Sumter City-County Board of Zoning Appeals

June 10, 2015

BOA-15-05, 2849 September Dr. (County)

The applicant is requesting several variances (1) variance from Article 4, Section G, 4.g.2.b.2 to reduce the building separation criteria from 10 feet to 8 ft. between a principal structure and detached accessory structure (2) variance from Article 4, Section G, 4.g.2.b.5.a to reduce one side setback from 10 feet to 5 ft. and (3) variance in size from maximum 1000 sqft in order to allow the completed construction of a 1400 sq. ft. detached accessory building. The property is located at 2849 September Dr. represented by Tax Map # 183-03-02-009 and zoned Residential-15(R-15).

Sumter
SOUTH CAROLINA

Appeals - Variance - Special Exception

Sumter City-County Zoning Board of Appeals

June 10, 2015

<u>BOA-15-05, 2849 September Dr. (County)</u>

I. THE REQUEST

Applicant: Monica M. Plikus

Status of the Applicant: Property owner

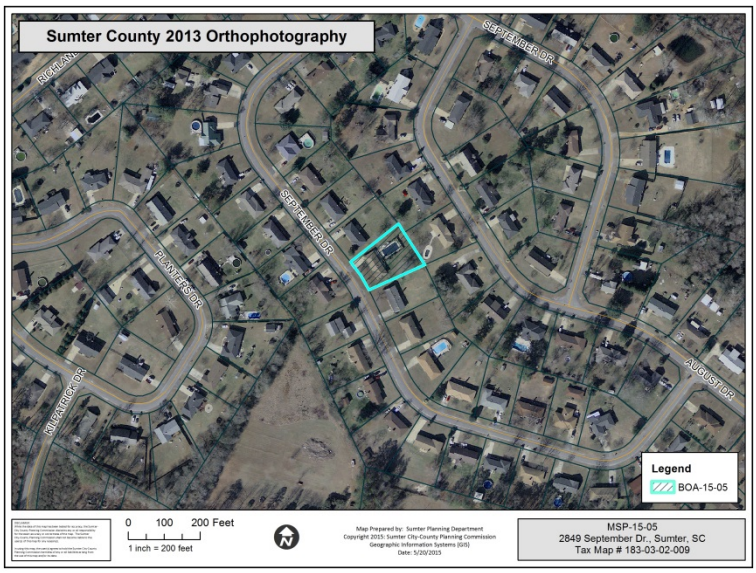
Request: The applicant is requesting multiple variances (1) to reduce the building separation requirement between a principal structure and an accessory structure to 8 ft. (2) to reduce the one side setback to 5 ft. and (3) a variance for an increase of 400 sq. ft. from the maximum size of 1000 sqft in order to allow a pre fabricated metal accessory structure to remain as is in the rear yard of this property.

Location: 2849 September Dr. (Summer View Estates)

Present Use/Zoning: Single Family Residential / R-15 (Residential-15)

Tax Map Reference: 183-03-02-009

II. <u>BACKGROUND</u>



2849 September Dr., shown in the orthophoto to the right, is a +/-0.44 acre parcel located in the Summer View Estates Subdivision off Keels Rd.

Based on the Sumter County Assessor's Record, the dwelling was constructed in 1985 and Applicant purchased property in 2013. At time of purchase, the property did not have an accessory building only an in ground pool. Applicant bought a new structure and hired contractor out of North Carolina to install this

structure right behind the house in the rear yard. The applicant wishes to use structure partly for storage/garage and partly as a swimming pool bath house. Neither the property owner nor the contractor secured a permit for placing the structure at this location. The only permits on file are for replacement of shingles on house (Permit # 2013-03608). Illegally, the applicant applied and was issued an electrical permit to place power on existing accessory building on April 8, 2015 (Permit # 2015-01300). This matter was brought to Planning staff's attention when applicant called for an electrical inspection on this building and the building inspector inquired about this being a new building with no permits on file.

Planning staff explained to the applicant that she would have to go before the Board of Appeals to request the variances in order for her building to remain. The applicant received a Stop Work Order from the Sumter City-County Building Inspection Department because there was an accessory structure completely constructed without permits.

During the process of rectifying the permitting issue, it was discovered that this was a new building not an existing building and that it does not meet the minimum building separation requirement nor does it meet the 10 ft. side setback standard for detached accessory structures and also exceeds the maximum square footage allowed for this size lot. The applicant furnished Planning staff with the actual measurements of the building from the house and the property lines so to determine the amount of variances needed for this request.

The applicant is requesting a variance to reduce the building separation requirement between the principal structure and an accessory structure from 10 to 8 feet, to reduce the side setback for a detached accessory structure from 10 to 5 ft. and to allow for a 1400 sqft building instead of the maximum1000 sq. ft. allowed for this size parcel.

The following photographs show the building and the property.

House with Accessory Building at Rear

Below: *Space between the accessory building and dwelling*

Above: *Space between accessory building and neighbor's fence*

Accessory Building

Rear Yard with Pool

Detached residential accessory structures are required to abide by the regulations outlined in ***Article 4, Section G, 4.g.2. Residential Accessory Structures***. Based on the development standards established in 4.g.2.b., detached accessory structures are required to be a minimum of 10 ft. from the principal structure and a minimum of 10 ft. from the side and rear property lines if the structure is greater than 1200sqft. The development standards for detached residential accessory structures are as follows:

4.g.2. Residential Accessory Structures: *Residential accessory structures shall comply with the following:*

b. Development Standards:

1. ***Maximum Height*** *– No accessory structure shall exceed the height of 25 ft., the height is the vertical distance between the finished grade along the front of the structure to the highest point of the structure.*

2. ***Separation Criteria*** *– No structure shall be located within* ***<u>10 ft</u>****. of the principal structure.*

