



BOARD OF ZONING APPEALS

Minutes of the Meeting

November 9, 2022

ATTENDANCE

A regular meeting of the Zoning Board of Appeals was held on Wednesday, November 9, 2022, in the Fourth Floor City Chambers of the Sumter Opera House, 21 N. Main Street. Seven board members – Mr. Leslie Alessandro, Mr. Jason Reddick, Mr. Warren Curtis, Ms. Cleo Klopfleisch, Mr. Louis Tisdale, Mr. Clay Smith, Mr. Claude Wheeler, Jr., and Mr. Steven Schumpert were present.

Planning staff in attendance: Mr. Jeff Derwort and Ms. Kellie Chapman.

The meeting was called to order at 3:00 p.m. by Mr. Leslie Alessandro, Chair.

MINUTES

Mr. Jason Reddick made a motion to approve the minutes of the October 14, 2022, meeting as written. The motion was seconded by Mr. Steven Schumpert and carried a unanimous vote.

NEW BUSINESS

BOA-22-30, 175 Lakewood Dr. (County) was presented by Mr. Jeff Derwort. The Board reviewed a request for variance approval from the requirements outlined in *Article 4, Section 4.g.2.b.2: Separation Criteria (Residential Accessory Structures)* and *Article 4, Section 4.g.2.b.5: Setbacks (Residential Accessory Structures)* of the Sumter County Zoning & Development Standards Ordinance in order to construct a detached garage +/- 6 ft. from the principal dwelling unit on the property and +/- 15 ft. from the side exterior property line. Under current requirements, accessory structures must be separated from the principal dwelling unit by at least 10 ft. and must be setback from the side exterior property line by at least 17.5 ft. The property is located at 175 Lakewood Dr., is zoned Residential-15 (R-15), and is represented by TMS# 223-15-03-001.

Mr. Derwort stated the applicant is proposing a 20' X 24' detached garage on the Killarney Ln. side of the property. The front of the house faces Lakewood Dr., so the Killarney Ln. frontage is considered to be the side exterior property line.

Mr. Derwort added variance approval is required because the applicant is requesting to place the proposed structure +/- 15 ft. from the side property line, where the applicable minimum side exterior setback requirement is 17.5 ft. Additionally, the applicant is requesting to have +/- 6 ft. of separation from the

proposed structure to the principle dwelling on the property, where the minimum required separation is 10 ft.

After a brief discussion, Mr. Louis Tisdale made a motion to approve this request subject to the following findings of fact and conclusions.

1. The subject property is +/- 0.53-acres in size and is located at the corner of Lakewood Dr. and Killarney Ln. The property is accessed via a driveway off of Killarney Ln. The driveway terminates at an attached side-load 2-car garage with an entrance that faces Killarney Dr. A brick fence enclosing a concrete patio and inground pool in the rear yard runs from the exterior of the house on Killarney Ln. to the rear property line.
2. There are many instances of similar shaped corner lots with side-load garages within the Lakewood Links Subdivision. However, the existence of the brick wall, concrete patio, and inground pool are unique and limit other possibilities for additional garage space on the property what would be accessible from the only driveway.
3. The provisions of the Ordinance prevent the applicant from constructing the amount of additional garage area desired without having to demolish existing substantial improvements made to the property.
4. The authorization of a variance is not likely to result in substantial detriment to adjacent property and the public good, nor harm the character of the district.

The Lakewood Links Subdivision Architectural Review Board (ARB) has approved the request, per an email to the applicant from the ARB chair dated September 24, 2022. Additionally, the right-of-way on Killarney Ln. is 50 ft. in width, with 25 ft. of pavement width. Thus, an additional 12.5 ft. of right-of-way area maintained by the applicant as part of the yard exists between the side exterior property line and the edge of pavement on Killarney Ln. This adds the appearance of additional space from the street perspective. Further, while the Ordinance addresses separation criteria, between residential accessory structures and principal dwellings, different separation standards exist in adopted building and fire codes where less separation can be accommodated with the installation of certain architectural features such as firewalls. The primary aim of building and fire codes are to address safety issues with new building construction. Thus, if a reduction in the

separation criteria outlined in the Ordinance can meet through applicable building and fire codes, the argument can be made that above criteria is satisfied with respect to the request for variance approval.

