

Sumter City-County Board of Zoning Appeals

September 14, 2011

BOA-11-17, 901 Manning Avenue (County)

The applicant is requesting Special Exception approval for a
Bingo Parlor, under SIC Code 7999.



Appeals - Variance - Special Exception

Sumter City-County Board of Appeals

September 14, 2011

BOA-11-17, 901 Manning Ave. – Bingo Parlor (County)

I. THE REQUEST

Applicant: Charlie Jones

Status of the Applicant: Purchasing the Property

Request: Special Exception approval for a Bingo Parlor, SIC Code 7999.

Location: 901 Manning Avenue

Present Use/Zoning: Vacant Structure/GC

Tax Map Reference: 251-01-02-002 & 251-01-02-004

II. BACKGROUND

The applicant requests Special Exception use approval to open a bingo parlor at 901 Manning Ave. (the “Property”).

The Property, shown in the graphic to the right, is zoned General Commercial (GC) situated at the corner of E. Newberry Ave. and Manning Ave. It has +/-147 ft. of frontage on E. Newberry Ave. and +/-124 ft. of frontage on Manning Ave. and contains a +/-4433 sq. ft. commercial building. Based on available records the last active



business at the Property was a furniture store that closed in 2005. In the General Commercial zoning district, Bingo Parlors with SIC Code 7999 are classified as a Special Exception use and are subject to review and approval from this Board.

HISTORY

BOA-06-28/September 13, 2006

Applicant requested a Special Exception for a Bingo Parlor. The Board approved the request with the following conditions:

1. Applicant must obtain proper State certifications.
2. Applicant must meet all applicable building code requirements
3. Applicant must return in one year if substantial progress has not been made.

BOA-08-02/April 9, 2008

Substantial progress had not been made as required under BOA-06-28, the Applicant reapplied for Special Exception approval as required by the Board. The Board approved this request without conditions.

BOA-11-17 – Current Request

In accordance with Section 1.i.8. of the Zoning Ordinance, Special Exception approvals expire 6 months from the date of approval if work authorized by that approval has not begun.

Expiration of Variance of Special Exception: if the work authorized by any variance or special exception has not begun within six (6) months from when the date of the variance or special exception was approved, said variance or special exception shall be cancelled by the Zoning Administrator and written notice thereof shall be given to the person(s) affected.

Because the applicant did not commence the work necessary to open the Bingo Parlor as approved in 2008, the use approval expired, making reapplication necessary.

CURRENT SITE CONDITIONS

The Property is a nonconforming site and does not meet current development standards related to building setbacks, parking lot construction, and landscape standards. The grandfathering of the nonconformity has expired due to no business activity onsite for more than 36 months. Although the site does not meet the required on site paved parking, landscaping and buffering requirements, in accordance with Article 6 of the Zoning Ordinance, site retrofitting will be tied to investment in the structure for the change of occupancy.

Based on the size of the developable area on the parcel as shown in the graphic to the right, and the proposed site plan submitted with the application, it is evident that there is sufficient space to meet retrofitting requirements at the site.

The following pictures depict the current state of the property. As seen in the photographs, there is a robust vegetative buffer to the rear of the property between the commercial site and the dwelling to the east. Additionally, the Property appears to have never had a paved parking lot that meets current standards.



Pictures Above: Panorama view of the proposed parking lot area. As seen in the photograph, the site has a natural vegetative buffer between the site and the dwelling to the east.

Pictured Below Left & Right: The existing gravel drive to the rear of the building accessing Newberry Ave.



Both the Manning Ave. and Newberry Ave. street frontages have no green space between the structure and the street Right-Of-Way.

