



ZONING BOARD OF APPEALS

Minutes of the Meeting

July 10, 2024

ATTENDANCE

A regular meeting of the Zoning Board of Appeals was held on Wednesday, July 10, 2024, in the Fourth Floor City Chambers of the Sumter Opera House, 21 N. Main Street. Six board members –Mr. Leslie Alessandro, Mr. William Bailey, Mr. Frank Shuler, Mr. Jason Reddick, Mr. Steven Schumpert and Mr. Todd Champion were present. Mr. Louis Tisdale, Mr. Claude Wheeler and Mr. Clay Smith were absent.

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

The meeting was called to order at 3:14 p.m. by Mr. Leslie Alessandro, Chairman.

MINUTES

Mr. Frank Shuler made a motion to approve the minutes of the June 12, 2024, meeting as written. The motion was seconded by Mr. Jason Reddick and carried a unanimous vote.

NEW BUSINESS

Mr. Frank Shuler recused himself from BOA-24-24

BOA-24-24, 23 Haynsworth St. (City) was presented by Mr. Jeff Derwort. The Board reviewed the request for a variance from the accessory structure setback requirements and fence placement requirements outlined in *Article 4.g.2.b.4: (Residential Accessory Structures) Setbacks* and *Article 4.f.8: Height, Fencing Materials, and Proximity Regulations for Fences Allowed in Required Yards* of the City of Sumter Zoning & Development Standards Ordinance (the “Ordinance”), and any additional variances as may be required, in order to (1) establish a residential accessory structure closer to a side property line than otherwise permitted and (2) establish an 8 ft. tall solid fence closer to an existing structure on an adjacent property than otherwise permitted. The property is located 23 Haynsworth St., is zoned Residential-6 (R-6), and is represented by TMS# 228-05-01-023.

Mr. Derwort stated the applicant is in the process of constructing a residential storage building in the rear yard of the property.

Mr. Derwort added building permits were issued for the project earlier this year based on a variance approval obtained in 2018 under Case# BOA-18-05 that provided 3.5 ft. of relief from side

accessory structure setback requirements and 3 ft. of relief from rear accessory structure setback requirements.

Mr. Derwort mentioned the applicant is requesting additional variance relief to reduce the side setback to +/- 1 ft. and the rear setback to +/- 1.5 ft. Per the applicant, the condition of the existing concrete slab is not suitable to act as a building foundation, and a pole barn style structure with supports located outside the slab is being erected.

Mr. Derwort stated the applicant has completed an 8 ft. tall wooden privacy fence along the western property line in the side and front yards and desires to continue the fence in the rear yard close to the western property boundary line. The applicant is requesting a variance to allow for +/- 2.5 ft. of separation between the proposed fence and existing accessory structures on the adjacent property. Based on the proposed height of the fence, the Ordinance requires 8 ft. separation between the fence and existing structures on the adjacent property.

Mr. Raymond Hodge was present to speak on behalf of the request.

Mr. John Daly was present to speak against the request.

After a brief discussion, Mr. William Bailey made a motion to approve this request subject to the following:

1. **Accessory Structure** – The condition of the existing slab is not suitable to serve as the supporting foundation for an accessory structure, a condition that arose after the original variance approval (BOA-18-05). Based on this condition, the applicant has elected to construct a pole bare style structure with support columns installed directly adjacent to the outer limits of the concrete slab.

The rear yard of the property is influenced by the presence of 3 mature canopy trees classified as ‘significant’ trees per Article 9 of the Ordinance. In order to construct the proposed building to meet required setback requirements, impacts to the critical root zones resulting in long term impacts to these mature trees are anticipated for the structure to comply with minimum accessory structure setback requirements. This reasoning was cited in the original BOA-18-05 approval that allowed for the 3.5 ft. reduction in the minimum side setback and the 3 ft. reduction to the required minimum rear setback. While single-family detached dwellings are exempted from the tree preservation and tree protection requirements outlined in Article 9 of the Ordinance, preserving these trees is consistent with the overall intent and purpose of the Ordinance.

2. **Accessory Structure** – The utilization of an existing concrete slab (the location of a previous accessory structure) to protect mature trees in close proximity is considered to be a condition that is not generally applicable to all property in the immediate vicinity.

3. **Accessory Structure** – The Ordinance prevents the applicant from constructing the accessory structure in the manner desired due to required setback encroachments. The applicant has provided information indicating that the condition of the existing slab is not suitable to provide foundational support for an accessory structure. Further, construction in full compliance with the minimum 5 ft. setback applicable to residential accessory structures of this size could endanger the health of existing ‘significant’ canopy trees.

