

Sumter City-County Board of Zoning Appeals

April 9, 2014

BOA-14-02, 3880 Broad Street (County)

The applicant is requesting Special Exception approval for a Drinking Place as required per Article 3, Section 3.i.4.d. *Drinking Places (SIC Code 5813)*, Article 3, Exhibit 5 and Article 5, Section 5.b.3.e. Special Design Review Criteria.



Appeals - Variance - Special Exception

Sumter City-County Board of Appeals

April 9, 2014

BOA-14-02, Drinking Place – 3880 Broad St. (County)

I. THE REQUEST

Applicant: Michael Shane Amore

Status of the Applicant: Business Owner

Request: Special Exception approval for a Drinking Place, under SIC Code 5813.

Location: 3880 Broad St.

Present Use/Zoning: Existing Commercial Building/GC/HCPD

Tax Map Reference: 155-04-02-016

II. BACKGROUND

The applicant desires to reopen a drinking place at 3880 Broad St. shown in the photograph to the right.

Historically, this location has been used for such purposes and until July of 2013 was properly licensed and operating as a night club/bar. Because the facility has been closed for more than six (6) months, in accordance with Article 1, Section 1.i.8 “Expiration of variance or special exception,” the Special Exception approval has expired. In order to legally reopen, the site must receive a new approval for the Board of Zoning Appeals.

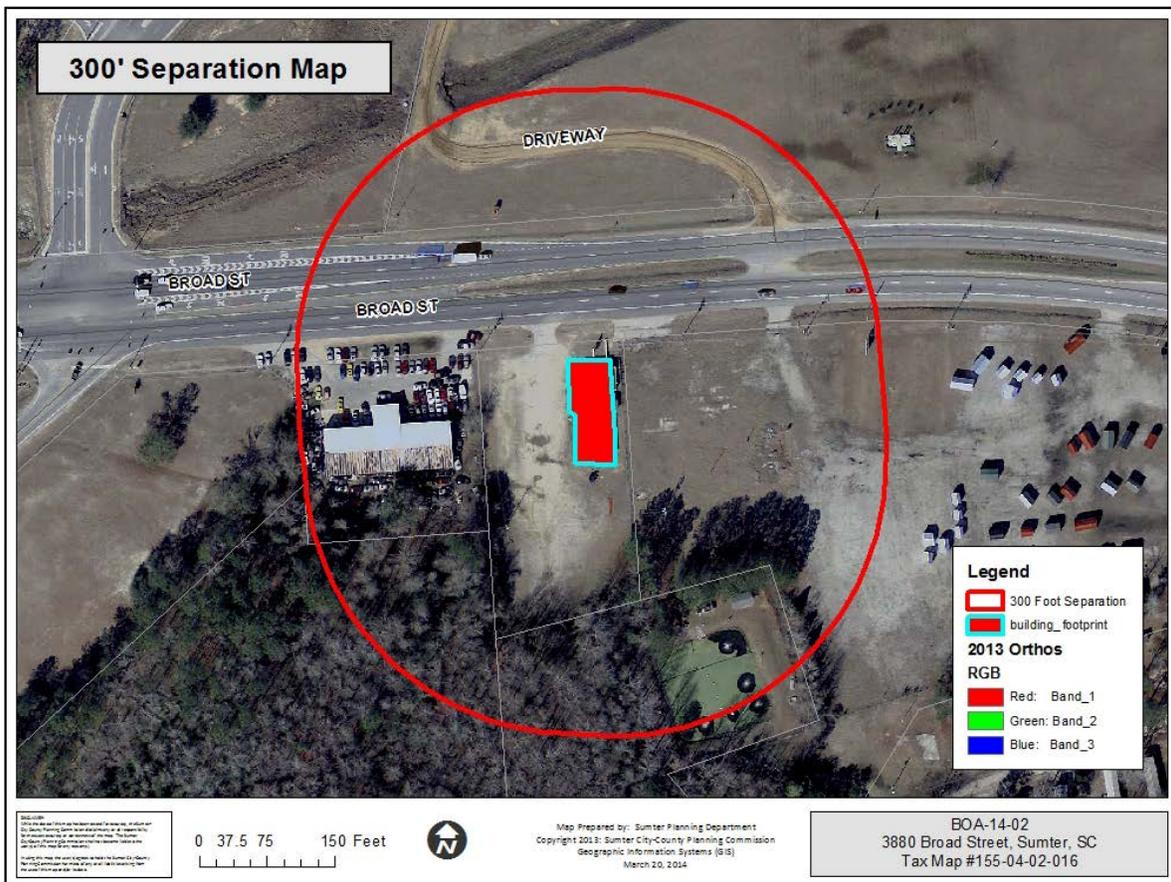


Drinking Places (SIC Code 5813) are required to be reviewed and approved as a Special Exception. Special Exceptions are to be evaluated in accordance with Article 1, Section 1.h.4.c and Article 3, Section 3.i.4.d and in accordance with Article 5, Section 5.b.3.e in the Sumter County Zoning & Development Standards Ordinance.

