



# ZONING BOARD OF APPEALS

## Minutes of the Meeting

December 11, 2024

### ATTENDANCE

A regular meeting of the Zoning Board of Appeals was held on Wednesday, December 11, 2024, in the Fourth Floor City Council Chambers of the Sumter Opera House, 21 N. Main Street. Six board members –Mr. Leslie Alessandro, Mr. William Bailey, Mr. Clay Smith, Mr. Claude Wheeler, Mr. Steven Schumpert, and Mr. Frank Shuler were present. Mr. Jason Reddick, Mr. Todd Champion and Mr. Louis Tisdale were absent.

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

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

### MINUTES

Mr. Clay Smith made a motion to approve the minutes of the November 13, 2024, meeting as written. The motion was seconded by Mr. Jason Reddick and carried a unanimous vote.

### NEW BUSINESS

**BOA-24-37, 475 Boots Branch Rd. (County)** was presented by Mr. Jeff Derwort. The Board reviewed the request for a variance to the minimum lot requirements outlined in *Article 3.n.5.a: Minimum Lot Requirements* & *Article 8.e.13.g: Lots* and from public road frontage requirements outlined in *Article 8.e.13.a* & *Article 8.e.13.c: Lots* of the *Sumter County Zoning & Development Standards Ordinance* (the “Ordinance”) in order to subdivide the property into 4 separate lots. The property is located at 475 Boots Branch Rd., is zoned Agricultural Conservation (AC), and is represented by TMS# 299-00-02-031.

Mr. Derwort stated that the Ordinance requires all new lots in the AC zoning district to have 60 ft. of lot width throughout and that all new lots must have at least 60 ft. of frontage on a compliant street.

Mr. Derwort added proposed division is the result of a family settlement agreement.

Mr. Derwort mentioned due to limited frontage width on Boots Branch Rd. (11.39 ft.), proposed Lot # 4 is not compliant to frontage and width requirements.

Mr. Chip McMillan was present to speak in favor of the request.

Ms. Brenda McKnight and Ms. Gloria Carla needed clarification on the request.

After a brief discussion, Mr. Frank Shuler made a motion to approve this request subject to the following:

1. The proposed division would result in tracts #1, #2, and #3 being conforming, but tract #4 would retain the existing nonconforming lot condition, specifically that a portion of the lot would be less than 60 ft. in width and would not have 60 ft. of width to a public roadway.

There are uniquely shaped parcels in the area of this site, though none to the degree of the subject parcel, specifically the narrow width of the lot that is the result of previous subdivision completed before adoption of the current Ordinance.

2. The condition of the existing lot boundary that creates 11.39 ft. of width at the public road is an uncommon condition.

All property in Sumter County is required to follow Article 8.e.13. standards, save for those defined as exempt subdivision in Article 10, which is limited to agricultural restricted uses and family exempt subdivision.

3. Application of the ordinance to the property restricts the ability of the applicant to divide the tract as negotiated in the family settlement in order to convey each divided parcel to a different family member.
4. Article 8.e.13. required that new lots be established with public road frontage to minimize the presence of "landlocked" lots.

This subdivision is being completed as part of the family settlement agreement that established separate lots for each sibling that was bequeathed a 1/3 interest in the property.

The proposed subdivision includes a 50 ft. ingress-egress easement for Lot #4 to access Boots Branch Rd. through Lot #3 in addition to 11.39 ft. of direct road frontage that Lot #4 retains.

The motion was seconded by Mr. Clay Smith and carried by a unanimous vote.

*Mr. Leslie Alessandro and Mr. Frank Shuler recused themselves from the BOA-24-38 request.*

**BOA-24-38, 1485 Diebold Dr. (County)** was presented by Mr. Jeff Derwort. The Board reviewed the request for a variance from the side interior setback requirements outlined in *Article 3.1.5.b: (HI District) Minimum Yard & Building Setback Requirements* of the *Sumter County Zoning & Development Standards Ordinance* (the “Ordinance”) and any other variances as may be required in order to establish a new industrial structure on the property at 0 ft. to +/- 5 ft. from the side property line. The property is located at 1485 Diebold Dr., is zoned Heavy Industrial (HI), and is represented by TMS# 230-00-01-042.

Mr. Derwort stated that a variance is requested in order for the applicant to construct a +/- 18,287 sq. ft. paint and blast building on the property that is part of a larger scope of refurbishments and site improvements to make the property ready for a new industrial user.

Mr. Derwort stated that the required side setback in the HI District is 15 ft.

Mr. Derwort mentioned there are currently 3 separate lots in the applicant’s proposed industrial project site proposed to be purchased by the applicant.

Mr. Derwort stated because Parcel B is in the municipal limits of the City of Sumter, the combination of that parcel with the remaining 2 parcels is not viable, as it would result in the tract crossing a jurisdictional boundary.

After a brief discussion, Mr. Clay Smith made a motion to approve this request subject to the following:

1. The extraordinary and exceptional conditions applicable to this site is that there is an adjoining tract the applicant is purchasing and plans to use as part of the overall development is located in the municipal limits of the City of Sumter.

