



BOARD OF ZONING APPEALS

Minutes of the Meeting

January 13, 2021

ATTENDANCE	<p>A regular meeting of the Zoning Board of Appeals was held on Wednesday, January 13, 2021 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. Sam Lowery, Mr. Louis Tisdale, and Ms. Cleo Klopfleisch were present. Mr. Steven Schumpert, Mr. Jason Reddick, and Mr. L.C. Frederick were absent.</p> <p>Planning staff in attendance: Ms. Helen Roodman, Mr. Jeff Derwort, Mr. Kyle Kelly, Mr. Preston McClun, and Ms. Kellie Chapman.</p> <p>The meeting was called to order at 3:00 p.m. by Mr. Leslie Alessandro, Chairman.</p>
MINUTES	<p>Mr. Warren Curtis made a motion to approve the minutes of the December 9, 2020, meeting as written. The motion was seconded by Ms. Cleo Klopfleisch and carried a unanimous vote.</p>
ELECTION OF OFFICERS	<p>Ms. Cleo Klopfleisch nominated Mr. Leslie Alessandro to be chairman for 2021. The motion was seconded by Mr. Sam Lowery and carried a unanimous vote.</p> <p>Ms. Cleo Klopfleisch nominated Mr. Warren Curtis to be vice-chair for 2021. The motion was seconded by Mr. Sam Lowery and carried a unanimous vote.</p>
NEW BUSINESS	<p><i>Mr. Louis Tisdale attended the Board of Zoning Appeals meeting to constitute a quorum. Due to COVID-19, Mr. Tisdale was unable to complete state mandated training prior to the meeting; therefore, he abstained from discussion or voting on any matter.</i></p> <p>BOA-20-29, 1106/1108 Waynick Dr. (County) was presented by Mr. Preston McClun. The Board reviewed this request for a variance from <i>Article 3, Exhibit 2: Standards for Uses in General Residential District of the</i></p>

Sumter County – Zoning & Development Standard Ordinance, in order to permit a burial site 4 ft. from the rear property line and 7 ft. from the side property line. The property is located at 1106/1108 Waynick Dr., is zoned General Residential (GR), and is represented by Tax Map # 251-12-01-027.

Mr. McClun stated the subject property is located at the southwest corner of Waynick Dr. and Curtis Dr. The property is adjacent to Curtis Dr. to the north, and residential dwellings to the west and south. Land to the east consists of a convenience store and more residential uses. The property is the location of Spirit of the Living God Holiness Church.

Mr. McClun added the property is within the General Residential (GR) zoning district, where the minimum required rear setback is 50 ft., and the minimum required side setback is 25 ft. for non-residential uses such as cemeteries in conjunction with a church use. For the purpose of determining applicable building setbacks, Curtis Dr. is considered to be the front of the property and the southern property line is considered to be the rear of the property. This determination is made due to the orientation of the primary commercial building upon the property.

Mr. McClun mentioned in South Carolina, church cemeteries are not subject to the licensing requirements outlined in the South Carolina Perpetual Care Cemetery Act (S.C. Code § 40-8). On October 28, 2020 zoning enforcement staff were notified of the establishment of a burial site on the subject property. After investigation, it was found that the property was in violation of the Sumter County Zoning & Development Standard Ordinance for the following – 1) establishing a cemetery without the required conditional use approval and 2) establishing a burial site within the setback area for non-residential uses in the GR district.

Mr. McClun added the applicant has submitted a conditional use application for a 31-plot cemetery and has submitted a variance application for the encroachment of the existing burial site into applicable side and rear setback areas in order to address the Ordinance violations. The conditional use request for the larger cemetery is still under review. The conditional use application cannot be approved as submitted if the variance request concerning the setback encroachment is denied by the BZA and/or staff finds the request does

not conform the conditional use criteria outlined in Article 5, Section 5.b.1: Criteria for Review of the Sumter County – Zoning & Development Standard Ordinance.

Mr. Wallace Black, Sr. was present to speak on behalf of the request.

Mr. Romirt Billie, Mr. Moise Billie, and Ms. Carol Greene were present to speak in opposition 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 contains no extraordinary and exceptional physical conditions.
2. The subject property shares the same general physical conditions as other property in the vicinity. There do not appear to be other cemeteries in the immediate vicinity of the subject property.
3. The Ordinance prevents placing a non-residential use within the required 50 ft. rear setback and 25 ft. side setback area. The burial site can be placed at an alternate compliant location on the site.
4. The properties immediately adjacent to the south and west consist of multiple residential uses, which have a direct line of sight to the new burial location. The closest distance between the burial site and closest residential site is +/- 50 ft. The rear property line contains existing vegetation; however, this vegetation consists of mainly pine trees which provide little in way of visual screening. The side property line contains little to no screening between the burial site and dwelling on the adjacent property to the west. The current site vegetation does not serve as adequate visual screening for properties to the south and west of the subject line. This siting of the cemetery without implementation of appropriate screening may have a negative impact on adjacent uses.

Absent implementation of appropriate mitigation there could have adverse impacts to adjacent property, the public good, and the character of the district.

The motion was not seconded. There was no alternate motion made, so the request was denied.

BOA-20-30, 1544 Pinewood Rd. (County) was presented by Mr. Kyle Kelly. The Board reviewed this request for multiple variances from the *Sumter County – Zoning & Development Standards Ordinance* in order to permit the recombination of two existing lots. Variances from *Article 3, Exhibit 2: Development Standards for uses in the GR District* to establish a new lot boundary that results in an existing primary residential structure being located +/- 4 ft. from a side property line (4 ft. less than min. req.) and results in a lot width at the minimum front building line of 25 ft. (35 ft. less than min. req.); and Variance from *Article 8, Section 8.e.13: Lots* in order to establish a new lot boundary that results in a lot having 25 ft. of road frontage (35 ft. less than required). The property is located at 1542, 1544, and 1546 Pinewood Rd., is zoned General Residential (GR), and is represented by Tax Map #'s 208-07-01-001 & 208-07-01-22.

