

Sumter City-County Board of Zoning Appeals

June 8, 2011

BOA-11-10, 5633 Broad Street Ext. (County)

The applicant is requesting Special Exception approval for a tattoo parlor, under SIC Code 7299.



Appeals - Variance - Special Exception

Sumter City-County Board of Appeals

June 8, 2011

BOA-11-10, Tattoo Parlor at 5633 Broad St. Extension (County)

I. THE REQUEST

Applicant: Jessica Balmer

Status of the Applicant: Business Owner

Request: Special Exception approval for a Tattoo Parlor, under SIC Code 7299.

Location: 5633 Broad St.

Present Use/Zoning: Commercial Strip Center/GC/HCPD

Tax Map Reference: 132-00-02-017

II. BACKGROUND

The applicants desire to open a tattoo parlor to be located in the County in an existing small commercial strip center, at the corner of Broad St. Extension and Peach Orchard Rd.

Tattoo Parlors (SIC Code 7299) are required to be reviewed and approved as a Special Exception. Special Exceptions are to be evaluated in accordance with Article 1, Section 1.h.4.c and Article 3, Section 3.i.4.f and in accordance with Article 5, Section 5.b.3.1 in the Sumter County Zoning & Development Standards Ordinance.

Article 5 Section 5.b.3.1 Tattoo Parlors:

- 1. This referenced use shall not be located within five hundred (500 ft.) feet [measure from property line to property line] of a residential use, church or religious institution, public or private school, public park or playground, or any other tattoo parlor.*

Article 1 Section 1.h.4.c Special Exceptions:

- 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.*
 - b. *That the special exception will be in substantial harmony with the area in which it is located.*
 - c. *That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.*

This location does meet the 500 ft. separation requirement from a church or religious institution, public or private school, public park or playground and all other operating tattoo parlors; however it does not meet the 500 ft. separation from a residential use measured parcel to parcel, because a residence is located within this boundary.



Above and Left: Photo and Aerial of the parcel where the proposed tattoo parlor is to be located.



Above: The 500 foot buffer around this parcel and the residence on the adjoining parcel are outlined in red.

DHEC separation requirements are more stringent than the County’s that govern the distance from a church, school, or playground, as stated below. DHEC does not require separation from a residence.

2. A license shall not be granted nor issued to a tattooing business, nor shall a business conduct tattooing operations within 1,000 feet of a church, school, or playground. This distance shall be the shortest route of ordinary pedestrian or vehicular travel along the public thoroughfare from the nearest point of the grounds in use as part of the church, school, or playground. These restrictions shall not apply to the renewal of an existing license or to ownership changes for locations that are licensed at the time the application is filed with the Department.

Article 1.h.4.c.3 states: “In granting a special exception, the Board of Zoning Appeals may impose such additional stipulations, conditions, or safeguards as, in its judgment, will enhance the siting of the special exception.”

III. STAFF RECOMMENDATION

Staff has visited the site and reviewed the request. It was verified that someone is living in the residence on the adjoining property, and the property owner is aware of this fact as well. Therefore this application does not meet the distance requirement and staff does not recommend approval of the request.

IV. BOARD OF ZONING APPEALS – June 8, 2011

The Sumter City-County Board of Appeals at its meeting on Wednesday, June 8, 2011, voted to deny this request subject to the findings of facts and conclusions listed on exhibit 4.

Exhibit 1
Order on Special Exception Application
Sumter Board of Appeals

BOA-11-10, 5633 Broad Street Ext., Sumter, SC.
June 8, 2011

Date Filed: June 8, 2011

Permit Case No. BOA-11-10

The Board of Zoning Appeals held a public hearing on Wednesday, June 8, 2011 to consider the request of Jessica Balmer, 5633 Broad St Ext, Sumter, SC for a special exception which may be permitted by the Board pursuant to Sections 1.h.4.c, 3.i.4.f, and 5.b.3.1 of the Sumter County Zoning & Development Standards Ordinance as set forth on Form 4 for the property described on Form 1 to be used for: a Tattoo Parlor (SIC Code 7299).

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.3.1 of the Sumter County Zoning & Development Standards 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. The Board finds the location of the proposed Tattoo Parlor does not meet the Ordinance separation requirement of 500 ft. from parcel to parcel of a residential use.

2. The Board concludes that the special exception **does** - **does not** comply with all other applicable development standards contained elsewhere in the Sumter County Zoning Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements based on the following findings of fact:
 - a. The property owner is not required to upgrade the site or submit a site plan as the location is in an occupied shopping center;

 - b. There is adequate access to the parcel from a major thoroughfare, and the parking lot is large enough to accommodate the additional number of parking spaces that will be generated by the proposed use;

3. The Board concludes that the proposed special exception will - will not be in substantial harmony with the area in which it is located based on the following findings of fact:

a. Although the request meets the minimum 500 ft. separation requirement from church, school, and playground uses, it does not meet this requirement for residential uses;

4. The Board concludes the special exception will - will not discourage or negate the use of surrounding property for uses(s) permitted by right based on the following findings of fact:

a. Although the request meets the minimum 500 ft. separation requirement from church, school, and playground uses, it does not meet this requirement for residential uses;

THE BOARD, THEREFORE, ORDERS that the special exception is DENIED – GRANTED with 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.