The current boundary between the 2 parcels is a jurisdictional boundary that can only be changed by annexation or de-annexation.

Annexation is not feasible given the City’s and County’s current policies and practices with regard to economic development. De-annexation is not feasible given the legal requirements and City Council decision-making process required to consider such a request.

2. While the City of Sumter municipal boundary is very irregular in this portion of Sumter, annexation of the tract into the City boundary either as part of the development or re-development plan is generally pursued via 100% petition for commercial and residential development.

For industrial economic development projects, annexation is not the preferred mechanism given the methods employed to encourage investment by industries with high employment and /or capital equipment needs.

3. Application of the ordinance to the property restricts the ability of the applicant to fully utilize the tract as desired.
4. Because the applicant will own both the site at 1485 Diebold Dr. and the adjoining tract potentially affected by the setback variance, there is not expected to be a detriment to the adjacent property or the public good.

Granting the variance is also not expected to harm the character of the district, as the combined site's overall development will not appear inconsistent with other industrial developments in the Sumter community.

The motion was seconded by Mr. Claude Wheeler and carried by a unanimous vote.

*Mr. Frank Shuler recused himself from the BOA-24-39 request.*

**BOA-24-39, 1475 Alice Dr. (City)** was presented by Mr. Derwort. The Board reviewed this request for Special Exception approval in accordance with *Article 3, Exhibit 5: Permitted Uses in All Zoning Districts*; *Article 5, Section 5.b.2: Enumeration of Certain Hazardous and/ or Potential Disruptive Land Development Activities*; and *Article 5, Section 5.b.3.m: Liquor Stores* of the City of Sumter Zoning & Development Standards Ordinance (the Ordinance) **in order to establish a Liquor Store Use** on the property. The property is located at 1475 Alice Dr., is zoned General Commercial (GC), and is identified as TMS# 203-00-03-001.

Mr. Derwort stated the applicant is proposing a separate liquor store space to be a component of a larger BJ's Wholesale Membership Club project that was recently approved by Sumter City Council and the Sumter City-County Planning Commission. The liquor store area will be in a separate enclosed space from the larger membership club area. There will be no customer entrance to the liquor store area from inside of the membership club area.

Mr. Sean Wilson and Mr. Philip Greenwald were present to speak on behalf of the request.

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

In relation to the request for special exception approval to establish a liquor store use at property located at 1475 Alice Dr.:

The Special Exception complies with all applicable standards contained elsewhere in this Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements.

1. The applicant secured major site plan and HCPD approvals for site development from the Sumter City-County Planning Commission under Case# MSP-24-56/HCPD-24-35. The approved plans meet all Ordinance requirements for site development.

The liquor store use is not within 300 ft. (measured in a straight line from structure to structure) of a residential use, church, school, or public playground on a separately platted parcel.

The liquor store use is not directly adjacent to a residential use.

That the Special Exception will be in substantial harmony with the area in which it is located.

2. The property was recently rezoned to the GC zoning district, is located along a roadway corridor designed to support higher intensity commercial uses and is in a location suitable for the establishment of a broad range of commercial uses.

That the Special Exception will not discourage or negate the use of surrounding property for use(s) permitted by right.

3. The property was recently rezoned to GC, is located along a roadway corridor designed to support higher intensity commercial uses and is in a location suitable for the establishment of a broad range of commercial uses. The liquor store is part of a larger wholesale membership club development and there is no indication that the proposed use will discourage or negate the use of surrounding property for uses(s) permitted by right.

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

**BOA-24-40, 550/552 Brusshwood Dr. (City)** was presented by Mr. Jeff Derwort. The Board reviewed the request for a variance

from the front setback requirements outlined in the Sumter West Planned Development Ordinance (Ordinance # 2857, PD-00-08, Revision 26) in order to allow for single-family attached structure (consisting of 2 dwelling units) to be established +/- 24.37 ft. from the front property line. The property is located at 550/552 Brushwood Dr., is zoned Planned Development (PD), and is identified as TMS# 185-00-01-186.

Mr. Derwort stated in 2019, City Council adopted a revised Planned Development Ordinance for Sumter West to allow for townhome (two-unit single-family attached) lots to be established in certain areas of the Planning Development designated as neighborhood commercial. The revised Ordinance included specific development standards for townhouse construction in this area, including a required 25 ft. front building setback.

Mr. Derwort stated that Planned Developments in general are authorized by *Article 3.p: Planned Development (PD) District* of the City of Sumter Zoning & Development Standards Ordinance, and variances from site specific PD Ordinances are sent to the Zoning Board of Appeals for variance consideration.

Mr. Derwort mentioned building permits were issued for the construction of the townhome structure, containing 2 separate dwelling units, on March 6, 2024. Issued permits contained information on basic development standards, including required building setback requirements and approved plans.

