



## ZONING BOARD OF APPEALS

### Minutes of the Meeting

July 12, 2023

#### ATTENDANCE

A regular meeting of the Zoning Board of Appeals was held on Wednesday, July 12, 2023, in the Fourth Floor City Chambers of the Sumter Opera House, 21 N. Main Street. Six board members – Mr. Leslie Alessandro, Mr. Frank Shuler, Mr. Claude Wheeler, Mr. William Bailey, Mr. Todd Champion, and Mr. Clay Smith were present. Mr. Jason Reddick, Mr. Louis Tisdale, and Mr. Steven Schumpert were absent.

Planning staff in attendance: Mr. Jeff Derwort, Ms. Helen Roodman, Mr. Quint Klopfleisch, Mr. Kyle Kelly and Ms. Kellie Chapman.

The meeting was called to order at 3:02 p.m. by Mr. Leslie Alessandro, Chairman.

#### MINUTES

Mr. Clay Smith made a motion to approve the minutes of the June 14, 2023, meeting as written. The motion was seconded by Mr. Frank Shuler and carried a unanimous vote.

#### NEW BUSINESS

**BOA-23-12, 645 Curlew Circle (City)** was presented by Mr. Kyle Kelly. The Board reviewed this request for variance approval requesting multiple building setback variances, as follows: 1) variance to the required rear setback requirements (Principal Residential Structures) outlined in *Article 3.b.5.b: (R-9 District) Minimum Yard & Building Setback Requirements* of the City of Sumter Zoning & Development Standards Ordinance (the “Ordinance”) in order to permit a canopy roof addition to the dwelling extending to +/- 7 ft. from the rear property line, where the required rear setback for principal residential structures is 25 ft.; and 2) variances to the exterior side and rear setback requirements for residential accessory structures outlined in *Article 4.g.2.b.5.ii: Corner Lot Setbacks (Residential Accessory Structures)* of the Ordinance in order to allow the placement of a detached storage structure +/- 7 ft. from the side exterior property line and +/- 2 ft. from the rear property line, where the required side exterior setback is 17.5 ft. and the required rear setback is 5 ft.; and in order to allow the placement of a pergola structure +/- 2 ft. from the rear property line, where the required rear setback is 5 ft. The property is located at 645 Curlew Circle, is zoned Residential-9 (R-9), and is represented by TMS# 184-04-04-001.

Mr. Kelly stated multiple building setback variances are being requested to permit a canopy roof addition to the dwelling and to permit the placement of two accessory structures in the rear yard. Significant work concerning the above-stated improvements has taken place. The applicant has applied for the requested variances in response to initial zoning enforcement action for setback encroachment. No building permits have been approved concerning any part of this request and cannot be unless all zoning compliance issues are addressed.

Mr. Kelly added that the brick accessory structure has been on the property for several years. The rear patio roof addition and pergola structure are new developments.

Ms. Kenyetta McKnight was present to speak on behalf of the request.

Mr. Buddy Wescott was present to speak in opposition of the request.

After a brief discussion, Mr. Clay Smith made a motion to deny this request subject to the following approval conditions:

1. The subject property is +/- 0.25-acres in size and is a corner lot within the Heritage Bay residential subdivision.

The subdivision is still in active development, and additional phases are yet to be platted, but there are at least 12 other previously platted corner lots in the development.

2. Lots in the Heritage Bay subdivision are developed in compliance with Residential-9 (R-9) development regulations and the overall approved subdivision preliminary plat.

All lots in the subdivision are subject to the same residential structure setback and accessory structure setback regulations.

All residential properties in the City of Sumter are required to abide by accessory structure limitations.

3. While there is sufficient rear yard for the two accessory structures to be placed in a manner that complies with accessory structure setback requirements, the applicant constructed a pool (completed in October 2022) that fills much of the rear yard, limiting space for the placement of ordinance-complaint accessory structures.

On the addition to the residence, the home occupies +/- 3,300 sq. ft. of the lot, which is +/- 10,890 sq. ft. The lot itself is larger than the Ordinance minimum dimension for the zoning district by 1,890 sq. ft. The configuration of the

existing residence restricts any addition from being added to the rear of the building, as part of the rear wall of the building is already at the rear setback limit.

4. The purpose of regulating setbacks for residential and accessory structures is to ensure compatibility, ensure minimum open space around a structure, facilitate safe access, and avoid negatively impacting surrounding properties.

Exceeding the established structure setback without demonstrating a true hardship is detrimental as it hinders the effectiveness of the Ordinance requirements and undermines the expressed intent of the Ordinance city-wide.

The motion was seconded by Mr. Frank Shuler and carried by a unanimous vote.

**BOA-23-13, 5795 Squaw Valley Rd. (County)** – Mr. Jeff Derwort informed the board that variance is not required for this case.

