



BOARD OF ZONING APPEALS

Minutes of the Meeting

August 10, 2022

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| <p>ATTENDANCE</p> | <p>A regular meeting of the Zoning Board of Appeals was held on Wednesday, August 10, 2022, in the Fourth Floor City Chambers of the Sumter Opera House, 21 N. Main Street. Six board members – Mr. Louis Tisdale, Mr. Jason Reddick, Mr. Leslie Alessandro, Mr. Clay Smith, Mr. Claude Wheeler, Jr. and Mr. Steven Schumpert were present. Ms. Cleo Klopfleisch, Mr. Sam Lowery and Mr. Warren Curtis were absent.</p> <p>Planning staff in attendance: Ms. Helen Roodman, Mr. Kyle Kelly, Mr. Jeff Derwort and Ms. Kellie Chapman.</p> <p>The meeting was called to order at 3:00 p.m. by Mr. Leslie Alessandro, Chair.</p> |
| <p>AMENDED AGENDA</p> | <p>Mr. Steven Schumpert made a motion to approve the amended agenda. The motion was seconded by Mr. Louis Tisdale and carried a unanimous vote.</p> |
| <p>MINUTES</p> | <p>Mr. Steven Schumpert made a motion to approve the minutes of the July 13, 2022, meeting as written. The motion was seconded by Mr. Jason Reddick and carried a unanimous vote.</p> |
| <p>INTRODUCTION OF NEW MEMBERS</p> | <p>Mr. Leslie Alessandro introduced two new board members: Mr. Claude Wheeler, Jr. Mr. William “Clay” Smith</p> |
| <p>NEW BUSINESS</p> | <p>BOA-22-18, 1416 N. Main St. (County) was presented by Mr. Jeff Derwort. The Board reviewed an appeal to an interpretation of the Zoning Administrators decision to approve a conditional use request for a proposed utility scale solar farm on a +/- 44.36-acre property. Conditional use approval (Case# CU-22-21) for the project was issued on May 26, 2022. The conditional use request was reviewed against the criteria outlined in <i>Article 5, Section 5.b.1.a thru Section 5.b.1.f</i> and the criteria outlined in <i>Article 5, Section 5.b.1.m</i> of the Sumter County Zoning & Development Standards Ordinance. The property is located at 1416 N. Main St., is zoned Heavy Industrial (HI), and is represented by TMS# 230-00-03-006.</p> <p>Mr. Derwort stated the Sumter City-County Planning Department received a conditional use application from Runnymede Solar, LLC (subsidiary of Soltage, LLC) for a proposed utility scale solar project on April 29, 2022. Staff issued conditional use (Case# CU-22-21) approval on May 26, 2022.</p> |

Mr. Derwort added the authority for an administrative determination on conditional use applications is outlined in *Article 5, Section 5.a.3.: Review of the Ordinance*, which states:

5.a.3. Review: *Review and approval by the Sumter City-County Planning Commission staff shall be a prerequisite to the issuance of a building permit for any conditional use identified in Article 3 of this Ordinance. If the conditions or standards are met, the Zoning Administrator may issue a permit for the use without review by the Sumter City-County Board of Zoning Appeals...*

Mr. Derwort mentioned the appellant, the owners of specific property within the Runnymede Subdivision, submitted an appeal to the administrative conditional use approval issued for the project on June 27, 2022.

Mr. Derwort stated appeals to administrative decisions are subject to the provisions outlined in *Article 1, Section 1.b.4.a. of the Ordinance*, which states:

1.b.4. Powers of the Board of Zoning Appeals: *It is the intention of this Ordinance that all questions arising in connection with the enforcement of this Ordinance shall be presented first to the Zoning Administrator and that such questions shall be presented to the Board of Zoning Appeals only on appeal from the Zoning Administrator.*

The Board of Zoning Appeals shall have the following powers and duties:

- a. **Appeals from administrative interpretation:** *To hear and decide appeals where it is alleged there is an error in an order, requirement, decision, or determination made by an administrative official of the Sumter City-County Planning Commission in the enforcement of the Zoning Ordinance...*

Facts:

- The appellant submitted a Board of Zoning Appeals application on June 27, 2022 appealing the conditional use approval granted by the Zoning Administrator (or designee) pertaining to the establishment of a utility scale solar farm on property located at 1416 N. Main St., and further identified as TMS# 230-00-03-006 (“the property”).
- The property is located within the Sumter County Heavy Industrial (HI) zoning district.
- Per *Article 3, Section 3.l.3.c: HI District Conditional Uses and Article 3, Exhibit 5: Permitted and Conditional Uses in the Commercial, Industrial, Agricultural, & Conservation Districts of the Sumter County Zoning & Development Standards*

Ordinance (“the Zoning Ordinance”), photovoltaic solar photovoltaic energy systems under Standards Industrial Classification (SIC) Code 4911 require conditional use approval in the HI zoning district.

- The property is within 5 nautical miles of the Sumter County airport.
- A proposed photovoltaic energy system under SIC Code 4911 on the Property must demonstrate compliance with the conditional use criteria outlined in *Article 5, Section 5.b.1.a – 5.b.1.f* and *Article 5, Section 5.b.1.m* of the Zoning Ordinance.
- Runnymede Solar, LLC (“the applicant”) submitted a conditional use application on April 29, 2022 for the construction and operation of a 2.0-MWac photovoltaic solar energy system on the property.
- The applicant submitted the following documents in support of the conditional use application:
 1. Site & Landscaping Plan
 2. Panel Elevation Details
 3. Glare Assessment
 4. Map Showing a 5 nautical Mile Radius Centered on the Property
 5. Notification Letter to Sumter County Airport
 6. US Army Corps of Engineers Jurisdictional Determination Letter
 7. Wetlands Delineation
 8. Generator Interconnection Agreement
 9. Decommission Plan
- The conditional use application and supporting documents is referenced as Case Number: CU-22-21.
- The Sumter City-County Planning Department issued a conditional use approval letter on May 26, 2022 for CU-22-21, in accordance with the conditional use application and supporting documents received. This letter included the following approval conditions:
 1. The site must be developed in substantial compliance with the site and landscaping plans titled, “Runnymede Solar, LLC Major Site Plan”, prepared by Booth & Associates, LLC, dated April 25, 2022
 2. The approval conditions noted in major site plan review case number MSP-22-14, as approved by the Sumter City-County Planning Commission, must be met as stated.

3. Prior to final zoning inspection, a copy of the final recorded Decommission Plan must be provided by the applicant.

Dr. Kendall Deas and Dr. Jayne Rueben represented the appellant.

Mr. Mike Pitts, Mr. Jonathan Roberts, Mr. Tommy Cleveland were present to speak on this request.

Mr. Albert VanSlyke, IV, Ms. Lynn Finney, Ms. Deborah VanSlyke, and Mr. Chip Finney spoke in favor of the appeal to the Zoning Administrator's decision.

Mr. William Croft spoke in opposition of the appeal to the Zoning Administrator's decision.

After a brief discussion, Mr. Louis Tisdale made a motion to affirm the overall conditional use approval decision of the Zoning Administrator (or designee), with the following modifications to the conditions of approval:

1. **Additional Condition 1** – Submission of documentation/certification that all site structural improvements can withstand the wind load of seasonal tropical storms commonly experienced in this part of the State of South Carolina.
2. **Additional Condition 2** – Installation of containment improvements/mitigation measures around the inverter and transformer installations to ensure containment should the equipment experience a leakage.
3. **Additional Condition 3** – All landscaping installed must be of a size to ensure that the use cannot be viewed from adjacent property on the 1st day of legal operation. All approved landscaping must be properly maintained.

The motion was seconded by Mr. Jason Reddick and carried a unanimous vote.

BOA-22-19, 6325 Legendary Ln. (County) was presented by Mr. Kyle Kelly. The Board reviewed a request for variance approval from requirements outlined in *Article 3, Section 3.n.5.b. AC District Minimum Yard & Building Setback Requirements* of the Sumter County Zoning & Development Standards Ordinance in order to permit work to convert an existing building on the property to a residential dwelling. The existing building does not meet the required 12 ft. side setback requirements, and a variance of 6 ft. is requested. The property is located at 6325 Legendary

Ln., is zoned Agricultural Conservation (AC), and is represented by TMS# 100-00-03-053.

