

# Sumter City-County Board of Zoning Appeals

March 13, 2013

**BOA-13-03,**  
**722 Bultman Dr. (City)**

The applicant is requesting a 15 foot variance from the required rear yard setback requirement of 50 feet per Article 3, Section 3.i.5.b to allow for a 35 foot rear setback, a variance of two parking spaces from the required number of 8 parking spaces per Article 8, Exhibit 23, and a variance of 5 feet from the required 10 foot front setback for freestanding signs per Article 8, Exhibit 19 of the City of Sumter Zoning Ordinance. The property is located at 722 Bultman Dr. and represented by TMS# 204-05-03-058 .



Appeals - Variance - Special Exception

# Sumter City-County Board of Appeals

March 13, 2013

## BOA-13-03, 722 Bultman Dr. (City)

### I. THE REQUEST

**Applicant:** Jerry Jason Hardee

**Status of the Applicant:** Property Owner

**Request:** Three variances:  
1) 15 ft. rear setback variance to reduce the required rear setback to 35 ft. from 50 ft.  
2) A 2 parking space variance to reduce the required number of parking spaces to 6 from 8.  
3) A 5 ft. front setback variance for a freestanding sign to reduce the required setback from 10 ft. to 5 ft.

**Location:** 722 Bultman Dr.

**Present Use/Zoning:** Vacant Commercial Structure/ GC (General Commercial) & HCPD (Highway Corridor Protection District)

**Tax Map Reference:** 204-05-03-058

### II. BACKGROUND

The applicant is seeking three separate variances to allow for the adaptive reuse of this commercial retail structure located on Bultman Dr., a primary commercial corridor. Based on available records it appears that the structure has been vacant for at least five years. This .25 acre property was recently acquired by the applicant to relocate the administrative offices for a construction business. Three separate variances are being sought to allow for the construction of a building addition, stripe a parking area on existing asphalt, and to remove old/erect a new freestanding sign.

