

# Sumter City-County Board of Zoning Appeals

October 10, 2012

## BOA-12-38, 2255 Watersong Run (City)

The applicant is requesting a variance from the maximum building height requirements per Article 3 Section 3.b.5.c Development Standards for R-15 zoning district in order to construct a new home.



Appeals - Variance - Special Exception

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## BOA-12-38, 2255 Watersong Run (City)

### I. THE REQUEST

**Applicant:** Eric Smith

**Status of the Applicant:** General Contractor for Property Owner, David Whaley

**Request:** A variance from the maximum height requirement per Article 3 Section 3.b.5.c Development Standards for R-15 zoning district in order to construct a new home.

**Location:** 2255 Watersong Run

**Present Use/Zoning:** Residential / R-15

**Tax Map Reference:** 205-11-02-039

### II. BACKGROUND

The applicant, Eric Smith, is the builder for the new residence to be located on a parcel in The Cove Subdivision. The parcel is identified as being +/- 6.16 acres but in actuality the size is +/- 2 acres, as the remaining portion is underwater. The property owner joined two adjacent corner parcels together to create one larger parcel, for the purposes of this construction. Adjacent parcels are listed as being +/- 1.5 acres but are in reality between 0.5 and 0.75 acres in size because of a portion being underwater.

*Below:* Aerial photos of parcel.





*Above:* Photo of site from Watersong Run, showing house under construction  
*Below:* Views of Second Mill Pond from property



### **III. THE REQUEST**

The applicant is requesting a variance from the maximum height requirement per Article 3 Section 3.b.5.c Development Standards for the R-15 zoning district in order to construct a new home.

Residential structures in the R-15 zoning district have a maximum building height of 35 feet. Height is defined in Article 10, Section B of the City of Sumter Zoning Ordinance as the vertical distance between the finished grade along the front of the structure to the highest point of the structure. The proposed house is designed to be 42 feet tall, because of the added height of a finished basement.

**Below Left:** The applicant had originally intended to locate the home approximately as shown in aerial. However, this portion of the parcel is in the floodplain, indicated in blue. Not only would the property owner then be subject to risk from flooding, and have to pay additional flood insurance on the property, but the floodplain ordinance does not permit basements to be constructed on houses in the floodplain.

**Below Right:** Therefore, the decision was made to move the house closer to the street so that it could be constructed with the basement and avoid the floodplain area.



The topography of the site is highest at the street and slopes downward to the pond edge, with a fall of approximately 11%. Therefore, in order to relocate the house and with the addition of a basement that is not completely below grade, the height of the house exceeds the maximum permitted by ordinance, 35 feet.

**Left:** A graphic showing the side slope before and after the site is filled and construction is complete.



**Above:** A rendering of the proposed house.

**Below:** An approximation of how the home will appear once finished, in the setting at 2255 Watersong Run. Note that the basement is approximately 3.5 feet above grade.



**Above:** Several options were discussed with the applicant for remedying the situation: in order to reduce the height of the structure by 7 feet, the contractor would have to do both of the following: fill with dirt to the top of the basement level (shown above in tan) and reduce the height of the roof (shown as an approximation, in red lines). The applicant was open to reducing the roof height by 3.5 feet which would lessen the amount of the requested variance to 3.5 feet.

**Below:** Other homes already constructed in The Cove also appear to be close to the maximum height permitted for this district, and many have exposed foundations similar to that shown above.



This subdivision does have restrictive covenants which include an Architectural Review Board. The Board has reviewed and approved this house design.

#### **IV. FOUR-PART TEST**

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

*There are extraordinary conditions pertaining to this property. This parcel is a combination of two corner parcels with a steep topography and the presence of floodplain. The property owner chose a house design that included a finished basement. Basements cannot be constructed in the floodplain, and therefore the contractor changed the location of the house in order to remove it from the floodplain and make it possible to construct the basement. The basement was constructed as a “walk-out” which is partially below grade, but because several feet of the basement are above grade, the entire house is seven feet taller than the ordinance permits.*

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

The surrounding parcels all appear to be of a consistent rectangular shape, whereas this parcel was created by combining two corner parcels together. This combination was done specifically because the house being constructed was quite large, and the property owner wanted to ensure that there was plenty of space for locating the house on the lot correctly, and so that the size of the house would not dwarf the lot around it or look out of scale with the neighborhood.

There are a variety of housing styles in The Cove, including some that appear to be more than two stories tall. It is not known whether these other homes have finished basements, are constructed on sites with very steep topography, or are constructed in or near floodplain. All of these factors have contributed to the situation with the residence being constructed on this property.

- 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 house cannot be constructed according to the design specifications without this variance.

- 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.***

Although this house will be taller than the other houses in the district, it is also situated on a parcel that is twice the size of the surrounding parcels. Furthermore, there are several homes constructed in The Cove that appear to be more than two stories tall as well, so granting this variance will not detract from the overall character of the neighborhood.

## **V. STAFF RECOMMENDATION**

Staff recommends approval of BOA-12-38. The alternatives to granting this variance are to change the height and pitch of the roof, or add fill dirt along the front foundation, both of which will detract from curb appeal of the house and the aesthetic character of the district.

Staff does recommend that some large shade trees be planted in front of the house, in order to frame the house in its setting and provide a pleasing scale to the façade.

**VI. DRAFT MOTIONS for BOA-12-38**

- A. I move that the Sumter Board of Appeals approve BOA-12-38 subject to the findings of fact and conclusions contained in the draft order dated October 10, 2012, attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-12-38 on the following findings of fact and conclusions.
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-12-38.

**VII. ZONING BOARD OF APPEALS – OCTOBER 10, 2012**

The Sumter City-County Board of Appeals at its meeting on Wednesday, October 10, 2012, voted to approve this request, for a variance, subject to the findings of fact and conclusions contained in the draft order, dated October 10, 2012.

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

**BOA-12-38, 2255 Watersong Run (City)**  
**October 10, 2012**

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Date Filed: October 10, 2012

Permit Case No. BOA-12-38

The Board of Zoning Appeals held a public hearing on Wednesday, October 10, 2012 to consider the request of Eric Smith, 455 Veranda Dr, Sumter, SC 29150 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:

*There are extraordinary conditions pertaining to this property. It is a much larger parcel than those around it, and was created by the combining of two corner parcels so it is a very different shape as well. Furthermore, the size of the house and the presence of a finished basement dictated that the placement of the home on the parcel be situated high on the slope out of the floodplain, and away from the steepest part of the site.*

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:

*Adjacent parcels are not of a similar size and shape, and do not consist of two combined parcels. The adjacent parcels are more than half the size of this property and are rectangular in shape.*

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:

*Without a variance, the home cannot be constructed on this property as designed.*

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 variance, if granted, will permit a home to be constructed which is seven feet taller than the other homes in the district. However, the property owners have already made some adjustments to try to help remedy this – by purchasing two parcels and combining them in order to have a much larger piece of land on which to build a larger house, so that it will be in scale with its surroundings. Staff also recommends landscaping for the site, such as large trees, which will further frame the house and place it in scale with its surroundings. Alternatives discussed with the applicant to remedy the height problem, such as changing the height and pitch of the roof and bringing in fill around the front foundation, will be detrimental to the curb appeal of the house and to the character of the district.*

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.**