

Sumter City-County Board of Zoning Appeals

September 11, 2013

BOA-13-14, 812 S. Harvin St. (City)

A variance of 20 feet on one side and a variance of 10 feet on the other side from the required 25 foot side yard setback for non-residential structures to allow for the side setbacks of 5 feet and 15 feet for placement of a commercial storage building for Jehovah Missionary Baptist Church per Article 3, Exhibit 1 Development Standards for Uses in R-6 District (Non Residential Uses).



Appeals - Variance - Special Exception

Sumter City-County Board of Appeals

September 11, 2013

BOA-13-14, 812 S. Harvin St. (City)

I. THE REQUEST

Applicant: James Price

Status of the Applicants: Representative for Jehovah Missionary Baptist Church

Request: Applicant is requesting two side yard setback variances for a non-residential storage building – 20 ft. variance on the north side to reduce the setback to 5 ft. and a 10 ft. variance on the south side to reduce the setback to 15 ft. in order to construct a 1500 sq. ft. commercial storage building.

Location: 812 S. Harvin St.

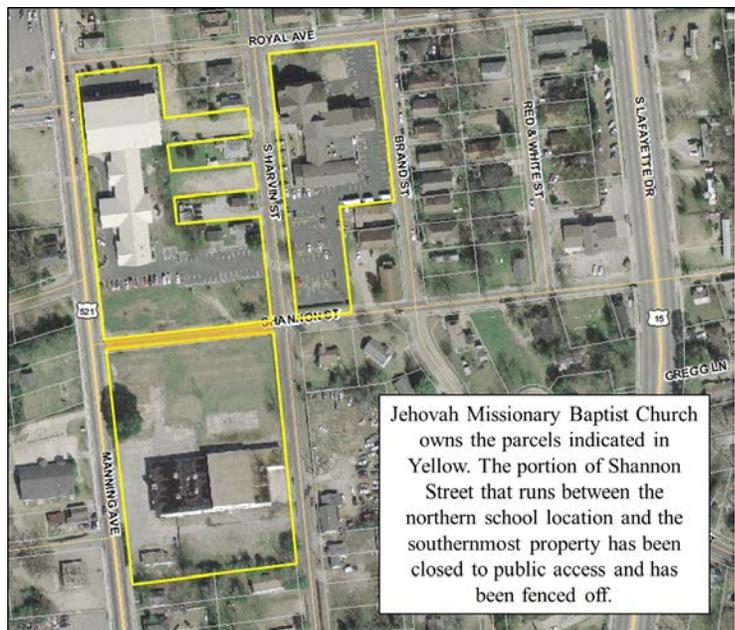
Present Use/Zoning: Residential-6 (R-6)

Tax Map Reference: 250-09-05-044

II. BACKGROUND

The applicant seeks two variances from the side yard setback requirements for non-residential structures in the R-6 district—(1) a 20 ft. variance on the north side to reduce the setback to 5 ft. from 25 ft. and, (2) a 10 ft. variance on the south side to reduce the setback to 15 ft. from 25 ft. in order to construct a 1500 sq. ft. two-bay storage building to serve the Jehovah Missionary Baptist Church properties. Provision of a detached storage structure for the property is at the direction of the Congregation's insurance carrier after an audit of the Church facilities. This structure would accommodate janitorial supplies, paints, lawn care chemicals, and lawn equipment that is currently spread out across four (4) different buildings.

As shown in the graphic to the right, Jehovah Missionary Baptist Church owns approximately 7.98 acres between Manning Ave. and Brand St. On July 16, 2013, Sumter City Council rezoned the subject property from a Planned



Development (PD-03-04) to Residential-6. This rezoning action was in response to an application by Jehovah Missionary Baptist Church to amend a Planned Development in order to construct a storage building on the property for equipment and tool storage. The property was rezoned to R-6 as opposed to amending the Planned Development due to changes in how Municipalities handle Planned Developments in accordance with the March 15, 2010 SC Supreme Court Ruling regarding Planned Developments. Because the proposed structure is considered a commercial accessory structure, as part of the rezoning to R-6 staff recommended the applicant return to the Board of Appeals to request setback variances in order to legally place the storage building on the 812 S. Harvin St. property.