**BOA-23-14, 850 Flagg St. (County)** was presented by Mr. Quint Klopfleisch. The Board reviewed this request for variance approval to the side building setback requirements for agricultural accessory structures outlined in *Article 3.n.5.b: (AC District) Minimum Yard & Building Setbacks* and *Article 4.g.4.a.2: Agricultural Accessory Structures* of the Sumter County Zoning & Development Standards Ordinance in order to permit the establishment of an agricultural accessory structure no closer than 12 ft. from a side property line, where the required side property line setback for non-residential structures is 50 ft. The property is located at 850 Flagg St., is zoned Agricultural Conservation (AC), and is represented by TMS# 230-00-01-007.

Mr. Klopfleisch stated the applicant is requesting a variance to the side building setback requirements for agricultural accessory structures. The applicant is proposing to construct an open sided pole barn to store agricultural related materials. The planned size is no greater 36' X 70' (2,560 sq. ft.).

Mr. Klopfleisch added that the applicant is proposing to place an agricultural accessory structure no closer than 12 ft. from a side property line. The required side property line setback for non-residential structures is 50 ft. The required side property line setback for residential structures is 12 ft.

Mr. Justin Hurst and Mr. Robert Armstrong were present to speak on behalf of the request.

After a brief discussion, Mr. Frank Shuler made a motion to approve this request subject to the following approval conditions:

1. A 20-foot drainage easement on the eastern side of the property.

Significant portion of the property is within a special flood hazard area (SFHA). Additionally, the applicant recently constructed a pond on the back half of the property.

2. Special flood hazard area boundaries were recently expanded in this area the latest 2022 FEMA flood map update.

This lot within the Jefferson Park subdivision is the most impacted and is also the only undeveloped lot.

These conditions further limit the development potential of this lot.

3. In relation to the side setback variance request, these conditions prevent the applicant from constructing and agricultural structure, as proposed.

4. The authorization of a variance is not likely to result in substantial detriment to adjacent property and the public good, nor will it likely harm the character of the district.

Properties in the area are typically several acres in size, and the building will have little visibility from the neighboring properties.

Subject to the following conditions:

The building must be placed outside the 20-foot drainage easement on the east side of the property. This effectively authorizes a 30 ft. reduction to the side setback requirement vs. the requested 38 ft. reduction.

The motion was seconded by Mr. Claude Wheeler and carried by a unanimous vote.

**BOA-23-15, 2180 San Souci Rd. (County)** was presented by Mr. Quint Klopfleisch. The Board reviewed this request for variance approval from the total number of residential accessory structures permitted as outlined in *Article 4.g.2.b.3: Residential Accessory Structure Development Standards* of the Sumter County Zoning & Development Standards Ordinance in order to permit a total of four (4) accessory structures, where the maximum number allowed is two (2) accessory structures. The property is located at 2180 San Souci Rd., is zoned Agricultural Conservation (AC), and is represented by TMS# 093-00-03-012.

Mr. Klopfleisch mentioned the applicant is requesting a variance to the maximum number of residential accessory structures allowed. The applicant wants to construct a +/- 960 sq. ft. building located in the rear yard of the property.

Mr. Klopfleisch added the property currently contains a single-family residential dwelling with three accessory buildings totaling +/- 1,134. All existing accessory structures are located in the property's side and rear yard.

Mr. Justin Hurst and Mr. Robert Armstrong were present to speak on behalf of the request.

After a brief discussion, Mr. Clay Smith made a motion to approve this request subject to the following approval conditions:

Removal of the existing 9 X 13 woodshed.

The motion was seconded by Mr. Claude Wheeler and carried a five (Champion, Alessandro, Bailey, Wheeler, Smith) in favor and one (Shuler). The vote carried.

**BOA-23-16, 7995 Camden Hwy. (County)** was presented by Mr. Quint Klopfleisch. The Board reviewed this request for Special Exception approval in accordance with *Article 3, Section 3.n.4: (AC District Special Exceptions); Article 3, Exhibit 5: Permitted and Conditional Uses in the Commercial, Industrial, Agricultural, and Conservation Districts; Article 5, Section 5.b.2: Enumeration of Certain Hazardous and/or Potentially Disruptive Land Development Activities; and Article 5, Section 5.b.3.f: Drinking Places/Bottle Clubs/Night Clubs* of the Sumter County Zoning & Development Standards Ordinance (the Ordinance) in order to establish a Drinking Place (SIC 5813) on the property. The applicant is also requesting a variance from the residential use separation requirements outlined in *Article 5, Section 5.b.3.f: Drinking Places/Bottle Clubs/Night Clubs* of the Ordinance. The property is located at 7995 Camden Hwy, is zoned Agricultural Conservation (AC), and is represented by TMS# 087-00-03-031.

