

# Sumter City-County Board of Zoning Appeals

September 9, 2015

## BOA-15-13, 40 Blackoak Ct. (County)

The applicant is requesting a variance from *Article 4, Section G, 4.g.2.b.5 Residential Accessory Building Development Standards – Setbacks* to reduce the building side setback from the required five feet to 3 feet in order to construct a detached carport/garage structure. The property is located at 40 Blackoak Ct. and is represented by Tax Map # 181-04-01-014.



Appeals - Variance - Special Exception

# Sumter City-County Zoning Board of Appeals

September 9, 2015

## BOA-15-13, 40 Blackoak Ct. (County)

### I. THE REQUEST

**Applicant:** Robert L. Strickland, Jr.

**Status of the Applicant:** Property Owner

**Request:** The applicant is requesting a 2 ft. variance from the required 5 ft. side setback requirement for a 462 sq. ft. detached accessory structure at their residence.

**Location:** 40 Blackoak Ct.

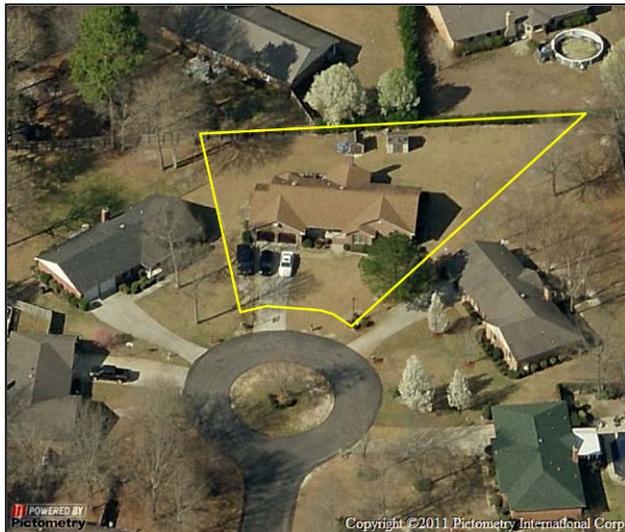
**Present Use/Zoning:** Single Family Dwelling/Residential-15 (R-15)

**Tax Map Reference:** 181-04-01-014

### II. BACKGROUND

40 Blackoak Ct. is located in the Twin Lake Subdivision. The property is a +/-0.37 acre (16,118 sq. ft.) cul-de-sac lot that is the site of a 1,918 sq. ft. single family detached dwelling and two detached accessory structures as shown in the pictometry to the right.

The Applicant, Robert L. Strickland, Jr. is seeking a 2 ft. side setback variance to reduce the setback from 5 ft. to 3 ft. for a 462 sq. ft. detached accessory structure. The Applicant began construction on the structure prior to knowing that a permit was required. Upon discovering what the development standards are for the district in which the structure is located and that building permits are required, the applicant ceased construction and filed for a setback variance as the structure currently does not meet the 5



ft. minimum setback. The following photograph shows the dwelling, rear yard and structure under construction.



*Above: View of 40 Blackoak Ct. from the cul-de-sac (Source: Google Streetview 2015)*

*Below: Structure under construction.*



*Below: Rear yard taken from the structure looking east towards the septic field. The two buildings on the left are both smaller than 120 sq. ft. in size and exempt from permitting.*





*Above: East side of the house looking north towards septic field.*

*Below: Rear yard looking west towards the structure.*



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 less than 1200 sq. ft. in area are required to be a minimum of 10 ft. from the principal structure and a minimum of 5 ft. from the side and rear property lines. The applicable development standards for detached residential accessory structures that the applicant seeks a variance from are as follows:

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

**b. Development Standards:**

5. **Setbacks** – Note: accessory structures over 1200 sq. ft. in size must be a minimum of 10 ft. from all side and rear property lines.