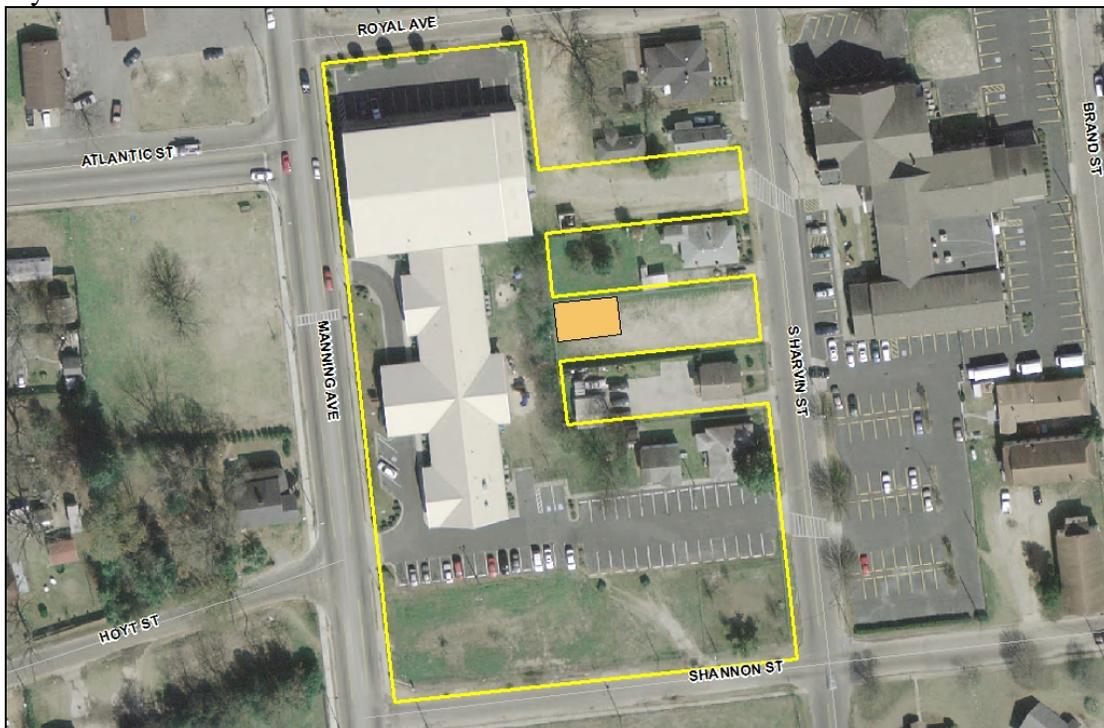
In accordance with **Article 4, Section G: Accessory Buildings and Uses, 4.g.3.a.** Commercial accessory structures are required to meet the principal setbacks for non-residential buildings. Specifically, **Section 4.g.3.a.** states:

- a. All accessory buildings shall meet the principal setbacks, shall not exceed the maximum height for the zoning districts and shall be treated as principal structures for zoning purposes;*

As listed in the **Exhibit 1, Development Standards for Uses in R-6 District**, Non-residential setbacks and development standards in the R-6 zoning district are as follows:

- Front – 25 ft.
- Sides – 25 ft.
- Rear – 50 ft.
- Maximum Distance Between Buildings – 30 ft.
- Maximum Impervious Surface Ratio – 45%
- Maximum Height of Buildings – 45 ft.

The graphic below and photograph on the following page show the proposed placement of the 30 ft. x 50 ft. building. This central location was chosen to serve the full extent of the Jehovah property.





***Pictured Above:** Property to the south of the development site. There is a privacy fence in place at the rear of the parcel buffering the neighboring use from the proposed use.*

***Pictured Below:** Property to the north of the development site. There is a 4 ft. chain link fence running the length of the property line boundary, landscape buffering must be installed along this fence line to shield the neighboring use from the proposed use.*



Based in the listed development standards, the applicant would require side setback variances in order to erect the proposed structure.

III. THE REQUEST

The applicant requests two variances from the side yard setback requirements for non-residential structures in the R-6 district—(1) a 20 ft. variance on the north side to reduce the setback to 5 ft. from 25 ft. and, (2) a 10 ft. variance on the south side to reduce the setback to 15 ft. from 25 ft. in order to construct a 1500 sq. ft. (30 ft. x 50 ft.) two-bay storage building.

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.

