

# Sumter City-County Board of Zoning Appeals

November 13, 2013

**BOA-13-17, 30 McIntosh Ct. (City)**

A variance of 10 feet from the 35 foot front yard setback requirement per Article 3, Section 3.b.5.b Residential-9 Zoning District Development Standards in order to construct a residential dwelling with a 25 foot front yard setback.



Appeals - Variance - Special Exception

# Sumter City-County Board of Appeals

November 13, 2013

## BOA-13-17, 30 McIntosh Ct. (City)

### I. THE REQUEST

**Applicant:** Pinnacle Properties of Sumter, LLC

**Status of the Applicants:** Property Owner

**Request:** Applicant is requesting a 10 ft. variance from the required 35 ft. front yard setback in order to construct a residential dwelling with a 25 ft. front yard setback.

**Location:** 30 McIntosh Ct.

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

**Tax Map Reference:** 182-00-02-008 (Part)

### II. BACKGROUND

The applicant seeks a 10 ft. front setback variance on a +/-0.55 acre cul-de-sac lot at 30 McIntosh Ct. in the Ashbrook Subdivision, shown in the graphic to the right.

The Ashbrook Subdivision (SD-06-05) was approved in 2006. Phase 1 for 103 single family units and is 78% built out. As shown in the graphic, there are dwellings constructed on the lots to the east and west of the subject parcel and this is the last lot on the cul-de-sac to be constructed upon. If a variance is granted, it will permit a single family dwelling to be constructed with a 25 ft. front setback as opposed to the Ordinance required 35 ft. setback.



The graphic on the following page shows the lot as it appears today as well as the plat showing the developable area. The areas shaded in red are easements on the lot that cannot be built upon and the red dotted line represents the buildable area. At its narrowest point, the parcel has 40 ft. of developable depth.



#### **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.***

Although 30 McIntosh Ct. is 0.55 acres in size, it is a cul-de-sac lot with more width than depth. At its narrowest point, the lot only has 40 ft. of buildable depth. In addition, there is a 15 ft. sewer easement to the rear of the parcel and a 15 ft. stormwater easement on the eastern side.

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

Other property in the vicinity is more uniform in shape with more depth than width and is not impacted by the presence of easements that hinder development. In fact, all adjacent lots in this area have been built upon.

**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.***

Because of the shape of the property and presence of the sewer easement to the rear, the requirement of a 35 ft. front setback will only leave 10 ft. of space in the rear yard for placement of storage or recreational structures.

**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 of the location of the parcel within the development and its irregular shape, authorization of the requested variance, allowing construction of a dwelling similar to the rest of the subdivision will not be of substantial detriment to the adjacent property or the public good.

#### **V. STAFF RECOMMENDATION**

The requirements of the four-part test have been met. Staff recommends approval of BOA-13-17.

**VI. DRAFT MOTIONS for BOA-13-17**

- A. I move that the Zoning Board of Appeals approve BOA-13-17, subject to the findings of fact and conclusions attached as Exhibit I.
- B. I move that the Zoning Board of Appeals deny BOA-13-17 subject to the following findings of fact and conclusions.
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-13-17.

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

The Sumter City-County Board of Appeals at its meeting on Wednesday, November 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 November 13, 2013.

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

**BOA-13-17, 30 McIntosh Ct. (City)**  
**November 13, 2013**

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Date Filed: November 13, 2013

Permit Case No. BOA-13-17

The Sumter Board of Appeals held a public hearing on Wednesday, November 13, 2013 to consider the appeal of Pinnacle Properties of Sumter, LLC, 1770 Camden Hwy., Sumter SC 29153, 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:

Although 30 McIntosh Ct. is 0.55 acres in size, it is a cul-de-sac lot with more width than depth. At its narrowest point, the lot only has 40 ft. of buildable depth. In addition, there is a 15 ft. sewer easement to the rear of the parcel and a 15 ft. stormwater easement on the eastern side.

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 property in the vicinity is more uniform in shape with more depth than width and is not impacted by the presence of easements that hinder development. In fact, all adjacent lots in this area have been built upon.

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:

Because of the shape of the property and presence of the sewer easement to the rear, the requirement of a 35 ft. front setback will only leave 10 ft. of space in the rear yard for placement of storage or recreational structures.

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 of the location of the parcel within the development and its irregular shape, authorization of the requested variance, allowing construction of a dwelling similar to the rest of the subdivision will not be of substantial detriment to the adjacent property or the public good.

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.**