

# Sumter City-County Board of Zoning Appeals

November 14, 2012

## **BOA-12-42, 10-50 Saresden Cove (City)**

The applicant is requesting several variances in order to construct patio homes: decrease in front yard setback from 25 feet to 12 feet, increase in the side yard setback from 0 feet to 5 feet, and a variance in the separation distance for accessory buildings from the principal structure from 10 feet to 2 feet per Article 3, Exhibit 1, R-6 Development Standards for Patio Homes; and Article 4, Section 4.g.2.b.2 Separation Distance for Accessory Structures.

The property is located in the Saresden Cove Subdivision represented by Tax Map #'s 205-13-01-010 & 205-13-01-012 thru 023 and zoned Residential-15 (R-15)



Appeals - Variance - Special Exception

# Sumter City-County Board of Appeals

November 14, 2012

## BOA-12-42, 10-50 Sarsden Cove (City)

### I. THE REQUEST

**Applicant:** Louis Tisdale dba Black River Land Services of Sumter, LLC

**Status of the Applicant:** Managing Partner

**Request:**

- 1) A variance to decrease the front yard setback from 25 feet to 12 feet,
- 2) A variance to increase the side yard setback from 0 feet to 5 feet, and
- 3) A variance in the separation distance for accessory buildings from the principal structure from 10 feet to 2 feet for construction of new homes and detached open carports.

**Location:** 10-50 Sarsden Cove

**Present Use/Zoning:** Undeveloped Residential Lots/R-15 (Residential-15)

**Tax Map Reference:** 205-13-01-010 & 205-13-01-012 thru 023

### II. BACKGROUND

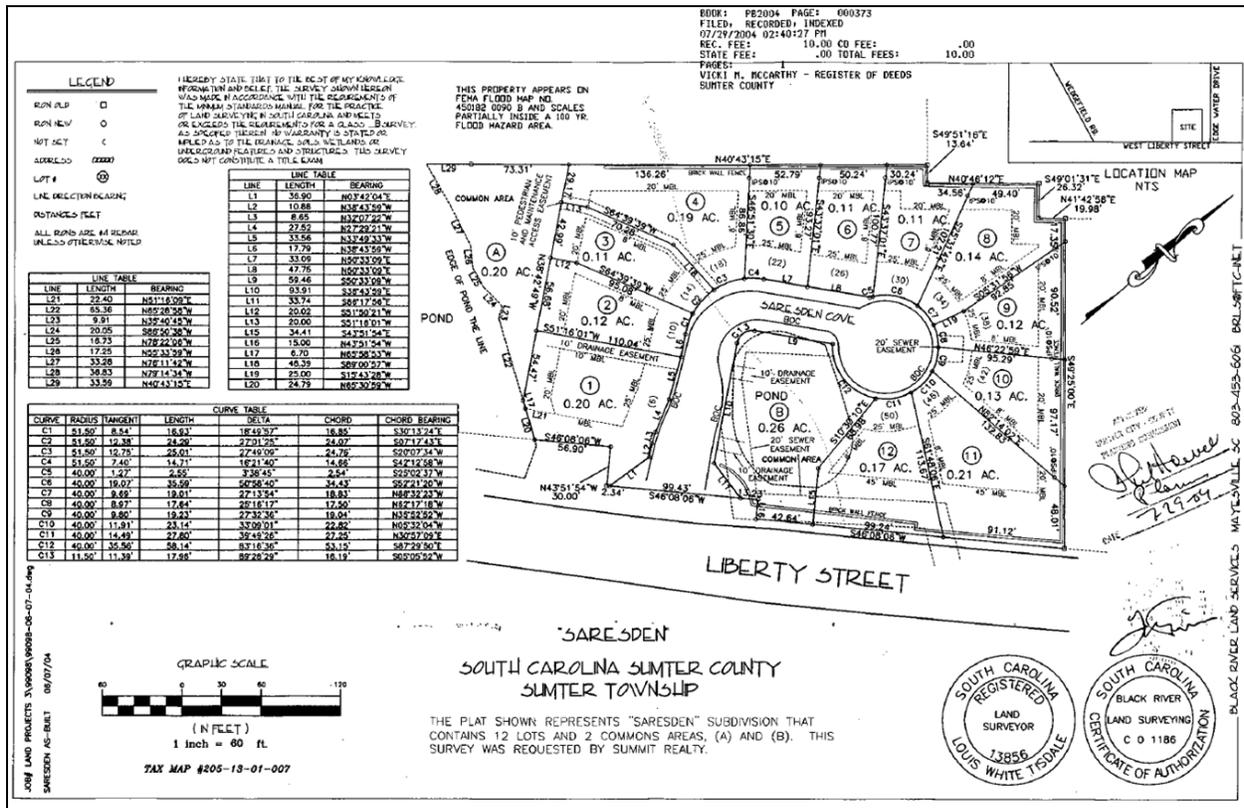
The applicant is requesting three separate variances in order to construct new dwellings within the Sarsden Cove Subdivision. These variances would apply to each lot within the subdivision targeted for new construction.

