

Sumter City-County Board of Zoning Appeals

January 9, 2013

BOA-12-46, 215 Kingsbury Rd.(County)

A variance from the height of commercial signs as outlined in Article 8 of the County Zoning Ordinance.



Appeals - Variance - Special Exception

Sumter City-County Board of Appeals

January 9, 2013

BOA-12-46, 215 Kingsbury Rd. (County)

I. THE REQUEST

Applicant: Melvin Sapp

Status of the Applicants: Pastor, Church of Christ

Request: Applicant is requesting a variance from *Article 8, Exhibit 19 Maximum Sign Heights and Dimensions.*

Location: 215 Kingsbury Rd. in Sumter County

Present Use/Zoning: General Residential (GR)

Tax Map Reference: #226-12-01-020

II. BACKGROUND

The applicant is the Pastor of Church of Christ on Kingsbury Rd.



Above: The location of the proposed sign.



The parcel in question is zoned General Residential (GR) and is located at the corner of Kingsbury Rd. and Alexander Place. The church recently purchased a new sign to place along their Kingsbury Road frontage. The sign is 5 feet high with a 3 foot high base, for a total height of 8 feet. The maximum height permitted in the GR zoning district is 5 feet. Below: an image of the proposed sign showing its dimensions.



III. THE REQUEST

The applicant seeks a variance from Article 8, Exhibit 19 of the Sumter County Zoning Ordinance, Maximum Height of Signs, as shown below:

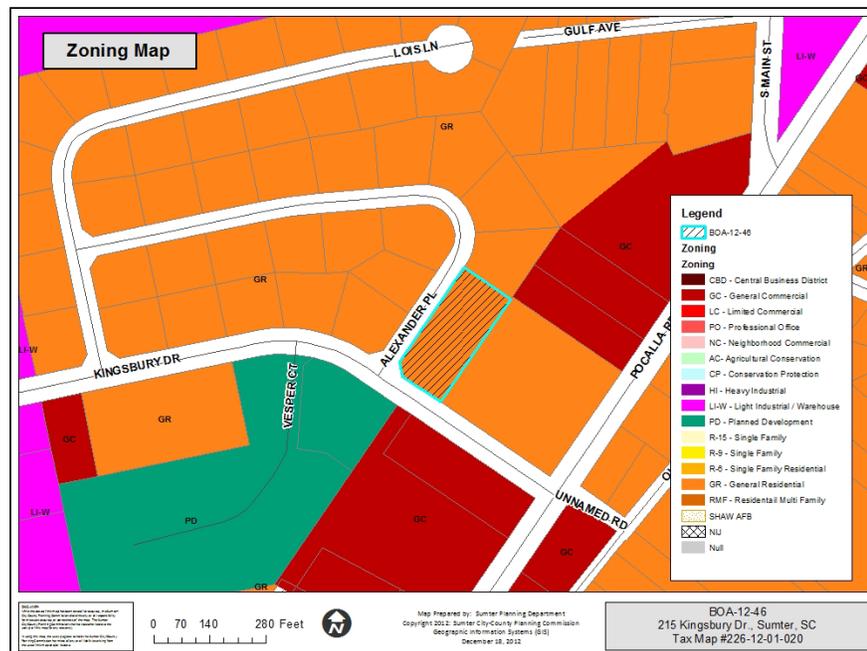
**EXHIBIT 19
MAXIMUM TOTAL SIGN AREA BY USE, NUMBER, DIMENSIONS,
AND LOCATION OF INDIVIDUAL SIGNS**

Note: The maximum total square footage of sign area shall be as follows:

	Maximum Area of Free-Standing Sign (sq. ft.) 1, 2, 3	Height (feet)	Setbacks From All Property Lines (feet)	Percentage of Wall Area Maximum
All Residential Districts	Project or Subdivision ID sign only (2 per entrance) 40	5	5	N/A
Professional Office	50 (1sq. ft. per linear front foot Maximum of 50 sq. ft.)	15	5	10%
Neighborhood Commercial	100 (1sq. ft. per linear front foot Maximum of 100 sq. ft.)	15	5	10%
Limited Commercial	150 (1sq. ft. per linear front foot Maximum of 150 sq. ft.)	20	5	15%
General Commercial	200 (1sq. ft. per linear front foot Maximum of 200 sq. ft.)	30	5	20%
CBD	50 (1sq. ft. per linear front foot Maximum of 50 sq. ft.)	15	5	25%
Light Industrial	150 (1sq. ft. per linear front foot Maximum of 150 sq. ft.)	15	5	20%

Based on the above mentioned chart, the maximum height of a sign in a residential district is 5 feet. The height of the sign purchased by the church is 5 feet as well, but with the addition of a 3' base giving it a total of 8 feet in height. Therefore, the applicant seeks a variance of 3 feet from this restriction.

The church is located in an area with a mixture of uses, both residential and commercial. The parcel in question is zoned residential, but across the street is a General Commercial (GC) district with active commercial uses.



Below: Residence adjacent to the church, on the other corner of Alexander Place.



Above: View of Alexander Place, with the church to the right (not shown in image).

Below: Commercial use across the street from church.



Below: Commercial use on corner of Kingsbury Rd. and Pocalla Rd.



IV. FOUR-PART TEST

In order to grant this size variance, the request must meet all 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.

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

There are no extraordinary conditions pertaining to this parcel. It is a residentially zoned parcel with a non residential use which was approved as a conditional use by Ordinance. There are commercial properties across Kingsbury Drive but everything on the same side of the street to the church is residential. Even the parcels zoned General Commercial have residential uses on them. The intent was to have smaller and lower freestanding signs in residential zoned areas and larger in the commercial districts.

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

All residentially zoned parcels on Kingsbury Rd. with non residential uses are required to meet the same sign height requirements.

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.*

Application of the ordinance and denial of the variance would prohibit the church from using the sign and base as proposed for this location. However, a different sign could be purchased, or a smaller base implemented to reduce the height of the sign.

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.*

Granting the variance sets a precedent for other businesses located in residential districts to construct signs which are large and obtrusive to the character of those residential areas.

V. STAFF RECOMMENDATION

The requirements of the four-part test are not met for this request. Staff recommends denial of BOA-12-46.

VI. DRAFT MOTIONS for BOA-12-46

- A. I move that the Zoning Board of Appeals deny BOA-12-46, subject to the findings of fact and conclusions attached as Exhibit I.
- B. I move that the Zoning Board of Appeals approve BOA-12-46 subject to the following findings of fact and conclusions.
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-12-46.

VII. ZONING BOARD OF APPEALS – JANUARY 9, 2013

The Sumter City-County Board of Appeals at its meeting on Wednesday, January 9, 2013, voted to approve this request subject to the findings of fact and conclusions contained in the draft order, dated January 9, 2013.

Exhibit 1
Order on Variance Application
Sumter Board of Appeals

BOA-12-46, 215 Kingsbury Rd. (County)
January 9, 2013

Date Filed: January 9, 2013

Permit Case No. BOA-12-46

The Sumter Board of Appeals held a public hearing on Wednesday, January 9, 2013 to consider the appeal of Melvin Sapp, 735 Lewis Rd, Sumter SC 29154 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 because it is a residentially zoned parcel with a non-residential use.

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:

Everything on the same side of the street as the Church is residential.

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:

Application of the ordinance and denial of the variance would prohibit the church from using the sign they paid \$15,000 for.

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:

No detriment can come to the neighborhood by authorizing this variance because it can't reconcile or articulate a circumstance whereby an 8 foot sign could create a decline in the neighborhood where a 5 foot church sign would not have.

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.