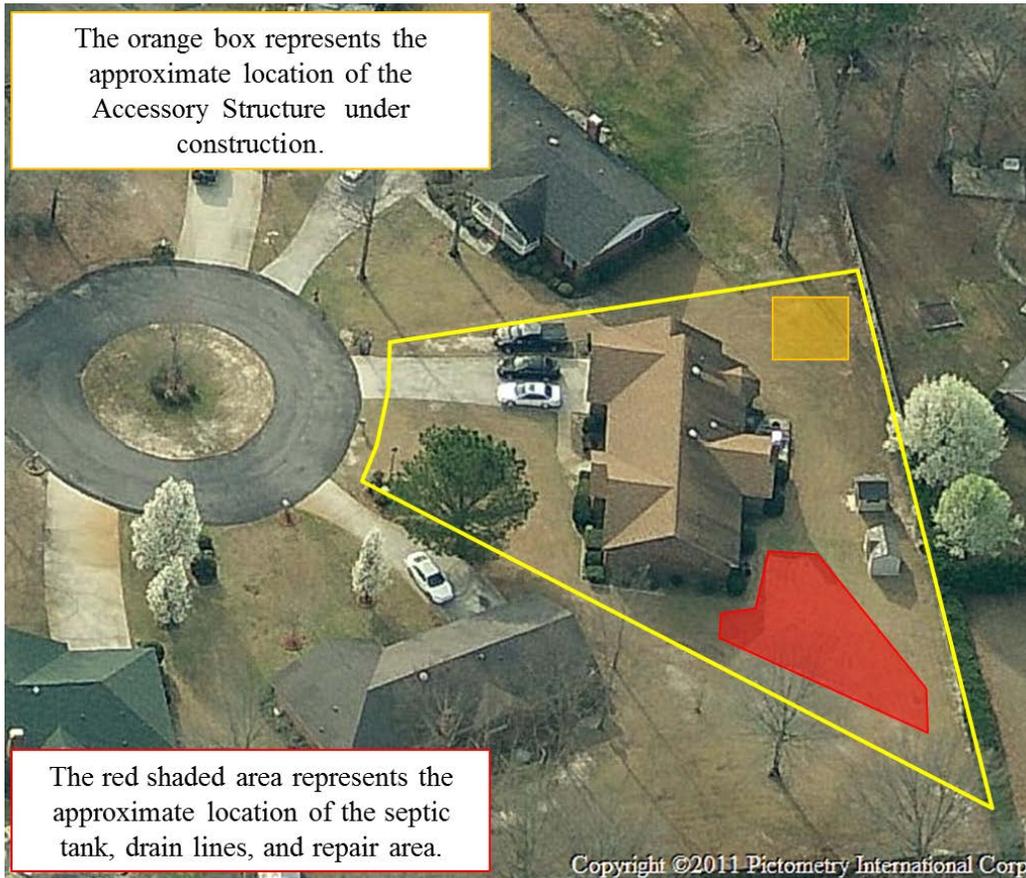
a. Interior Lots: Front – N/A; **Sides – 5 ft.**; Rear – 5 ft.

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.

