



BOARD OF ZONING APPEALS

Minutes of the Meeting

December 9, 2020

ATTENDANCE

A regular meeting of the Zoning Board of Appeals was held on Wednesday, December 9, 2020 in the First Floor Sumter Opera House Theater of the Sumter Opera House, 21 N. Main Street. Five board members – Mr. Leslie Alessandro, Mr. Warren Curtis, Mr. L.C. Frederick, and Ms. Cleo Klopfleisch were present., Mr. Steven Schumpert and Mr. Louis Tisdale were absent. Mr. Harold Johnson and Mr. Gregory Williams were not in attendance due to resignations from the Board.

Planning staff in attendance: Ms. Helen Roodman, Mr. Jeff Derwort, Mr. Kyle Kelly Mr. Preston McClun and Ms. Kellie Chapman.

The meeting was called to order at 3:00 p.m. by Mr. Leslie Alessandro, Chairman.

MINUTES

Mr. Warren Curtis made a motion to approve the minutes of the November 4, 2020, meeting as written. The motion was seconded by Ms. Cleo Klopfleisch and carried a unanimous vote.

NEW BUSINESS

BOA-20-23, 27 Park Ave. (City) was presented by Mr. Kyle Kelly. The Board reviewed this request for a variance from *Article 4, Section 4.f.7.a: Structures Projecting into Required Yards of the City of Sumter Zoning and Development Standards Ordinance*, in order to permit an open porch and steps to be located up to 1 ft. from a side property line. The property is located at 27 Park Ave., is zoned Residential-9 (R-9), and is represented by Tax Map # 228-11-02-003.

Mr. Kelly stated the lot's current southern boundary adjoining the City of Sumter's Memorial Park does not have adequate space to accommodate both the applicant's proposed uncovered porch and the minimum setback per Ordinance requirements.

Mr. Kelly added the house was constructed in 1939, and the applicant purchased the property in 2018. Because the property is located in the Hampton Park District,

installation of the south-facing deck and exterior stair re-alignment is subject to City of Sumter Design Review Board Approval. Design Review approval was granted in November 2020 (HP-20-26).

After a brief discussion, Ms. Cleo Klopfleisch made a motion to approve this request subject to the following findings of fact and conclusions:

1. The property at 27 Park Ave. was developed in 1939 and the applicant purchased the property in 2018. The house was constructed such that, in order to be parallel to Park Ave. and consistent with neighboring houses with regards to front setback, the front corner of the house sits 3 feet 9 inches from the lot boundary, which is a condition not shared by other lots in the neighborhood.
2. The subject parcel was created after the Hampton Park neighborhood was originally developed with the house being constructed several decades after the neighborhood was established. At 0.09-acres, it is one of the smallest lots in the Hampton Park Historic District.
3. Were the ordinance to be applied to this property without granting of a variance, the applicant would be unable to modify the exterior entrance to their home on the south side of the property, where two sets of French doors and two sets of entry stairs currently exist. The historic configuration of the lot and the home itself do not allow sufficient space to modify those exterior entries to provide safer access without an allowance for reduction to the side setback.
4. While the proposed variance would result in a furtherance of the subject property's noncompliance with zoning ordinance based on side lot setback standards, authorizing a variance would not be of substantial detriment to adjacent property. Rather, the variance would allow the property owner to improve access to their home in a way that does not infringe on the public park adjacent to the property.

The proposed variance will not result in a change in the use of the parcel, and the proposed changes to the structure are compatible with the character of the Hampton Park Historic District, as

determined by the City of Sumter Design Review Board.

The motion was seconded by Mr. Warren Curtis and carried a unanimous vote.

BOA-20-24, 3352 Landmark Dr. (City) was presented by Mr. Kyle Kelly. The Board reviewed this request from the rear setback requirements outlined in *Planned Development Ordinance (PD-00-08 Rev 23 – Section 1.C.ii)* in order to construct a screen port up to 17 ft. from the rear property line. The property is located at 3352 Landmark Rd, is zoned Planned Development (PD), and is represented by Tax Map # 185-07-03-001.

Mr. Kelly stated the variance is requested because the current rear yard setback requirement for the zoning district is 20 ft. and the applicant wishes to construct the addition up to 17 ft. from the property line.

Mr. Kelly added the applicant wishes to add a covered screened porch to their existing residence, which would encroach 3 ft. into the rear yard setback for the Planned Development (PD) district in which the property is located.