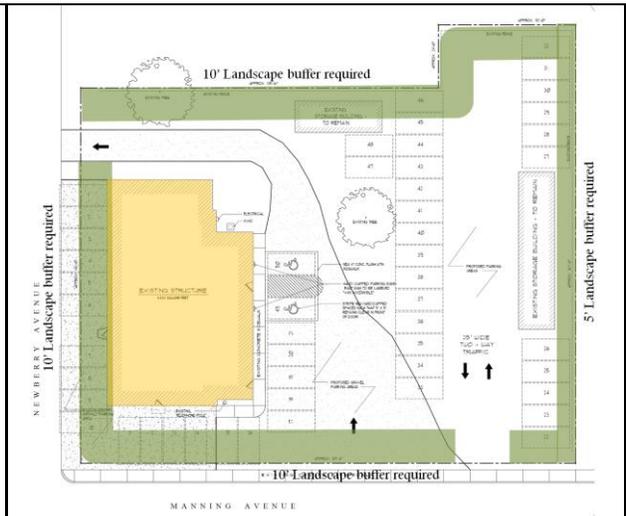
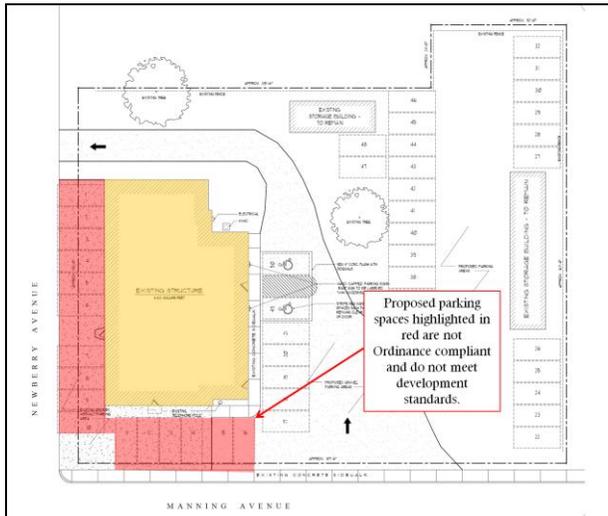


Photograph #1: Exterior side of the building looking east down Newberry Ave.

Photograph #2: Manning Ave. building façade. This photograph was taken from across the street looking east.

Photograph #3: Side of the building looking south down Manning Ave. towards the Manning Ave./Lafayette Dr. intersection.

The applicant submitted a site plan showing that the site could accommodate up to 50 parking spaces however (attached as Exhibit 2), as shown in the following graphics, only 29 spaces can be placed on-site and still meet development standards.

