

# Sumter City-County Board of Zoning Appeals

September 9, 2015

BOA-15-14, 4225 Queen Chapel Rd. (County)

The applicant is requesting Special Exception approval for a  
Drinking Place, under SIC Code 5813.



Appeals - Variance - Special Exception

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## BOA-15-14, 4225 Queen Chapel Rd. (County)

### I. THE REQUEST

**Applicant:** Orlando Jackson

**Status of the Applicant:** Leasing the property from owner

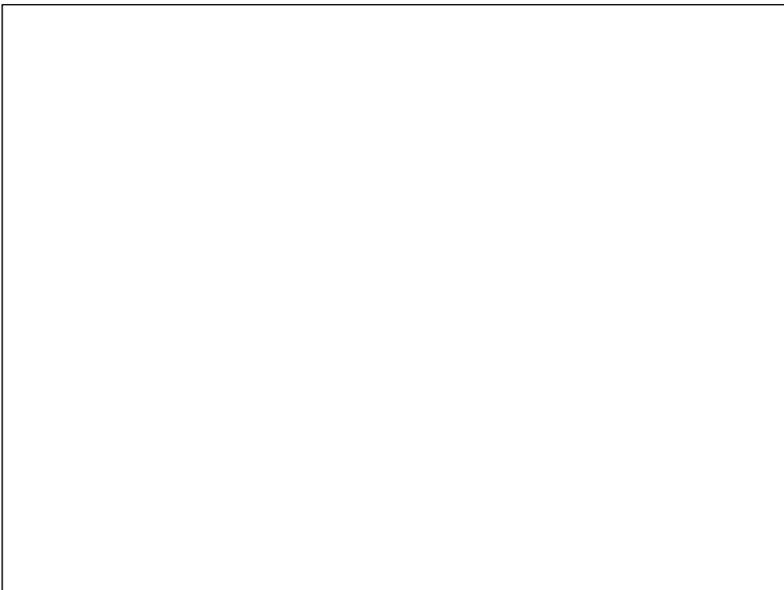
**Request:** Special Exception approval for Drinking Places (SIC Code 5813) as well as a 191' variance from the separation criteria of 300' between a drinking establishment and a residence.

**Location:** 4225 Queen Chapel Rd. Dalzell

**Present Use/Zoning:** Vacant Structure/AC

**Tax Map Reference:** 199-00-01-009

### II. BACKGROUND



The applicant wishes to open a Bar at this location. This business has been classified under the SIC Code of 5813.

This property is zoned Agricultural Conservation, and uses classified under this SIC designation (Drinking Places SIC Code 5813) are required to be reviewed and approved as Special Exceptions by this Board in accordance with **Article 1, Section 1.h.4.c, Article 3,**

**Section 3.i.4.d and in accordance with Article 5, Section B** in the County Zoning Ordinance.

The property was approved for use as a social club in 2011 (CU-11-18). The business license expired for this use on June 21, 2012.

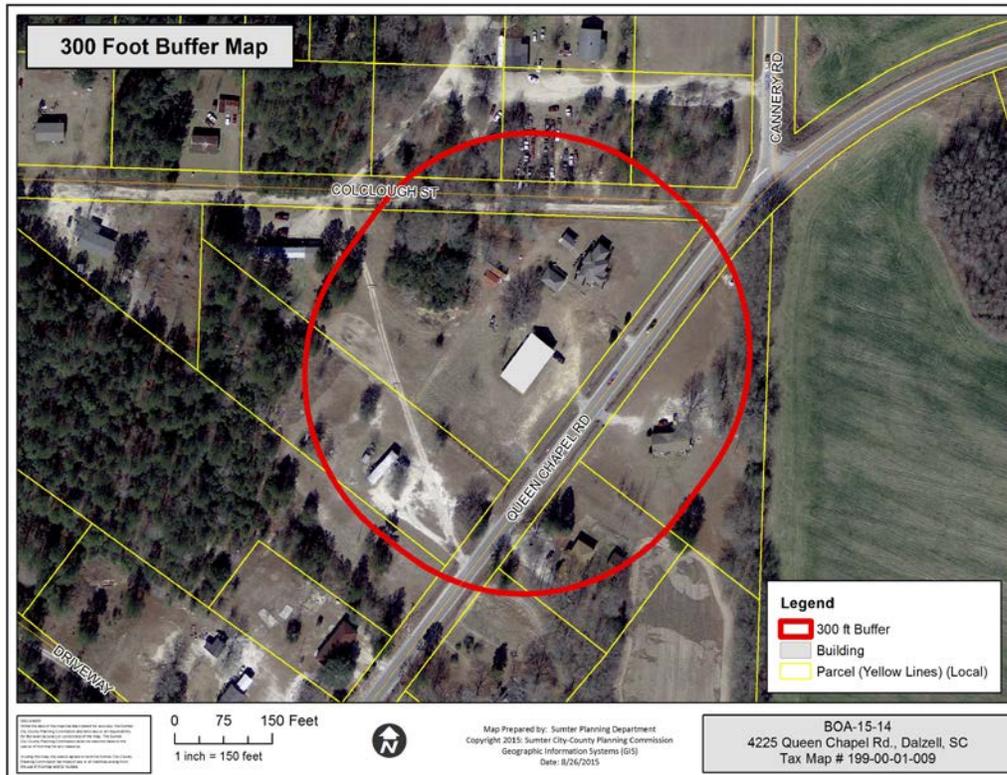
Drinking Places with SIC Code 5813 are required to be reviewed and approved as Special Exceptions by this Board in accordance with **Article 3, Section 3.i.4.d and in accordance with Article 5, Section B** in the County Zoning Ordinance. This use shall be in accordance with regulations set forth in:

