

# Sumter City-County Board of Zoning Appeals

June 12, 2013

**BOA-13-09, 515 W. Hampton St. (City)**

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- 13-09, 515 W. Hampton Ave. (City)

### I. THE REQUEST

**Applicant:** Malley and Steve Jennings

**Status of the Applicant:** Property owners

**Request:** The applicant is requesting a variance from the size restriction on accessory buildings to construct a pool house / storage building with a covered porch.

**Location:** 515 W. Hampton Ave.

**Present Use/Zoning:** Residential / R-9

**Tax Map Reference:** 228-11-01-017

### II. BACKGROUND



The property owners, Malley and Steve Jennings wish to construct a 820 square foot accessory structure in the rear yard of their property located at 515 W. Hampton Ave. in Sumter. This property is also in the Hampton Park historic overlay district, which requires review of proposed construction to determine compatibility

with district design guidelines. The project has already received approval from the Historic Preservation board (HP-13-09).

There is an existing freestanding garage on the property, as well as a gazebo next to the pool which is 120 square feet in size and therefore is exempt from the accessory structure regulations. The property owners are proposing an additional building that will be used for both storage and as a pool house for the adjacent swimming pool. Exhibit 8A of the zoning ordinance permits the following square footage for a parcel of this size, +/- 1.56 acres:

**EXHIBIT 8A**

Maximum square footage of residential accessory structures based on gross acreage

Acreage	0	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9
**<0.5	See note 1									
0.5	1100	1120	1140	1160	1180	-	-	-	-	-
1.0	1200	1225	1250	1275	1300	1325	1350	1375	1400	1425
2.0	1450	1475	1500	1525	1550	1575	1600	1625	1650	1675
3.0	1700	1725	1750	1775	1800	1825	1850	1875	1900	1925
4.0	1950	1975	2000	2025	2050	2075	2100	2125	2150	2175
5.0	2200	2225	2250	2275	2300	2325	2350	2375	2400	2425
6.0	2450	2475	2500	2525	2550	2575	2600	2625	2650	2675
7.0	2700	2725	2750	2775	2800	2825	2850	2875	2900	2925
8.0	2950	2975	3000	3025	3050	3075	3100	3125	3150	3175
9.0	3200	3225	3250	3275	3300	3325	3350	3375	3400	3425
>= 10.0	Exempt, see note 2									

Permitted square footage for 1.56 acre lot: 1325 SF  
 Existing garage square footage: - 600 SF

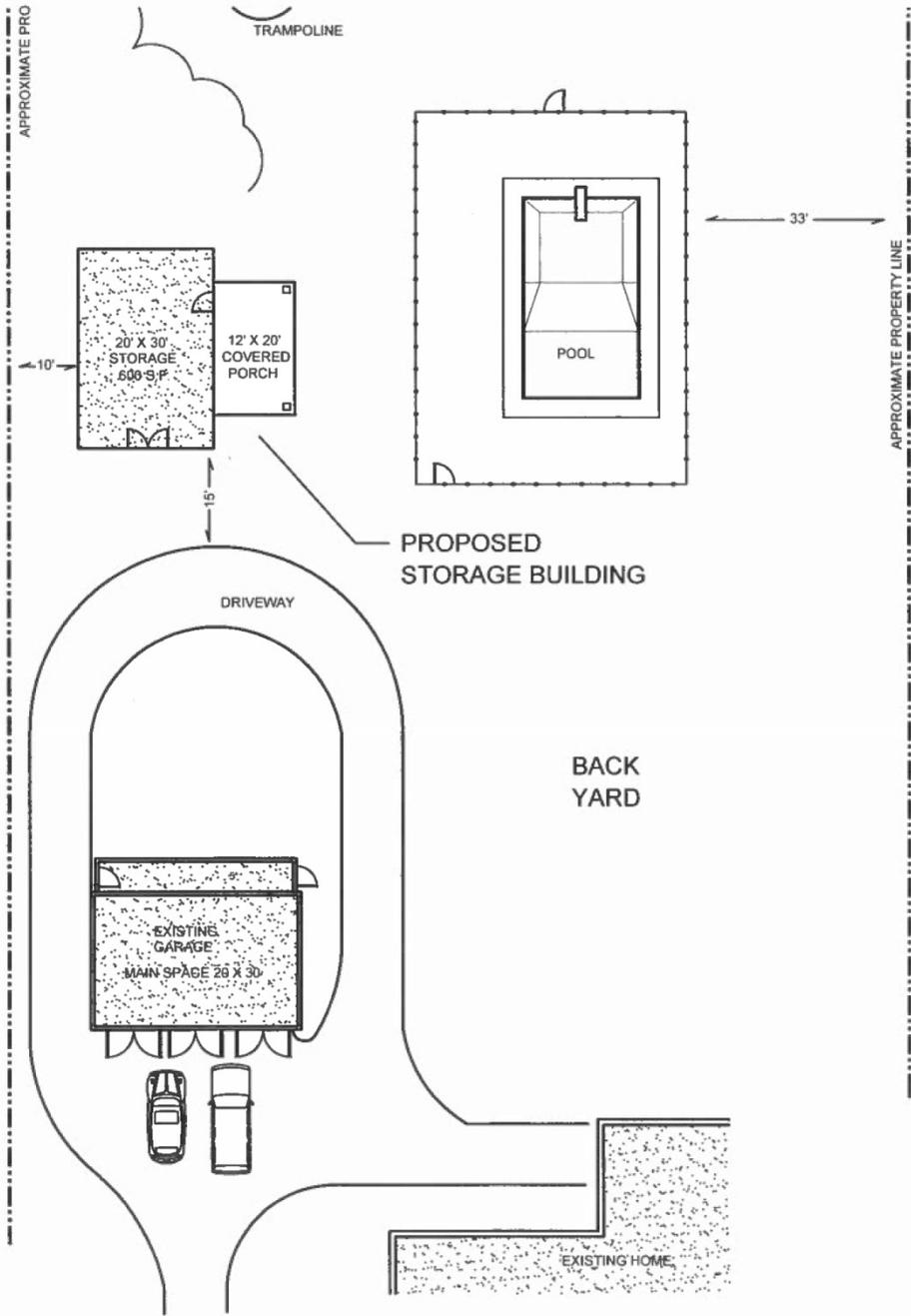
Remaining square footage permitted: 725 SF

