

# Sumter City-County Board of Zoning Appeals

March 12, 2014  
April 9, 2014

## BOA-14-01, 1370 Holiday Drive (County)

The applicant is requesting a variance of 95 feet from the 100 foot setback requirement for animal shelters from the nearest residential property line as required by Article 3, Section X, 3.x.1.2 Farming in order to allow a horse shelter to remain in its current location.



# Sumter City-County Zoning Board of Appeals

March 12, 2014

## BOA-14-01, 1370 Holiday Dr. (County)

### I. THE REQUEST

**Applicant:** Marilyn Ross Gause

**Status of the Applicant:** Property owner

**Request:** The applicant is requesting a variance from the setback restrictions for animal shelters from residential property lines.

**Location:** 1370 Holiday Dr.

**Present Use/Zoning:** Residential / R-15

**Tax Map Reference:** 247-05-03-005

### II. BACKGROUND

The Applicant is requesting a 95 ft. variance from the required 100 ft. setback from a residential property line, in order to allow an unpermitted 18 ft. x 42 ft. aluminum carport structure being used as an animal shelter to remain in its current location. Staff received a complaint from the neighborhood regarding the property, through the process of following up on the complaint it was discovered that no permits had been issued for the structure. Through research and conversations with the Applicant it has been determined that the structure has been on the property for about one year.

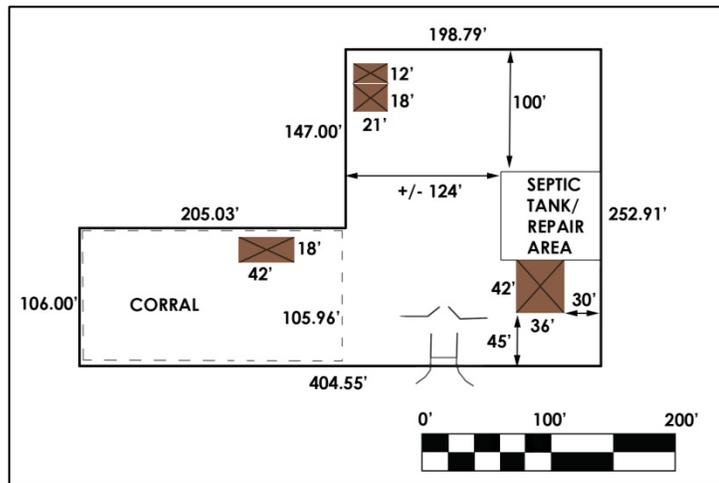


The following photographs show the property as it is today.





Although the Applicant has had the contractor apply retroactively for a building permit, the Planning Department cannot sign off on the permit because the structure does not comply with the 100 ft. setback requirement from a residential property line for farm animal shelters. The shelter currently sits 5 ft. from the nearest residential property line as shown in the orthophotography on the previous page and the graphic to the right.



As per Article 3, Section X, 3.x.1.2, the setback requirement for an animal shelter is 100 ft.

### ***SECTION X: FARMING***

***3.x.1. General Farming operations, while permitted in all zoning districts, shall meet the following development standards, where applicable:***

***1. A minimum of three (3) acres shall be required for commercial farming operations. No minimum area (acreage) requirements for personal or private farming operations in connection with a residential use.***

***2. Unless specified elsewhere by these regulations, all accessory and principal building shall meet the minimum yard and setback requirements for the district in which the farming use is located, except that barns, stables, pens, or other animal shelter shall be located no closer than 100 feet to the nearest residential property line.***

As shown in the graphic on the previous page, Staff acknowledges that there is no location on the 1.66 acre parcel that will meet the 100 ft. setback from adjacent residential properties. That being said, Staff and the Applicant discussed moving the shelter to another location on the parcel that would result in less of a variance. The Applicant would like to leave the shelter where it is currently located. The Applicant has also submitted a petition of support from surrounding residents as part of the application. A copy of the petition and map identifying where signatures were obtained has been included with this report.

In order to permit this existing horse shelter to remain in its current location, a variance of 95 feet from the 100 foot required setback is being requested.

### **III. FOUR PART TEST**

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

There are some extraordinary conditions on this property. The parcel consists of 3 lots (Lots 10, 11 & 12) in an L shape configuration. Lots 10 & 11 are adjacent with the same configuration but they only have a combined width of 198 feet. In order to place the structure anywhere on the property a variance of some sort is required. Although, there are other options for location of the structure on this property which would require much less of a variance than the 95 feet and move the structure farther away from any residential structure in that neighborhood.

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

These conditions apply to all surrounding properties. The adjacent parcels are zoned and being used for residential purposes and must also comply with Section 3.x.1.2.

**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 Zoning Ordinance does not prohibit the use of the property. The parcel is zoned R-15, as per Article 3, Section B, 3.b.1, the purpose of the R-15 district is, “to recognize the essential suburban living character of significant portions of the City and County of Sumter where low and medium density single-family residential development is the predominant living environment.” The property is the site of a single-family home and other accessory 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.***

The authorization of this variance could be detrimental to the adjacent properties. In addition, authorization of a variance where there is no clear hardship and there are other location options 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 specific request based upon the fact that the four requirements of the state-mandated four-part test have not been met. Staff believes there may be a better location for the structure requiring less variance, which would be more compatible with the residential character of the neighborhood.

**V. DRAFT MOTIONS FOR BOA-14-01**

- A. I move that the Zoning Board of Appeals deny BOA-14-01, subject to the findings of fact and conclusions contained in the draft order, dated March 12, 2014 attached as Exhibit 1.
- B. I move that the Zoning Board of Appeals approve BOA-14-01, subject to the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-14-01.

**VI. ZONING BOARD OF APPEALS – March 12, 2014**

The Sumter City-County Board of Appeals at its meeting on March 12, 2014, voted to defer this request so that the motion can be properly drafted. This request will return before the board on April 9, 2014.

**VII. ZONING BOARD OF APPEALS – APRIL 9, 2014**

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

**BOA-14-01, 1370 Holiday Dr. (County)**  
**March 12, 2014 / April 9, 2014**

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Date Filed: April 9, 2014

Permit Case No. BOA-14-01

The Board of Zoning Appeals held a public hearing on Wednesday, March 12, 2014 to consider the appeal of Marilyn Ross Gause 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:

The parcel consists of 3 lots (Lots 10, 11 & 12) in an L shape configuration. Lots 10 & 11 are adjacent with the same configuration but they only have a combined width of 198 feet. In order to place the structure any where on the property a variance of some sort is required.

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:

These conditions apply to all surrounding properties. The adjacent parcels are zoned and being used for residential purposes and must also comply with Section 3.x.1.2.

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:

The Zoning Ordinance does not prohibit the use of the property. The parcel is zoned Residential-15 (R-15). As per Article 3, Section B, 3.b.1, the purpose of the R-15 district is, "to recognize the essential suburban living character of significant portions of the City and County of Sumter where low and medium density single-family residential development is the predominant living environment." The property is the site of a single-family home and other accessory structures, and is actively being used for its intended purpose.

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 authorization of this variance could be detrimental to the adjacent properties. In addition, authorization of a variance where there is no clear hardship and there are other location options undermines the community's established regulations designed to protect the public health, safety and welfare, and sets a precedent for disregard of community standards.

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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