

# Sumter City-County Board of Zoning Appeals

October 8, 2014

## BOA-14-11, 6 N. Blanding St. (City)

The applicant is appealing the Zoning Administrator's decision regarding the Zoning Ordinance provision requiring site improvements to a vacant lot prior to being used for the temporary or long term storage of vehicles.



Appeals - Variance - Special Exception

# Sumter City-County Board of Appeals

October 8, 2014

## BOA-14-11, APPEAL – 6 N. Blanding St. (City)

### I. THE REQUEST

**Applicant:** James F. Price

**Status of the Applicant:** Property Owner

**Request:** Appeal of the Zoning Administrator’s Decision

**Location:** 6 N. Blanding St.

**Present Use/Zoning:** Vehicle Storage and Truck Parking/General Commercial

**Tax Map Reference:** 228-11-03-055

### II. TIMELINESS OF THE APPEAL

On July 25, 2014, the Applicant, James F. Price submitted a written request for a Zoning Determination (Exhibit 1). *Note: this letter was dated July 2, 2014, but received July 25, 2014.*

On July 29, 2014, the Zoning Administrator, Donna McCullum, responded to the Applicant by issuing a formal Zoning Determination (Exhibit 2).

On September 11, 2014, the Applicant filed an Appeal of the July 29, 2014, Zoning Administrator decision (Exhibit 3, Form 1&2).

It is Staff’s position that the Appeal was not filed in a timely manner and therefore should be dismissed and denied. Section 1.h.4.a. of the Sumter City Zoning and Development Standards Ordinance entitled *Appeals from administrative interpretation* states,

*An appeal shall be taken within thirty (30) days from the date of the decision rendered by the Zoning Administrator by filing with his or her office a written notice of appeal specifying the grounds thereof.*

The appeal was filed on September 11, 2014, forty-four (44) days after the Zoning Determination was made. The appeal failed to be filed in a timely manner and was not filed with the required thirty (30) days.

**We ask the Appeal be Denied.**

**III. BACKGROUND**

In the Alternative, there is no merit to the Applicant's appeal. In his July 2 letter, received July 25, 2014 (Exhibit 1), to the Zoning Administrator, the Applicant asked,

*Does allowing someone to park on my property with no transaction involved, cause my property to meet the legal definition of parking lot?*

The Zoning Administrator responded on July 29, 2014 finding that the parking of cars and trucks on a parcel constitutes a commercial use and therefore subject to the development standards of the Zoning Ordinance, including, but not limited to, landscaping, paved parking, stormwater solutions, etc. The full Zoning Determination, with specific Ordinance references, is attached as Exhibit 2.

The Applicant also argues that *"upgrading to Staff's suggestion,(sic) will cost as much as the property cost with no return on investment on my part."* In response, we offer that the development standards are not a suggestion but a requirement of the Zoning Ordinance as adopted by Sumter City Council. Moreover, the cost of the improvements is not relevant and cannot be a factor considered upon appeal.

The Applicant further states that the parcel is *"a private lot, no commercial activity, setting vacant (sic), no consumer traffic, vehicles can set here and not be a parking lot."* We note for the record, and offer as Exhibit 4, pictures and signed affidavits from the Zoning Enforcement Officer showing parked Budget Rental Trucks and other vehicles at 6 N. Blanding between September 15-22, 2014. The trucks are connected to the Gas Station and Rental Truck operation located on an adjacent parcel and located at 501 W. Liberty St. The Applicant, Mr. Price, is also the owner of 501 W. Liberty St.

Staff and the Applicant have maintained continued discussions regarding the issue. These discussions have evolved, as documented in an August 29, 2014 letter from the Zoning Administrator to the Applicant (Exhibit 5). The Applicant raised the issue of parking Rental Trucks on the property. The Zoning Administrator responded, stressing the fact that the commercial activity was permitted in the GC zoning district but, like all commercial activity, subject to site plan submission requirements and applicable Zoning Ordinance development standards.

Those standards from Article 8 and Article 9 of the Zoning Ordinance have been illustrated and provided for the applicant and can be found in Exhibit 6, attached.

In summary, whether the applicant intends to park vehicles on this parcel or use the parcel as an expansion of the existing Rental Truck business begets the same answer: the uses are commercial in nature and constitute at a minimum a parking lot and, perhaps due to the evolving nature of the Applicant's plans, a Rental Truck storage area.

A parking lot is identified in the Zoning Ordinance according to SIC 7521; the rental truck operation according to SIC 7513. The Zoning Ordinance governs the use of property and all property contains a primary use—unless vacant. The Zoning Ordinance governs both public and private property so ownership, rent, or contractual agreements between parties are not relevant to the application of the ordinance and its standards.

Finally, Webster's defines a parking lot as *an area used for the parking of motor vehicles*<sup>1</sup>.

The Applicant proposes to develop a parking lot. The use is a commercial use subject to all applicable Zoning Ordinance standards.

#### **IV. DRAFT MOTIONS**

- A.** I move that the Sumter Board of Appeals deny BOA-14-11 (APPEAL) on the grounds it was not filed in a timely manner, subject to the findings of fact and conclusions contained in the draft order dated October 8, 2014, identified as Exhibit 7.
- B.** I move that the Sumter Board of Appeals deny BOA-14-11 (APPEAL), subject to the findings of fact and conclusions contained in the draft order dated October 8, 2014, identified as Exhibit 8.

#### **V. ZONING BOARD OF APPEALS – OCTOBER 8, 2014**

The Sumter City-County Board of Appeals at its meeting on Wednesday, October 8, 2014, voted to accept the Zoning Administrators findings and deny your appeal as outlined in the Order on Appeal dated October 8, 2014, attached as Exhibit 8.

#### **Attachments**

1. Letter from James F. Price, dated July 2, 2014 and received July 25, 2014
2. Zoning Administrator Determination Letter July 29, 2014
3. Applicant Appeal Filing Form 1 and Form 2.
4. Zoning Enforcement Officer Affidavits
5. Letter from Zoning Administrator, August 29, 2014
6. Required Development Standards Illustrative

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<sup>1</sup> Merriam-webster.com

**Exhibit 8**  
**Order on Appeal**  
**Sumter Board of Appeals**

**BOA-14-11, 6 N. Blanding St. (City)**  
**October 8, 2014**

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Date Filed: October 8, 2014

Permit Case No. BOA-14-11

The Board of Zoning Appeals held a public hearing on Wednesday, October 8, 2014 to consider the APPEAL of James F. Price, 3495 Hwy. 15 North., Sumter, SC 29153 pursuant to Sections Article 1.h.4.a.1 and Article 1.i.2.b of the Sumter City – Zoning & Development Standards Ordinance as set forth on Form 2 for the property described on Form 1.

- After the consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.
- The Applicant requested a Zoning Determination on July 25, 2014.
- The Zoning Administrator issued a formal Zoning Determination on July 29, 2014.
- The Applicant proposes to develop a parking lot as defined by the Sumter City Zoning and Development Standards Ordinance.
- The parking lot corresponds to SIC 7521 and the storage of rental vehicles corresponds to SIC 7513. Both uses are found in the Exhibit 5 Use Table of the Zoning Ordinance.
- SIC 7521 and SIC 7513 are subject to all applicable standards found in the Zoning Ordinance.
- There is no error in the Zoning Administrator’s interpretation of the Zoning Ordinance.

THE BOARD, THEREFORE, ORDERS that the APPEAL is  **DENIED** –  
 **GRANTED**:

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.**