Mr. Kelly mentioned according to SC Code § 6-29-1145 (2012), if a local planning agency has actual notice of a restrictive covenant that is contrary to or prohibits the permitted activity, the local planning agency must not issue the permit unless the restrictive covenant is released by action of the appropriate authority or property holders or by court order. In this case, the appropriate authority is the Landmark Pointe Homeowners Association, which reviewed the applicant's request against the Restrictive Covenants of the Subdivision and determined that the request would violate Article 4.3 of the Landmark Pointe Development's Third Amended Restrictive Covenants and has elected not to release the restrictive covenant.

Ms. Shirley Casey was present to speak on behalf of the request.

After a brief discussion, Mr. Warren Curtis made a motion to deny this request subject to the following findings of fact and conclusions:

1. The property at 3352 Landmark Dr. was originally developed in 2004 as part of Phase 1, Section 1

of the Landmark Point subdivision, which is part of the Sumter West Planned Development (PD-00-080). The property was purchased in 2018. As part of a planned development, the 139 lots within the Landmark Pointe neighborhood were platted together at one time, and all lots have the same building setback requirements. Additionally, while the subject parcel is a corner lot, this particular planned development does not distinguish between corner lots and interior lots in terms of additional rear setbacks.

- 2. As a planned development, the 139 lots within the Landmark Pointe neighborhood were platted together, with all lots following the same building setback requirements. In addition, while the lot in question is a corner lot, this particular planned development does not distinguish between corner lots and interior lots in terms of additional rear setback requirements.

The request also conflicts with Article 4.3 of the Landmark Pointe Development's Third Amended Restrictive Covenants, which states that no building or other structures shall be located nearer than 20 feet from the rear property line.

- 3. It is not possible to construct a 12 X 12 ft. covered screened porch addition on the parcel without encroaching into the required rear lot setback. However, there is sufficient space within the required rear and side building setback areas (approximately 9 ft. depth and 43 ft. width) within which the applicant might construct an addition to the residence without requiring a variance.

- 4. While this request itself does not appear detrimental to the area as a whole, and would not harm the character of the district, because the Landmark Pointe lots are uniform in terms of building requirements, approving the request as proposed would establish a precedent for the neighborhood that could become detrimental to the area as a whole should additional property owners seek to build additions in the required setback areas of their lots.

Furthermore, SC Code § 6-29-1145 (2012) required that the local planning agency not issue permits unless known restrictive covenants are

released by action of the appropriate authority or property holders or by court order. In this case, because the Landmark Pointe Homeowners Association has elected not to release Article 4.3 of this restrictive covenant on the property, granting of a variance in this case would violate state law.

The motion was seconded by Ms. Cleo Klopfleisch and carried a unanimous vote.

BOA-20-25, 395 N. Pike West. (City) was presented by Mr. Preston McClun. The Board reviewed multiple variances from the *City of Sumter Zoning & Development Standards Ordinance* in relation to proposed parking lot improvements at a government facility as follows: *Article 8, Section 8.i.3.e – Widths of Aisles* to permit a reduction in required parking lot aisle width from 25 ft. to 24 ft.; and *Article 9, Section 9.c.3.c & 9.c.3.d – Landscape Requirements for the Interior of Parking Areas* to allow for the reconstruction of the front parking lot with no parking lot landscape islands. The property is located at 395 N. Pike West, is zoned Agricultural Conservation (AC), and is represented by Tax Map # 229-03-01-001.

Mr. McClun mentioned the subject site sits on +/- 7.00-acres of land. The Army National Guard base was constructed during the 1970's and does not conform to current city development standards.

Mr. McClun added the applicant applied for minor site plan approval for a complete parking lot reconstruction and expansion project at the site. Existing parking areas are to be completely demolished and re-built. Due to the scope of the project, full compliance with current parking and landscape standards is required.

Mr. McClun stated the applicant is proposing parking lot drive aisle widths of 24 ft. versus the required 25 ft. of drive aisle width in the older parking area. Additionally, the applicant is not proposing parking lot landscape islands in the existing area to be reconstructed, as is required by Article 9 Landscaping Requirements. The Section states that landscaped parking lot islands must contain 1 canopy tree and 3 shrubs and that they are required at the end of each row and to the extent that more than 15 spaces are between such islands.

