

# Sumter City-County Board of Zoning Appeals

November 12, 2014

December 10, 2014

## **BOA-14-13, 1381-1383 Mooneyhan Road (City)**

The applicant is requesting a variance from the one (1) acre minimum lot size requirement in the Agricultural Conservation Zoning District per Article 3, Section N, 3.n.5.a Agricultural Conservation District, in order to subdivide a .530 acre parcel from a 1.632 acre parcel for a Lifetime Transfer.



Appeals - Variance - Special Exception

# Sumter City-County Board of Appeals

November 12, 2014

## BOA-14-13, Alton Meeler, 1381-1383 Mooneyhan Rd. (County)

### I. THE REQUEST

<b>Applicant:</b>	Alton Meeler
<b>Status of the Applicant:</b>	Property owner
<b>Request:</b>	Minimum lot size variance for subdivision of a lot into two parcels.
<b>Location:</b>	1381-1383 Mooneyhan Rd.
<b>Present Use/Zoning:</b>	Single-family home/Agricultural Conservation
<b>Tax Map Reference:</b>	252-00-04-004
<b>Required Minimum Lot Area:</b>	1 acre.
<b>Requested Lot Area:</b>	.53 acre
<b>Requested Lot Variance:</b>	.47 acre

### II. BACKGROUND

The applicant desires to create two parcels from one existing parcel in the Agricultural Conservation (AC) zoning district. The intent of this subdivision is to divide a lot in the back of the property to place a mobile home for his daughter to live in. This division will be part of a Lifetime Conveyance to his daughter. His house is situated on the front of the property.

The Planning office got a complaint and after looking into the situation realized that staff had approved a plat in error (**Exhibit 1**) on Sept. 4, 2014 and the applicant had already moved the mobile home to the back lot without a mobile home certification.

Staff met with the applicant (September 30, 2014) and explained that the plat was approved in error because the back lot does not meet the one acre minimum. The lot size would have to go to

the Board of Zoning Appeals to be approved. The applicant filed for a variance from the Board of Appeals that same day. He was also issued a Notice of Violation for placing the mobile home on the lot without zoning approval and proper permits and given until October 17, 2014 to remove the mobile home. Zoning enforcement followed up on October 20, 2014 and the mobile home was still there so a summons was hand delivered to applicant and court set for November 17, 2014. The applicant's reasoning for not removing the mobile home was that he wanted to go before this Board to see if he could get the variance. If the variance is granted then he would not have to move the mobile home off the lot and then move it back. The applicant stated that his wife passed away back in June of this year and he needs his daughter close by to watch over him because of brain illness.

### **Ordinance Regulations**

In the Agricultural Conservation zoning district the following regulations apply to subdividing lots:

***3. n.5. Development Standards:*** *Notwithstanding development standards set forth elsewhere by this Ordinance, the following minimum requirements shall apply within the AC, Agricultural Conservation District:*

***a. Lot Requirement (Minimum)***

*Minimum lot width requirement in the AC District is 60.*

*Depth: There is no minimum lot depth requirement in the AC District.*

***Lot Area: 1 acre minimum***

This section of the ordinance explicitly requires all lots in the AC zoning district to have a minimum lot size of 1 acre. The resulting lot sizes of the applicant's proposed subdivision would be for the parcel in the front- 1.1 acre and the parcel in the back- .53 of an acre. The applicant would be essentially creating one non-conforming lot from an existing conforming lot. The development standards required by this zoning district provide no way to subdivide this particular parcel without granting a minimum lot size variance for the back parcel.

It should be noted that the Board of Appeals has granted lot area variances in the past but cases involved multiple existing structures on a single parcel and the lot area variances were used to make non-conforming lots less non-conforming and give each structure its own parcel of property.



**Above: Mr. Meeler's House**

**Below: Daughter's Mobile Home**



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

Pursuant to the County of Sumter Zoning Ordinance section 1.h.4.b:

**The Board of Zoning Appeals shall have the following powers and duties:**

1. To hear and decide appeals for variances from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains all of the following:

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

There are no extraordinary and exceptional conditions pertaining to this particular piece of property. This is a 1.63 acre lot that is relatively uniform in size and shape. There are no exceptional conditions on the parcel that prohibit the use of any portion of it.

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

These conditions do apply to other property in the vicinity. There is nothing peculiar or unique about the size, shape, or topography of this lot. All lots in the AC Zoning district are required to meet the same 1 acre minimum lot size.

- 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 conditions imposed on this particular piece of property do not effectively prohibit or unreasonably restrict the utilization of the property. Not granting the applicant a variance on the lot sizes does not pose any unreasonable restrictions on this parcel. Property is currently being used as residential and several accessory buildings.

- 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 minimum lot size requirement exists to protect the health, safety and welfare of the community and preserve the character of the zoning district. This will create another nonconforming lot.

#### **IV. STAFF RECOMMENDATION**

Staff finds that this request fails to satisfy the four part test. As a result, staff recommends denial of this request. The intent of the Zoning Ordinance is to allow existing nonconforming lots created under some prior ordinance to exist as a lot of record and continue to be used but not to continue creating nonconforming lots.

#### **V. DRAFT MOTIONS - BOA-14-13**

- A. I move that the Zoning Board of Appeals deny BOA-14-13, subject to the findings of fact and conclusions contained in the draft order, dated Nov. 12, 2014 attached as Exhibit 1.
- B. I move that the Zoning Board of Appeals approve BOA-14-13 on the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-14-13.

#### **VI. ZONING BOARD OF APPEALS – NOVEMBER 12, 2014**

The Sumter City-County Board of Appeals at its meeting on Wednesday, November 12, 2014, voted to defer this request for 30 days. This request will return before the board on December 10, 2014 at 3:00 p.m.

#### **VII. ZONING BOARD OF APPEALS – DECEMBER 10, 2014**

The Sumter City-County Board of Appeals at its meeting on Wednesday, December 10, 2014, voted to deny this request subject to the findings of fact and conclusions contained in the draft ordered dated November 12, 2014/December 10, 2014.

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

**BOA-14-13, Alton Meeler– 1381-1383 Mooneyhan Rd. (County)**  
**November 12, 2014**  
**December 10, 2014**

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Date Filed: December 10, 2014

Permit Case No. BOA-14-13

The Board of Zoning Appeals held a public hearing on Wednesday, November 12, 2014 to consider the appeal of Alton Meeler of 1381 Mooneyhan Rd., 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 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 no extraordinary and exceptional conditions pertaining to this particular piece of property. This is a 1.63 acre lot that is relatively uniform in size and shape. There are no exceptional conditions on the parcel that prohibit the use of any portion of it.

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 do apply to other property in the vicinity. There is nothing peculiar or unique about the size, shape, or topography of this lot. . All lots in the AC Zoning district are required to meet the same 1 acre minimum lot size.

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 conditions imposed on this particular piece of property do not effectively prohibit or unreasonably restrict the utilization of the property. Not granting the

applicant a variance on the lot sizes does not pose any unreasonable restrictions on this parcel as this parcel as it currently has a house and accessory buildings on it.

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:

However, the minimum lot size requirement exists to protect the health, safety and welfare of the community. This will create another nonconforming lot.

**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.**

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