

# Sumter City-County Board of Zoning Appeals

March 13, 2013

**BOA-13-02, 1 Aubrey Circle (County)**

The applicant is requesting a variance from the size restriction on accessory buildings.



Appeals - Variance - Special Exception <sup>1</sup>

# Sumter City-County Zoning Board of Appeals

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## BOA- 13-02, 1 Aubrey Circle (County)

### I. THE REQUEST

**Applicant:** Gerald & Dana Sims

**Status of the Applicant:** Property owners

**Request:** The applicant is requesting a variance from the size restriction on accessory buildings.

**Location:** 1 Aubrey Circle

**Present Use/Zoning:** Residential / Agricultural Conservation (AC)

**Tax Map Reference:** 202-03-02-001

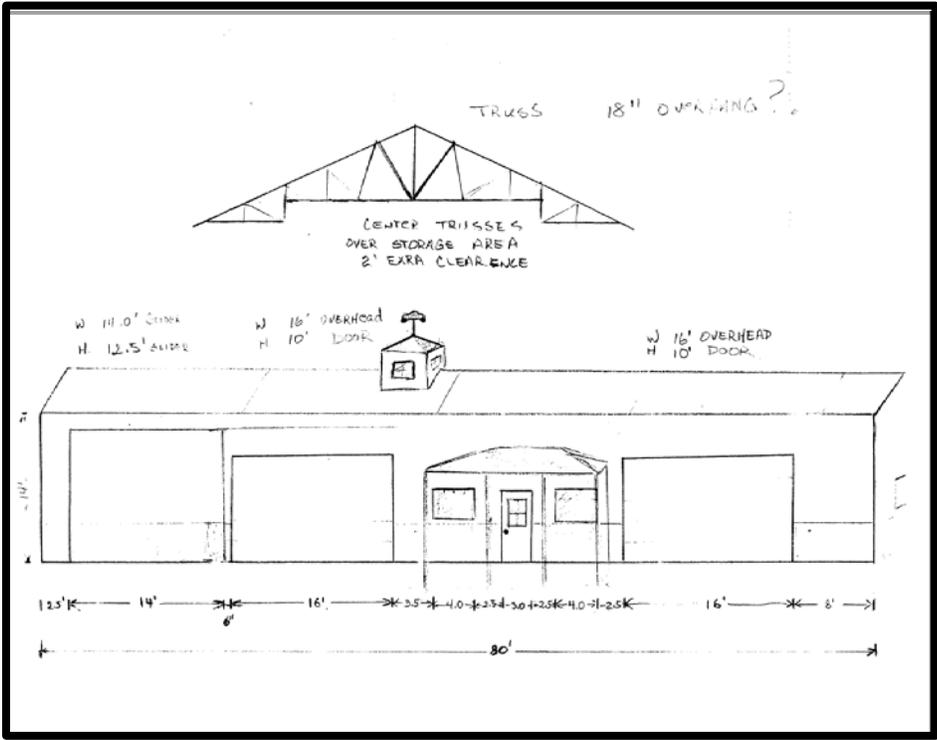
### II. BACKGROUND

The property owners, Gerald & Dana Sims wish to construct a 3,200 square foot accessory structure in the rear yard of their property located at 1 Aubrey Circle in Sumter County.





(Photo of similar style structure, colors, materials to the Left)



Sketch of the Proposed Structure (40 feet by 80 feet)

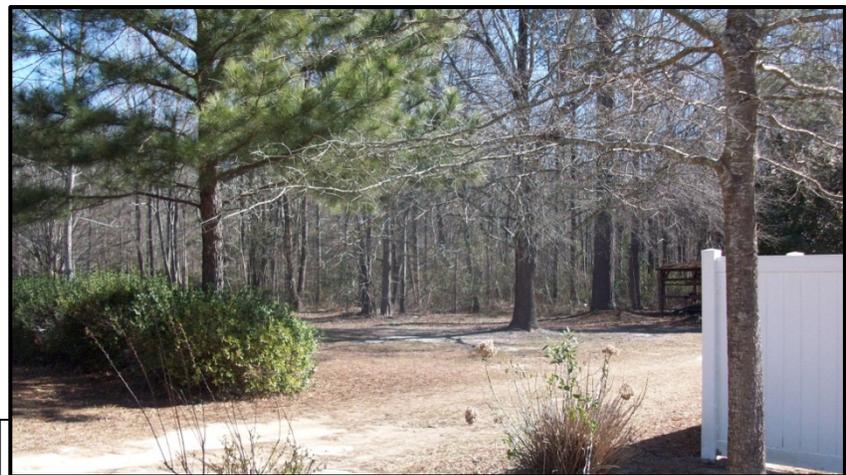
The parcel is +/- 1.76 acres in size and is zoned Agricultural Conservation. There is currently one existing accessory storage building (120 sq. ft.) and an aluminum carport measuring approximately 12' x 20' = 240 sq. ft. on the property. Applicant wishes to use the proposed building as a detached garage and workshop for a motorhome, antique automobiles and hobby shop.