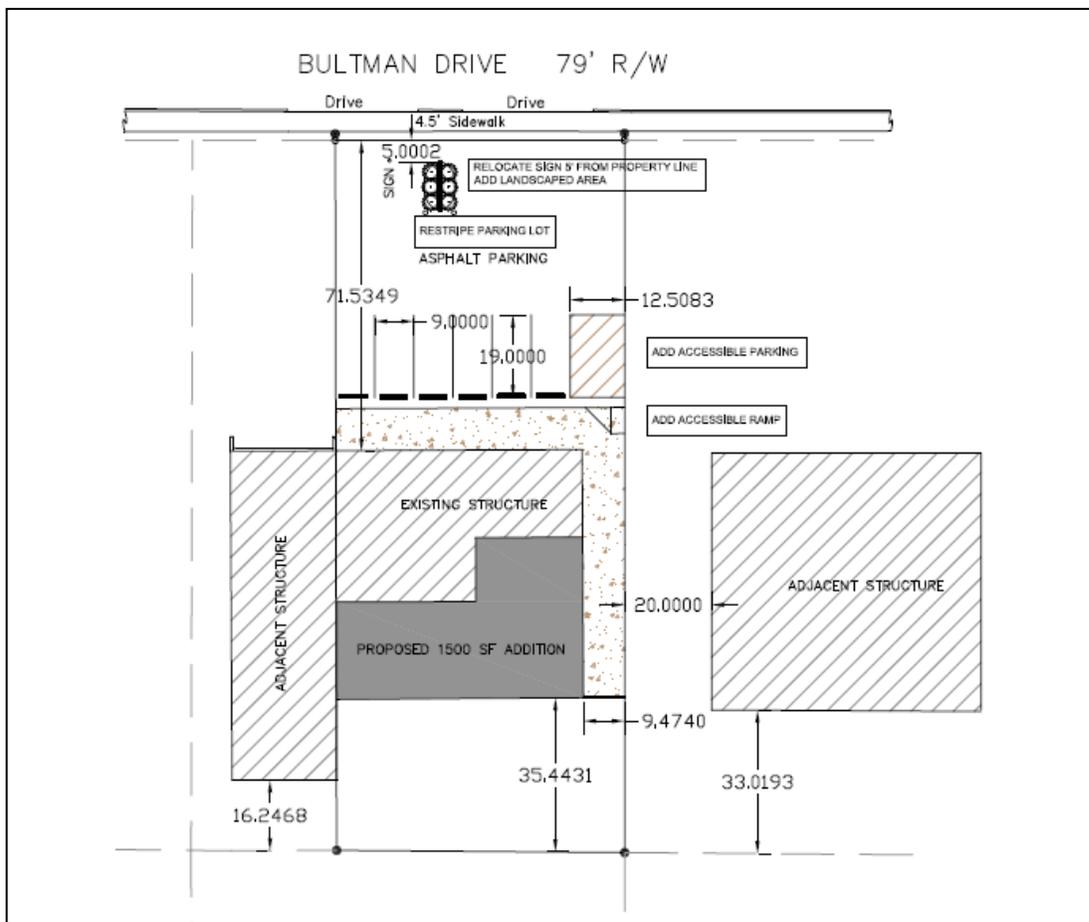


The property is an existing building that is located in the Highway Design Corridor. It is however, similar to many other buildings located to the immediate north, in that it was built in the early 1960s prior to the widening of Bultman Dr. Development also predates the current Zoning Ordinance regulations. The site is therefore non

conforming with respect to the required number of parking spaces and landscape/bufferyard requirements. The property is subject to Article Six Section C (site upgrades for buffer yards and landscaping) which will be reviewed at the time of site plan/building permit application submission. The site does not appear conducive to the reestablishment of new side or front buffers due to adjacent property and shared access. However, certainly some new planting can accompany the increase in impervious surface. There exists zero landscaping on the site. As this request increases impervious surface, the applicant will have to provide 8% of the site in pervious surface.

### III. THE REQUEST

The applicant has submitted a site plan showing 1,500 sq.ft. addition to an existing 1,156 sq. ft. structure.