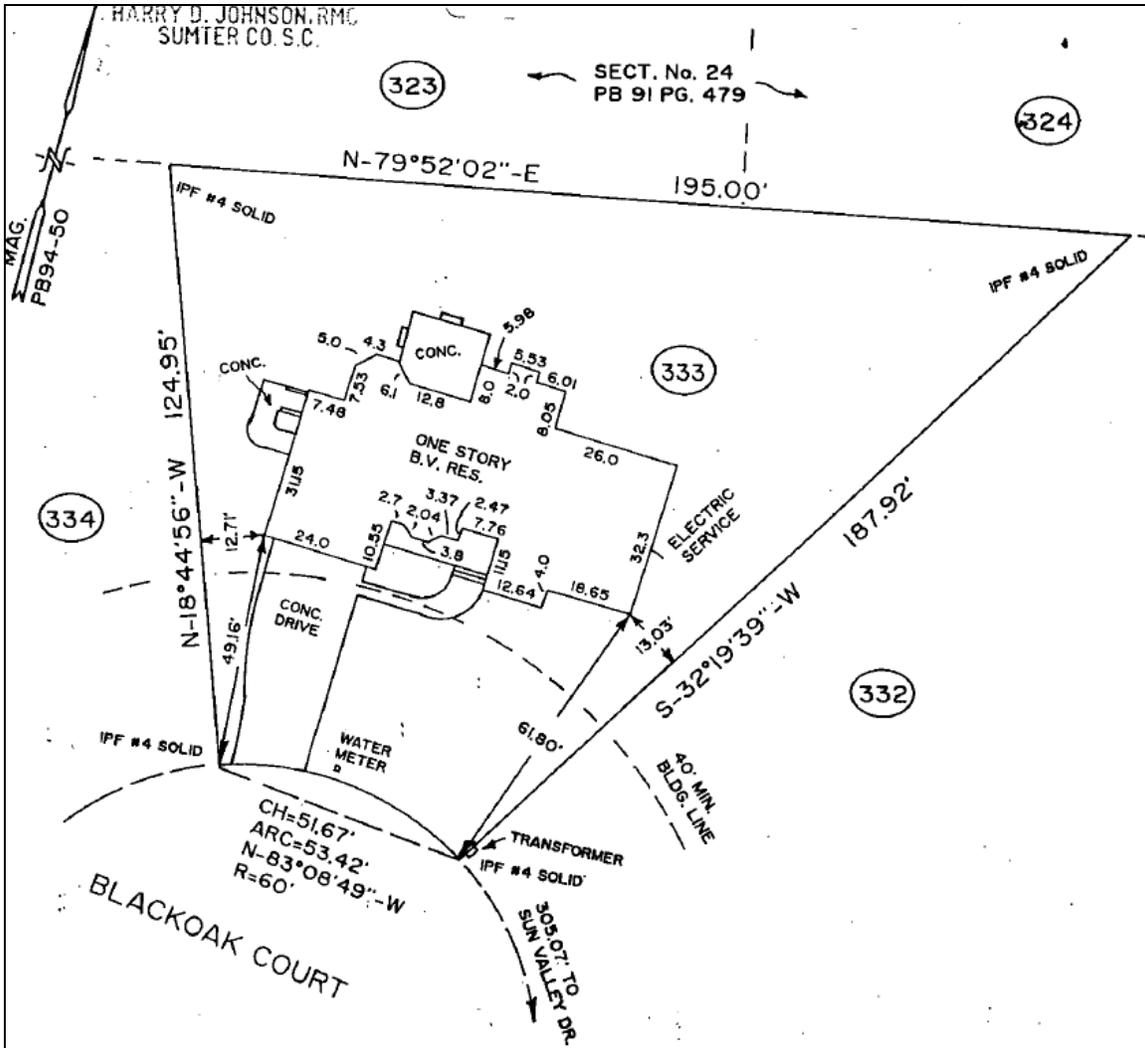
In order to receive a building permit for the structure in its current location, the side setback variance must be granted.

**III. FOUR PART TEST**

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



As shown in the graphic on the previous page, the parcel is a 0.37 acres (16,117 sq. ft.), irregularly shaped cul-de-sac lot. The triangularly shaped lot is served by an on-site septic system that takes up approximately 1/3 of the rear yard area, leaving the current location of the structure as the most obvious/functional location for a parking structure. As shown in the as-built survey of the property below, the parcel is narrower at the frontage and widens towards the rear. This change in shape is due to the triangular shape of the parcel and its placement at the pinnacle of the cul-de-sac.



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

Other properties in the vicinity are also cul-de-sac lots, however they are generally larger in size and less triangular in shape and/or have larger back yard areas that allow for construction that meets the setback standards as shown in the graphic on the following page.

