

Sumter City-County Board of Zoning Appeals

August 12, 2015

BOA-15-08, 5055 Ellerbe Mill Rd. (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

August 12, 2015

BOA-15-08, Drinking Place – 5055 Ellerbe Mill Rd. (County)

I. THE REQUEST

Applicant: Yolanda Rufus

Status of the Applicant: Business Owner

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

Location: 5055 Ellerbe Mill Rd.

Present Use/Zoning: Existing Commercial Building/AC

Tax Map Reference: 089-00-01-002

II. BACKGROUND

The applicant desires to open a drinking place at 5055 Ellerbe Mill Rd. shown in the photograph below.



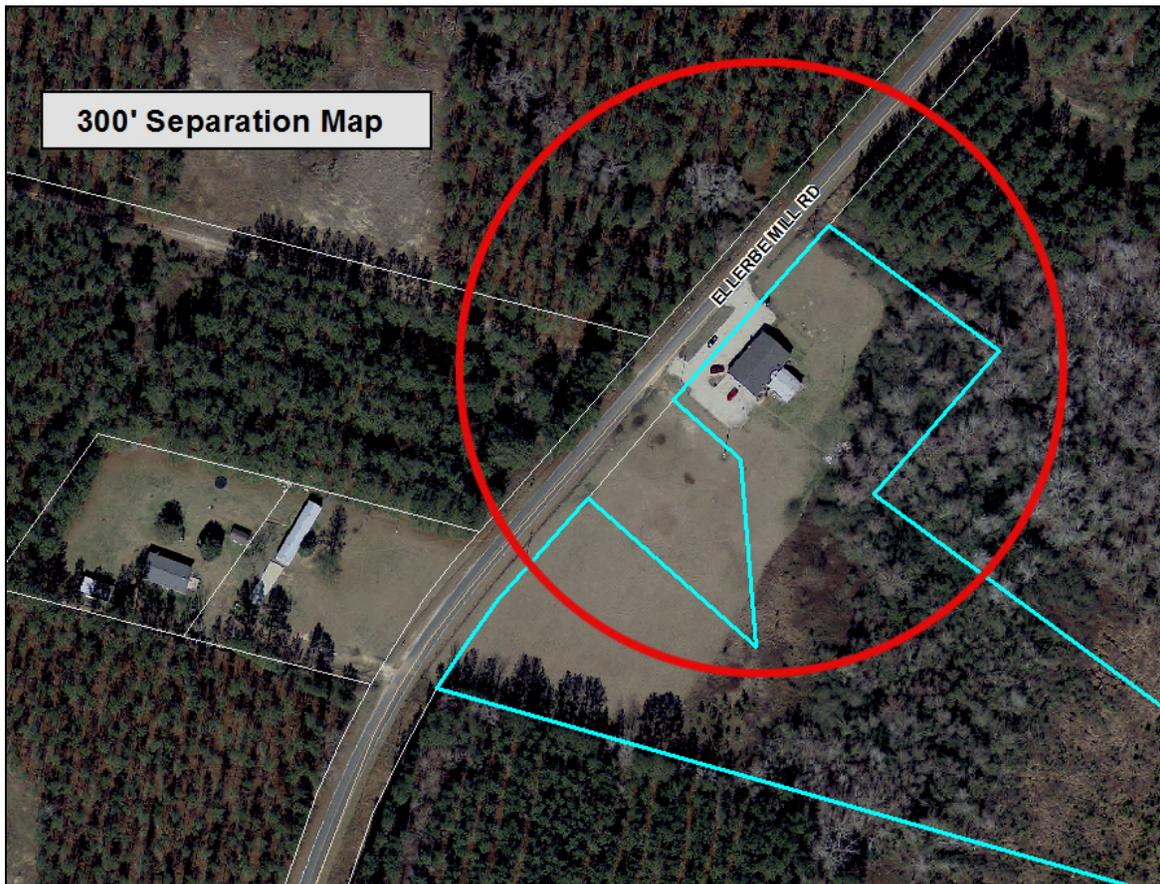
Historically, this location has been used as a convenience store and still has an active business license for that use, although there is currently not an open business.

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. 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 site is located in a very rural setting. Historically, the site has been used for a convenience store. The closest residence to proposed bar (measured from structure to structure) is 478 feet, and it is beyond a bend in the road so it is not within sight. The next residence is 1600 feet away. There are a handful of residences along Ellerbe Mill Rd., and the remainder of the area is vacant timber and agricultural land. The remoteness of the property can be seen in both positive and negative respects, with regards to a drinking establishment. Neighbor complaints about noise from music, etc. are unlikely because it is remote. However, in the event of a disturbance, it would probably be a long wait for law enforcement to arrive. The business owner intends to hire security personnel for the bar in order to help alleviate concerns about this issue.

- 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 because it is located in a quiet, rural setting and is only in proximity to a couple of residences. 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.

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.

Staff recommends that the property owner formulate a security plan, hire security personnel and notify the Sheriff's Department of the bar's location. Any measures taken to counteract the risk of being located at a remote location are beneficial to this proposed use.

IV. DRAFT MOTIONS

- A.** I move that the Sumter Board of Appeals approve BOA-15-08 subject to the findings of fact and conclusions contained in the draft order dated August 12, 2015, attached as Exhibit 1.
- B.** I move that the Sumter Board of Appeals deny BOA-15-08 on the following findings of fact and conclusions:
- C.** I move that the Zoning Board of Appeals enter an alternative motion for BOA-15-08.