The motion was seconded by Mr. Warren Curtis and carried a unanimous vote.

BOA-22-31, 5015 Peach Orchard Rd. (County) was presented by Mr. Jeff Derwort. The Board reviewed a request for variance approval from the requirements outlined in *Article 3, Section 3.n.5.a: AC District Minimum Lot Requirements* and *Section 3.n.5.b: AC District Minimum Yard and Building Setback Requirements* of the Sumter County Zoning & Development Standards Ordinance in order to permit the subdivision of a +/- 1.98-acre lot into two (2) separate 0.99 acre lots. The minimum lot size required for this property is 1.0 acre. The proposed subdivision will also result in an existing mobile home being located +/- 12 ft. from the proposed front property line and +/- 4.5 ft. from the proposed side property line, as well as result one of the new lots having a lot width less than 60 ft. The required front setback for this property is 35 ft., the required side setback for this property is 12 ft., and the required lot width throughout for this property is 60 ft. The property is located at 5015/5019 Peach Orchard Rd., is zoned Agricultural Conservation (AC), and is represented by TMS# 150-00-03-010.

Mr. Derwort stated that the applicant is seeking variance approval to divide an existing 1.98-acre lot into two separate 0.99-acre lots and to have the existing mobile home closer to the front and side property lines than the minimum front and side yard setbacks for the AC district, as well as to allow for a portion of one lot to have a width less than 60 ft. at the rear.

Mr. Derwort stated the property has primary frontage on W. Liberty St., where the use of land is predominately commercial, office and institutional.

Mr. Paul Weissenstein and Ms. Josephine Durant were present to speak on behalf of the request.

After a brief discussion, Mr. Warren Curtis made a motion to deny this request subject to the following findings of fact and conclusions.

1. The 5015 Peach Orchard Rd. property is currently +/- 1.98-acres in size. It is a nonconforming lot of record due to the presence of two (2) residential units on the property. According to the existing plat for the property, recorded at Z-32, Pg 16, the property was 2.0 acres in size in 1973, but was later reduced to 1.98-acres by a change

to the SCDOT right-of-way for Peach Orchard Rd. (SC-441). This reduction in the total property is an extraordinary condition pertaining to this piece of property. The presence of the existing mobile home is also an extraordinary condition due to its location on the property, and in order to divide the tract into two halves, setback and lot width variances are required.

2. With respect to the minimum lot size, while the property is not currently over 2 acres in size, two factors are generally not applicable to other property in the vicinity. First, the reduction by 0.02-acres of the parcel by SCDOT's acquisition of additional right-of-way between 1973 and present removed the ability to subdivide the property in accordance with current AC district requirements. Second, the presence of two housing units, while not unique, is a nonconformity that would be eliminated by subdivision of the parcel.

With respect to required setbacks and lot width, these requirements generally exist for reasons of public policy, including safety, privacy, and environmental protection. This is done in order to prevent structures from crowding adjacent structures, land, or streets, and having abnormal shape flag lots that permit excessive access points into public roads.

3. Applying the Ordinance to this property would effectively prohibit subdivision of the tract and would maintain the non-conformity that currently exists with regard to the number of residential structures on the lot. This nonconforming status has the potential to impact factors such as insurability and ability of the property owner to obtain financing using land as collateral.

The minimum side yard setback for the Agricultural Conservation (AC) zoning district is 12 ft., which is equivalent to the typical width of a single roadway lane. This width allows vehicles, including emergency vehicles, to access the lot when required without encroaching on neighboring properties. While reducing the side setback from 12 to 4.5 feet on one side of the lot would typically impact access to the property, in this case, the proposed subdivision is a lifetime family conveyance which includes a 15 ft. ingress/egress easement on the adjacent property, which provides ample room to access the entire lot at 5019 Peach Orchard Rd. The unique nature of the lifetime family conveyance form of subdivision also impacts the public purpose for a front setback of 35 ft., which is generally done for the purpose of maintaining separation from the roadway for structures. In this case,

the lot does not have road frontage, and in order to divide the tract without negatively impacting septic systems, the variance is requested.

The area of reduced lot width is at the rear of the proposed front parcel. The proposed front parcel will have the required amount of public road frontage and will have the required amount of lot width at the front setback line.