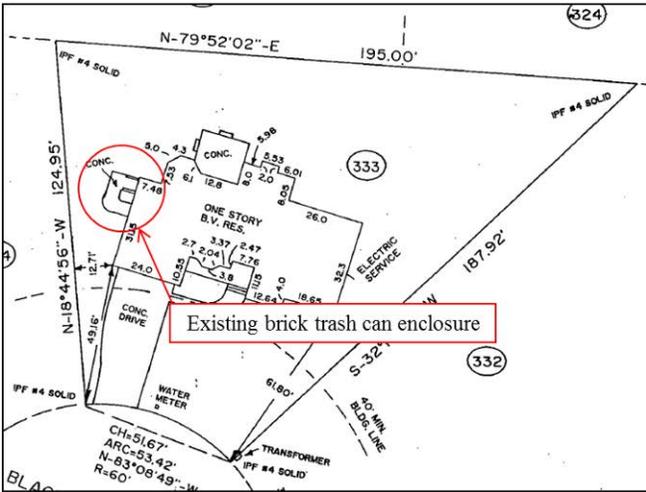


**3) *Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.***

The residential accessory structure regulations permit the applicant to construct a structure that is up to 1000 sq. ft. in size, however; due to the lot configuration and placement of the dwelling, useable building locations are limited.

Although the structure could be shifted an additional 2 ft. to the east and meet the 5 ft. setback on the front western corner, the existing dwelling has a brick trash enclosure that is part of the dwelling that interferes with being able to safely pull in and back out of the structure without hitting the brick wall. The brick enclosure is shown in the graphic on the following page.

As previously established, the clear area on the east side of the rear yard has been rendered impractical for use because it would necessitate driving over the septic tank drain lines on a regular basis, which over time destroys the on-site system.



**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.***

Authorization of this variance will not be of substantial detriment to the adjacent property or the public good. As shown in the graphic on the following page and in the previous pages, building placement is in an optimum location to suite the lot configuration and other conditions present on the parcel while allowing the applicant to maneuver vehicles fully on their own property to access the structure.



*Left: Up close view of adjacent property line, the front corner is approximately 3 ft. from the common line (fence) while the rear corner is greater than 5 ft. from the line.*

*Above: Common property line indicated by the fence. The corner of the structure does not encroach on this common line, thereby allowing vehicles to fully remain on the applicant's parcel.*

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

Staff recommends approval of this request.

#### **V. DRAFT MOTIONS FOR BOA-15-13**

- A. I move that the Zoning Board of Appeals approve BOA-15-13, subject to the findings of fact and conclusions contained in the draft order, dated September 9, 2015 attached as Exhibit 1.
- B. I move that the Zoning Board of Appeals deny BOA-15-13, subject to the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-15-13.

#### **VI. BOARD OF ZONING APPEALS – SEPTEMBER 9, 2015**

The Sumer Board of Zoning Appeals at its meeting on Wednesday, September 9, 2015, approved this request subject to findings of fact and conclusions contained in the draft order dated September 9, 2105.