Article 5 Section 5.b.3.e Drinking Places (SIC 5813):

1. *This use shall not be within 300 feet (measured in a straight line from structure to structure) of a residential use, church, school, or public playground on a separately plotted parcel.*
2. *A six-foot fence that is a visual screen will be installed to separate this use from residential uses.*

As shown in the buffer map below, the proposed location is not within 300 feet of any prohibited uses, as measured from structure to structure. In addition, there are no residential uses that require buffering.



Article 1 Section 1.h.4.c Special Exceptions:

1. *Special exceptions are subject to the terms and conditions for the use set forth for such uses in the Zoning Ordinance.*
2. *Permits for Special Exceptions shall be evaluated by the Board of Zoning Appeals on the basis of the following criteria:*

- a. *That the Special Exception complies with all applicable development standards contained elsewhere in this Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements.*

The site is grandfathered non-conforming with respect to parking, landscaping, and buffering. Although the special exception has expired, the site has not been vacant for more than 36 months; therefore it is not subject to a discontinuance for non-conforming sites as outlined in *Article 6, Section 6.a.2.* and *Article 6, Section C: Nonconforming Sites.*

- b. *That the special exception will be in substantial harmony with the area in which it is located.*

This portion of Broad Street is dominated by small-scale commercial uses such as restaurants, gas station/convenience stores, small scale strip retail businesses, and automotive sales. Historically, this site has been used for a bar/club. Reopening at this location will not introduce any business that is drastically different from the historic use of the property.

- c. *That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.*

This proposed use will not discourage or negate the use of surrounding property for uses permitted by right in the general commercial zoning district. The GC district is intended to “accommodate the broadest possible range of commercial uses.” This location meets the 300 ft. separation requirement, as measure from structure to structure, from residential uses, churches, schools, or public playgrounds on separately plotted parcels.

III. STAFF RECOMMENDATION

Staff has visited the site and reviewed the request. The proposed use meets the separation requirements and the intent of the special exception criteria. In addition, this property has operated as a night club/bar almost continuously for the last 10 years.

IV. DRAFT MOTIONS

- A. I move that the Sumter Board of Appeals approve BOA-14-02 subject to the findings of fact and conclusions contained in the draft order dated April 9, 2014, attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-14-02 on the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-14-02.

V. BOARD OF ZONING APPEALS – April 9, 2014

The Sumter City-County Board of Appeals at its meeting on Wednesday, April 9, 2014, voted to accept staff recommendation and approve this request subject to the findings of fact and conclusions contained in the draft order, dated April 10, 2014.

Exhibit 1
Order on Special Exception Application
Sumter Board of Appeals

BOA-14-02, 3880 Broad Street (County)
April 9, 2014

Date Filed: April 9, 2014

Permit Case No. BOA-14-02

The Board of Zoning Appeals held a public hearing on Wednesday, April 9, 2014 to consider the request of Michael Shane Amore, 1781 Anburn Dr., Sumter, SC 29154 for a special exception which may be permitted by the Board pursuant to Sections Article 1.h.4.c, Article 3.i.4.d and Article 5.b.3.e of the Sumter County – Zoning & Development Standards Ordinance as set forth on Form 4 for the property described on Form 1 to be used for: Drinking Place (SIC Code 5813).

After the consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

1. The Board concludes that the standards in Sections 5.b.3.e of the Sumter County – Zoning & Development Standards Ordinance which are applicable to the proposed special exception of the Zoning Ordinance **have** - **have not** been met based on the following findings of fact:
 - a. The Board finds the location of the proposed Drinking Place meets the Ordinance separation requirement of 300 ft. from structure to structure from a residential use, church, school, or public playground.
2. The Board concludes that the special exception **does** - **does not** comply with all other applicable development standards contained elsewhere in the Sumter City Zoning Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements based on the following findings of fact:
 - a. The property owner is not required to upgrade the site or submit a site plan as the location has not be subject to a discontinuance as outlined in Article 6;
3. The Board concludes that the proposed special exception **will** - **will not** be in substantial harmony with the area in which it is located based on the following findings of fact:
 - a. The separation criteria set by the ordinance is met, and the proposed use is compatible with the existing adjacent uses;

4. The Board concludes the special exception will - will not discourage or negate the use of surrounding property for uses(s) permitted by right based on the following findings of fact:

- a. The proposed use will not discourage or negate the use of surrounding property for uses permitted by right in the general commercial zoning district. The GC district is intended to “accommodate the broadest possible range of commercial uses.” This location meets the 300 ft. separation requirement, as measured from structure to structure, from residential uses, churches, schools, or public playgrounds on separately plotted parcels.

THE BOARD, THEREFORE, ORDERS that the special exception is DENIED – GRANTED with 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.