3. ***Number*** *– No residential parcel shall have more than two (2) accessory structures; the aggregate floor area of both structures added together shall not exceed the maximum size allowed under Exhibit 8A.*

4. ***Location Requirements*** *– Detached garages shall only be located in the side or rear yard of a parcel and shall be located no further forward on the lot than the principal structure; storage buildings shall be located in the rear yard only.*

5. ***Setbacks*** *–* ***<u>Note: accessory structures over 1200 sq. ft.in size must be a minimum of 10 ft. from all side and rear property lines.</u>***
   a. *Interior Lots: Front – N/A/; Sides – 5 ft.; Rear – 5 ft.*

   b. *Corner Lots: Front – N/A; Interior Side – 5 ft.; Exterior Side (local collector street) – 17.5'; Exterior Side (arterial street) – 22.5 ft.; rear – 5 ft.*

In order to receive a building permit for the structure at its current size and in the current location, all variances must be granted.

III. <u>FOUR PART TEST</u>

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

<u>There are no extraordinary or exceptional conditions pertaining to this property. This is a regular shaped R-15 lot in an older subdivision very similar to other lots in the subdivision. No topography extremes or dedicated easements which restrict buildable area on lot to necessitate reducing separation distance from house or reduction in required setbacks.</u>

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

Same conditions and restrictions of County Zoning Ordinance apply to all the lots in this subdivision. All lots are subject to the same setbacks and sizes as set forth in the Article, Exhibit 8A Maximum Square footage based on gross square footage of individual lots. The average lot sizes allow up to 1000 sq. ft. for accessory structures.

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 development standards in place for detached accessory structures do not prohibit the construction of an accessory building adjacent to the dwelling; however there are specific distances, maximum size and setbacks required. There is sufficient space for the size building allowed and space to meet all requirements.

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 authorization of the requested size and side setback variance may be of substantial detriment to the adjacent neighbor or neighbors. An accessory structure of this size (1400 sq. ft.) just 200 sq. ft. smaller than the principal dwelling from the common property line is exceedingly close. The established pattern of development within the neighborhood, even with the age of the development, does not appear to have detached accessory structures of this size and closer than 10 ft. to the principal structure on a given lot nor closer than 10 feet. Most detached structures look to be 1000 sq. ft. or less which is the allowance for these size lots and at least 5 feet from the property line.

IV. STAFF RECOMMENDATION

Based on not meeting the requirements of the four-part test, Staff recommends denial of this request and that the building be removed.

V. DRAFT MOTIONS FOR BOA-15-05

A. I move that the Zoning Board of Appeals deny BOA-15-05, subject to the findings of fact and conclusions contained in the draft order, dated June 10, 2015 attached as Exhibit 1.

B. I move that the Zoning Board of Appeals approve BOA-15-05, subject to the following findings of fact and conclusions:

C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-15-05.

VI. BOARD OF ZONING APPEALS – JUNE 10, 2015

The Sumter City-County Board of Appeals at its meeting on Wednesday, June 10, 2015, voted to defer this request for up to 90 days in order for the applicant to bring to the Board specific plans as to how she plans to decrease the size of the building to 1000 sq. ft. and how she will adhere to the restrictive covenants.

VII. BOARD OF ZONING APPEALS – SEPTEMBER 9, 2015

The Sumter City-County Board of Appeals at its meeting on Wednesday, September 9, 2015, voted to approve the variance request for the 2 foot from the 10 foot separation distance requirement for the accessory building from the house allowing the 8 feet.

The Board approved the one variance with the understanding that the proposal as presented by Attorney Miles will be fully complied with. The proposal is to decrease the accessory building from 1400sqft to 990 sq. ft. which brings the building into compliance with the 5 foot setback requirement; therefore no longer needing a variance from size or side setback. Approval of request is subject to findings of fact and conclusions contained in the draft order.

Exhibit 1
Order on Variance Application
Board of Zoning Appeals

BOA-15-05, 2849 September Dr.(County)
June 10, 2015

Date Filed: June 10, 2015 Permit Case No. BOA-15-05

The Board of Zoning Appeals held a public hearing on Wednesday, June 10 2015 to consider the appeal of Monica M. Plikus, 2849 September Dr., 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 Applicant☐**has** - ☑ **does not have** an unnecessary hardship because there are no extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

   There are no extraordinary or exceptional conditions pertaining to this property. This is a regular shaped R-15 lot in an older subdivision very similar to other lots in the subdivision. No topography extremes or dedicated easements which restrict buildable area on lot to necessitate reducing separation distance from house or reduction in required setbacks.

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:

   Same conditions and restrictions of County Zoning Ordinance apply to all the lots in this subdivision. All lots are subject to the same setbacks and sizes as set forth in the Article, Exhibit 8A Maximum Square footage based on gross

square footage of individual lots. The average lot sizes allow up to 1000 sqft for accessory 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:

   The development standards in place for detached accessory structures do not prohibit the construction of an accessory building adjacent to the dwelling; however there are specific distances, maximum size and setbacks required. There is sufficient space for the size building allowed and space to meet all requirements

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:

   The authorization of the requested size and side setback variance may be of substantial detriment to the adjacent neighbor or neighbors. An accessory structure of this size (1400 sqft) just 200 sqft smaller than the principal dwelling from the common property line is exceedingly close. The established pattern of development within the neighborhood, even with the age of the development, does not appear to have detached accessory structures of this size and closer than 10 ft. to the principal structure on a given lot nor closer than 10 feet. Most detached structures look to be 1000 sqft or less which is the allowance for these size lots and at least 5 feet from the property line.

THE BOARD, THEREFORE, ORDERS that *is* ☑ **DENIED** ☐ **GRANTED;**

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.