

Sumter City-County Board of Zoning Appeals

October 8, 2014

BOA-14-10, 45 Frazier St. (City)

The Applicant is requesting a variance from Article 3, Section C, Exhibit 3-1 Minimum Lot Width for Detached Dwellings, in order to subdivide a 112.02 ft. wide parcel into two lots with 40.95 ft. and 71.07 ft. of lot width. The property is located at 45 Frazier St., represented by Tax Map # 229-15-03-060 and is zoned Residential (R-6)



Appeals - Variance - Special Exception

Sumter City-County Zoning Board of Appeals

October 8, 2014

BOA-14-10, 45 Frazier St. (City)

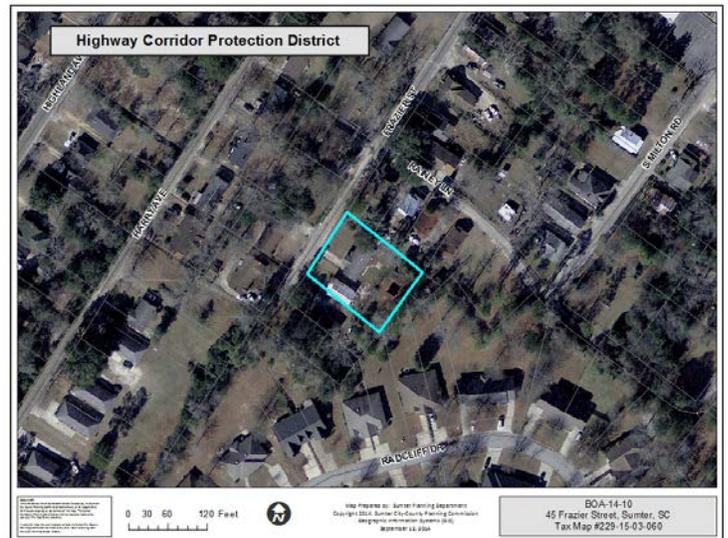
I. THE REQUEST

Applicant:	Luis Rodriguez
Status of the Applicant:	President & CEO for Santee-Lynches Affordable Housing and Community Development Corporation, Property Owner
Request:	The applicant is requesting a variance from Article 3, Section C, Exhibit 3-1 Minimum Lot Width for Detached Dwellings, in order to subdivide a 112.02 ft. wide parcel into two lots with 40.95 ft. and 71.07 ft. of lot width.
Location:	45 Frazier St. (49 & 51 Frazier St. – Mailing addresses)
Present Use/Zoning:	Single Family Residential / R-6
Tax Map Reference:	229-15-03-060

II. BACKGROUND

Frazier St., shown in the orthophoto to the right, is a +/-0.36 acre parcel located on Frazier St., a dead end residential street accessed from Broad St.

There are currently two dwellings on the property—49 Frazier St. and 51 Frazier St. 51 Frazier St. is a dilapidated, boarded up structure that is not habitable; 49 Frazier St. is being rented by the applicant to a tenant. The applicant wishes to subdivide the parcel into two lots in order to sell 51 Frazier St. while retaining 49. In the R-6 zoning district, single-family residential lots are required to have a minimum of 60 ft. of lot width. The overall tract is only 112.02 ft. wide, approximately 8 ft. narrower than the



minimum 120 ft. required for subdivision of the tract into two compliant parcels. Additionally, existing building placement prevents the even subdivision of the lot.

Based on the Sumter County Assessor's Record, 49 Frazier St. is a 1086 sq. ft. single-family dwelling constructed in 1972 and 51 Frazier St. is a 777 sq. ft. single-family dwelling constructed in 1952. As per the applicant's letter submitted in support of the variance request, the applicant states the following:

“Santee-Lynches Affordable Housing and Community Development Corporation is requesting a variance in order to sell a parcel of land that would otherwise continue to blight the neighborhood.

Santee-Lynches is interested in selling a parcel of land located next door to 49 Frazier Street to Mr. William Norris. Mr. Norris is the brother of Ms. Carolyn Dicks who rents 49 Frazier Street from Santee-Lynches CDC. Santee-Lynches purchased both parcels together. Each parcel contained one house. 49 Frazier could be rehabilitated while the other house (51 Frazier) is too far gone to repair.

