26, Donald Vargas
4216 N Lake Cherryvale Drive
September 8, 2010

Date Filed: September 8, 2010 Permit Case No. BOA-10-24

The Sumter Board of Appeals held a public hearing on Wednesday, September 8, 2010 to consider the appeal of Donald Vargas 4216 N Lake Cherryvale Dr. Sumter, SC 29150 for a variance from the strict application of the Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the Applicant ☑ **has** - ☐ **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

   The location of the house, existing power lines and large trees, and the degree of slopes at the side and rear of this parcel do create extraordinary and exceptional conditions on this property. In addition, the house is built closer to the lake than other homes on the street, over 100 feet away from the road.

2. The Board concludes that these conditions ☐ **do** - ☑ **do not** generally apply to other property in the vicinity based on the following findings of fact:

   These conditions do not generally apply to other properties in the vicinity. Other properties on the same side of this street do have sloping topography but most of the lots are much smaller and do not have many large trees or a power line in the side yard. Also, the homes are not built as close to the lake as this home, and therefore their backyards could easily accommodate garages.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property ☑ **would** - ☐ **would not** effectively prohibit or unreasonable restrict the utilization of the property based on the following findings of fact:

   The application of the ordinance does restrict the use of the property as a detached garage is a customary use and because of slope, it cannot be located behind the house. If the applicant were to proceed under the strict adherence to the ordinance, the applicant would have to construct the structure in the side yard no closer to the front property line than the principal structure. By doing so, the applicant would not be able to build the structure because of the location of power lines and the degree of

slope. In addition, he would lose the character of his property because of having to cut down some very large trees in order to extend his driveway all the way down across his yard.

4. The Board concludes that authorization of the variance ☐ **will** – ☑ **will not** be of substantial detriment to adjacent property or to the public good, and the character of the district ☐ **will** - ☑ **will not** be harmed by the granting of the variance based on the following findings of fact:

The authorization of a variance would not be a substantial detriment to the adjacent properties and to the public good. Because the structure will be located among a grove of trees and will be built with aesthetics in mind, it will not take away the character of the neighborhood. Allowing this structure in the desired location will preserve many very large trees.

THE BOARD, THEREFORE, ORDERS that the variance is ☐ **DENIED –** ☑ **GRANTED, subject to the following conditions:**

Approved by the Board by majority vote.

Date issued: _____ _____
Chairman

Date mailed to parties in interest:_____ _____
Secretary

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.