

# Sumter City-County Board of Zoning Appeals

October 12, 2011

**BOA-11-23, 1348 Glastonbury Rd.  
(City)**

The applicant is requesting a 3 ft. variance from the side yard setback requirement of 5 ft. for an accessory storage structure.



Appeals - Variance - Special Exception

# Sumter City-County Zoning Board of Appeals

October 12, 2011

BOA-11-23, 1348 Glastonbury Rd. (City)

## I. THE REQUEST

**Applicant:** Allan Rodonis

**Status of the Applicant:** Son of Property Owners (Albert & Eleanor Rodonis)

**Request:** The applicant is requesting a 3 ft. variance from the side yard setback requirement of 5 ft. for an accessory storage structure.

**Location:** 1348 Glastonbury Rd.

**Present Use/Zoning:** Planned Development (Knights Village Subdivision)

**Tax Map Reference:** 226-16-01-138

## II. BACKGROUND

The Property owners constructed a 120 sq ft accessory storage building at the rear of their lot about three and a half years ago. A permit was not required at that time for construction of this size building per the City Zoning Ordinance. Property owners were not aware of any zoning inspection for this structure.

**4.g.2. Residential Accessory Structures:** Residential accessory structures shall comply with the following conditions:

4. Any accessory building 120 sq. ft. in size or smaller (i.e. play houses, well pump houses, and other similar uses) will not be counted as accessory structures however **they must comply with accessory structure 5 ft. minimum setbacks** and shall be limited to two (2) per parcel.

Property owners constructed the building 5 feet from where they understood the property line to be located when they purchased the property and existing house back in 2007.



**Green Arrow at right back corner of building shows the location of property line when this structure was built by the applicant 3.5 years ago which has a 6.74 feet side setback**

The adjacent property owner Dean Gainey at 1342 Glastonbury Rd. started construction of a house in June of this year. He had the side line surveyed before construction. A line was pulled between the front & rear lot marker according to the recorded plat to make sure he was observing his required 5 foot setback from the side property line. The Planning Department was contacted to check the setback on the storage building on the applicant's property. The Planning Department found the building to sit 2 feet from this line and notified the applicant that the building was required to be moved an additional three feet or apply for a variance. Applicant chose to pursue a variance.

There is a difference of 6.74 feet between the rear markers which the applicant understood to be his property corner and the correct rear marker per the recorded plat. See illustration on next page to better understand the issue.



*Yellow arrow shows the 2 foot setback from the correct rear marker  
Red arrow shows the correct location of the side property line  
Blue arrow shows the 6.74 foot difference in the two rear corner markers used by the property owners*

It appears there has been some confusion in the past with properly identifying this interior side property line.

### III. FOUR PART TEST

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

The current location of the accessory structure has existed for 3.5 years. A permit is not required for accessory buildings of this size so property owner was unaware that a zoning inspection was still needed. Property owner

thought they were placing correctly in relation to where they understood their side property line was. The confusion over the proper location of the interior side line years later during construction of neighboring lot created a nonconforming setback for this building after the fact.

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

There is a substantial discrepancy in this particular situation and appears to be an honest mistake with locating the side property line. The plat recorded for Knights Village in August 2007 shows the back line of these lots having two separate markers with around 6 foot difference. It would be easy to pull from the wrong lot marker and create nonconformity with one structure or the other.

**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.***

The conditions imposed on this property do effectively prohibit the existing location of the structure. What once was believed to be in compliance is now not in compliance. The side property line was undoubtedly not located correctly by the property owner at the time when the storage building was constructed 3.5 years ago therefore putting the applicant and the current property owners in a nonconforming position today.

**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 not pose a substantial detriment to the adjacent property and to the public good. The way the structure is oriented at an angle at the rear of this lot only really leaves the rear corner encroaching upon the 5 foot setback not the entire structure. It is nicely landscaped around the perimeter of the structure and blends well with the remainder of the lot. It does not encroach upon the neighboring property in any negative way.

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

Staff recommends approval of this request because it meets the four part criteria as outlined in the Zoning Ordinance.

**V. DRAFT MOTIONS FOR BOA-10-02**

- A. I move that the Zoning Board of Appeals approve BOA-11-23, 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 deny BOA-11-23, on the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-11-23.

**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 approve this request subject to the findings of fact and conclusions as shown on Exhibit 1.

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

**BOA-11-23, Allan Rodonis**  
**1348 Glastonbury Rd.**  
**October 12, 2011**

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Date Filed: October 12, 2011

Permit Case No. BOA-11-23

The Sumter Board of Appeals held a public hearing on Wednesday, October 12, 2011 to consider the appeal of Allan Rodonis located at 1348 Glastonbury Road, Sumter, 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 the Applicant  **has** -  **does not have** an unnecessary hardship because there are extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

**The current location of the accessory structure has existed for 3.5 years. A permit is not required for accessory buildings of this size so property owner was unaware that a zoning inspection was still needed. Property owner thought they were placing correctly in relation to where they understood their side property line was. The confusion over the proper location of the interior side line years later during construction of neighboring lot created a nonconforming setback for this building after the fact.**

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:

**There was a substantial discrepancy in this particular situation and appears to be an honest mistake with locating the side property line. The plat recorded for Knights Village in August 2007 shows the back line of these lots having two separate markers with around 6 foot difference. It would be easy**

**to pull from the wrong lot marker and create nonconformity with one structure or the other.**

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 unreasonable restrict the utilization of the property based on the following findings of fact:

**The conditions imposed on this property do effectively prohibit the existing location of the structure. What once was believed to be in compliance is now not in compliance. The side property line was undoubtedly not located correctly by the property owner at the time when the storage building was constructed 3.5 years ago therefore putting the applicant and the current property owners in a nonconforming position today.**

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 not pose a substantial detriment to the adjacent property and to the public good. The way the structure is oriented at an angle at the rear of this lot only really leaves the rear corner encroaching upon the 5 foot setback not the entire structure. It is nicely landscaped around the perimeter of the structure and blends well with the remainder of the lot. It does not encroach upon the neighboring property in any negative way.**

THE BOARD, THEREFORE, ORDERS that the variance is  **DENIED** -  **GRANTED**, subject to the following conditions:

Date issued: \_\_\_\_\_

\_\_\_\_\_  
Chairman

Date mailed to parties in interest: \_\_\_\_\_

\_\_\_\_\_  
Board Secretary

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