

Sumter City-County Board of Zoning Appeals

March 11, 2015

BOA-15-01, 2310 & 2330 Emil Rd. (County)

The applicant is requesting a variance from Article 3, Section N, 3.n.5.a to reduce the minimum lot size from one acre to 0.96 acre in order to subdivide and create three parcels in the AC Zoning District.



Appeals - Variance - Special Exception

Sumter City-County Zoning Board of Appeals

BOA-15-01, 2310 & 2330 Emil Rd. (County)

I. THE REQUEST

Applicant: Patricia A. Epps

Status of the Applicant: Property owner's sister

Request: Variance from minimum lot size of one acre for Agricultural Conservation (AC) zoning district in order to create 3 parcels from 2 parcels of property.

Location: 2310 & 2330 Emil Rd.

Present Use/Zoning: Agricultural Conservation (AC)/
Three existing residential dwellings

Tax Map 126-00-03-004 & 126-00-03-005

II. BACKGROUND

The applicant, Patricia Epps, is requesting a variance in order to subdivide three separate parcels from two existing parcels (+/- 0.93 acres and +/- 1.9 acres) located on Emil Rd. Properties have three existing houses on them. The Property owner is Azalee Gayle (applicant's mother) and she lives in the first house at 2310 Emil Rd. Two of Ms. Gayle's daughters live in the two adjacent houses.



Below are photos of the houses:

Lot A



Lot B



Above Mobile home being removed on left, and replaced with new one on Lot C

III. THE REQUEST

The property owner wishes to retain one parcel for her home (Lot A) and give each daughter a piece of property with their homes (Lots B & C). Emil Road is a public, state-maintained road. Proposed lots meet the road frontage, lot width requirements and have no width to depth issues.

Therefore, the applicant is seeking a variance from the minimum lot size of (1 acre) in the Agricultural Conservation (AC) zoning district for all three of the 0.96 acre parcels to be created. The interior lot line on one side for Lot B is somewhat irregular (shown on previous plat) in order for the single wide mobile home to meet 12 foot side setbacks and still maintain as close to one acre in lot size as possible. The double wide mobile home on the right / easternmost side of the parcels (Currently crossing property lines for Lots B & C) is to be removed and replaced with new one on Lot C and will have to comply with setbacks for the district.

The minimum lot size for a single family dwelling in the AC zoning district is one acre. The proposed parcels once subdivided will be 0.96 of an acre each as shown on the previous plat. Therefore, the applicant is requesting a variance of 0.04 of an acre for all three lots.

IV. FOUR-PART TEST

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

There are extraordinary conditions pertaining to this property. Although it is of a similar size and shape to the surrounding parcels, the adjacent lots only have one residence on them, whereas one of these parcels has two residences with one structure crossing the interior property line. This property exists as a nonconforming parcel today because of noncompliant number of structures and setbacks. This property also involves the distribution of land among family members.

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

The surrounding homes appear to each be situated on their own separate parcels, unlike this property.

- 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.***

Without the approval of this variance, the property cannot be divided in order to equally distribute the acreage between the three existing residences. This proposed

division will actually clean up nonconforming issues with number of residences per parcel and bring setbacks into compliance.

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.*

Because the three residences on these parcels already exist, there will be no physical change to the district. Therefore, no harm will be created towards the character of the adjacent properties.

V. STAFF RECOMMENDATION

Staff recommends approval of BOA-15-01.

VI. DRAFT MOTIONS for BOA-15-01.

- A. I move that the Sumter Board of Appeals approve BOA-15-01 subject to the findings of fact and conclusions contained in the draft order dated March 11, 2015, attached as Exhibit 1.
- B. I move that the Sumter Board of Appeals deny BOA-15-01.

VII. BOARD OF ZONING APPEALS – MARCH 11, 2015

The Sumter City-County Board of Appeals at its meeting on March 11, 2015, voted to approve this request subject to the findings of fact and conclusions contained in the draft order dated March 11, 2015.

Exhibit 1
Order on Variance Application
Board of Zoning Appeals
BOA-15-01, 2310 & 2330 Emil Rd. (County)
March 11, 2015

Date Filed: March 11, 2015

Permit Case No. BOA-15-01

The Board of Zoning Appeals held a public hearing on Wednesday, March 11, 2015 to consider the request of Patricia Epps, 620 Adger Lane, Sumter, SC 29154 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 the 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 conditions pertaining to this property. Although it is of a similar size and shape to the surrounding parcels, the adjacent lots only have one residence on them, whereas one of these parcels has two residences with one structure crossing the interior property line. This property exist as a nonconforming parcel today because of noncompliant number of structures and setbacks. This property also involves the distribution of property among family members.

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:

The surrounding homes appear to each be situated on their own separate parcels unlike this property.

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 unreasonable restrict the utilization of the property based on the following findings of fact:

Without the approval of this variance, the property cannot be divided in order to equally distribute the property between the three existing residences. This proposed division will actually clean up nonconforming issues with number of residences per parcel and bring setbacks into compliance.

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:

Because the three residences on these parcels already exist, there will be no physical change to the district. Therefore, no harm will be created towards the character of the adjacent properties.

THE BOARD, THEREFORE, ORDERS that the variance is DENIED – GRANTED, subject to the following conditions:

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.