4. **Accessory Structure** – 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. It is noted that this area is within the historic core of the City of Sumter where it is common for both homes and their accessory structures to have been constructed prior to 1999 and to conform to current setback requirements. Further, the proposed structure would not be readily visible from public right-of-way and any potential impacts to adjacent property would be limited to the rear yard areas of the property to the west and the property to the north where boundary fences already exist on the property lines.

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

After a brief discussion, Mr. Jason Reddick made a motion to approve this request subject to the following:

1. **Fence Separation** – This is an attempt to provide additional screening from the adjacent property to the west, where documented disputes with the adjacent property owner have occurred in the recent past. An existing accessory structure, with a window facing into the applicant’s backyard, is located within less than 1 ft. of the western property boundary. The applicant is requesting a variance to install a privacy fence closer to existing structures on the adjacent property than is otherwise permitted to resolve their safety and privacy concerns.

2. **Fence Structure** – The current need for additional screening, security, and privacy (for the both the applicants and the representatives of the adjacent property) is considered to be a condition that is not generally applicable to all property in the immediate vicinity.
3. **Fence Separation** – The Ordinance prevents the applicant from constructing the privacy fence in the location desired. The fence separation standard does still apply even if a structure on an adjacent property does not conform to required setback requirements, which is the case in this situation. If the closest residential accessory structure on the adjacent property met the 5 ft. minimum setback requirement, the proposed privacy fence would have to be installed +/- 3 ft. from the property line. Based on the actual location of the neighboring buildings, the proposed privacy fence would need to be placed +/- 8 ft. from the property line to maintain the required separation outlined in Article 4.f.8.
4. **Fence Separation** – The purpose of requiring separation between solid fences and existing accessory structures on adjacent property is to ensure compatibility, to ensure minimum open space around a structure, to facilitate safe access, to avoid negatively impacting surrounding properties, and to prevent damage to adjacent structures in the event a fence was to fall. It is noted that there are extenuating circumstances pertaining to the subject property and the abutting property to the west. Additionally, the existing accessory structure on the adjacent property appears to be approximately 1 ft. from the property boundary line, thus requiring an 8 ft. tall privacy fence to be significantly setback on the subject property. Any potential impacts to adjacent property would be limited to the rear yard of the property to the west.

With the following condition of approval:

- The eave overhang and roof drip line for the accessory structure shall not encroach over any boundary line of the subject property.

The motion was seconded by Mr. Steven Schumpert and carried by a unanimous vote.

BOA-24-25, 4672 Broad St. (County) was presented by Mr. Jeff Derwort. The Board reviewed the request for a special exception approval in accordance with *Article 1.b.4.c: (Powers of the Zoning Board of Appeals) Special Exceptions, Article 3.i.4: (GC District) Special Exceptions, and Article 3, Exhibit 5: Permitted Uses in All Zoning*

Districts of the Sumter County Zoning & Development Standards Ordinance (the “Ordinance”) in order to establish a Hookah Lounge (NAICS 7139) on the property. The property is located at 4672 Broad St., is zoned General Commercial (GC), and is represented by TMS# 155-08-02-003.

Mr. Derwort mentioned the Board of Zoning appeals approved a variance for parking on May 8, 2024. After further research, it was determined a Hookah Lounge (with no one-site consumption of alcoholic beverages) falls under NAICS code 7139, Other Amusement and Recreation Industries which requires Special Exception approval.

Ms. Sunny Wise was 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:

1. The commercial multi-tenant building and associated site improvements were constructed circa 1986, prior to the adoption of the current Ordinance. The Board of Zoning Appeals approved a variance for minimum parking area on May 8, 2024.
2. The Board Street Corridor is characterized by strip commercial development with residential development to the rear. Like much of the commercial development on Broad St., this location fronts on Broad St. with direct access to and from Broad St., with no direct vehicular or pedestrian access to the rear of the property. There are significant areas of vegetation to the rear of the property acting as buffer between the established residential uses and this location. The proposed use will be in substantial harmony based on the existing site characteristics and the proposed use location.
3. Based on the existing site configuration and access, including existing buffering, there is no indication the proposed use will discourage or negate the use of surrounding property for use(s) permitted by right.

Subject to the following condition of approval:

- No alcohol shall be served or consumed on the premise of this business.

The motion was seconded by Mr. Steven Schumpert and carried by a unanimous vote.

BOA-24-26, 190 Corbett St. (County) was presented by Mr. Kyle Kelly. The Board reviewed the request for a variance from the minimum lot size and public road frontage requirements outlined in *Article 3.n.5.a: (AC District Minimum Lot Requirements)*

and in *Article 8.e.13.a: Lots* and *Article 8.e.13.c: Lots* of the *Sumter County Zoning & Development Ordinance* (the “Ordinance”) in order a to subdivide a tract of land that will result 2 new lots being established below minimum lot area requirements, 3 new lots being established with no or less than the required amount of public road frontage. The Ordinance requires a 1-acre minimum lot size for new lots in the AC zoning district and requires at least 60 ft. of frontage on a public road (unless otherwise exempted). The property is located at 190/220 Corbett St., is zoned Agricultural Conservation (AC), and is represented by TMS# 308-00-01-001.