Mr. Norris wants to purchase the property, raze the dilapidated house and clear an area for family gatherings and parking while visiting. Mr. Norris was raised in Sumter, is retired and has lived in Columbia for 45 plus years. He is not moving to Sumter but would like to have a place to enjoy outdoor activities while visiting family in Sumter.

The entire parcel has 112' of curbside. This is too small to provide the 60' minimum to both parcels. We are requesting a variance in order to sell the adjacent parcel to Mr. Norris...”

If the requested variance is granted, 51 Frazier St. would become a 40.95 ft. wide 0.143 acre vacant lot. The following photographs show the existing buildings on the property.

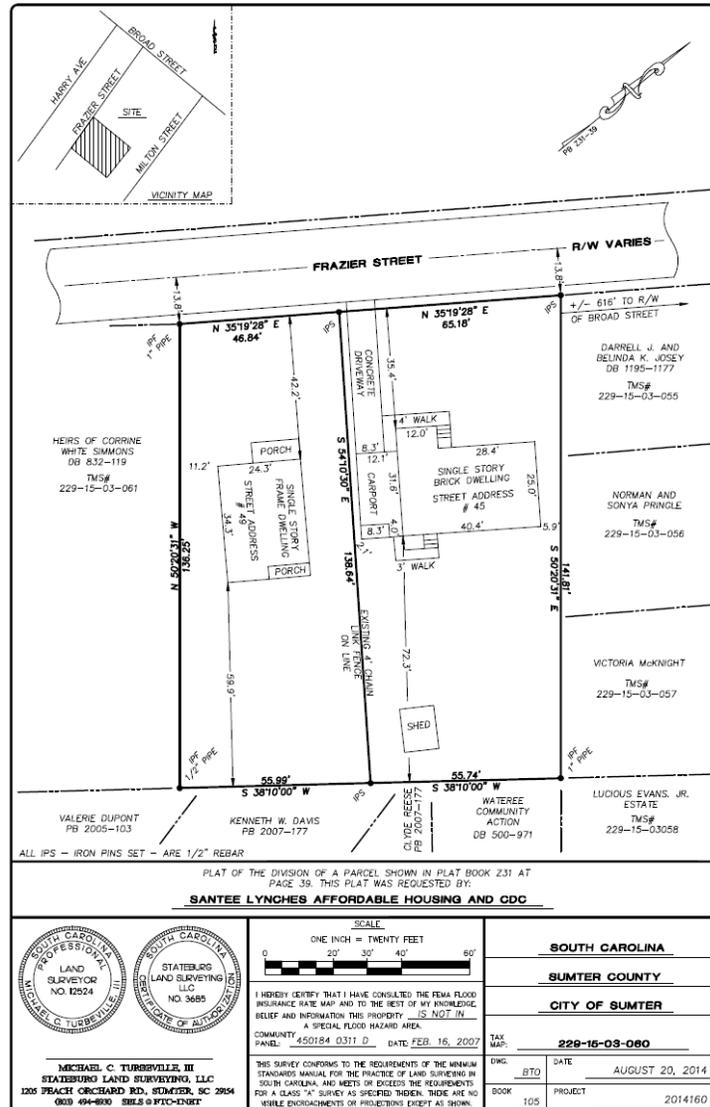


Above: Dwelling Identified as 49 Frazier St. in the applicant letter.



Above: Dwelling identified as 51 Frazier St. in the applicant letter.

The applicant also submitted this proposed subdivision plat to define the proposed new lots.



Single-family residential lots in the R-6 District are required to meet the minimum development standards for uses in the R-6 district as highlighted in yellow in Exhibit 3-1 below.

