

# Sumter City-County Board of Zoning Appeals

October 12, 2011

**BOA-11-21, 570 Mikom Rd. (County)**

The applicant is requesting a variance from the size restriction on accessory buildings.



Appeals - Variance - Special Exception <sup>1</sup>

# Sumter City-County Zoning Board of Appeals

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**BOA- 11-21, 570 Mikom Rd. (County), Michael Boykin**

## I. THE REQUEST

**Applicant:** Michael Boykin

**Status of the Applicant:** Property owner

**Request:** The applicant is requesting a variance from the size restriction on accessory buildings.

**Location:** 570 Mikom Rd.

**Present Use/Zoning:** Residential / Agricultural Conservation (AC)

**Tax Map Reference:** 300-00-03-021

## II. BACKGROUND



*Left:* The rear yard of the property, showing the existing accessory structure.

The previous property owner had constructed a 1,920 square foot accessory structure in the rear yard of this property located at 570 Mikom Rd. in Sumter County. That building was permitted in 1995, under the guidelines of the 1991 zoning ordinance, which classified this property as rural development district

zoning and considered accessory buildings exempt from size constraints in that zoning district. Therefore this existing accessory building (1,920 sq. ft.) is a nonconforming grandfathered structure.

The current property owner and applicant purchased the property in 2007. The applicant started construction of a lean-to shed (384 sq. ft.) to the front of this accessory building.

The new addition is an awning with wooden columns, extending across the front of the existing structure to cover an area 8' wide and 48' long. The applicant did not get a building permit to start this construction.

**Below Left:** A closer view of the accessory building.

**Below Right:** The new construction, an 8' x 48' awning, is shown in red.



**Below:** A diagram of the layout of existing (1) and proposed (2) additions to the accessory building.



The parcel is +/- 1.50 acres in size and is currently zoned AC



**Above:** A photo of the front of the property.

The maximum size for accessory structures applicable to this lot (1.5 acre) according to Article 4.g.2 and Exhibit 8A of the current Sumter County Zoning Ordinance is 1,325 square feet. Therefore, in order to permit this accessory building with a total size of 2,304 square feet, the applicant would need a variance of 979 square feet. This variance would encompass both additions to the original size restriction on the property: the 595 square feet already constructed as part of the existing building and the 384 square foot addition that is currently under construction. A stop work order was issued for the construction of this last addition, pending examination by this board.

### **III. FOUR PART TEST**

- 1) There are extraordinary and exceptional conditions pertaining to the particular piece of property.***

There are no extraordinary conditions on this property. The parcels on this street are uniform in size and shape, and therefore will all have similar size restrictions for accessory building square footage.

- 2) These conditions do not generally apply to other property in the vicinity.***

Conditions apply to all surrounding properties. Anyone wishing to construct an accessory structure must secure a building permit and build within the size constraints of the ordinance.

- 3) *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

There is already a house and a large accessory structure on the property. Denying this variance will not prohibit or further restrict the use of this property.

- 4) *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.*

The authorization of this variance will pose a substantial detriment to the adjacent property and to the public good. The size of accessory structures established for residential parcels in the AC zoning district are in place in order to establish a reasonable relationship between residential dwellings on zoned lots and any associated accessory structures, and therefore to protect abutting properties from encroachment and nuisance caused by uses, noise, crowding, and drainage from buildings on other parcels. In addition, granting the applicant approval after the fact of constructing a building in direct violation of ordinance requirements without meeting the four-part test sets an undesirable precedent that could undermine the regulations as applied to all other parcels in the district. City Council approved the development standards established in this district and in all other districts to protect the health, safety and welfare of the public.

#### **IV. STAFF RECOMMENDATION**

Staff recommends denial of this request based upon the fact that the requirements of the state-mandated four-part test have not been met; there is no hardship in this case. Also this would be enlarging an existing nonconforming structure.

#### **V. DRAFT MOTIONS FOR BOA-11-21**

- A. I move that the Zoning Board of Appeals deny BOA-11-21, subject to the findings of fact and conclusions contained in the draft order, dated October 12, 2011 attached as Exhibit 1.
- B. I move that the Zoning Board of Appeals approve BOA-11-21, subject to the following findings of fact and conclusions:

C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-11-21.

**VI. ZONING BOARD OF APPEALS – OCTOBER 12, 2011**

The Sumter City-County Board of Appeals at its meeting on Wednesday, October 12, 2011, voted to accept staff recommendation and deny this request subject to the findings of facts and conclusions listed on exhibit 1.

**Exhibit 1**  
**Order on Variance Application**  
**Board of Zoning Appeals**

**BOA-11-21, Michael Boykin**  
**570 Mikom Rd. (County)**  
**October 12, 2011**

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Date Filed: October 12, 2011

Permit Case No. BOA-11-21

The Board of Zoning Appeals held a public hearing on Wednesday, October 12, 2011 to consider the appeal of Michael Boykin for a variance from the strict application of the Zoning Ordinance as set forth on the Form 3 affecting the property described on Form 1 filed herein. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that Applicant  **has** -  **does not have** an unnecessary hardship because there are no extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

There are no extraordinary conditions on this property. The parcels on this street are uniform in size and shape, and therefore will all have similar size restrictions for accessory building square footage.

2. The Board concludes that these conditions  **do** -  **do not** generally apply to other property in the vicinity based on the following findings of fact:

These conditions do apply to other property in the vicinity. The adjacent parcels must also adhere to the same development standards, are subject to the same upland buffer and easements, and would not be permitted to build accessory structures of square footage exceeding the ordinance standards.

3. The Board concludes that because of these conditions, the application of the ordinance to the particular piece of property  **would** -  **would not** effectively prohibit or unreasonably restrict the utilization of the property based on the following findings of fact:

The conditions imposed on this property do not effectively prohibit or restrict the use of the property as there is a house and an accessory structure already located on the property.

4. The Board concludes that authorization of the variance  **will** -  **will not** be of substantial detriment to adjacent property or to the public good, and the character of the district  **will** -  **will not** be harmed by the granting of the variance based on the following findings of fact:

The authorization of this variance will pose a substantial detriment to the adjacent property and to the public good. The size of accessory structures established for residential parcels in the AC zoning district are in place in order to establish a reasonable relationship between residential dwellings on zoned lots and any associated accessory structures, and therefore to protect abutting properties from encroachment and nuisance caused by uses, noise, crowding, and drainage from buildings on other parcels. In addition, granting the applicant approval after the fact of constructing a building in direct violation of ordinance requirements without meeting the four-part test sets an undesirable precedent that could undermine the regulations as applied to all other parcels in the district. City Council approved the development standards established in this district and in all other districts to protect the health, safety and welfare of the public.

THE BOARD, THEREFORE, ORDERS that the variance 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.**

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