#### History

In November of 2002 the property highlighted in the graphic to the right was granted conditional use approval to construct patio homes (CU-02-54, Black River Land Surveyors (City)). Subsequent to the conditional use approval, Planning



Commission granted subdivision approval to construct up to 13 patio homes on the +/- 2.54 acres of land. The recorded final plat, shown below, made accommodations for 12 residential lots and two common areas, one of which was designated for stormwater management.



The subdivision as platted was to be for patio homes constructed to meet the R-6 setback and development standards for patio homes in accordance with Article 3, Exhibit 1, as follows:

**Exhibit 1: Development Standards for Uses in R-6 District – Patio Homes**

Minimum Lot Area Per Structure (sq. ft.)	5,000 sq. ft.
Minimum Site Area	2 acres
Minimum Lot Width	45 ft.
Minimum Yards, Per Structure	
Front	25 ft. (local collector)
Side	0 ft./8 ft.
Rear	20 ft.
Minimum Distance Between Buildings	n/a
Maximum Impervious Surface Ratio	45%
Maximum Density (units per gross acre)	14
Maximum Building Height	35 ft.

The subdivision plan approved in 2004 was poorly laid out and did not leave sufficient area to realistically develop dwellings on each parcel in accordance with the above outlined development standards. With changes in fire and building code, and the lack of success at moving forward





The applicant is seeking three separate variances: (1) 13 ft. variance to reduce the required front building setbacks from 25 ft. to 12 ft.; (2) a 5 ft. variance from the required 0 ft. side yard setback in order to increase the setback to 5 ft.; and (3) an 8 ft. variance from the required 10 ft. separation between principal structures and accessory structures as required in Article 4, Section 4.g.2.b.2 Separation Distance for Accessory Structures to reduce the separation requirement to 2 ft. between the dwelling and detached open sided carport structure.

In order for the Board of Appeals to grant a variance from the Zoning Ordinance, the proposed variance request must meet all four-parts of a State mandated four-part test. When reviewing a variance request, the Board may not grant a variance that would do the following:

- Allow the establishment of a use not otherwise permitted in a zoning district;
- Extend physically a nonconforming use of land;
- Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

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

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

The originally approved development plan recorded in 2004 was not functional/developable within the confines of the established patio home development standards as required in Article 3, Exhibit 1.

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

Other properties in the vicinity were developed under pre-1999 development standards and are 9,000 sq. ft. in size or greater and are uniform in shape. In addition, adjacent properties are not part of a patio home development and are therefore subject to differing setback standards.

- 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.***

If variances are not granted, development of this previously approved and platted subdivision within the confines of the established setback requirements is not possible.

- 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.***

Setbacks are established in order to create a uniform placement of homes in a community, and to afford privacy between residential dwellings. This variance maintains the intent of the setback requirements, by providing privacy to the back yards of the residents, as well as moving parking to the rear of each parcel. The character of the district will not be harmed by the change in front and side yard setbacks and the overall reduction of density within the development.