**EXHIBIT 3-1
DEVELOPMENT STANDARDS FOR USES IN R-6 DISTRICT**

	Non-Residential Uses	Detached Dwellings	Duplex Dwellings	Patio Homes and Zero Lot Line Housing Projects	Townhouses ****	Triplex and quadruplex dwellings
Minimum Lot Area Per Structure (sq. ft.)	N/A	6,000	10,000	5,000	2,000	N/A
Minimum Site Area	N/A	N/A	N/A	2 acres	2 acres	2 acres
Minimum Lot Width	N/A	60 ft.	80 ft.	45 ft.	16 ft.	150 ft.
Minimum Yards, Per Structure:						
Front	25 ft.	25 ft. local/collector 45 ft. all others	35 ft. local/collector 45 ft. all others	25 ft. local/collector 45 ft. all others	15 ft. local/ collector 45 ft. all others	25 ft. local/collector 45 ft. all others
Side	25 ft.	8 ft.	10 ft.	0/8 ft. *	0/7.5 ft. **	30 ft.
Rear	50 ft.	20 ft.	20 ft.	20 ft.	20 ft.	35 ft.
Minimum Distance Between Buildings	30 ft.	N/A	N/A	N/A	15 ft.	40 ft.
Maximum Impervious Surface Percentage	45%	45%	45%	45%	65%	60%
Common Open Space Ratio (% project area) ***	N/A	N/A	N/A	N/A	20% ***	25% ***
Maximum Density (units per gross acre)	N/A	7.2	14	14	14	16
Maximum Height of Buildings	45 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.

* Minimum Side Yard Setback required on one side only.
 ** Zero between units, seven and a half (7.5) ft feet between end structure and side property line.
 *** For projects with ten (10) or fewer units, no common open space is required.
 **** Townhouse buildings shall not exceed eight (8) continuous units.

Change # 3

City – Zoning and Development
 Standards Ordinance
 January 2014

Article 3 | 7

In accordance with Article 6, this parcel is nonconforming with respect to site development standards-specifically the number of dwellings per parcel and side setback for 49 Frazier St.

Nonconforming sites are defined as, “any structure, building, house, shed, accessory dwelling, or improvement on real property, or any parcel, lot, or unimproved real property, that does not comply with Development Standards.”

As per Section 6.c.1., “A Nonconforming Site may continue to operate pursuant to this article. The Property Owner or permit Applicant bears the full burden of proof that any Nonconforming Site is a legally established one and has continually operated. Evidence may include proof of business license, utility statements, business transition (sic) receipts, tax returns or other documentation. The Zoning Administrator shall determine whether a situation is a legally Nonconforming Site as defined in this Article Six.”

Article 6, Section 6.c.2. further states, “If a Nonconforming Site is subject to a Discontinuance then any subsequent reuse, inhabitation, operation, or activity must be in compliance with this Article Six.”

Discontinuance at a nonconforming site is defined as, “*the discontinuance or cessation of operations or business activity at a structure for a continuous period of not less than eighteen months.*”

The Sumter County Assessor’s Record shows that Santee Lynches Affordable Housing (the applicant) acquired the property June 12, 2013. As the parcel and two dwellings have been under their ownership for less than 18 months, the Zoning Administrator has determined that the two dwellings on the same parcel represent a grandfathered nonconforming site of record that has not been subject to discontinuance.

Section 6.c.5. states, “***Nonconforming Sites Incapable of Compliance.*** *Sites, lots, or parcels that are physically constrained from complying with Development Standards shall comply to the maximum extent practicable, as determined by the Zoning Administrator.* Based on the grandfathered nonconforming status, 51 Frazier St. currently qualifies under the Ordinance to be issued permits for renovation of the dwelling to make it habitable.

In order to receive plat approval to subdivide the parcel, the requested variance must be granted.

III. FOUR PART TEST

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

The applicant’s submitted letter in support of the request indicated that, “*Santee-Lynches purchased both parcels together. Each parcel contained one house...*” However, based on review of historic plats, it appears that the dwelling addressed as 49 Frazier St. was knowingly placed on the same parcel with 51 Frazier St. as shown on the historic plat prepared by Julian B. Allen, dated 11/3/71 and recorded in Plat Book Z31 at page 39 (attached).

While the presence of two dwellings on one parcel of land is not common within the City of Sumter, the Zoning Ordinance does address how these situations should be handled in Article 6, Nonconforming Zoning Uses and Sites.