Mr. Kelly stated the applicant is seeking variance approval from AC district side setback requirements to convert an existing non-residential structure into a residential structure.

Mr. Kelly added the closest portion of the building is located 5.41 ft. from the property line. The required side exterior setback is 12 ft.

Mr. Gene Durant 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. The property at 6325 Legendary Ln. was developed prior to the adoption of current development standards and is considered a non-conforming site not subject to discontinuance.
2. Proposing to renovate the existing structure and have it legally established as a residential dwelling unit. While it is technically possible for other residents in the vicinity to convert non-residential structures into residential structures, because this lot does not currently contain a residential structure where other lots in the subdivision do, the condition requiring a variance is not generally applicable.
3. Property conditions prevent the applicant from obtaining building permits to complete renovations necessary to establish the structure as a residential dwelling unit.
4. Approval of this request is not expected to result in substantial detriment to adjacent property and the public good, nor harm the character of the district. While the subject property would have a side setback approximately half of that found in the AC district, and 2 ft. smaller than what is permitted in any other established residential zoning district, there is a large distance of open space around the structure sufficient for full property access. Further, a significant row of tree planting exists between the subject property and the adjacent property to the east.

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

Mr. Louis Tisdale recused himself from the following request.

BOA-22-20, 2310 Topsail Dr. (City) was presented by Mr. Kyle Kelly. The Board reviewed a request for variance approval from requirements outlined in *Article 3, Section 3.b.5.a: R-15 District Minimum Lot Requirements of the City of Sumter Zoning & Development Standards Ordinance* in order to permit the approval of a lot line adjustment that will decrease the width of the lot to +/- 80 ft. and will decrease the area of the lot to +/- 11,744 sq. ft. The minimum lot width required per district development standards is 100 ft. The minimum lot area required per zoning district standards is 15,000 sq. ft. The property is located at 2310 Topsail Dr., is zoned Residential-15 (R-15) and is represented by TMS# 205-11-04-003.

Mr. Kelly stated the applicant is requesting multiple variances in order to permit a lot line adjustment between lots #79 and #80 of the “The Cove” subdivision.

- 20 ft. variance to minimum lot width, and
- 3,256 sq. ft. variance to minimum lot area requirements

The proposed lot line adjustment reduces the lot width and lot area of the property below R-15 district minimum requirements.

Mr. Kelly mentioned the current lot size of the property is smaller than the R-15 district minimum lot area requirement of 15,000 sq. ft. The lot was originally approved by the Planning Commission in 2006 as part of a major subdivision proposal for “The Cove” development.

Mr. Buddy Wescott 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. The property is +/- 0.31-acres in size and is located on Topsail Dr., in a residential subdivision currently in development in the City of Sumter. The presence of the encroaching fence and landscaping improvements installed by the owners of 160 Topsail Dr. is a unique and exceptional condition not common to the area of the City of Sumter in which this property is located.
2. The conditions noted above does not generally apply to other property in the vicinity.
3. The property is currently entitled for development in accordance with Residential-15 (R-15) zoning district requirements, the Planning Commission major

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| | <p>subdivision approval, and other general Ordinance requirements applicable to land development. The presence of an encroaching improvement (fence) on the property would restrict the utilization of the property, as it is part of a subdivision development, and the property's developer is attempting to sell the lot for construction of a single-family residence. A buyer is not likely to accept the existing encroachment as a condition of sale, because it eliminates viable use of 0.04-acres of the property.</p> <p>4. Approval of this request is not expected to result in detriment to adjacent property and the public good. While the subject property will be slightly smaller than surrounding lots, the proposed lot line adjustment retains sufficient dimensions to permit a single-family residential home on the property while meeting setback requirements, maintains the original intent of the Planning Commission major subdivision approval, and represents little to no risk for impacts to the overall character of the subdivision.</p> <p>The motion was seconded by Mr. Claude Wheeler, Jr. and carried a unanimous vote.</p> |
| OTHER BUSINESS | NONE |
| | <p>There being no further business, Mr. Clay Smith made a motion to adjourn the meeting at 5:17 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 September 14, 2022.</p> |
| | <p>Respectfully submitted, <i>Kellie K. Chapman</i> Kellie K. Chapman, Board Secretary</p> |