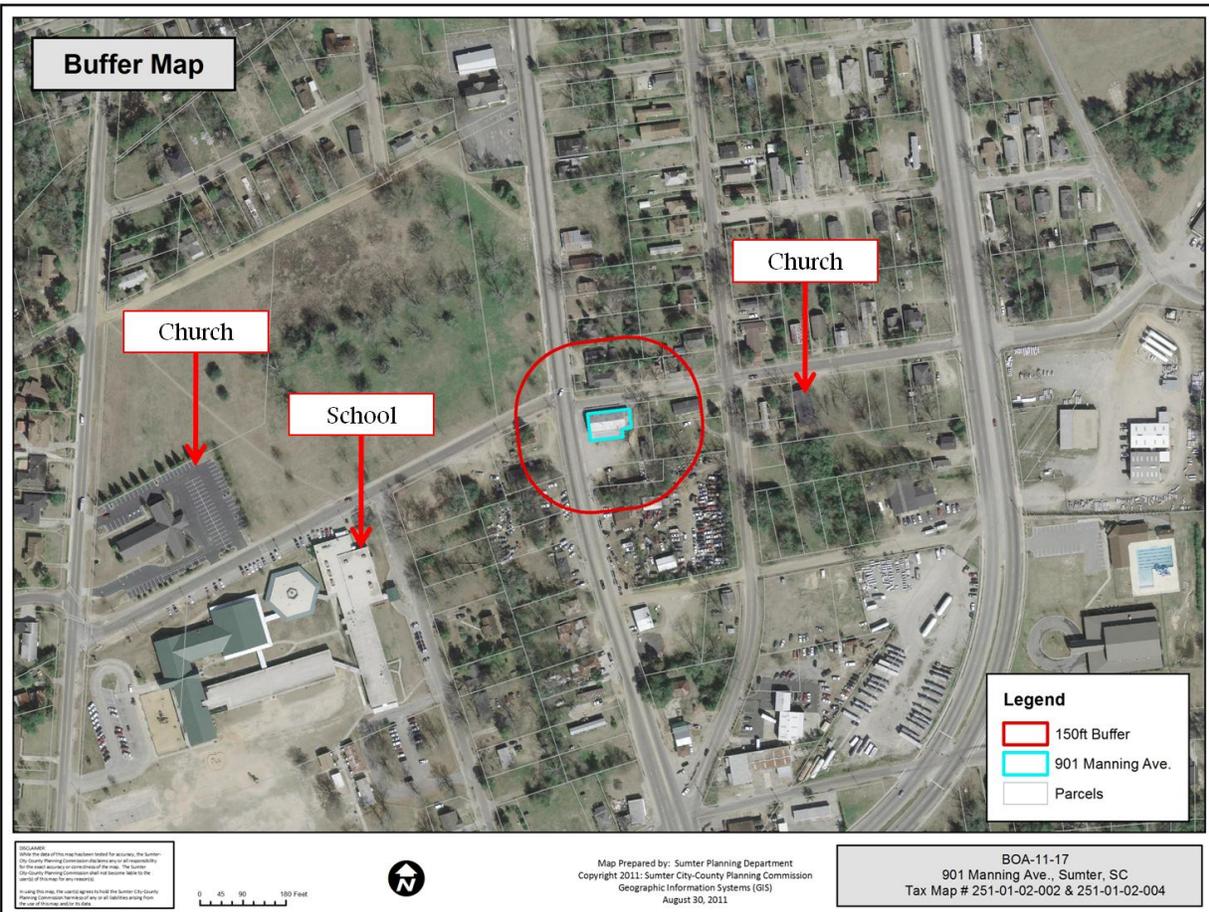


Special Exceptions for bingo parlors are to be evaluated in accordance with **Article 1, Section 1.h.4.c; Article 3, Section 3.i.4.h** and in accordance with **Article 5, Section 5.b.3.n** in the Sumter County – Zoning & Development Standards Ordinance.

Article 5 Section 5.b.3.n *Bingo Parlor (SIC Code 7999):*

1. *This use shall not be within 150 feet (measured in a straight line from structure to structure) of a church, school or public playground that is on a separately platted parcel under different ownership.*

Based on site visits to the neighborhood in conjunction with 2007 aerial photography, Staff has determined that there are no churches, schools, or public playgrounds within 150 ft. of the structure at the Property. Although there are two (2) churches and an elementary school in the general area, as shown in the graphic below, they are well over 150 ft. from the subject structure. Please note that the red circle around the structure at the center of the aerial photograph is the 150 ft. distance measurement required by Ordinance to determine if a proposed site meets separation criteria.



Special Exceptions are also subject to **Article 1 Section H: Board of Zoning Appeals: Establishment-Purpose, 1.h.4.c** as follows:

1. *Special exceptions are subject to the terms and conditions for the use set forth for such uses in the Zoning Ordinance.*
2. *Permits for Special Exceptions shall be evaluated by the Board of Zoning Appeals on the basis of the following criteria:*
 - a. *That the Special Exception complies with all applicable development standards contained elsewhere in this Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements.*

The Property is non-conforming; however the applicant has submitted a site plan showing a proposed parking lot layout. Although the site plan as submitted does not meet Ordinance Standards, it does show that there is sufficient area to accommodate more than 22 parking spaces. Parking for Bingo Parlors are by individual review of the Zoning Administrator, the Zoning Administrator has determined that this facility must provide at minimum 22 parking spaces which includes 1 handicap van accessible. Additionally, nonconforming site retrofitting is based on the investment in the structure versus assessed value of the structure in accordance with Article 6 of the Zoning Ordinance.

- b. *That the special exception will be in substantial harmony with the area in which it is located.*

Staff finds that the proposed request is in substantial harmony with the area in which it is located. The site is zoned for commercial uses and is abutted by general commercial zoning to the north, south and west. The remnants of a pattern of general commercial uses previously established in this area can be seen along both sides of Manning Ave. to the north and south. Historically Manning Ave. has been a commercial corridor with a mix of commercial and residential uses fronting directly on Manning Ave. This site in particular was designed and last used for a commercial business in 2005.

- c. *That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.*

Staff finds that the special exception will not discourage or negate the use of surrounding property for uses permitted by right in the general commercial zoning district. The stated purpose of the district is to “accommodate the broadest possible range of commercial uses.” It should be noted that GC does permit single family residential uses. It is presumed these uses are, or can be, compatible with general commercial uses when site development of the commercial use utilizes essential landscaping and buffering to mitigate impacts to adjacent residential. It is also inferred from the Special Exception criteria found in 5.b.3.n, that bingo parlors have

not been considered to be incompatible with residential uses as noted by the absence of a residential separation requirement as part of the Special Exception review criteria.

III. STAFF RECOMMENDATION

The staff has visited the site, reviewed the request and recommends approval of BOA-11-17.

IV. DRAFT MOTIONS FOR BOA-11-17

- A. I move that the Zoning Board of Appeals approve BOA-11-17, subject to the findings of fact and conclusions contained in the draft order, dated September 14, 2011 attached as Exhibit 1.
- B. I move that the Zoning Board of Appeals deny BOA-11-17 based on the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-11-17.