4. Authorization of this variance is not expected to be detrimental to adjacent property or the public good, as the potential negative impacts caused by the setback and lot width reductions would be borne by the applicant's own property, given the proposed lifetime family conveyance form of subdivision. Further, while the resulting lots would be slightly less than the 1.0-acre required in the district, the effective size of the lots would be indistinguishable from the surrounding 1.0-acre lots. Overall, approval of this request would also eliminate the significant non-conformity of having two separate dwelling units on the same lot.

The motion was seconded by Mr. Clay Smith and carried a unanimous vote.

BOA-22-32, 4375/4395 Spencer Rd. (County) was presented by Mr. Jeff Derwort. The Board reviewed a request for variance approval from the requirements outlined in *Article 3, Section 3.n.5.a: AC District Minimum Lot Requirements and Section 3.n.5.b: AC District Minimum Yard and Building Setback Requirements* of the Sumter County Zoning & Development Standards Ordinance in order to permit a property boundary adjustment and lot recombination that will result in a reduction of lot width to +/- 45 ft on a portion of one of the subject properties, where the required lot width throughout the property is 60 ft., and will result in a principal dwelling unit being located 10.6 ft. from a proposed side property line, where the required side setback for the property is 12 ft. The property is located at 4375 & 4395 Spencer Rd., is zoned Agricultural Conservation (AC), and is represented by TMS# 137-00-01-083 & 137-00-01-003.

Mr. Derwort stated the applicant is seeking approvals to complete a boundary combination and subdivision which will enlarge the lot at 4375 Spencer Rd. from 1.0-acre to 5.01-acres and reduce the lot at 4395 Spencer Rd. to 1.0-acre.

Mr. Derwort mentioned this change will result in a reduction of lot width to +/- 45 ft. on a portion of one of the properties, where the required lot width throughout the property is 60 ft.

Mr. Derwort added the change will also result in a principal dwelling unit being 10.6 ft. from a side property line where the required side setback for the property is 12 ft.

Mr. Angelo Robinson was present to speak on behalf of the request.

After a brief discussion, Mr. Steven Schumpert made a motion to approve this request subject to the following findings of fact and conclusions.

1. At present, the single-story residence located at 4375 Spencer Rd. encroaches +/- 15 ft. onto the property at 4395 Spencer Rd. While encroachment of residential structures onto adjacent lots is not unique in Sumter County, it is extremely uncommon, and represents an extraordinary condition pertaining to this piece of property.
2. The condition of an encroaching residential structure does not generally apply to other property in the vicinity, and typically, when there is an encroachment in this area of Sumter County, there is typically room to adjust property lines without requiring a variance. That is not the case in this scenario, as the dimensional constraints of the existing lots and structures makes resolution of the encroachment impossible without the applicant obtaining at least one variance.
3. Application of the ordinance to this piece of property would effectively prohibit the applicant from resolving the encroachment situation with regard to the existing residential structure at 4375 Spencer Rd. Failure to adjust the property boundary to fully encompass the structure could have negative legal repercussions for the applicant and the adjoining property owner that would have to be settled in civil court.

The area of reduced lot width is at the rear of the proposed front parcel. The proposed front parcel will have the required amount of public road frontage and will have the required amount of lot width at the front setback line.

4. Given that the residential structures in this area are already constructed, the adjustment of the property line to remove the encroachment of the residence at 4375 Spencer Rd. onto the adjoining property is not expected to cause any harm to the character of the district or be detrimental to adjacent property or the public good. In fact, the opposite is expected to be true, in that adjusting

	<p>the property boundaries will remove a detrimental impact on adjacent property caused by the encroachment.</p> <p>The motion was seconded by Mr. Jason Reddick and carried a unanimous vote.</p>
OTHER BUSINESS	<p>Mr. Derwort reminded the board about obtaining required continuing education (CE) credits by the end of the year.</p>
	<p>There being no further business, Ms. Cleo Klopfleisch made a motion to adjourn the meeting at 3:34 p.m. The motion was seconded by Mr. Clay Smith and carried a unanimous vote.</p> <p>The next regularly scheduled meeting is scheduled for December 7, 2022</p>
	<p>Respectfully submitted, <i>Kellie K. Chapman</i> Kellie K. Chapman, Board Secretary</p>