

# Sumter City-County Board of Zoning Appeals

August 14, 2013

**BOA-13-12, 7800 Myrtle Beach Hwy. (County)**

A variance of 25 feet from the required 45 foot front yard setback and a variance of 20 feet from the required 50 foot rear yard setback requirement per Article 3, Section 3.n.5.b. Agricultural Conservation Zoning District Development Standards in order to rebuild a convenience store with gas pumps.



Appeals - Variance - Special Exception

# Sumter City-County Board of Appeals

August 14, 2013

## BOA-13-12, 7800 Myrtle Beach Hwy. (County)

### I. THE REQUEST

**Applicant:** Mac Heath, Heath Properties

**Status of the Applicants:** Property & Business Owner

**Request:** Applicant is requesting a variance of 25 feet from the required 45 foot front yard setback and a variance of 20 feet from the required 50 foot rear yard setback requirement.

**Location:** 7800 Myrtle Beach Hwy.

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

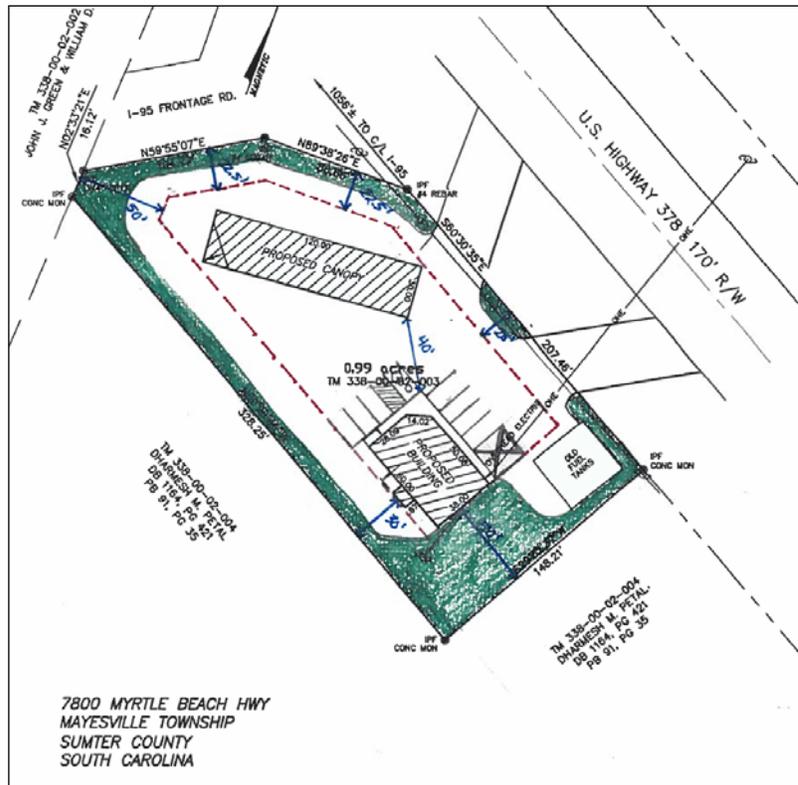
**Tax Map Reference:** 338-00-02-003

### II. BACKGROUND

The applicant seeks two variances from the setback standards for development in the Agricultural Conservation Zoning District—(1) a variance of 25 feet from the required 45 foot front yard setback and (2) a variance of 20 feet from the required 50 foot rear yard setback in order to reconstruct a convenience store and gas station located at 7800 Myrtle Beach Hwy. The convenience store/gas station structure previously located on-site was demolished in May of this year. However, prior to site demolition the property was a grandfathered nonconforming site with respect to the front and rear building setbacks. The graphic below shows the previous development conditions:



The proposed development plan, shown to the right, would separate the canopy structure from the convenience store. Based on the plan, the new convenience store structure would be 30 ft. from the rear property line and the canopy structure would be 20 ft. from the front property line. The applicant worked with Planning Staff to develop a site layout that required the least number of variances while improving site conditions from the previous development. The proposed site layout also improves on-site traffic flow and implements all required bufferyards while maintaining existing encroachment locations.