Proposed structure: 580 SF\*  
 Porch on proposed structure: +240 SF

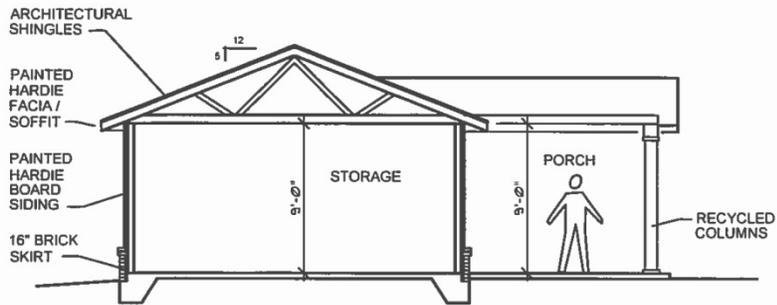
Total Proposed: 820 SF

**Variance requested: 95 SF**

\*The applicants can construct the proposed pool house / storage building without the variance. However, the architect designed the pool house with a porch facing the pool to make the building more functional and suitable for entertainment, as well as for aesthetic reasons.

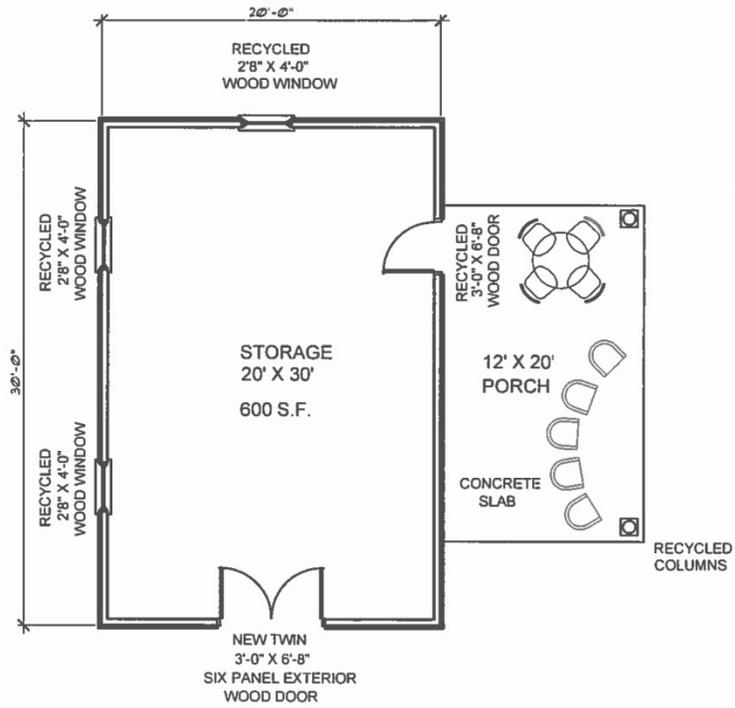


**Partial Proposed Site Plan**  North  
 Scale: 1" = 20'



**Building Section**

Scale: 1/8" = 1'-0"

