



BOARD OF ZONING APPEALS

Minutes of the Meeting

November 10, 2021

ATTENDANCE

A regular meeting of the Zoning Board of Appeals was held on Wednesday, November 10, 2021, in the Fourth Floor City Chambers of the Sumter Opera House, 21 N. Main Street. Five board members – Mr. Leslie Alessandro, Mr. Louis Tisdale, Mr. Sam Lowery, Ms. Cleo Klopfleisch, and Mr. Steven Schumpert were present. Mr. Warren Curtis, Mr. Jason Reddick, and Mr. L.C. Fredrick were absent.

Planning staff in attendance: Ms. Helen Roodman, Mr. Jeff Derwort, Mr. Kyle Kelly, Mr. Derrick Phillips, Jr. and Ms. Kellie Chapman.

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

MINUTES

Mr. Steven Schumpert made a motion to approve the minutes of the October 13, 2021, meeting as written. The motion was seconded by Ms. Cleo Klopfleisch and carried a unanimous vote.

NEW BUSINESS

BOA-21-27, 3945 Dodgen Hill Rd. (County) was presented by Mr. Kyle Kelly. The Board reviewed this request for a variance from the side setback requirements outlined in Article 3, Section 3.n.5.b: AC District Minimum Yard and Building Setback Requirements of the Sumter County Zoning & Development Standards Ordinance in order to place a 76 ft. long mobile home with the longest dimension parallel to the road on an existing lot of record with +/- 90 ft. of lot width. The required setback on each side of the property is 12 ft. The property is located at 3945 Dodgen Hill Rd., is zoned Agricultural Conservation (AC), and is represented by TMS# 136-00-03-036.

Mr. Kelly stated the applicant is requesting a variance from side setback requirements applicable to the Agricultural Conservation (AC) zoning district in order to place a 76 ft. long mobile home with the longest dimension parallel to the road on an existing lot of record

with +/- 90 ft. of lot width. The required set back on each side of the property is 12 ft.

Mr. Kelly added the applicant is currently permitted by-right to place their manufactured house on the site, so long as the unit is placed that it meets the minimum building setbacks for the AC zoning district (Front-35 ft., Side-12 ft., Rear-50 ft.). There is sufficient width and depth on the lot for the applicant's manufactured house to be placed within these setbacks, however, the orientation of the unit would have to be perpendicular or at an angle to the roadway. A perpendicular placement of the manufactured house is permitted in accordance with Article 3, Section 3.d.6.c of the Ordinance.

The subject property meets all of the exemptions, and the decision to place the manufactured house parallel to the road is a matter of preference and not compliance with other Ordinance requirements. The applicant purchased the subject property in April 2021 with the intent of placing a manufactured house on the property. On September 2, 2021, the applicant purchased a 76 ft. X 28 ft. Fleetwood manufactured house, and applied for a zoning certificate to place that unit at 3945 Dodgen Hill Rd. However, in order to place the manufactured house with its front door oriented toward Dodgen Hill Rd., the side setback for each side would need to be reduced from 12 ft. to 7 ft.

Mr. Christopher Kenkel and Johnnie Benjamin was present to speak on behalf of the request.

After some discussion between the board and the applicant. **The applicant formally withdrew this request.**

BOA-21-28, 8525 Camden Hwy. (County) was presented by Mr. Jeff Derwort. The Board reviewed this request for a Conditional Use request to operate a consignment store (SIC Code 593) on the property. The Zoning Administrator has referred this Conditional Use application request to the Board of Zoning Appeals consistent with *Article 5, Section 5.a.3: Review* and *Article 5, Section 5.b.1: Criteria for Conditional Use Review* of the Sumter County Zoning & Development Standards Ordinance. The property is located at 8525 Camden Hwy., is zoned Agricultural Conservation (AC), and is represented by TMS# 081-13-01-005.