Mr. Kelly stated the properties are currently considered legal nonconforming with regard to lot width-to-depth ratio. Both properties are currently conforming to ordinance standards subject to this request.

Mr. Kelly added as part of the Court-Ordered property division, the applicant wishes to exceed the minimum side yard setback requirement for an existing residential lot.

Mr. Dickie Jones was present to speak on behalf of the request.

Mr. Steven Tisdale requested clarification on 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. The property in question is part of a Court-Ordered property division resulting from a property ownership dispute between the applicant and another individual. The case was adjudicated by the Master of Equity for Sumter County, and the property division boundaries were established through that case.

2. This is an isolated condition that does not generally apply to other property in the vicinity. The court order applies only to the subject property.

3. The property itself was the subject of a property dispute resolved via the court system, with multiple individuals expressing ownership interest. In order to resolve the stated ownership challenges, as directed in the Court Order the land must be subdivided. In order to attempt to comply with the Court Order, variances from the development standards must be granted. Without approval of the requested variances, the property cannot be subdivided for recombination.

4. While proposed variance would result in creation of a nonconformance with the zoning ordinance based on side lot setback standards, lot width standards, and minimum road frontage standards, authorizing a variance would not be of substantial detriment to adjacent property. Rather, the variance would allow the enforcement of the court order in a way that does not infringe on adjacent properties. Additionally, it will allow the property owners to reconcile the ownership issues related to the land and structures.

The proposed variance will not result in a change in the use of the parcel, and there are no proposed changes to structures on the property.

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

BOA-20-31, 325 Broad St. (City) was presented by Mr. Jeff Derwort. The Board reviewed a variance from the *City of Sumter Zoning & Development Standards Ordinance* in order to place an outdoor testing shelter in the parking area in front of the building: *Article 3, Section 3.i.5: Minimum Yard and Building Setback Requirements*. The property is located at 325 Broad St., is zoned General Commercial (GC), and is represented by Tax Map #'s 229-14-01-014 & 229-14-01-025.

Mr. Derwort mentioned the structure will be used as a shelter for Colonial Healthcare staff conducting drive-thru COVID-19 testing. This request follows a previous approval of a 13 ft. front setback variance and a minimum

off-street parking variance approved by the Sumter City-County Board of Appeals under BOA-20-21. Additional encroachment into the front setback is being requested so that vehicles may drive under the structure, where staff will conduct testing. This discrepancy with the previous approval was noted by staff after the structure was placed on the site. Thus, a new variance request must be considered.

Mr. Derwort added the subject property is within the General Commercial (GC) zoning district. The minimum required front setback from property with arterial road frontage and with parking spaces located in front of the building is 45 ft. A 13 ft. front setback variance was previously approved under BOA-20-21. The applicant is proposing to place the aluminum testing shelter no closer than 22 ft. from the front property line. Therefore, variance approval for an additional 10 ft. of encroachment into the front setback is required.

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 Colonial Healthcare site consists of multiple tax parcels that form one cohesive medical office site containing a 27,452 sq. ft. building and associated off-street parking area. The parking area on the site are usually close to capacity during most operating hours. The request is for the testing shelter and associated traffic queuing be in the front of the building in order to minimize, as much as possible, the amount of impact on existing parking and patient accessibility to the site.
2. The subject property is a medical office that is providing outdoor COVID-19 testing to patients via drive-thru, as is typical current practice due to the highly contagious nature of the virus. No other sites in the immediate vicinity are balancing ongoing continuous provision of this critical public service while trying to maintain normal business operations.
3. The Ordinance prevents the placing of the structure within the front setback area. While the structure could be placed at another compliant location within the parking area, such a location

	<p>may pose an impact to the accessibility and availability of the existing parking on the site.</p> <p>4. The intent is for this structure to be temporary in nature, remaining on the site only as long as needed to meet COVID-19 testing needs. With this temporary timeframe at the forefront of this analysis, the variance will not be of substantial detriment to adjacent property, the public good, nor will it harm the character of the district provided that a condition is placed on any approval by the BZA that the structure will be removed from the site and that the blocked parking spaces will be reopened by December 31, 2021. Additionally, the applicant shall closely monitor and make any adjustments that are required to the queuing line layout in the order to avoid testing traffic lining up onto Broad St.</p> <p>Subject to the following conditions:</p> <ul style="list-style-type: none"> • The testing shelter shall be removed from the site and blocked parking spaces shall be reopened for customer use no later than December 31, 2021. Any extension of the request must be evaluated by the Sumter Board of Zoning Appeals. • The applicant shall closely monitor, and shall make adjustments (if required), to the layout of the testing que line to ensure that no travel lanes on Broad St. are blocked. <p>The motion was seconded by Mr. Sam Lowery and carried a unanimous vote.</p>
OTHER BUSINESS	Mr. Leslie Alessandro welcomed new board member Sam Lowery.
	<p>With there being no further business, Ms. Cleo Klopfleisch made a motion to adjourn the meeting at 4:09 p.m. The motion was seconded by Mr. Warren Curtis and carried a unanimous vote.</p> <p>The next regularly scheduled meeting is scheduled for February 10, 2021.</p>
	Respectfully submitted,

	<p><i>Kellie K. Chapman</i> Kellie K. Chapman, Board Secretary</p>
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