Mr. Klopfleisch stated this is the same request that was denied by the Zoning Board of Appeals at the May, 2023 meeting with a different applicant.

Mr. Klopfleisch stated a building classified as a bar/night club exists on the property. Per business license records, the property has been the location of a bar and lounge type (drinking place) business prior to county wide business licensing going into effect. The last business to occupy this space, Rembert's Tavern, was licensed specifically as a drinking place use.

Mr. Klopfleisch added the business license for Rembert's Tavern was not renewed and expired in April 2022. The owner, Minnie Ferguson, called the Business License Department on 29 July 2022 and informed the department she would not be renewing the license (per business license file notes). The Zoning Administrator determined the use is discontinued in accordance with Article 6 of the Ordinance. As such, reestablishing the drinking place use on the property requires special exception approval by the Sumter City-County Board of Zoning Appeals.

Mr. Klopfleisch mentioned the applicant applied for a county business license to reestablish the drinking place. There is no record of an application for South Carolina Department of Revenue (DOR) license for alcohol sales for on-premises consumption.

Mr. Klopfleisch stated the Sumter County Sheriff's Office logged numerous noise complaints, fighting complaints, and other general disturbance complaints occurring on or near the property including a shooting incident on July 29, 2022.

Ms. Shaniqua Ferguson and Mr. Charlton Washington was present to speak on behalf of the request.

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

In relation to the requested 74 ft. reduction in the 300 ft. separation standard from adjacent residential uses:

1. The subject property is +/-0.5 acres in size and located in a primarily rural portion of the county. The property is the historic location of a previously legally established drinking place use. The last business license for a drinking place use on the property expired in April 2022. The Zoning Administrator has determined that this use of the site is formally discontinued in accordance with Article 6 of the Ordinance.

No unique conditions warranting relief from the residential use separation standards applicable to the re-establishment of the drinking place use in full conformance with Ordinance requirements.

2. A similar business is established approximately +/- 255 ft. to the south of the proposed business site and +/- 190 ft. from a residence. This neighboring business was established prior to the current Ordinance requirements, has remained

continuously in operation, and would have to comply with current Ordinance separation requirements if discontinued.

No unique conditions warranting relief from the residential use separation standards applicable to the re-establishment of the drinking place use in full conformance with Ordinance requirements.

3. The application of the Ordinance prevents the applicant from reestablishing a discontinued drinking place use.
4. The authorization of this variance request may be of substantial detriment to adjacent property or the public good, and the granting of the variance may harm the character of the district.

There is no hardship concerning the residential use separation requirements. This requirement is in place to buffer land uses with a high potential of conflict with certain use types. Sheriff's Office documentation indicates numerous calls for service were made to this address. Such calls include a shooting event, noise complaints, fighting complaints, and other general disturbance complaints, generally not seen as compatible with residential uses. The proposed use was legally established at one time on this property. However, it was legally discontinued in accordance with Article 6 of the Ordinance. Therefore, full compliance by the business and property owner with Ordinance is required for re-establishment.

In relation to the requested special exception approval from the requested Drinking Places/Bottle Clubs/Night Clubs:

1. The proposed use does not meet the residential use separation requirements. Criteria necessary to approve a variance from this requirement have not been demonstrated. The proposed use has a high potential for conflict with surrounding residential uses and is not in substantial harmony with the area. Additionally, the use may discourage or negate the use of surrounding property for uses permitted by right in the AC zoning district.

The site does not conform with general county landscaping and buffering requirements. The site does not conform with county handicapped parking space requirements. This site is not considered discontinued with regards to site development standards at this time, and thus uses permitted by right would not be required to remedy site features not in current compliance with county development standards.

	<p>2. The area is primarily rural in nature. Sumter County Sheriff's Office call for service logs indicate numerous complaints arising from the property with a high potential for conflict with surrounding uses. Additionally, the building proposed for the use does not meet the residential use separation criteria.</p> <p>3. The area is primarily residential in nature and there is a high potential for conflict with the proposed use. Sumter County Sheriff's call for service log indicates numerous complaints arising from the property.</p> <p>The motion was seconded by Mr. Frank Shuler and carried a unanimous vote.</p>
<b>OTHER BUSINESS</b>	<b>NONE</b>
	<p>There being no further business, Mr. Clay Smith made a motion to adjourn the meeting at 5:04 p.m. The motion was seconded by Mr. Frank Shuler and carried a unanimous vote.</p> <p>The next regularly scheduled meeting is scheduled for August 9, 2023.</p>
	<p>Respectfully submitted,  <i>Kellie K. Chapman</i>  Kellie K. Chapman, Board Secretary</p>