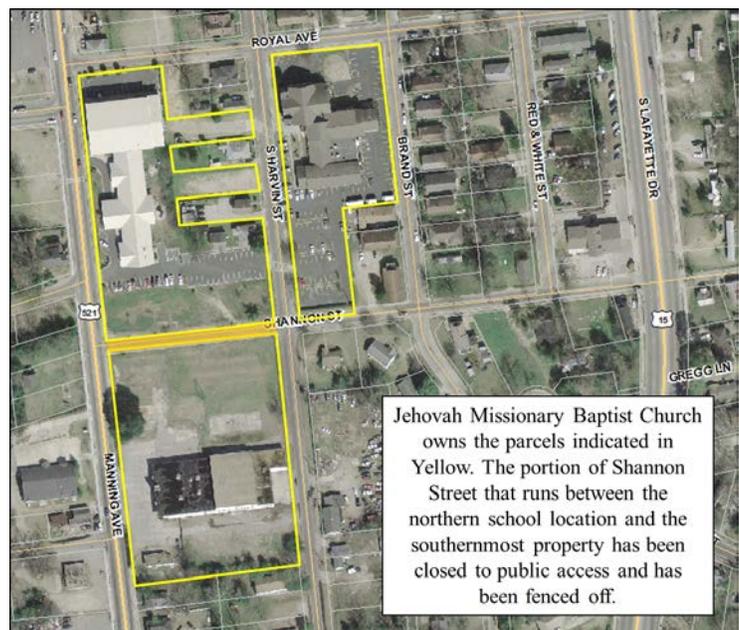
The fact that a property may be utilized more profitably should a variance be granted shall not be considered grounds for approving a variance request.

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

There are extraordinary and exceptional conditions pertaining to this piece of property. The use of the parcel for the church and church related activities is a conditional use in the R-6 District. Jehovah Missionary Baptist Church has been a presence in this part of the community for decades. Because the property is 50 ft. wide by 150 ft. deep, no “commercial” structure can be placed on the parcel without being granted variances from the side setback standards.

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

These conditional do not generally apply to other properties in the vicinity. As shown in the graphic to the right, Jehovah Missionary Baptist church owns approximately 7.98 acres of land between Manning Ave. and Brand St. In this predominantly small lot (7500 sq. ft.) residential area, Jehovah is a large commercial presence and has slowly acquired the parcels of land between the school facility on Manning Ave. and the original sanctuary on Harvin St. to create a church campus. Because most of the adjacent lots are residential, they are subject to residential development standards for



accessory structures which allow a building as close as 5 ft. to side and rear property lines.

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.***

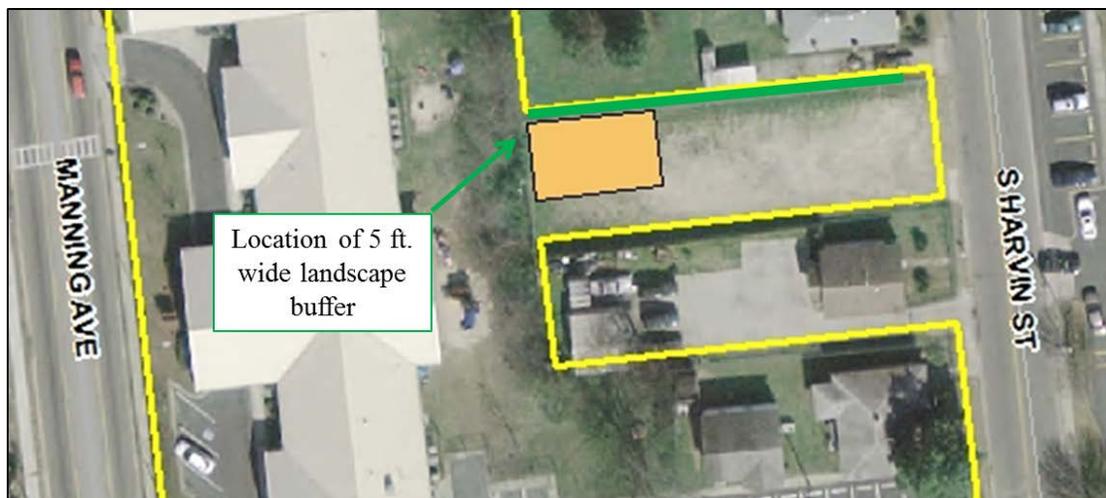
The entire parcel is only 50 ft. wide. Because non-residential side setbacks are 25 ft., there is no developable area present on this parcel without the granting of setback variances.

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.***

Because the proposed structure will be for storage purposes to house maintenance equipment and not for an intense commercial use, authorization of the requested variances will not be of substantial detriment to the adjacent property or the public good. In addition, the proposed structure location has been chosen to have the least amount of impact on the adjacent residences.

V. STAFF RECOMMENDATION

Staff recommends approval of BOA-13-14 with conditions. Due to the size of the parcel and non-residential setback standards, there is a clear hardship at this location. While the requirements of the four-part test have been met, in order to better protect the adjacent neighbor to the north from any adverse impacts, Staff recommends the implementation of a 5 ft. landscape strip to be planted with evergreen materials that will grow to a height of 6 ft. over three growing seasons in the area indicated in the graphic below.