Mr. Nick Laureeta was present to speak on behalf of the request.

After a brief discussion, Ms. Cleo Klopfleisch made a motion to approve this request subject to the following findings of fact and conclusions:

1. The subject property is +/-7.00-acres in size and is located in the Agricultural Conservation (AC) zoning district. The site was initially developed in the 1970's for the Army National Guard prior to the adoption of current regulatory and parking standards. It has remained in continuous operation since its construction. Based on submitted development plans the site is constrained by existing development and governmental guidelines associated with the Anti-Terrorism Force Protection (ATFP) mandated by the Naval Facilities Engineering Systems Command that do not allow landscaping around military infrastructure as an anti-terrorism measure.
2. This is the only military institution in the immediate vicinity, other developments consist of residential uses and a public park which are more in alignment with current development standards (i.e., Dillion Park, Pinckney Heights, and Springcreek Apartments).
3. **Aisle Widths** – A request to reduce the required aisle width of 25' to 24', in order to reconstruct the existing parking lot within the same footprint. All the 3 new smaller parking lots will meet Ordinance Drive Aisle Width Standards.

Parking Lot Landscaping – Proposing to install no parking lot landscape islands associated with the parking lot reconstruction. As stated, the site is constrained by Anti-Terrorism Measures. The military institution must have unobstructed space around the building and interior parking lot landscape islands would be located too close to the site. Based on these plans, the installation of landscaped tree islands for every 15 parking spaces would make the military institution noncompliant with Anti-Terrorism guidelines. Additional landscaping around the perimeter of the site and the exterior of the parking lot will mitigate the effects of not having interior parking lot landscape islands.

4. Aisle Widths – Requesting a reduction in required drive aisle width from 25’ to 24’. The 25’ aisle width requirement is intended to accommodate all vehicle types from small cars to larger pick-up trucks and SUVs. Additionally, the proposed 24’ drive aisle widths are the same width as the access drives onto N. Pike W. and Clara Louis Kellog Dr.

Parking Lot Landscaping – The provision of a landscaped parking island for every 15 parking spaces could be provided for this development. However, the site must conform with ATFP measures and the National Guard frequently deploys its members and houses training sessions for which a great amount of parking is needed. With this finding, and with consideration that this is a legal non-conforming site, granting of these two specific requests will not be substantial detriment and will not harm the character of the district.

The motion was seconded by Mr. Warren Curtis and carried a unanimous vote.

BOA-20-26, 340 Rast St. (City) was presented by Mr. Preston McClun. The Board reviewed this request for Special Exception approval for a Tattoo Parlor as required per *City Zoning Ordinance, Article 3, Section 1, General Commercial Zoning District; 3.i.4.g. Special Exceptions – Tattoo Parlors (SIC Code 7299); Exhibit 3-5, Sumter – Zoning & Development Standard Ordinance*. The property is located at 340 Rast St., is zoned General Commercial (GC), and is represented by Tax Map # 230-16-01-006.

Mr. McClun stated the site contains an existing multi-tenant commercial building. Based on Business License records, the tenant space was previously used as a Real Estate Brokerage.

Mr. McClun added the site is located +/- 750 feet away from the nearest residential use which meets the required 500 ft. minimum residential separation requirements. There are no residential uses on the Rast St. corridor west of the N. Bultman Dr. corridor currently.

Mr. Jessie Baker was present to speak on behalf of the request.

After a brief discussion, Mr. Warren Curtis made a motion to approve this request subject to the following findings of fact and conclusions:

1. Separation requirements of 500 ft. for tattoo uses from residential uses and all other applicable special exceptions separation standards have been met.
2. The shopping center containing the proposed tenant space was developed prior to the adoption of the current Zoning and Development Standards Ordinance. The site is not subject to discontinuance because the site has continually operated with commercial businesses in the various tenant spaces. Since the site is not subject to discontinuance, non-conforming site features such as parking lot design and landscaping, are not required to be addressed at this time. Previous occupants of the subject tenant space included Real Estate Brokerages. Minimum parking standards for tattoo parlor uses are the same as a Real Estate Brokerage use. Therefore, the request does not represent an increase in required off-street parking.
3. The proposed special exception request is in substantial harmony with the surrounding area. The subject property as well as the area immediately adjacent are zoned General Commercial (GC). The land use impacts of the tattoo parlor use should be indistinguishable from the operation of the other commercial uses within the existing shopping center.
4. The proposed special exception will not discourage or negate the use of the surrounding property permitted by right. The ordinance's 500 ft. buffer separation from residential uses, schools, churches, and playgrounds is designed to prevent the encroachment of potentially objectionable commercial uses. In this instance, the special exception use is screened and buffered from these enumerated sensitive uses by the pattern of existing development used for commercial activity, the operation of a self-contained tattoo parlor should not result in any change in land use impacts to the immediate area.

