



ZONING BOARD OF APPEALS

Minutes of the Meeting

May 10, 2023

ATTENDANCE

A regular meeting of the Zoning Board of Appeals was held on Wednesday, May 10, 2023, in the Fourth Floor City Chambers of the Sumter Opera House, 21 N. Main Street. Eight board members – Mr. Leslie Alessandro, Mr. Frank Shuler, Mr. Claude Wheeler, Mr. William Bailey, Mr. Louis Tisdale, Mr. Jason Reddick, Mr. Todd Champion, and Mr. Clay Smith were present. Mr. Steven Schumpert was absent.

Planning staff in attendance: Mr. Jeff Derwort, Ms. Helen Roodman, Mr. Quint Klopfleisch 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 April 12, 2023, meeting as written. The motion was seconded by Mr. William Bailey and carried a unanimous vote.

NEW BUSINESS

BOA-23-08, 11 S. Salem Ave. (City) was presented by Mr. Jeff Derwort. The Board reviewed this request for variance approval from the residential accessory structure maximum size requirements outlined in *Article 4, Section 4.g.2.b.6: (Accessory Structure) Maximum Size* and *Article 4, Exhibit 4-1: Maximum Square Footage of Residential Accessory Structures Based on Gross Acreage* of the City of Sumter Zoning & Development Standards Ordinance (the “Ordinance”) in order to permit the establishment of a total of 1,100 sq. ft. of residential accessory structure area on the property. The property is +/- 0.39 acres in size and is permitted to have a total of 1,000 sq. ft. of total accessory structure area per Ordinance requirements. The property is located at 11 S. Salem St., is zoned Residential-6 (R-6) and is represented by TMS# 228-14-06-013.

Mr. Derwort stated the request is being brought by the applicant in order to resolve one component of an active zoning enforcement action against the property.

Mr. Derwort added upon investigation of the property in response to a complaint of record, other zoning violations were discovered. Unpermitted work to a residential accessory

structure legally placed on the property in 2018 has been completed. This structure now meets the definition of a dwelling unit, as it contains living space, sleeping space, cooking space, and bathroom space. Having this additional dwelling unit is a violation, as the primary structure on the property is a duplex.

Mr. Derwort mentioned a second accessory structure was recently placed on the property without permits. The area of this structure combined with the area of the structure placed on the property in 2018 exceeds maximum accessory structure area permitted based on the gross acreage of the property.

Mr. Derwort added this request is focused on addressing the maximum area of the accessory structure only. However, staff has developed draft approval conditions that also address the other accessory structure on the property should the Zoning Board of Appeals make the necessary findings to approve the request.

Ms. Tarsha Clark, Mr. David Ramsey, and Ms. Morgan Ashley Clark were present to speak on behalf of the request.

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

1. Within 45 days of the execution date of the written Zoning Board of Appeals order, the applicant must take the following steps to bring the residential accessory structure permitted in 2018 (Permit #2018-00557) into full compliance with applicable Building Code & Zoning Ordinance:
 - a. Apply for building permits for all applicable items required for compliance.
 - b. Obtain approval of these permits.
 - c. Obtain a completion certification by the Sumter City-County Building Department for all work covered under these permits.
 - d. Make all necessary modifications/demolitions to the structure that are required to make this structure not meet the definition of dwelling unit as outlined in Article 10 of the Ordinance and in applicable Building Code.
2. Within 45 days of the execution date of the written Zoning Board of Appeals order, the applicant must take the following steps to bring the currently unpermitted residential accessory structure into full compliance with applicable Building Code & Zoning Ordinance:
 - a. Apply for building permits to legally establish this structure.
 - b. Obtain approval of these permits.

c. Obtain a completion certification by the Sumter City-County Building Department for all work covered under these permits.

3. Neither building may be occupied as or converted to a permanent dwelling unit as defined by Article 10 of the Ordinance and as defined by the applicable Building Code.

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

BOA-23-09, 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 a building classified as 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 the Rembert's Tavern business license 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 required 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.

Mr. Calvin Ferguson, Ms. Linda Ferguson, and Ms. Jaynada Clark were present to speak on behalf of the request.

After a brief discussion, Mr. Frank Shuler 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.

	<p>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.</p> <p>In relation to the requested special exception approval from the requested Drinking Places/Bottle Clubs/Night Clubs:</p> <ol style="list-style-type: none"> 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. <p>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> <ol style="list-style-type: none"> 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. 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>The motion was seconded by Mr. Clay Smith and carried a six (Smith, Shuler, Champion, Wheeler, Bailey, Tisdale) in favor and one (Reddick) in opposition. The motion carried.</p>
OTHER BUSINESS	NONE

	<p>There being no further business, Mr. Clay Smith made a motion to adjourn the meeting at 3:58 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 June 14, 2023.</p>
	<p>Respectfully submitted, <i>Kellie K. Chapman</i> Kellie K. Chapman, Board Secretary</p>