V. BOARD OF APPEALS DECISION – SEPTEMBER 14, 2011

The Sumter City-County Board of Appeals at its meeting on Wednesday, September 14, 2011, voted to approve this Special Exception request as recommended by staff and subject to the findings of fact and conclusions as shown on Exhibit 1.

ATTACHMENTS

Exhibit 2 – site plan submitted by applicant with application.

Exhibit 1

Order on Special Exception Application

Board of Zoning Appeals

BOA-11-17, 901 Manning Ave. – Bingo Parlor
September 14, 2011

Date Filed: September 14, 2011

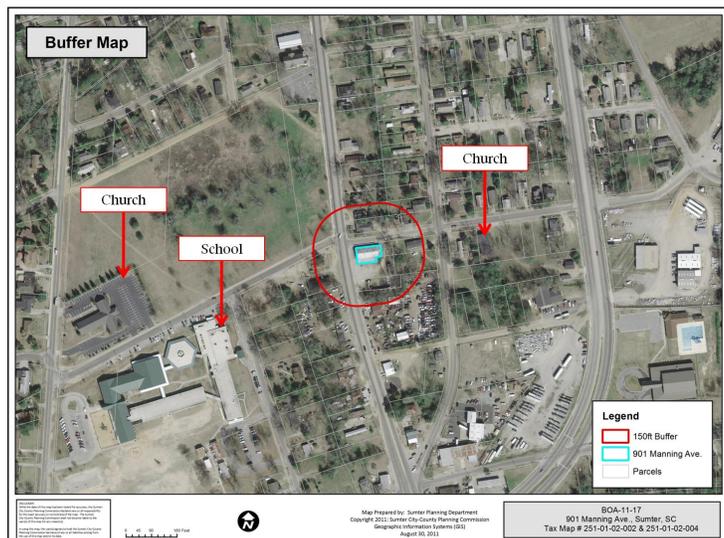
Permit Case No. BOA-11-17

The Board of Zoning Appeals held a public hearing on Wednesday, September 14, 2011 to consider the request of Charlie Jones, 901 Manning Ave., Sumter, SC for a special exception which may be permitted by the Board pursuant to Sections 1.h.4.c, 3.i.4.h, and 5.b.3.n of the Sumter County Zoning Ordinance as set forth on Form 4 for the property described on Form 1 to be used for: a Bingo Parlor (SIC Code 7999).

After the consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the standards in Sections 5.b.3.n of the Zoning Ordinance which are applicable to the proposed special exception of the Zoning Ordinance have - have not been met based on the following findings of fact:

- a. Based on site visits to the neighborhood in conjunction with 2007 aerial photography, Staff has determined that there are no churches, schools, or public playgrounds within 150 ft. of the structure at the Property. Although there are two (2) churches and an elementary school in the general area, as shown in the graphic to the right, they are well over 150 ft. from the subject structure.



The red circle around the structure at the center of the aerial photograph is the 150 ft. distance measurement required by Ordinance to determine if a proposed site meets separation criteria.

2. The Board concludes that the proposed special exception will - will not substantially diminish value of adjacent property or property in the district based on the following findings of fact:
 - a. The special exception will not discourage or negate the use of surrounding property for uses permitted by right in the general commercial zoning district. The stated purpose of the district is to “accommodate the broadest possible range of commercial uses.” It should be noted that GC does permit single family residential uses. It is presumed these uses are or can be compatible with general commercial uses when site development of the commercial use utilizes essential landscaping and buffering to mitigate impacts to adjacent residential. It is also inferred from the Special Exception criteria found in 5.b.3.n, that bingo parlors have not been considered to be incompatible with residential uses as noted by the absence of a residential separation requirement as part of the Special Exception review criteria.

3. The Board concludes that the proposed special exception will - will not be compatible with uses in the district based on the following findings of fact:
 - a. The proposed use is compatible with the area. The site is zoned for commercial uses and is abutted by general commercial zoning to the north, south and west. The remnants of a pattern of general commercial uses previously established in this area can be seen along both sides of Manning Ave. to the north and south. Historically Manning Ave. has been a commercial corridor with a mix of commercial and residential uses fronting directly on Manning Ave. This site in particular was designed and last used for a commercial business in 2005.

THE BOARD, THEREFORE, ORDERS that the special exception is DENIED GRANTED, subject to the following conditions:

Approved by the Board by majority vote.

Date issued:

Chairman

Date mailed to parties in interest:

Secretary

Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.