Mr. Derwort stated the applicant is seeking approval to establish a retail consignment store the property. The property is within the Agricultural Conservation (AC) zoning district. Retail consignment stores with Standard Industrial Classification (SIC) Code 593 require Conditional-300 (C-300) approval in this zoning district. Land use requiring this level of conditional approval must demonstrate that the general criteria outlined in Article 5, Section 5.b.1.a – 5.b.1.f of the Sumter County Zoning & Development Standards Ordinance are met, must comply with any use specific conditional use criteria as applicable, and must obtain consent signatures from property owner and tenants within 300 ft. of the development/use area.

A conditional use application for a C-300 approval to establish a retail consignment store use on the property was submitted to the Sumter City-County Planning Department on May 13, 2021. Upon receipt of this application, planning staff prepared a list with property owner names and contact information for parcels within 300 ft. of the proposed use. This list was transmitted to the applicant on May 18, 2021, for use as a resource in meeting the consent criteria.

After receiving the formal list, the applicant pursued obtaining the required signatures. After conferring with the applicant about several unsuccessful attempts to make any contact with selected owners on the list, the Zoning Administrator has made the decision to refer the request to the Board of Zoning Appeals for special exception review. This referral decision is in line with Article 5, Section 5.a.3. of the Ordinance.

The ordinance reference is interpreted to mean that conditional uses that do not meet all required conditions, as determined by staff, can be referred to the Board of Zoning Appeals by the Zoning Administrator for special exception review. In this case, the adjacent property owner/tenant consent signature requirement has not been met.

Mr. Derwort added the property is located just north of the Rembert community in the northwestern section of county near the Kershaw County border. Outside of the small concentration of the commercial and residential uses located to the south, this area primarily consists of rural residential and agricultural land uses. As shown by the zoning map to the right, all land within the immediate area is within the AC zoning district.

Mr. Darrell Owens was present to speak with his concerns regarding the handicap parking and accessibility to the store.

Mr. Johnnie Benjamin was present to speak in favor of the request.

After a brief discussion, Ms. Cleo Klopfleisch made a motion to **approve** this request subject to the following findings of fact and conclusions:

1. The property has existing access onto Camden Hwy. (US-521 N.). No changes to the existing access are proposed to accommodate this use. While site access does not meet current SCDOT standards, no new development is being proposed. The site is considered to be non-conforming not subject discontinuance in accordance with Article 6 of the Ordinance. The level of trips associated with the proposed consignment store are not anticipated to be detrimental to traffic flow and control, traffic access, or to existing and anticipated land uses.

Based on square footage of the building listed by the Sumter County Assessors office, 14 total off-street parking spaces are required to accommodate both uses. The property is within the AC zoning district, where paved off-street parking is not required. The site has sufficient space to meet applicable off-street parking requirements for both uses. One paved handicapped accessible space is required.

A new commercial dumpster area is not being proposed to support this use. The use is anticipated to generate minimal refuse. If a commercial dumpster is proposed in the future, it must be established in accordance with the Article 4, Section K of the Ordinance and must receive site plan approval.

The site non-conforming subject to discontinuance with respect to street buffer and sideyard buffer landscaping, as not street buffer landscaping or sideyard landscaping to the north is in place. The site does not contain adequate screening along the properties rear and south

side. No new landscaping improvements are required to meet this criterium.

A small freestanding sign for the business has been established on the property without permit. The site also contains an additional non-compliant sign for the towing service business that is attached to a fence on the property. While these signs will not create glare or impair traffic safety, new signage on must be established in accordance with Article 8, Section I: Sign Regulation of the Ordinance, be properly permitted. The sign violations must be addressed.

The overall topography of the site is relatively flat, with the exception of a small elevation increase between the parking area and the building. This area in front of the building is improved with a retaining wall and concrete stairs. The stairs go up from the parking/drive area to the building entrance. The site is non-conforming not subject to discontinuance with respect to rear setback requirements. The existing building is located +/- 45 ft from the rear property line, where current AC non-residential uses require a 50 ft. rear setback. This site is allowed to continue to be used as permitted by Article 6 of the Ordinance and the requirements of the underlying zoning district without mandate to bring site to full compliance with Ordinance requirements. No additions to the building or any changes to the site are being proposed at this time.