**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 platted parcel.
2. A six-foot fence that is a visual screen will be installed to separate this use from residential uses.

The proposed bar is in the center of a rural residential district, with houses on Colclough Rd., Cannery Rd. and Queen Chapel Rd., all within a short distance. There is also a rezoning request (RZ-15-05) currently being reviewed by county council for the property to the east, on Queen Chapel Rd., for a proposed new subdivision.

**Below:** Aerial shows four residences within the 300 foot buffer radius of the structure



Pictures below of residential properties within the 300' buffer of this property. The residences are at distances of +/- 109' (the house to the right of the proposed bar, on the same parcel), +/- 200', +/- 235', and +/- 193'. There is also a fifth residence on the same parcel as the proposed use, which is +/- 331' from the proposed bar. This request includes a request for a variance from the 300' separation requirement, as well.



Special Exceptions are also subject to **Article 1 Section H: Board of Zoning Appeals: Establishment-Purpose** as follows:

**Section 1.h.4.c *Special Exception:***

- 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.

This is considered a nonconforming site due to not meeting all development standards. The grandfathering of the nonconformity has expired due to no business activity onsite for more than 36 months. This site does not meet the required on site paved parking number or the landscaping and buffering requirements.

b. That the special exception will be in substantial harmony with the area in which it is located.

Staff finds this is not a compatible location for a drinking place. This is predominantly a residential area, with more proposed residential uses slated for the district.

c. That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.

Staff finds this use could be detrimental to surrounding property owners because of close proximity to this use.

### **III. STAFF RECOMMENDATION**

The staff has visited the site, reviewed the request and recommends denial of this special exception based on not meeting the above conditions as outlined in the Zoning Ordinance. This property is abutting a predominantly residential area, and there is less than 300 feet between the proposed business structure and four residential structures, as well as proposed new development to the east of this parcel on the other side of Queen Chapel Rd. Staff also recommends denial of the request for a variance from the 300' separation requirement.

### **IV. DRAFT MOTIONS for BOA-15-14**

- A. I move that the Zoning Board of Appeals deny BOA-15-14, subject to the findings of fact and conclusions.
- B. I move that the Zoning Board of Appeals approve BOA-15-14 subject to the following findings of fact and conclusions.
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-15-14.

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

The Sumter Board of Zoning Appeals at its meeting on Wednesday, September 9, 2015, voted to deny this request subject to findings of fact and conclusion contained in the draft order dated September 9, 2015.

**Exhibit 1**  
**Order on Special Exception Application**  
**Sumter Board of Appeals**

**BOA-15-14, 4225 Queen Chapel Rd., Dalzell, SC.**  
**September 9, 2015**

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Date Filed: September 9, 2015

Permit Case No. BOA-15-14

The Board of Zoning Appeals held a public hearing on Wednesday, September 9, 2015 to consider the request of Orlando Jackson, 2420 Stover Lane, Dalzell, SC for a special exception which may be permitted by the Board pursuant to Sections 1.h.4.c, 3.i.4.d, and 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: a 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:

The Board finds the location of the proposed Drinking Place does not meet the Ordinance separation requirement of 300 ft. from parcel to parcel of a residential use.

2. The Board concludes that the special exception  **does** -  **does not** comply with all other applicable development standards contained elsewhere in the Sumter County Zoning Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements based on the following findings of fact:

This is considered a nonconforming site due to not meeting all development standards. The grandfathering of the nonconformity has expired due to no business activity onsite for more than 36 months. **Reference Section 6.a.2.b of the Sumter County Zoning Ordinance Nonconforming Uses & Sites.**

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:

The request does not meet the minimum 300 ft. separation requirement from residential 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 property is adjacent to a predominantly residential area.

THE BOARD, THEREFORE, ORDERS that the special exception is  **DENIED** –  
 **GRANTED with 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.**

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