Because this project is a voluntary demolition and reconstruction project, Planning Staff does not have latitude under **Article 6, Non-Conforming Zoning Uses and Sites**, to grant any variances from the development standards. The two requested variances must be reviewed and approved by the Board of Zoning Appeals.

### III. THE REQUEST

The Applicant requests a variance of 25 feet from the required 45 foot front yard setback and a variance of 20 feet from the required 50 foot rear yard setback requirement per **Article 3, Section 3.n.5.b. Agricultural Conservation Zoning District Development Standards** in order to rebuild a convenience store with gas pumps.

### IV. FOUR-PART TEST

In order to grant the requested variances, 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.***

This 0.99 acre parcel is abnormally shaped and has more width than depth. When the required front and side setbacks of 45 ft. and 50 ft. are implemented, there is not sufficient buildable area to accommodate the proposed structures while maintaining safe on-site vehicular flow and maintaining access to existing underground fuel storage tanks.

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

Other properties in the vicinity are also zoned Agricultural Conservation however; they are grandfathered nonconforming properties. In addition, adjacent properties are significantly larger than 0.99 acres and are uniform in shape, thereby having a larger developable area than the subject property.

**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.***

Due to the shape of the property and current AC setback standards for non-residential development, the buildable area is not sufficient to allow for safe structural spacing and safe on-site vehicular access.

**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.***

Authorization of the requested variances will not be of substantial detriment to the adjacent property or the public good. In-fact, the proposed redevelopment of this site will improve previous conditions by moving the fueling canopy further from existing encroachment drive and reconfiguring on-site vehicular access to allow for safer traffic flow on-site.

**V. STAFF RECOMMENDATION**

The requirements of the four-part test have been met. Staff recommends approval of BOA-13-12.

**VI. DRAFT MOTIONS for BOA-13-12**

- A. I move that the Zoning Board of Appeals approve BOA-13-12, subject to the findings of fact and conclusions attached as Exhibit I.
- B. I move that the Zoning Board of Appeals deny BOA-13-12 subject to the following findings of fact and conclusions.
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-13-12.

**VII. ZONING BOARD OF APPEALS – AUGUST 14, 2013**

The Sumter City-County Board of Appeals at its meeting on Wednesday, August 14, 2013, voted to approve this request subject to the findings of fact and conclusions contained in the draft order, dated August 14, 2013.

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

**BOA-13-12, 7800 Myrtle Beach Hwy. (County)**  
**August 14, 2013**

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Date Filed: August 14, 2013

Permit Case No. BOA-13-12

The Sumter Board of Appeals held a public hearing on Wednesday, August 14, 2013 to consider the appeal of Heath Properties, PO Box 1539, Lake City, SC 29560 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:

This 0.99 acre parcel is abnormally shaped and has more width than depth. When the required front and side setbacks of 45 ft. and 50 ft. are implemented, there is not sufficient buildable area to accommodate the proposed structures while maintaining safe on-site vehicular flow and maintaining access to existing underground fuel storage tanks.

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:

Other properties in the vicinity are also zoned Agricultural Conservation however; they are grandfathered nonconforming properties. In addition, adjacent properties are significantly larger than 0.99 acres and are uniform in shape, thereby having a larger developable area than the subject property.

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:

Due to the shape of the property and current AC setback standards for non-residential development, the buildable area is not sufficient to allow for safe structural spacing and safe on-site vehicular access.

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:

Authorization of the requested variances will not be of substantial detriment to the adjacent property or the public good. In-fact, the proposed redevelopment of this site will improve previous conditions by moving the fueling canopy further from existing encroachment drive and reconfiguring on-site vehicular access to allow for safer traffic flow on-site.

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.**