Mr. Kelly stated the applicant is requesting variances to the development standards in order to establish 3 new lots that do not meet minimum public road frontage requirements. 2 of the proposed new lots also would not meet the minimum AC district lot size requirement. The parent parcel is a +/- 110.69-acre agricultural tract that contains 2 manufactured homes.

Mr. Kelly added the tract contains a grandfathered nonconforming use (2 dwellings). The applicant is attempting to subdivide the tract into 4 lots as part of settling an estate. 3 of the 4 lots require variance approval.

Mr. Kelly mentioned dating to at least 1966, Corbett Street was a dirt road, with most of the subdivided properties described by deeds (without plats). The street was paved prior to 2001, though no formal easement or ROW data can be found showing conveyance to Sumter County.

Ms. Mary Lynda Tiller Dutcher was 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:

1. The subject property is +/- 110.69-acres in size, with approximately 3,700 linear feet of frontage on Sumter Rd. The lot contains a non-conforming use not subject to discontinuance, as there are two (2) manufactured homes on the tract. The proposed division would resolve the potential non-conforming use issue.

While there are numerous uniquely shaped parcels of record in proximity to this site, none contain the existing development pattern and roadway development conditions of the subject parcel. While there exists sufficient property to complete ordinance-compliant division of the land, such a division would create new property lines that could complicate the future use of the parent tract for agricultural use on a contiguous field.

2. Lots and tracts in this area of Sumter County are generally a combination of large agricultural and undeveloped tracts and small residential lots. The property is directly adjacent to the Town of Mayesville, which, as a municipality, maintains its own zoning regulations and development standards that allow for smaller lots.

The existing development pattern on Corbett St., which has contained single family residences on the western side of the private road and open agricultural fields to the east, has been in place since the mid-1960s. The Town of Mayesville water and sewer utilities extend to serve the area, making development of smaller lots physically feasible, as septic systems are not required.

All properties in Sumter County are required to abide by Article 8.e.13. standards, save for those defined as exempt subdivisions under Article 10, which is limited to agricultural restricted uses and family exempt subdivisions.

3. The application of the ordinance to the particular property restricts the ability of the applicant to divide the tract as desired in order to convey Parcels A, B, and C to separate individuals as part of settlement of a deceased parent's estate. While the individuals to receive the property are unrelated to the current owners, they have lived on the property for a significant period of time, and were farm employees.
4. Article 8.e.13. requires that newly subdivided lots be established with public road frontage in order to minimize the presence of "landlocked" lots, meaning tracts of land that cannot be reached but by crossing another property owner's land. While easements are employed as a means to establish legal access to property, their application and enforceability is left to individual property owners, leaving situations in which property becomes difficult to access for its owners. Article 8.e.13. ensures that lots are created with the necessary width to allow access without requiring easements across property owned by other individuals. However, in this particular instance, it is not anticipated that granting the requested variance will be of substantial detriment to the adjacent property or the public good nor it is anticipated to harm the character of the district.

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

BOA-24-27, 850 Flagg St. (County) was presented by Mr. Jeff Derwort. The Board reviewed the request for a variance from the accessory structure development requirements outlined in

Article 4.g.2.a.1: (Residential Accessory Structures) Conditions & Exceptions, Article 4.g.2.b.6: (Residential Accessory Structure) Maximum Size, and Article 4, Exhibit 8A: Maximum Square Footage of Residential Accessory Structures Based on Gross Acreage of the Sumter County Development Standards Ordinance (the "Ordinance") in order to establish a residential accessory structure on a property in the AC zoning district that is less than 5 acres in size with no principal residential dwelling and to establish a residential accessory structure over the maximum size limit based on the gross acreage of the property. The Ordinance only allows for residential accessory structures to be established on property with no principal residential structure where the property is zoned AC and where the property is 5 acres or larger in size. The property is +/- 2.49 acres in size, with maximum residential accessory structure area limited to 1,850 sq ft. The property is located at 850 Flagg St., is zoned Agricultural Conservation (AC), and is represented TMS# 230-00-01-007.

Mr. Derwort stated the maximum size accessory structure for a 2.49-acre lot is 1850 sq. ft. Currently the owner is proposing to construct a 35'X65' (2,275 sq. ft.) to include a porch (dimensions on the size of the porch and if it will be under roof are not available at time report draft).