V. BOARD OF ZONING APPEALS – August 12, 2015

The Sumter Board of Appeals at its meeting on Wednesday, August 12, 2015, approved this request subject to the findings of fact and conclusions contained in the draft order dated August 12, 2015.

Exhibit 1
Order on Special Exception Application
Sumter Board of Appeals

BOA-15-08, 5055 Ellerbe Mill Rd. (County)
August 12, 2015

Date Filed: August 12, 2015

Permit Case No. BOA-15-08

The Board of Zoning Appeals held a public hearing on Wednesday, August 12, 2015 to consider the request of Yolanda Rufus, 9 Darby Lane, Lugoff, SC 29078 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 in it's entirety as the location is not subject to a discontinuance as outlined in Article 6; but is required to submit a parking plan so to comply with increase in required parking spaces for the new use.
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, as it is located in a very rural setting with predominantly vacant and agricultural land, and sparsely located residential dwellings. 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: _____

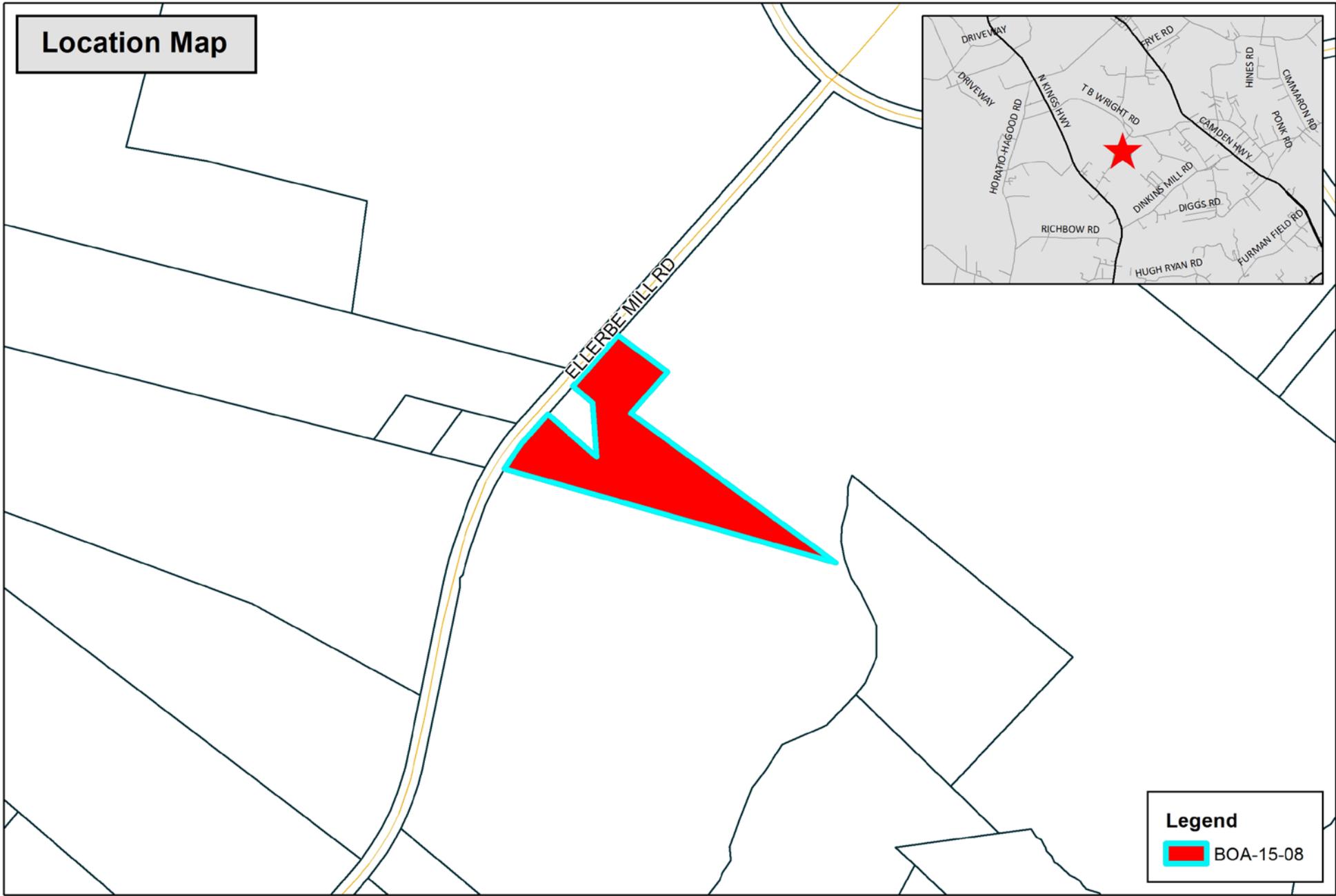
Chairman

Date mailed to parties in interest: _____

Secretary

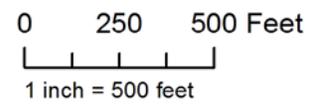
Notice of appeal to Circuit Court must be filed within 30 days after date this Order was mailed.

Location Map



Legend
 BOA-15-08

DISCLAIMER:
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Map Prepared by: Sumter Planning Department
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Geographic Information Systems (GIS)
Date: 7/21/2015

BOA-15-08
5055 Ellerbe Mill Rd., Rembert, SC
Tax Map # 089-00-01-002