Mr. Derwort stated that mentioned that since the development is a townhome, a property line is set along the shared common wall between the units. The property line is established after construction is underway once a firm location for the shared wall is established. Based on the plat submitted to split the lot, it was discovered that the structure encroached into the front setback by 0.63 ft. at the point of closest to the front property line. The plat submitted was prepared by Anderson Land Surveying (Job# 24225), is dated November 1, 2024. The applicant is requesting variance approval, citing the street curvature as a primary hardship, to resolve the setback encroachment.

Mr. Johnny James was present to speak on behalf of the request.

After a brief discussion, Mr. Frank Shuler made a motion to approve this request subject to the following:

1. The property is located at 550/552 Brushwood Dr. and is part of the approved neighborhood commercial townhome area of the Sumter West Planned Development.

The property received building permits approval for the construction of a 2-unit townhome structure.

Prior to completion of the structure, the property is to be subdivided along the shared wall between the 2 units.

The property has frontage along a moderately curved section of Brushwood Dr.

2. As it relates to a request for a front setback variance, the property generally shares similar characteristics as other approved neighborhood commercial area townhome lots. There is a slight curvature along Brushwood Dr. right-of-way where the subject property sits. This is not a characteristic shared by a majority of the aforementioned townhome lots. All such lots are subject to the 25 ft. front setback requirements.
3. The situation prevents the applicant from receiving zoning final inspection approvals necessary to receive a Certificate of Occupancy.
4. The amount of setback variance (0.63 ft.) being requested is minor and approval is not anticipated to result in substantial determinant to adjacent property or the public good. Additionally, approval is not anticipated to harm the character of the neighborhood commercial townhome area with the Sumter West Planned Development.

The motion was seconded by Mr. Claude Wheeler and carried by a unanimous vote.

*Mr. Frank Shuler recused himself from the BOA-24-41 request.*

**BOA-24-41, 420 Lakewood Dr. (County)** was presented by Mr. Jeff Derwort. The Board reviewed the request for a variance from the residential accessory structure setback requirements outlined in *Article 4.g.2.b.: (Residential Accessory Structures) Setbacks* of the Sumter County Zoning & Development Standards Ordinance (the “Ordinance”) in order to establish a new 700 sq. ft. detached garage in the side yard within the required side setback area. The property is located at 420 Lakewood Dr., is zoned Residential-15 (R-15), and is represented by TMS# 223-00-01-047.

Mr. Derwort stated residential accessory structures 1000 sq. ft. in size or less are required to be setback at least 5 ft. from side and rear property lines.

Mr. Derwort stated the property is improved with a 6,131 sq. ft. single family detach home. The driveway serving the house

	<p>forms a loop, with the southern drive serving an existing attached side load garage that faces the southern property boundary line. The applicant is proposing to install a new detached garage on the opposite side of the concrete pad drive area, with garage doors facing north towards the house. Plans submitted by the applicant indicate that the existing concrete pad area is located +/- 23.1 ft. from the southern property line, with the proposed width of the building to be located in this area at 20 ft. This results in +/- 2 ft. of encroachment into the required side setback area for residential accessory structures.</p> <p>Mr. Derwort mentioned after the variance application was submitted, Planning Department staff were provided with actual notice of restrictive covenants applicable to the subject property that prohibit the establishment of the structure at the proposed location. Said restrictive covenants are recorded at the Sumter County Register of Deeds in Deed Book: L10, Page 1521 and are applicable to the lots shown on the plat prepared by Joseph R. Edwards, R.L.S. recorded at the Sumter County Register of Deeds in Plat Book: Z-43, Page 124.</p> <p>The 2<sup>nd</sup> restrictive covenant from the above-referenced document states the following: No building shall be located on any residential lot, which is nearer than 75 ft. to the front line, or nearer than 25 feet to any side lot line or nearer than 100 ft. from the edge of pond. Said setback lines being shown on the hereinabove referred plat.</p> <p>Local governments and their appointed bodies are subject to the provisions found in SC Code Section 6-29-1145 which prohibit approval of a permit conflicting with private restrictive covenants if the local government has received actual notice that such covenants exist. This section of SC Code (in full).</p> <p>Mr. James Geddings was present to speak on behalf of the request.</p> <p>Mr. Kenneth Brice was present to speak against the request.</p> <p>After a brief discussion, Mr. Clay Smith made a motion to deferred action on this request until the next Board of Appeals meeting on Wednesday, January 8, 2024. The Board has asked that the applicant obtain duly recorded amended restrictive covenants that release the subject property from any provision preventing construction of the proposed structure within 25 ft. for the side property line and written approval from the applicable HOA entity for the construction of the proposed structure. The motion was seconded by Mr. Claude Wheeler and carried by a unanimous vote.</p>
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<b>OTHER BUSINESS</b>	NONE
	<p>There being no further business, Mr. Clay Smith made a motion to adjourn the meeting at 4:12 p.m. The motion was seconded by Mr. Jason Reddick and carried by a unanimous vote.</p> <p>The next regularly scheduled meeting is scheduled for January 8, 2024.</p>
	<p>Respectfully submitted, <i>Kellie K. Chapman</i> Kellie K. Chapman, Board Secretary</p>