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

The property at 45 Frazier St. is the only parcel along Frazier that has two principal structures. Additionally, it is one of the widest parcels on the street at 112.02 ft. of width. A majority of the parcels are 50 ft. wide, which was a common lot width for the time period in which this area was developed. The predominant pattern of development along Frazier St. is single-family detached residential with some vacant lots.

- 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 applicant wishes to subdivide the parcel in order to sell 51 Frazier St. thereby having the new owner remove the dilapidated dwelling to create a vacant lot.

Based on the existing lot width of 112.02 ft. there is not sufficient width to create two Ordinance complaint parcels. In addition, due to placement of the structure identified as 49 Frazier St., it is not possible to subdivide the tract into two 50 ft. wide parcels, which would be similar to other parcels along Frazier St.

However, under Article 6, 51 Frazier St. may be rehabilitated for residential use without subdividing the tract of land. Additionally, the dwelling at 51 Frazier St. may be demolished without subdivision of the parcel of land as well. Neither one of these actions affects the utility nor status of the dwelling currently being rented at 49 Frazier St.

- 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.***

That authorization of the variance to subdivide the parcel will not be of substantial detriment to adjacent property as the neighboring property to the north will be insulated from the creation of a new lot by the presence of the dwelling at 49 Frazier St. and the lot to the south appears to be uninhabited and in disrepair. That being said, the proposed future use of the property may harm the character of the district in that it is not proposed to be redeveloped for single-family residential but to be used for vehicle parking and private outdoor recreation not affiliated with a dwelling.

IV. STAFF RECOMMENDATION

When looking at the proposed future use, neither vehicle parking nor private parks are permitted or conditionally permitted in the R-6 zoning district. As outlined in excerpts from Section 1.h.4.b. below, the Board is offered guidance in what is within its powers to grant.

1.h.4.b. Variances:

2. *The Board may not grant a variance the effect of which would be to:*

- a. *Allow the establishment of a use not otherwise permitted in a zoning district;*
- b. *Extend physically a nonconforming use of land;*

c. Change zoning district boundaries shown on the Sumter City-County Official Zoning Map.

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

While it is understandable that the applicant would pursue an opportunity to subdivide and sell an unused portion of property, granting of variances to accomplish said goal is in conflict with Section 1.h.4.b. referenced above. Based on not meeting the requirements of the four-part test and in conjunction with the guidance in Section 1.h.4.b, Staff recommends denial.

V. DRAFT MOTIONS FOR BOA-14-12

- A. I move that the Zoning Board of Appeals deny BOA-14-10, subject to the findings of fact and conclusions contained in the draft order, dated October 8, 2014 attached as Exhibit 1.
- B. I move that the Zoning Board of Appeals approve BOA-14-10, subject to the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-14-10.

VI. BOARD OF ZONING APPEALS – OCTOBER 8, 2014

The Sumter City-County Board of Appeals at its meeting on Wednesday, October 8, 2014, voted to approve this request with the following condition:

- Demolition and restoration of the lot, identified as 51 Frazier Street in report, must be done within 6 months.

Exhibit 1

Order on Variance Application Board of Zoning Appeals

**BOA-14-10, 45 Frazier St. (City)
October 8, 2014**

Date Filed: October 8, 2014

Permit Case No. BOA-14-10

The Board of Zoning Appeals held a public hearing on Wednesday, October 8, 2014 to consider the appeal of Santee-Lynches Community Development Corporation, 255 Broad St., 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 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:

There are extraordinary circumstances. It is a long lot with two structures on it and this is not common.

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:

It is the only lot on Frazier Street that has two principal structures.

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:

There are two structures on this parcel. One is dilapidated on this parcel and it is going to stay like that if we don't take action.

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:

Not granting this variance will be a detriment to the public good. It will continue with a dilapidated house on a lot like we have all over this county.

THE BOARD, THEREFORE, ORDERS that the variance is **GRANTED** **DENIED with the following conditions:**

- Demolition and restoration of the lot, identified at 51 Frazier street in the report, must be done within 6 months.

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.