

# Sumter City-County Board of Zoning Appeals

May 9, 2012

## BOA-12-21, 504 W. Oakland Avenue (City)

The applicant is requesting variances in minimum lot size & side yard setback requirements in order to convert an existing single family dwelling into a Duplex.



Appeals - Variance - Special Exception

# Sumter City-County Board of Appeals

May 9, 2012

BOA-12-21, 504 W. Oakland Avenue– Duplex (City)

## I. THE REQUEST

**Applicant:** Rev. Marion H. Newton

**Status of the Applicant:** Property Owner

**Request:** Variances from minimum lot size & side yard setback requirements for a proposed duplex dwelling

**Location:** 504 W. Oakland Avenue

**Present Use/Zoning:** Single family dwelling/R-6

**Tax Map Reference:** 227-03-04-015

## II. BACKGROUND

The applicant is requesting variances in the minimum lot size and minimum side yard setback requirements in order to convert a single family structure into a duplex structure. The property is next to the corner of W. Oakland Ave. and S. Salem Ave. It has +/-50 ft. of frontage on W. Oakland Ave. and a depth of +/-140 ft. The lot contains +/-7400 sq. ft. and the residence has +/-1800 sq. ft. The Property is zoned Residential-6 (R-6).

The Residential-6 zoning district allows duplexes as a permitted use per Section 3.c.2.b along with required development standards outlined in Exhibit 1 of the City Zoning Ordinance.

### **Requirements:**

Minimum Lot Size- 10,000 sq. ft.  
Minimum side setbacks- 10 feet

### **Variances Needed:**

Existing Lot- 7,400 sq. ft.  
Side setback- 3 ft 5 inches

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*Proposed Structure to be converted into a Duplex*

*Driveway to the left of structure will serve as access driveway to the rear parking area. There is sufficient space to the rear of structure for parking four cars which is the requirement for this duplex.*



*Adjacent Rental Property of Applicant at corner of Oakland & Salem.*

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Rear Area for Parking from South Salem Ave



Second access driveway to rear parking from South Salem Avenue

The Applicant owns property on both sides of the subject parcel, and lives at 506 W. Oakland Avenue as shown below to the right of the proposed structure.



### **III. 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. The structure has existed as a residence on this property for many years. The exterior appearance of the structure is not being altered in any way. All proposed changes are to only affect the interior of the structure. Conversion of the structure into a duplex will not creating a greater nonconforming situation reference to building setbacks; it is not the entire side setback which is nonconforming, just the right front corner of the house. Although this parcel does not meet the minimum lot size for the duplex, there is sufficient space for access for two tenants as well as space to provide the require parking spaces to serve this use.

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

In most cases, the property owner usually does not own the lot in question before the Board and the properties on both sides which would be most affected by a variance being granted. The same property owner owns both properties on both sides and one of those properties is already rental property—the other parcel is the applicant’s own residence.

**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, it could possibly restrict the use of this structure and property. There are already single-family dwellings that have been converted into duplex/multi-tenant rental properties of similar lot sizes adjacent to this location.

**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 residence on this parcel already exists, there will be no physical change to the district. There is sufficient area in the rear of the property for 4 vehicles which meets the parking requirements for a duplex. Therefore no harm will be created towards the character of the adjacent properties.

**IV. STAFF RECOMMENDATION**

The staff has visited the site, reviewed the request and recommends approval of BOA-12-21.

**V. DRAFT MOTIONS FOR BOA-12-21**

- A. I move that the Zoning Board of Appeals approve BOA-12-21, subject to the findings of fact and conclusions contained in the draft order, dated May 9, 2012 attached as Exhibit 1.
- B. I move that the Zoning Board of Appeals deny BOA-12-21 based on the following findings of fact and conclusions:
- C. I move that the Zoning Board of Appeals enter an alternative motion for BOA-12-21.

**VI. BOARD OF APPEALS DECISION – MAY 9, 2012**

The Sumter City-County Board of Appeals at its meeting on Wednesday, May 9, 2012, voted to approve this request subject to the findings of facts and conclusions listed on exhibit 1.

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

**BOA-12-21, 504 W. Oakland Avenue – Duplex**  
**May 9, 2012**

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Date Filed: April 16, 2012

Permit Case No. BOA-12-21

The Board of Zoning Appeals held a public hearing on Wednesday, May 9, 2012 to consider the request of Rev. Marion H. Newton, 506 W. Oakland Avenue, Sumter, SC for a lot size variance and a side yard setback variance which may be permitted by the Board pursuant to Sections 1.h.4.b., of the Sumter City Zoning Ordinance as set forth on Form 4 for the property described on Form 1.

After the consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions.

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

There are extraordinary conditions pertaining to this property. The structure has existed as a residence on this property for many years. The exterior appearance of the structure is not being altered in any way. All proposed changes are to only affect the interior of the structure. Conversion of the structure into a duplex will not creating a greater nonconforming situation reference to building setbacks; it is not the entire side setback which is nonconforming, just the right front corner of the house. Although this parcel does not meet the minimum lot size for the duplex, there is sufficient space for access for two tenants as well as space to provide the require parking spaces to serve this use.

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

In most cases, the property owner usually does not own the lot in question before the Board and the properties on both sides which would be most affected by a variance being granted. The same property owner owns both properties on both sides and one of those properties is already rental property—the other parcel is the applicant’s own residence.

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, it could possibly restrict the use of this structure and property. There are already single-family dwellings that have been converted into duplex/multi-tenant rental properties of similar lot sizes adjacent to this location.

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 residence on this parcel already exists, there will be no physical change to the district. There is sufficient area in the rear of the property for 4 vehicles which meets the parking requirements for a duplex. Therefore no harm will be created towards the character of the adjacent properties.

THE BOARD, THEREFORE, ORDERS that the variances are 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.**

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