VI. DRAFT MOTIONS for BOA-13-11

- A. I move that the Zoning Board of Appeals approve BOA-13-14, subject to the findings of fact and conclusions attached as Exhibit I.
- B. I move that the Zoning Board of Appeals deny BOA-13-14 subject to the following findings of fact and conclusions.
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-13-14.

VII. ZONING BOARD OF APPEALS – SEPTEMBER 11, 2013

The Zoning Board of Appeals at its meeting on September 11, 2013 voted to approve this request as recommended by staff with the following conditions:

1. Reduce the required landscape buffer on the northern property line to 5 ft. from 10 ft. and substitute a 6 ft. tall privacy fence for a 10 ft. landscape buffer on the southern property line.
2. 5 ft. wide landscape buffer shall be added along the northern property line as shown in the graphic below. Said buffer shall be of evergreen plant material that will grow to a height of 6 ft. over three growing seasons.

Exhibit 1
Order on Variance Application
Sumter Board of Appeals

BOA-13-14, 812 S. Harvin St. (City)
September 11, 2013

Date Filed: September 11, 2013

Permit Case No. BOA-13-14

The Sumter Board of Appeals held a public hearing on Wednesday, September 11, 2013 to consider the appeal of James Price, 309 Foxworth Mill Rd., 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:

The use of the parcel for the church and church related activities is a conditional use in the R-6 District. Jehovah Missionary Baptist Church has been a presence in this part of the community for decades. Because the property is 50 ft. wide by 150 ft. deep, no "commercial" structure can be placed on the parcel without being granted variances from the side setback standards.

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:

Jehovah Missionary Baptist church owns approximately 7.98 acres of land between Manning Ave. and Brand St. In this predominantly small lot (7500 sq. ft.) residential area, Jehovah is a large commercial presence and has slowly acquired the parcels of land between the school facility on Manning Ave. and the original sanctuary on Harvin St. to create a church campus. Because most of the adjacent lots are residential, they are subject to residential development standards for accessory structures which allow a building as close as 5 ft. to side and rear property lines.

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:

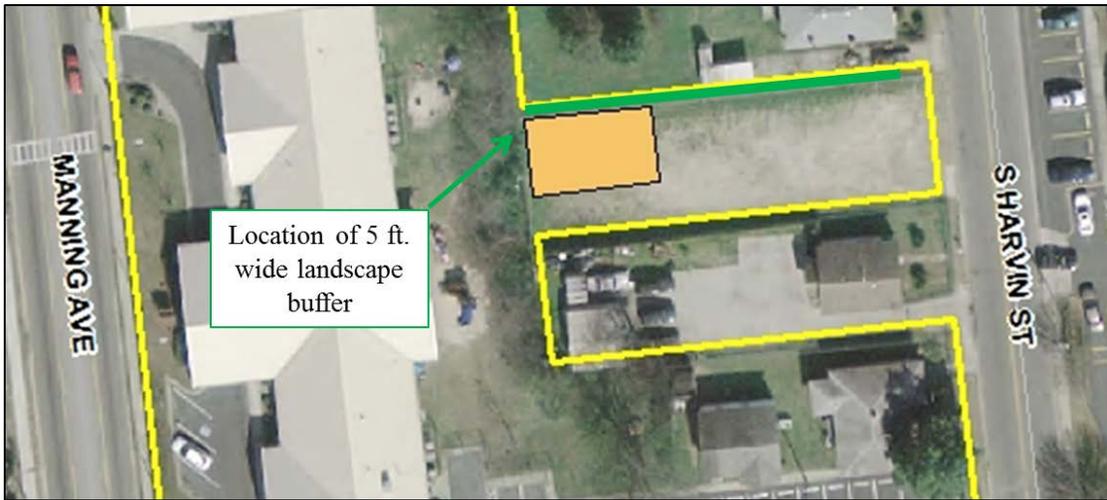
The entire parcel is only 50 ft. wide. Because non-residential side setbacks are 25 ft., there is no developable area present on this parcel without the granting of setback variances.

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:

Because the proposed structure will be for storage purposes to house maintenance equipment and not for an intense commercial use, authorization of the requested variances will not be of substantial detriment to the adjacent property or the public good. In addition, the proposed structure location has been chosen to have the least amount of impact on the adjacent residences.

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

1. Reduce the required landscape buffer on the northern property line to 5 ft. from 10 ft. and substitute a 6 ft. tall privacy fence for a 10 ft. landscape buffer on the southern property line.
2. 5 ft. wide landscape buffer shall be added along the northern property line as shown in the graphic below. Said buffer shall be of evergreen plant material that will grow to a height of 6 ft. over three growing seasons.



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.