The property is in the Agricultural Conservation (AC) zoning district, is 2.49-acres in size, and does not have principal residential dwelling located on it. As such, a variance is required to establish a residential accessory structure of any size on the property. In the AC zoning district, if a property is 5-acres in size or more, a residential accessory structure can be established on a property in absence of a principal residential dwelling.

The applicant intends to place the structure along the southern side of the property in compliance with applicable principal residential structure setbacks requirements.

The applicant received a setback variance for an unrelated agriculture building on the same property on July 12, 2023. As of July 2, 2024, the agriculture building is under construction.

Mr. Justin Hurst was present to speak on behalf of the request.

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

Accessory Structure Placement on 2.49-acre With No Primary Dwelling

1. The subject property comprises a +/- 2.49-acre parcel. The applicant owns and resides on a +/- 1.95-acre lot located directly across Flagg St. from the subject property. Flagg St.

right-of-way divides these properties but includes an unpaved dead-end turnaround in front of the subject property.

More than half of the subject property is within Zone A Special Flood Hazard Area (SFHA) as shown on FEMA FIRM Panel 45085C0303E, Effective Date: 10-27-22. While residential development could occur on this lot in compliance with County Zoning and County Flood Damage Prevention Ordinance requirements, it is not preferred as the property is considered to be at risk for flooding. It is noted that the boundary of the floodplain line is the limits of the flood study, not necessarily the limits of the actual 1% annual risk for flooding.

While there are numerous uniquely shaped parcels of record in proximity to this site, none contain the existing development pattern and roadway development conditions of the subject parcel. While there exists sufficient property to complete ordinance-compliant division of the land, such a division would create new property lines that could complicate the future use of the parent tract for agricultural use on a contiguous field.

2. Special Flood Hazard Area (SFHA) boundaries were recently expanded in this area with the latest 2022 FEMA flood map update. This particular lot within the Jefferson Park subdivision is the most impacted and is also the only undeveloped lot on the south side of Flagg St. These conditions further limit the development potential of this lot.
3. The Ordinance requirements prevent the applicant from constructing an residential accessory structure on the property in absence of a principal residential dwelling, as the property not meet the criteria for exemption in the AC district since it is not 5-acres or more in size. The property is not ideal for the development of a residential dwelling due to flood risk.
4. The authorization of a variance to allow for the construction of residential accessory structure in absence of principal residential dwelling is not likely to result in substantial detriment to adjacent property or the public good, nor is it likely to harm the character of the district. The property was created prior to the adoption of effect flood plain maps. Based on the risk identified by the effective floodplain maps, the property is not ideal for the development of a residential dwellings.

The motion was seconded by Mr. Steven Schumpert and carried by a unanimous vote.

	<p>After a brief discussion, Mr. William Bailey made a motion to approve the request subject to the following:</p> <p><u>Allowance for Additional Accessory Structure Area:</u></p> <ol style="list-style-type: none"> 1. The property is primarily located in a SFHA, is not suitable for septic, and is not suitable for residential development. No dwelling is proposed or desired, so an increase in size allowed is off-set by the absence of a dwelling on the property. 2. Special Flood Hazard Area (SFHA) boundaries were recently expanded in this area with the latest 2022 FEMA flood map update. This particular lot within the Jefferson Park subdivision is the most impacted and is also the only undeveloped lot on the south side of Flagg St. These conditions further limit the development potential of this lot. The property is not suitable for septic, and is not suitable for residential development. No dwelling is proposed or desired, so an increase in size allowed is off-set by the absence of a dwelling on the property. 3. Residential development on the property is not feasible. Thus, overall building square footage impacts are comparable to an actual primary residential structure in addition to an accessory structure at the maximum area permitted. 4. The authorization of a variance to allow for additional accessory structure square footage is not likely to result in substantial detriment to adjacent property or the public good, nor is it likely to harm the character of the district. The property is impacted by conditions that make the development of a primary residential dwelling unfeasible. As such, overall building square footage impacts are comparable to an actual primary residential structure in addition to an accessory structure at the maximum area permitted. <p>The motion was seconded by Mr. Jason Reddick and carried by a unanimous vote.</p>
<p>OTHER BUSINESS</p>	<p>Ms. Helen Roodman informed the Board that a public meeting for the UDO will be held on July 24, 2024, at the Meeting House.</p> <p>Dates for Continuing Education will be announced soon.</p>
	<p>There being no further business, Mr. Frank Shuler made a motion to adjourn the meeting at 4:38 p.m. The motion was seconded by Mr. Jason Reddick and carried by a unanimous vote.</p>

	The next regularly scheduled meeting is scheduled for August 14, 2024.
	Respectfully submitted, <i>Kellie K. Chapman</i> Kellie K. Chapman, Board Secretary