2. The property is non-conforming not subject discontinuance with respect to landscaping requirements and rear setback requirements. The site has been in continual operation since at least 2016 as Kirk's Towing Service and is allowed to continue to be used as permitted by Article 6 of the Ordinance, and the requirements of the underlying zoning district, without a mandate to bring the site into full compliance with Ordinance requirements.

The property does contain two unpermitted signs that can be addressed with no bearing on the physical layout and placement of the proposed use on the property. Additionally, at least one paved handicapped accessible parking space must be installed to accommodate the proposed use.

As previously stated, the use itself requires C-300 approval. This level of conditional use approval requires consent signatures from property owner/tenants within 300 ft. of the proposed use area. This Ordinance requirement has not been achieved at this time and the request has been referred by the Zoning Administrator to the Board of Zoning Appeals in accordance with Article 5, Section 5.a.3 of the Ordinance.

3. The property has been used for commercial purposes for decades. The property is adjacent to, but well screened from, existing residential uses to the south and east. Adjacent land to the north and west is used for agricultural purposes. The site is just north of primary concentration of commercial uses with the Rembert community. The use is in substantial harmony with the area in which it is located.
4. The use will be within the footprint of an existing commercial building that has been in operation as Kirk's Towing Service since at least 2016. Taking the scale of the use and existing adjacent uses into account, the proposed consignment store will not discourage or negate the use of surrounding property for use(s) permitted by right.

Subject to the following condition:

- Establish at least one (1) paved handicapped accessible parking space on the property in accordance with Article 8, Section 8.j.3 Design Requirements of the Sumter County Zoning & Development Standards Ordinance.
- Establish a compliant free-standing sign for the business in accordance with Article *, Section I of the Sumter County Zoning & Development Standards Ordinance.

The motion was seconded by Mr. Sam Lowery and carried a unanimous vote.

BOA-21-29, 1311 Peach Orchard Rd. (County) was presented by Mr. Jeff Derwort. The Board reviewed this request for special exception approval in accordance with *Article 3, Section 3.i.4: GC 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.n: Special Design Review Criteria for Liquor Stores* of the Sumter County Zoning & Development Standards Ordinance in order to establish a Liquor Store use (SIC Code 592) on the property. The applicant is also requesting a +/- 260 ft. variance from *Article 5, Section 5.b.3.n.1: Liquor Stores* of the Sumter County Zoning & Development Standards Ordinance to reduce the required separation distance from a Liquor Store use (SIC Code 592) to a church use. A 300 ft. separation, structure to structure, is required between these two uses. The property is located at 1311 Peach Orchard Rd., is zoned General Commercial (GC) at the location of the proposed use, and is represented by TMS# 132-00-02-015.

Mr. Derwort mentioned the applicant is seeking special exception approval to establish a liquor store on the property. Additionally, the applicant is requesting variance approval from the required separation distance between a liquor store use and a church use.

Mr. Derwort stated the property is the location of M & M Plaza, a multi-tenant commercial building that currently includes office uses, retail uses, and service uses. The applicant intends to use a +/- 1,200 sf tenant space within the building for the liquor store use. The former occupant of this specific space was the Melted Whiskey Bar.

Per the Sumter County Zoning & Development Standards Ordinance (the Ordinance), liquor store uses require special exception approval by the Board of Zoning Appeals. Such uses must also meet the specific design criteria outlined in Article 5, Section 5.b.3.n.1 of the Ordinance. This request does not meet this requirement, as a church use was established on the property directly to the north in November of 2020. The straight-line distance between the tenant space of the proposed liquor store and the closest portion of the building housing the existing church use is +/- 95 ft. The straight-line distance between the edge of the multi-tenant commercial building and the closest portion of the

building housing the existing church use is +/- 40 ft. Article 5, Section 5.b.3.n.1 mandates 300 ft. of separation (straight-line between structures) between liquor store uses and church uses. Thus, in addition to a request for special exception approval, variance approval for the use separation requirement is also required.

Ms. Linda Owens, Mr. Darrell Owens, Mr. Jake Abrahamson, Mr. Larry Ambrose, Mr. Erwin Vizcarra, and Ms. Margret Lawson were present to speak against the request.