# Exhibit 1

## Order on Variance Application

### Board of Zoning Appeals

**BOA-15-13, 40 Blackoak Ct. (County)**  
**September 9, 2015**

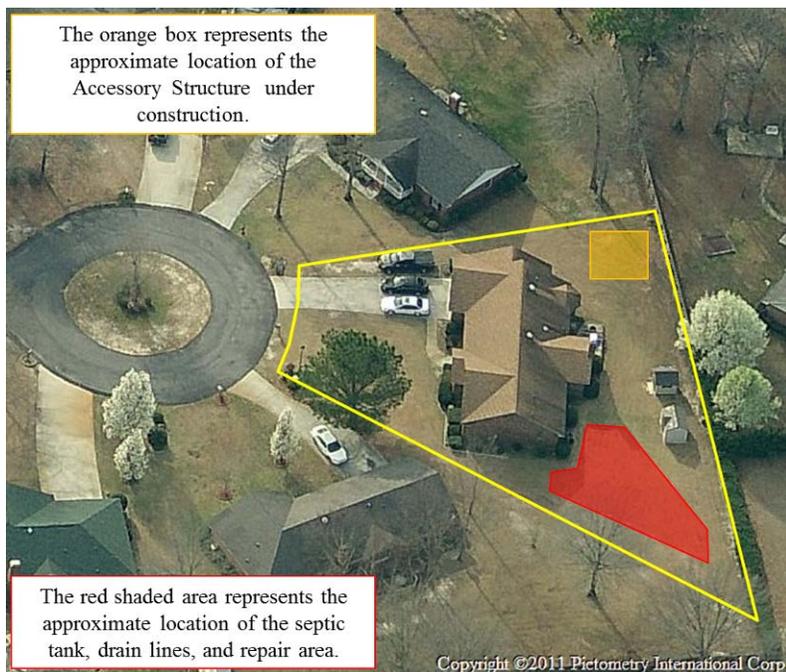
Date Filed: September 9, 2015  
BOA-15-13

Permit Case No.

The Board of Zoning Appeals held a public hearing on Wednesday, September 9, 2015 to consider the appeal of Robert L. Strickland, Jr. 40 Blackoak Ct., 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 extraordinary and exceptional conditions pertaining to the particular piece of property based on the following findings of fact:

The parcel is a 0.37 acres (16,117 sq. ft.), irregularly shaped cul-de-sac lot. The triangularly shaped lot is served by an on-site septic system that takes up approximately 1/3 of the rear yard area, leaving the current location of the structure as the most obvious/functional location for a parking structure. The parcel is narrower at the frontage and widens towards the rear. This change in shape is due to the triangular shape of the parcel and its placement at the pinnacle of the cul-de-sac.

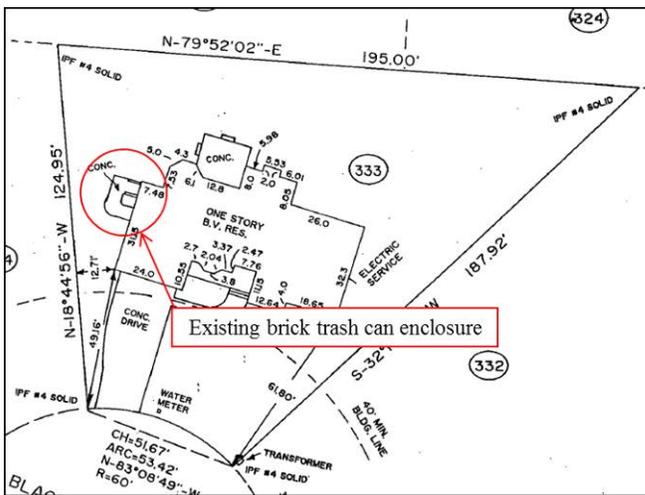


2. The Board concludes that these conditions  do -  **do not** generally apply to other property in the vicinity based on the following findings of fact:

Other properties in the vicinity are also cul-de-sac lots, however they are generally larger in size and less triangular in shape and/or have larger back yard areas that allow for construction that meets the setback standards.

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:

Application of the ordinance to this particular piece of property would unreasonably restrict utilization of the property. The residential accessory structure regulations permit the applicant to construct a structure that is up to 1000 sq. ft. in size, however; due to the lot configuration and placement of the dwelling, useable building locations are limited. The existing dwelling has a brick trash enclosure that is part of the structure that interferes with being able to safely pull in and back out of a garage structure without hitting the brick wall. Additionally, the clear area on the east side of the rear yard has been rendered impractical for use because it would necessitate driving over the septic tank drain lines on a regular basis, which over time destroys the on-site system.



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:

Authorization of this variance will not be of substantial detriment to the adjacent property or the public good. Building placement is in an optimum location to suite the lot configuration and other conditions present on the parcel while allowing the applicant to safely maneuver vehicles fully on their own property to access the structure.

THE BOARD, THEREFORE, ORDERS that the variance 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.**