The motion was seconded by Mr. LC Frederick and carried a unanimous vote.

BOA-20-27, 5720 Patriot Parkway (County) was presented by Mr. Jeff Derwort. The Board reviewed a request for a 53 ft. front setback variance from *Article 3, Section 3.1.5.b – HI District Minimum Yard & Building Setback Requirements of the Sumter County – Zoning & Development Standards Ordinance* in order to permit structures on the site to be located up to 47 ft. from the front property line. The property is located at 5720 Patriot Parkway, is zoned Heavy Industrial (HI), and is represented by Tax Map # 131-00-02-033.

Mr. Derwort mentioned the subject property is within the Heavy Industrial (HI) zoning district. The minimum required front setback for property with arterial road frontage is 100 ft. Patriot Parkway is functionally classified as a minor arterial roadway. The applicant is proposing to place mini-warehouse storage buildings up to 47 ft. from the front property line.

Mr. Derwort added the site is 8.84-acres in size and contains excavated borrow pits and non-jurisdictional wetlands on the southern end of the site.

Mr. Derwort stated in addition to meeting general development standards, mini-warehouse facilities are also subject to the following specific criteria impacting site design.

- Mini-warehouse sites shall not exceed 4-acres in size.
- Structures on the site shall be limited to fifty (50%) of the total lot.

Mr. Dan Creed was present to speak on behalf of the request.

After a brief discussion, Ms. Cleo Klopfleisch made a motion to approve this request subject to the following findings of fact and conclusions:

1. The site is 8.84-acres in size, is irregularly shaped, contains a +/- 1.1-acre drain field easement area utilized by the adjacent shopping center, contains and upland cut ditch near the

center of the property, and contains a +/- 2.0-acre acre that consists of both non-jurisdictional wetlands and upland excavated borrow pits with standing water. Additionally, specific Ordinance requirements dictate that mini-warehouse sites cannot exceed 4-acres in size and cannot have more than 50% of the site covered with structures.

2. No other property in the immediate vicinity and within the HI zoning district is comparable to the subject property in terms of lot depth and pre-existing conditions.
3. The Ordinance prevents placing a structure within the front setback area. A 1.1-acre drain field area exists at the northwest corner of the site and the southern portion of the site contains non-jurisdictional wetland areas and upland excavated borrow pits with standing water. Compliance with the 100 ft. front setback would require that the development be shifted further back (west) on the site. Additionally, the development would need to be shifted further to the south to avoid impacting the easement area. Making these adjustments will push the proposed development closer to the more sensitive wetlands borrow pit areas located on the southern portion of the property. Also, making these adjustments would require the creation of an essentially undevelopable remainder parcel since subdividing the site is required to comply with the 4-acre mini-warehouse site maximum.
4. The subject property is located in close proximity to Shaw Air Force Base and is within the Accident Potential Overlay Zone (APZ). The APZ is designed to provide land use and concentration of persons per acre restrictions in areas where aircraft accidents are most likely to occur. The Sumer County APZ prohibits all residential uses and many types of commercial and industrial uses from being developed within its boundaries. The site maintains an HI zoning designation, in part, because a number of uses in this district can be carried out in compliance with applicable APZ requirements. Mini-warehouse uses are compatible with APZ requirements and are also allowed conditionally in other zoning districts in the county, including the General Commercial (GC), Limited Commercial (LC), Light Industrial (LI), and

Agricultural Conservation (AC) districts. Front setbacks requirements are much less restrictive in non-industrial zoning districts due to the nature of some of the uses permitted in industrial.

Further, the right-of-way for Patriot Parkway has a width of +/- 120 ft. at the location of the building that is closest to the front property line. Per the scaled site plan submitted with this request, there is +/- 35 ft. of unpaved shoulder between the front property line at the edge of pavement. As proposed, the closet building will sit +/- 85 ft. from the edge pavement on Patriot Parkway. This will create the appearance that the building is further setback on the property that it will actually be.