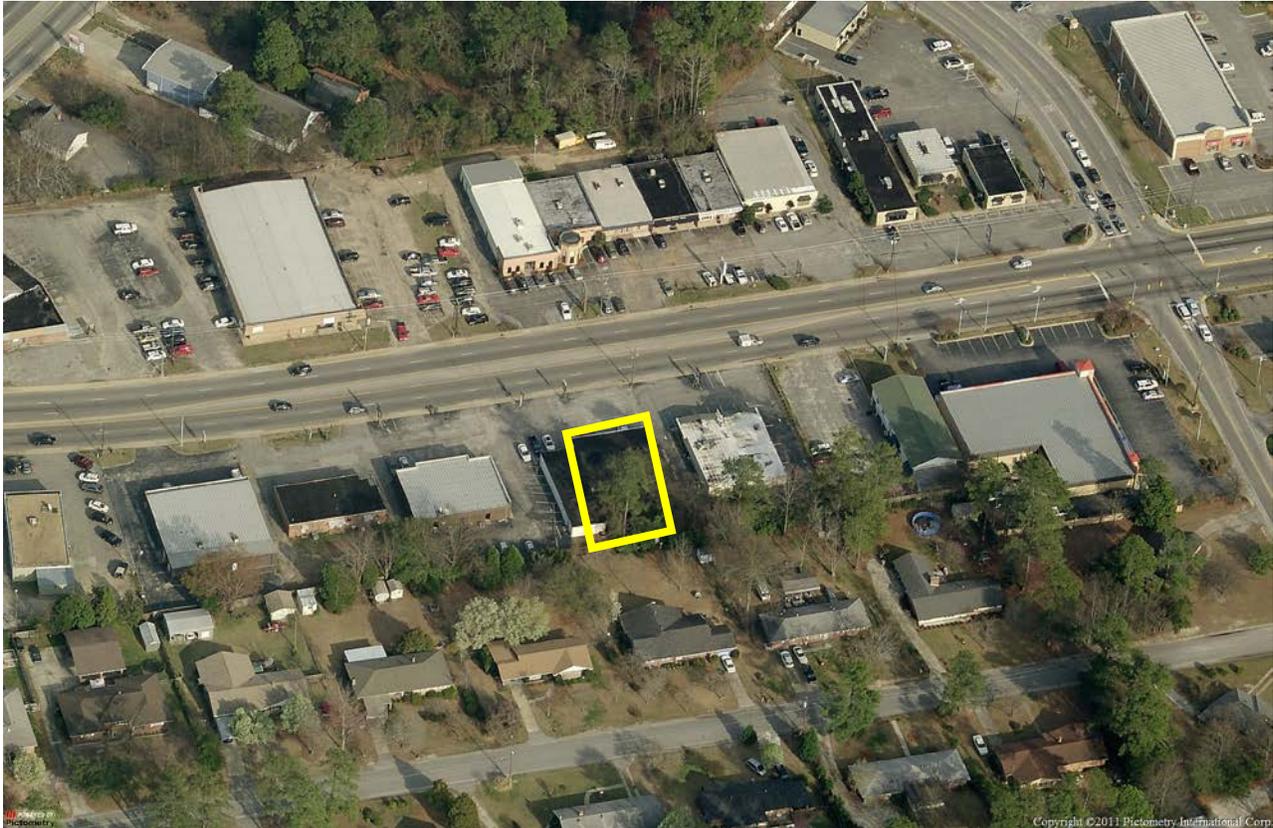
## Site Conditions



Rear Portion and Area of Addition



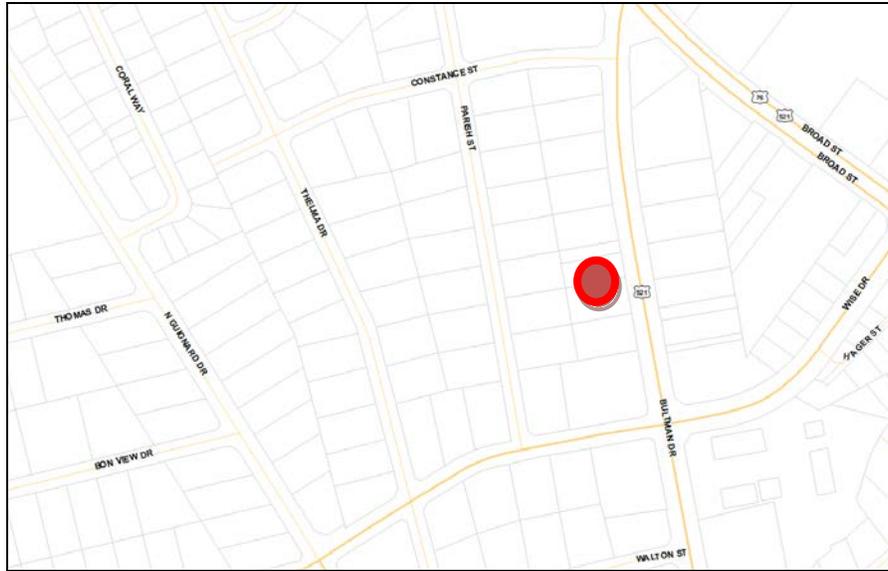
View from Across Bultman



Site w/Neighborhood to west

#### 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. The site is significantly nonconforming and is severely constrained by the current zoning ordinance. This makes reuse or redevelopment prohibitive, without reasonable variation from the zoning ordinance. The site was previously impacted by the widening of Bultman and the existing structure built prior to the 50 foot setback. Originally intended and platted as residential parcels, changes to the Bultman corridor over time made the small parcels more attractive for commercial development (see GIS Map below):*



2. ***These conditions do not generally apply to other property in the vicinity.***
  - *The condition of severe non-conforming status, in fact, applies to surrounding properties. Properties in this corridor share setback, sign, and parking irregularities. Two adjacent properties are MORE nonconforming as to setbacks (16 ft. rear to the north and less than 5 ft. one property removed to the south). Most sites in this area have signs at the 5 ft. setback. The requested variances make the site no more nonconforming than adjacent parcels and allows for the opportunity of redevelopment.*
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 will prevent the property owner from adding square footage to the commercial building. This would therefore restrict the utilization of the property. Now, property owners do not have an inherent right under the zoning ordinance to add on to existing structures. In this case, an owner proposes to convert a previous retail space into an office space, thus decreasing the intensity of the use in terms of parking and activity. The property has been vacant and underutilized for almost a decade suggesting that the utilization under the current code is restrictive.*
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.***

- *We find that the combination of variances requested will not be of substantial detriment to adjacent property owners or harm the public good. On the contrary, the granting of the variances requested will provide the opportunity to increase occupancy in a underperforming commercial corridor and improve the character of the district by design.*

Proposed Front Elevation



## V. STAFF RECOMMENDATION

Staff recommends approval of BOA-13-03. We recommend the following condition in an effort to improve the site conditions in a feasible, yet reasonable manner:

- Prior to occupancy, the Applicant shall install a new six foot tall board on board fence along the rear property line.