Mr. Anuj Patel and Mr. Willie Razor were present to speak on behalf of the request.

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

In relation to the requested special exception approval from the requested Liquor Stores:

1. The proposed location of the liquor store does not meet the required separation distance outlined in Sumter County Zoning & Development Standard Ordinance. The straight-line distance between the tenant space of the proposed liquor store and the closest portion of building housing the new church use is +/- 95 ft. The straight-line distance between the edge of the multi-tenant commercial building and the closest portion of the building housing the new church use is +/- 40 ft. The applicant has applied for a variance to this requirement.
2. The property is in general conformance with applicable development standards, with exception of the separation distance requirement outlined in Article 5, Section 5.b.3.n.1 of the Ordinance. The multi-tenant building meets applicable setback requirements, street and parking lot landscaping is in place, and the proposed use represents a reduction in the amount of minimum off-street parking as compared to the previous use occupying the space.
3. The location of the proposed liquor store use is within GC zoned portion of the property. A key purpose of the GC district is to accommodate the

broadest possible range of commercial uses, while protecting the environment from potentially objectionable uses. Existing land uses in the immediate vicinity are primarily commercial.

While the underlying zoning of the parcel is generally compatible with the proposed use, this specific location is immediately south of an existing church use. The straight-line distance from the tenant space of the proposed liquor store to the church use is +/- 95 ft. The multi-tenant building housing both of these uses are separated by +/- 40 ft. Thus, the specific use separation requirement outlined in Article 5, Section 5.b.3.n.1 of the Ordinance is not achieved.

4. The location of the proposed liquor store use is within GC zoned portion of the property. A key purpose of the GC district is to accommodate the broadest possible range of commercial uses, while protecting the environment from potentially objectionable uses. Existing land uses in the immediate vicinity are primarily commercial. As stated above this location does not meet the specific use separation requirements outlined in Article 5, Section 5.b.3.n.1 of the Ordinance which was adopted to protect residential, church, school, and public playground uses from potential negative impacts of liquor store uses.

In relation to the requested variance:

1. The liquor store use is proposed to be located in an existing multi-tenant shopping plaza (M & M Plaza) located along Peach Orchard Rd. (SC-441). In November 2020, conditional use approval was given to establish the New Beginnings Assembly of God Church at 1335 Peach Orchard Rd. This location is north of the subject property. Signage was erected identifying the space as a church prior to the applicant submitting for special exception approval to establish a liquor on the property subject to this request.
2. As stated above, there are no extraordinary and exceptional conditions related to the property as they apply to this request. The property shares similar characteristics of other multi-tenant

	<p>shopping plazas located on Peach Orchard Rd. (SC-441) and throughout the Sumter community.</p> <p>3. The subject property has been previously developed, and a wide range of uses are permitted within the GC zoned portion of the property. The application of the Ordinance to this piece of property, specifically restricting a retail liquor store use, does not effectively prohibit or unreasonable restrict utilization of the property, as many other uses are permitted to be established on the property.</p> <p>4. The authorization of a variance for the purposes of allowing a retail liquor store to establish closer than 300 ft. to church is considered to be detrimental to the existing adjacent church, which Article 5, Section 5.b.3.n of the Ordinance was adopted to protect. The granting of this variance has the potential to harm the character of the district by introducing a use that is inconsistent with Ordinance requirements specifically related to liquor store uses.</p> <p>The motion was seconded by Ms. Cleo Klopfleisch and carried a three (Alessandro, Lowery, Klopfleisch) in favor and two (Tisdale, Schumpert) in opposition. The motion carried.</p>
OTHER BUSINESS	<p>Ms. Roodman introduced the new Senior Planner, Mr. Derrick E. Phillips, Jr.</p>
	<p>There being no further business, Ms. Cleo Klopfleisch made a motion to adjourn the meeting at 4:31 p.m. The motion was seconded by Mr. Steven Schumpert and carried a unanimous vote.</p> <p>The next regularly scheduled meeting is scheduled for December 8, 2021.</p>
	<p>Respectfully submitted, <i>Kellie K. Chapman</i> Kellie K. Chapman, Board Secretary</p>