**Left:** Diagram of structures on the parcel.

- 1 – (red) The house
- 2 – (blue) Existing storage building
- 3 – (green) Existing carport
- 4 - (orange) New proposed 3,200 sq. ft. accessory building

The total maximum size allowed for accessory structures applicable to this parcel according to Article 4.g.2.b.6 and Exhibit 8A is 1,675 square feet. County Council amended the Ordinance for accessory structures back on July 10, 2012. The reason for the amendment was to increase the maximum size of accessory buildings on an incremental basis according to lot size. This was to allow properties over .5 acres to have Residential accessory structures over 1,000 sq. ft. in size. The 120 sq. ft. storage building per Article 4, Section 4.g.2.a.3 is not counted as an accessory structure but the 240 sq. ft. carport does count towards the total sq. ft. allowed for this parcel. Therefore, in order to permit their 3,200 square foot building, the applicant would need a variance of 1,765 square feet.



### **III. FOUR PART TEST**

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

There are no extraordinary conditions on this property. The parcel on this street is located in Greenbriar Subdivision and the lots vary in size, shape and location of structures. This parcel is relatively large in comparison to other parcels on the other side of the street and therefore has a relatively large accessory structure area allotment of 1,675 sq. ft.

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

Conditions apply to all surrounding properties. Surrounding properties vary in size from 0.99 to 5.0 acres, with many different shapes and layouts. Several of the parcels on the street are much smaller, and therefore would not be permitted to construct 1,675 square feet of accessory structures as this parcel is given.

- 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.***

There is already a house, small storage building (120 sq. ft.) which is exempt and an aluminum carport on this parcel, other than the one in question. The property owner can construct a maximum 1675 sq. ft. accessory building and be in compliance with the Zoning Ordinance. The average size lot in this subdivision is 2 acres and this would only allow 1,750 sq. ft. A lot would have to have 5 acres or more in order to have the 3200 sq. ft. building.

- 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 could pose a substantial detriment to the adjacent properties and to the public good. The size of accessory structures established for residential parcels are in place in order to protect abutting properties from encroachment. This could set precedence for other smaller lots within the subdivision without some unique hardship.

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

Staff recommends denial of this request based upon the fact that the requirements of the state-mandated four-part test have not been met; there is no hardship in this case.

#### **V. DRAFT MOTIONS FOR BOA-11-19**

- A. I move that the Zoning Board of Appeals deny BOA-13-02, subject to the findings of fact and conclusions contained in the draft order, dated March 13, 2013 attached as Exhibit 1.
- B. I move that the Zoning Board of Appeals approve BOA-13-02, subject to the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-13-02.

#### **VI. ZONING BOARD OF APPEALS – MARCH 13, 2013**

The Sumter City-County Board of Zoning Appeals at its meeting on March 13, 2013, voted to defer this request so that the applicant can meet with the Homeowners Association and then meet with staff to discuss other options.

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

**BOA-13-02, Gerald & Dana Sims**  
**1 Aubrey Circle (County)**  
**March 13, 2013**

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Date Filed: March 13, 2013

Permit Case No. BOA-13-02

The Board of Zoning Appeals held a public hearing on Wednesday, March 13, 2013 to consider the appeal of Gerald & Dana Sims 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 Applicant  **has** -  **does not have** an unnecessary hardship because there are no extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

There are no extraordinary conditions on this property. The parcel on this street is located in Greenbriar Subdivision and the lots vary in size, shape and location of structures. This parcel is relatively large in comparison to other parcels on the other side of the street and therefore has a relatively large accessory structure area allotment.

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:

Conditions apply to all surrounding properties. Surrounding properties vary in size from 0.99 to 5.0 acres, with many different shapes and layouts. Several of the parcels on the street are much smaller, and therefore would not be permitted to construct 1,675 square feet of accessory structures as this parcel is given.

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:

There is already a house, a small storage building (120 sq. ft.) and an aluminum carport (240 sq. ft.) on this parcel, other than the one in question. The property owner can construct a maximum 1,675 sq. ft. accessory building and be in compliance with the Zoning Ordinance. The average size lot in this subdivision is 2 acres and this would only allow 1,750 sq. ft. A lot would have to have 5 acres or more in order to have the 3,200 sq. ft. building.

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 could pose a substantial detriment to the adjacent properties and to the public good. The size of accessory structures established for residential parcels are in place in order to establish a reasonable relationship between residential dwellings on zoned lots and any associated accessory structures, and therefore to protect abutting properties from encroachment. This could set precedence for other smaller lots within the subdivision without some unique hardship.

THE BOARD, THEREFORE, ORDERS that the variance is  **DENIED** –  
 **GRANTED**

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.**