

Sumter City-County Board of Zoning Appeals

May 8, 2013

BOA-13-05,
375 Veranda Dr. (City)

The applicant is requesting a 4 foot variance from the required side yard setback requirement of 10 feet per Article 4, Section G; 4.g.2 Residential Accessory Structures Development Standards, City of Sumter Zoning Ordinance, in order to construct a swimming pool. The property is located at 375 Veranda Dr. and represented by TMS# 185-14-03-002.



Appeals - Variance - Special Exception

Sumter City-County Board of Appeals

May 8, 2013

BOA-13-05, 375 Veranda Dr. (City)

I. THE REQUEST

Applicant: Ashley and Cynthia McDuffie

Status of the Applicant: Property Owners

Request: Variance:

- 4 ft. side setback variance to reduce the required setback to 6 ft. from 10 ft.

Location: 375 Veranda Dr.

Present Use/Zoning: Residential / PD (Planned Development)

Tax Map Reference: 185-14-03-002

II. BACKGROUND

The applicant is seeking a variance in order to construct a swimming pool in the side yard of the residence. The residence is located in Garden Gate Subdivision. The parcel to the left of the house in question is vacant at this time. (*See photos below*):

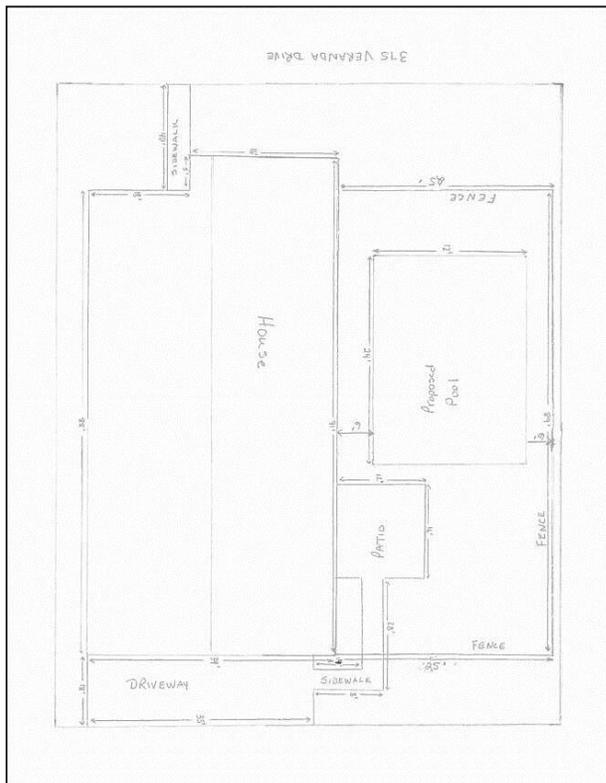




Above: Graphic showing location of the proposed pool.

III. THE REQUEST

The applicant has submitted a site plan for installation of a 12' x 24' (288 SF) swimming pool to be installed on the west side of the house, in the side yard.



Left: Diagram of Pool Layout

The residence at 375 Veranda Drive has a fenced-in side yard that is only 25' wide. The pool would be located equal distance between the fence and the house, with 6' on each side. The pool contractor expressed concern about locating the pool any closer to the home, because it could possibly undermine the foundation.

Below Left: Pictometry of Site showing location of proposed pool (red arrow)

Below Right: Parcel adjacent to 375 Veranda Dr. Because this parcel is vacant, a new home could be constructed so that its layout addresses privacy and proximity concerns with regards to the existing home and pool next door.



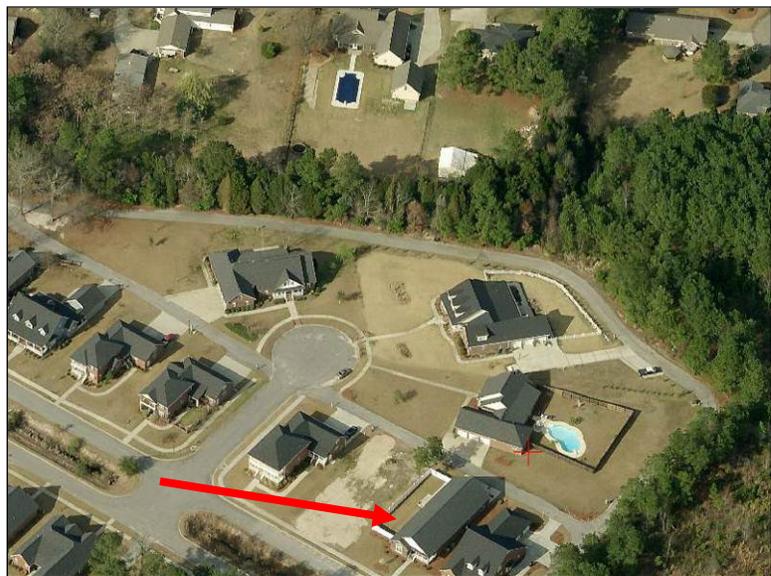
IV. FOUR-PART TEST

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

- *There are extraordinary conditions pertaining to this property. The side yard is extremely narrow and does not allow any flexibility in the location of a swimming pool.*

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

- *Several of the adjacent parcels have swimming pools that do not appear to be located extremely close to the property lines. None of these parcels have required variances for swimming pools to be constructed. The adjacent properties with pools are larger and have more width to accommodate a pool. (Proposed pool location indicated with red arrow)*



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 constructing a swimming pool. Locating it 10 feet from the property line would place it extremely close to the house, which could undermine the foundation.*
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 swimming pool will be located behind a privacy fence. Furthermore, the adjacent parcel is currently vacant, and any construction proposed for that parcel will be able to factor in privacy and proximity to the existing house and swimming pool in its site design.*

V. STAFF RECOMMENDATION

This request meets all criteria in the four-part test. Staff recommends approval of BOA-13-05.

VI. DRAFT MOTIONS for BOA-13-05

- A. I move that the Sumter Board of Appeals approve BOA-13-05 subject to the findings of fact and conclusions contained in the draft order dated May 8, 2013, attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-13-05 subject to the findings of fact and conclusions contained in the draft order dated May 8, 2013, attached as Exhibit 1.
- C. I move that the Sumter Board of Appeals approve an alternate motion for BOA-13-05.

VII. ZONING BOARD OF APPEALS – MAY 8, 2013

The Sumter City-County Board of Appeals at its meeting on Wednesday, May 8, 2013, voted to accept staff recommendation and approve this request subject to the findings of fact and conclusions contained in the draft order, dated May 8, 2013.

Exhibit 1
Order on Variance Application
Sumter Board of Appeals

BOA-13-05, 375 Veranda Drive (City)
May 8, 2013

Date Filed: May 8, 2013

Permit Case No. BOA-13-05

The Board of Zoning Appeals held a public hearing on Wednesday, May 8, 2013 to consider the request of Ashley and Cynthia McDuffie, 375 Veranda 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 side yard is narrow and offers no flexibility in the location of a swimming pool.*

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 do not appear to necessitate a variance for swimming pool location. Several neighbors have swimming pools already in place that do not appear to be located close to the property line and did not necessitate variances.*

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 constructing a swimming pool. Since other homes in this subdivision have swimming pools, there is the expectation that these property owners should be able to construct one as well.*

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 swimming pool will be behind a privacy fence, and the adjacent property is currently undeveloped, so that future construction can accommodate the existing fence and pool.*

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.