## VI. DRAFT MOTIONS for BOA-13-03

- A. I move that the Sumter Board of Appeals approve BOA-13-03 subject to the findings of fact and conclusions contained in the draft order dated March 13, 2013, attached as Exhibit 1.

**VII. ZONING BOARD OF APPEALS – MARCH 13, 2013**

The Sumter City-County Board of Appeals at its meeting on Wednesday, March 13, 2013, voted to accept staff recommendation and approve this request subject to the findings of fact and conclusions contained in the draft order, dated March 13, 2013, attached as Exhibit 1.

# Exhibit 1

## Order on Variance Application

### Sumter Board of Appeals

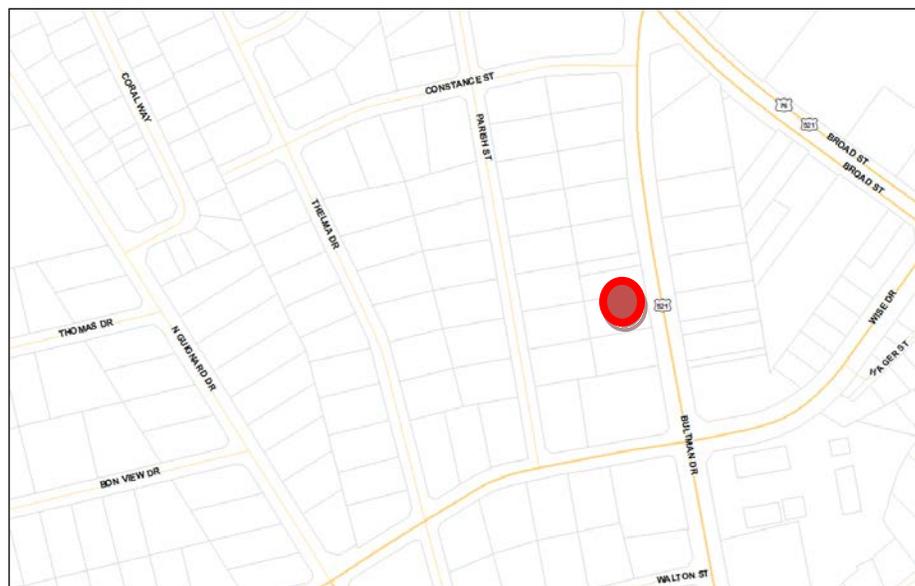
**BOA-13-03, 722 Bultman Drive (City)**  
**March 13, 2013**

Date Filed: March 13, 2013

Permit Case No. BOA-13-03

The Board of Zoning Appeals held a public hearing on Wednesday, March 13, 2013 to consider the request of Jerry Jason Hardee, 722 Bultman Drive, 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. The site is significantly nonconforming and is severely constrained by the current zoning ordinance. This makes reuse or redevelopment prohibitive, without reasonable variation from the zoning ordinance. The site was previously impacted by the widening of Bultman and the existing structure built prior to the 50 foot setback. Originally intended and platted as residential parcels, changes to the Bultman corridor over time made the small parcels more attractive for commercial development (see GIS Map below):*



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:

- *The condition of severe non-conforming status, in fact, applies to surrounding properties. Properties in this corridor share setback, sign, and parking irregularities. Two adjacent properties are MORE nonconforming as to setbacks (16 ft. rear to the north and less than 5 ft. one property removed to the south). Most sites in this area have signs at the 5 ft. setback. The requested variances make the site no more nonconforming than adjacent parcels and allows for the opportunity of redevelopment.*

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 will prevent the property owner from adding square footage to the commercial building. This would therefore restrict the utilization of the property. Now, property owners do not have an inherent right under the zoning ordinance to add on to existing structures. In this case, an owner proposes to convert a previous retail space into an office space, thus decreasing the intensity of the use in terms of parking and activity. The property has been vacant and underutilized for almost a decade suggesting that the utilization under the current code is restrictive.*

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:

- *We find that the combination of variances requested will not be of substantial detriment to adjacent property owners or harm the public good. On the contrary, the granting of the variances requested will provide the opportunity to increase occupancy in a underperforming commercial corridor and improve the character of the district by design.*

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

- Prior to occupancy, the Applicant shall install a new six foot tall board on board fence along the rear property line.

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.**