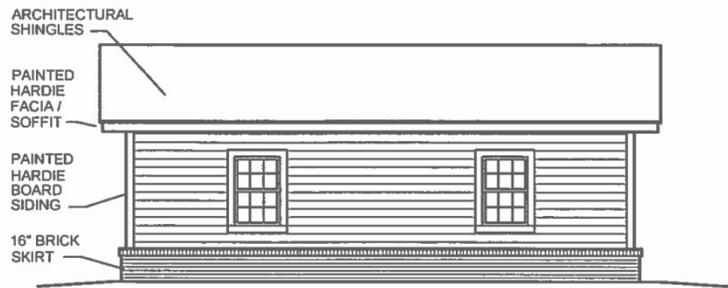


**Floor Plan**

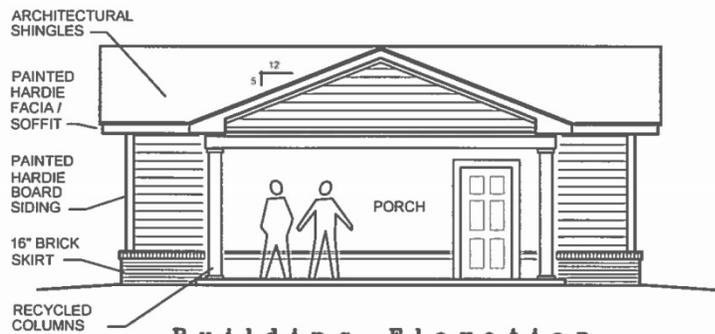
Scale: 1/8" = 1'-0"



North



**Building Elevation**  
 Scale: 1/8" = 1'-0"



**Building Elevation**  
 Scale: 1/8" = 1'-0"



**Building Elevation**  
 Scale: 1/8" = 1'-0"



***Above:*** Existing garage

***Below:*** Existing pool to the right, and area for proposed pool house to the left



The 120 sq. ft. gazebo per Article 4, Section 4.g.2.a.3 is not counted as an accessory structure but the 820 sq. ft. pool house and porch does count towards the total sq. ft. allowed for this parcel. Therefore, in order to permit their 820 square foot building, the applicant would need a variance of 95 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 lots in this district vary in size, shape and location of structures. This parcel is relatively large in comparison to other parcels on Hampton Ave. and therefore has a relatively large accessory structure area allotment of 1,325 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 0.24 to 1.56 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 1,325 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 small gazebo (120 sq. ft.) which is exempt and an accessory building (a garage) on this parcel, other than the one in question. The property owner can construct a maximum 725 sq. ft. accessory building and be in compliance with the Zoning Ordinance. However, as has been pointed out previously, the applicant can still construct the proposed accessory building without the variance, however they will not be able to construct a porch on it as desired.

- 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 will not be visually detrimental to the adjacent properties. The property is secluded and there is no visibility from either the street or adjacent properties into the rear yard. However, authorization of a variance where there is no clear hardship undermines the community's established regulations designed to protect the public health, safety and welfare, and sets a precedent for disregard of community standards.

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

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

#### **V. DRAFT MOTIONS FOR BOA-13-09**

- A. I move that the Zoning Board of Appeals deny BOA-13-09, subject to the findings of fact and conclusions contained in the draft order, dated June 12, 2013 attached as Exhibit 1.
- B. I move that the Zoning Board of Appeals approve BOA-13-09, subject to the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-13-09.

#### **VI. ZONING BOARD OF APPEALS – JUNE 12, 2013**

The Sumter City-County Board of Appeals at its meeting on Wednesday, June 12, 2013, voted to approve this request subject to the findings of fact and conclusions contained in the draft order, dated June 12, 2013, attached as Exhibit 1.

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

**BOA-13-09, Malley and Steve Jennings**  
**515 W. Hampton Ave. (City)**  
**June 12, 2013**

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Date Filed: June 12, 2013

Permit Case No. BOA-13-09

The Board of Zoning Appeals held a public hearing on Wednesday, June 12, 2013 to consider the appeal of Malley and Steve Jennings 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 extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

There are extraordinary and exceptional conditions on this property. Lots in this district vary in size, shape and location of structures. This parcel is relatively large in comparison to others on Hampton Avenue.

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:

Surrounding properties vary in size from 0.24 to 1.56 acres, with many different shapes and layouts.

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:

Historic Preservation Design Review approved this project due to aesthetics and functions, therefore, to prohibit it would be unreasonable.

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 property is secluded and there is no visibility from either the street or adjacent properties into the rear yard.

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.**

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