Due to the nature of the proposed use, its compatibleness within the APZ area, and the amount of unpaved shoulder space between the front property line and the edge of pavement on Patriot Parkway, staff finds that the authorization of this variance will not be substantial determinant to adjacent property owners or to the public good. More so, granting this request will not harm the character of the district.

Subject to the following conditions:

- Staff approval of a landscape plan that provides an opaque screen of at least 6 ft. in height within three (3) growing seasons along at least 75% of the front of the developed area of the mini-warehouse site.

The motion was seconded by Mr. Jason Ross and carried a unanimous vote.

BOA-20-28, 1032 Boulevard Rd. (City) was presented by Mr. Jeff Derwort. The Board reviewed this request for a 2 ft. rear setback variance from *Article 3, Section 3.g.5.b – Neighborhood Commercial District Minimum Yard & Building Setback Requirements of the City of Sumter Zoning & Development Standards Ordinance* in order to permit a building expansion up to 23 ft. from the rear property line. The property is located at 1032 Boulevard Rd., is zoned Neighborhood Commercial (NC), and is represented by Tax Map # 251-03-02-067.

Mr. Derwort stated the applicant is requesting a rear setback variance in order to permit the construction of a minor expansion (walk-in cooler addition) to the primary

building on the site. Proposed plans show the structure encroaching up to 2ft. into the required rear setback area. The subject property is within the Neighborhood Commercial (NC) zoning district, where the minimum required rear setback is 25 ft.

Mr. Derwort added the applicant is proposing to install at +/- 97 sq. ft walk-in cooler on the eastern side of the rear building elevation. The addition is proposed in a location that will not conflict with existing mechanical installations. Mechanical equipment on the western portion of the rear of the building is protected via fencing. Additionally, there are several appurtenances including roof drains, building faucets, meter box locations, etc. that exist on the building and must be considered when selecting the location for the proposed addition.

Mr. Ted Hardy was present to speak on behalf of the request.

Mr. Jay Linginfelter gave clarification that Habitat for Humanity will be building on the adjacent lot.

After a brief discussion, Mr. Warren Curtis made a motion to approve this request subject to the following findings of fact and conclusions:

1. The subject property is 1.1-acres in size and contains an existing primary building that is oriented at a diagonal toward the intersection of E. Red Bay Rd. and Boulevard Rd. The building is located closer to the southern property line to provide space for a commercial parking area that can be accessed from both E. Red Bay Rd. and Boulevard Rd. Additionally, both E. Red Bay Rd. and Boulevard Rd. are functionally classified as major collector roads which typically have higher traffic volumes.
2. There are no other commercially zoned and used sites within the immediate vicinity that have frontage on two collector roads and have site conditions comparable to the subject property.
3. The Ordinance prevents a structure from being placed within the required 25 ft. rear setback area. While the addition could be placed at an alternate compliant location on the rear of side of the building, such an alternative location would interfere with existing mechanical equipment and

	<p>other appurtenances locate on the building. Additionally, other locations on the building are not as accessible to the main entrance of the store, the commercial dump</p> <p>4. The proposed addition of a walk-in cooler will encroach no more than 2ft. into the rear setback area along with southern property line. The property immediately adjacent to the south consists of two separate parcels, one undeveloped and one with a single-family residential structure. The closest distance between the rear of the existing commercial building and the closest residential structure is +/- 165 ft. Additionally, the southern property line contains existing vegetation that included evergreen trees, canopy trees, and undergrowth. The vegetation serves as adequate visual screening for property to the south of the subject site.</p> <p>The motion was seconded by Mr. LC Frederick and carried a unanimous vote.</p>
OTHER BUSINESS	<p>The 2021 meeting dates were approved with a motion made by Mr. Warren Curtis. The motion was seconded by Mr. LC Frederick and carried a unanimous vote.</p>
	<p>With there being no further business, Mr. Warren Curtis made a motion to adjourn the meeting at 3:57 p.m. The motion was seconded by Mr. LC Frederick and carried a unanimous vote.</p> <p>The next regularly scheduled meeting is scheduled for January 13, 2021.</p>
	<p>Respectfully submitted, <i>Kellie K. Chapman</i> Kellie K. Chapman, Board Secretary</p>