#### **V. STAFF RECOMMENDATION**

On balance, Staff supports this attempt to provide a relatively distinct housing product with community design in mind. Moving the structures close to the street, coupled with rear parking areas and front porches, is an alternative not present in Sumter today. Staff recommends approval of BOA-12-42 based on the findings of fact and conclusions contained in Exhibit 1.

#### **VI. DRAFT MOTIONS for BOA-12-42**

- A.** I move that the Sumter Board of Appeals approve BOA-12-42 subject to the findings of fact and conclusions contained in the draft order dated November 14, 2012, attached as Exhibit 1.
- B.** I move that the Sumter Board of Appeals deny BOA-12-42 on the following findings of fact and conclusions:

## VII. ZONING BOARD OF APPEALS – NOVEMBER 14, 2012

The Sumter City-County Board of Appeals at its meeting on Wednesday, November 14, 2012, voted to approve this request subject to the findings of fact and conclusions contained in the draft order (Exhibit 1), dated November 14, 2012, with the following conditions:

1) Submit a revised Conditional Use application and Subdivision Revision that reflects the lot configuration shown in the submitted layout plan titled, "Watercolors at Second Mill," prepared by Black River Land Surveying, LLC; dated 10/3/2012 Job# 99098-10-3-2012.

2) All parcels are developed in conformance with the submitted layout plan titled, "Watercolors at Second Mill," prepared by Black River Land Surveying, LLC; dated 10/3/2012 Job# 99098-10-3-2012. To include driveway locations, main dwelling locations, and detached open carport locations.

3) All dwellings constructed in the development have the exterior appearance shown on the building elevations titled, "Louis Tisdale Mayesville, SC," prepared by Newman's Designs, dated 09.25.12, Project 2012.15; Sheet 3; these structures may either have a brick veneer as shown in the submitted building elevations or fiber cement board exteriors.

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

**BOA-12-42, 10-50 Saresden Cove (City)**  
**November 14, 2012**

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Date Filed: November 14, 2012

Permit Case No. BOA-12-42

The Board of Zoning Appeals held a public hearing on Wednesday, November 14, 2012 to consider the request of Louis Tisdale dba Black River Land Services of Sumter, LLC 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 originally approved development plan recorded in 2004 was not functional/developable within the confines of the established patio home development standards as required in Article 3, Exhibit 1.

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:

Other properties in the vicinity were developed under pre-1999 development standards and are 9,000 sq. ft. in size or greater and are uniform in shape. In addition, adjacent properties are not part of a patio home development and are therefore subject to differing setback 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 unreasonable restrict the utilization of the property based on the following findings of fact:

Development of this previously approved and platted subdivision within the confines of the established setback requirements as laid out in Article 3, Exhibit 1, and Article 4, Section 4.g.2.b.2 Separation Distance for Accessory Structures is not possible without variances from the established standards.

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:

Setbacks are established in order to create a uniform placement of homes in a community, and to afford privacy between residential dwellings. This variance maintains the intent of the setback requirements, by providing privacy to the back yards of the residents, as well as moving parking to the rear of each parcel. The character of the district will not be harmed by the change in front and side yard setbacks and the overall reduction of density within the development.

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

1) Submit a revised Conditional Use application and Subdivision Revision that reflects the lot configuration shown in the submitted layout plan titled, “Watercolors at Second Mill,” prepared by Black River Land Surveying, LLC; dated 10/3/2012 Job# 99098-10-3-2012.

2) All parcels are developed in conformance with the submitted layout plan titled, “Watercolors at Second Mill,” prepared by Black River Land Surveying, LLC; dated 10/3/2012 Job# 99098-10-3-2012. To include driveway locations, main dwelling locations, and detached open carport locations.

3) All dwellings constructed in the development have the exterior appearance shown on the building elevations titled, “Louis Tisdale Mayesville, SC,” prepared by Newman’s Designs, dated 09.25.12, Project 2012.15; Sheet 3; these structures may either have a brick veneer as shown in the submitted building elevations or fiber cement board exteriors.

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.**