



## ZONING BOARD OF APPEALS

### Minutes of the Meeting

November 12, 2025

#### ATTENDANCE

A regular meeting of the Zoning Board of Appeals was held on Wednesday, November 12, 2025, in the First Floor James E. Clyburn Intermodal Transportation Center Santee Wateree Regional Transit Authority (RTA) Building Meeting Room, 129 South Harvin St., Sumter, South Carolina. Six board members – Mr. Todd Champion, Mr. Steven Schumpert, Mr. Frank Shuler, Mr. Clay Smith, Mr. Doc Dunlap and Mr. Gene Weston were present. Mr. William Bailey, Mr. Jason Reddick and Mr. Claude Wheeler were absent

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

The meeting was called to order at 3:01 p.m. by Mr. Steven Schumpert.

#### MINUTES

Mr. Clay Smith made a motion to approve the minutes of October 8, 2025, meeting as written. The motion was seconded by Mr. Doc Dunlap and carried a unanimous vote.

#### NEW BUSINESS

**BOA-25-34, 330 Rast St. (City)** was presented by Mr. Jeff Derwort. The Board reviewed the request for appealing the Zoning Administrator's determination that a "drinking place" use on the property is subject to a use discontinuance pursuant to *Article 6.a.2.b.1: Nonconforming Uses of the Zoning Ordinance*; *Article 6.b.1: Proof of Legal Nonconformance and Continuance of Use*; *Article 6.b.2: Loss of Nonconforming Use Status*; and *Article 10.b.1: "Drinking Place" Definition* of the City of Sumter Zoning & Development Standards Ordinance. The property is located at 330 Rast St., is zoned General Commercial (GC), and is represented by TMS# 230-16-01-009.

Mr. Derwort stated that According to available Business License records, a "drinking place" use on the property was first established on February 16, 2003. At the time this use was established, "drinking place" uses were permitted by-right in the GC zoning district.

Mr. Derwort stated that on November 2, 2004, City Council adopted an amendment to the Zoning Ordinance under Case# OA-04-16 that made "drinking place" uses subject to special exception approval by the BOA in the GC district.

	<p>Mr. Derwort stated that on June 14, 2021, a business license was issued for Backyard Bar N Grill to operate a “drinking place” use on the property. The license was approved without special exception approval from the BOA, as it was determined that a nonconforming use discontinuance pursuant to <i>Article 6</i> of the Zoning Ordinance had not occurred.</p> <p>Mr. Derwort stated that on November 2, 2021, City Council adopted an amendment to the Zoning Ordinance under Case# OA-21-06 that added a formal definition for “drinking place” to <i>Article 10: Definitions</i> of the Zoning Ordinance. Mr. Derwort stated that per their definition, “drinking places” have proposed DOR licenses.</p> <p>Mr. Derwort stated that on April 19, 2024, the South Carolina Administrative Law Court filed an order suspending the South Carolina Department of Revenue (DOR) on-premises beer/wine and liquor by the drink licenses held by the appellant.</p> <p>Mr. Derwort stated that on June 20, 2025, the South Carolina Administrative Law Court filed a final order and decision upholding its April 19, 2024 order with a retroactive 1-year suspension starting on April 19, 2024. Thus, with this order, the DOR on-premises alcohol consumption licenses came off of suspension on April 19, 2025.</p> <p>Mr. Derwort stated that on August 12, 2025, the appellant submitted a business license clearance form request.</p> <p>Mr. Derwort stated that on August 18, 2025, the Zoning Administrator sent a formal written determination to the appellant. This determination stated, in summary, that the “drinking place” use on the property is subject to nonconforming use discontinuance pursuant to <i>Article 6.b.2.</i> of the Zoning Ordinance. As such, reestablishment of this use on the property must fully comply with the current Zoning Ordinance requirement, including the requirement to obtain special exception approval by the BOA.</p> <p>Mr. Derwort summarized the Zoning Administrator’s position as outlined in the staff report.</p> <p>Mr. Derwort emphasized that having a proper DOR license is part of the “drinking place” definition found in the Zoning Ordinance, and that Backyard Bar N Grill had a suspended DOR license for a year.</p> <p>Mr. Derwort summarized the Appellant’s position as noted from the materials submitted on the appeal application document and</p>
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	<p>from correspondence received prior to the appeal application being submitted.</p> <p>Mr. Derwort stated that this is not a decision concerning the merits of this property as a suitable location for a “drinking place use”. Rather, this decision is about whether a “drinking place” use on the property is subject to a nonconforming use discontinuance pursuant to Article 6.a.2.b.1., Article 6.b.1., and Article 6.b.2.</p> <p>Mr. Derwort noted that if the Board makes the decision to affirm the Zoning Administrator’s determination, the appellant will need to apply for special exception approval to reestablish the “drinking place” use on the property and demonstrate that such use will be in full compliance with the Zoning Ordinance.</p> <p>Mr. Derwort noted that if the Board makes the decision to reverse the Zoning Administrator’s determination, then the Zoning Administrator will sign the business license clearance form submitted by the appellant for zoning compliance. Such a decision by the Board only applies to zoning compliance and does not have an impact on any other section of City Code applicable to approval of appellant’s business license clearance form or business license renewal.</p> <p>Mr. Derwort concluded his presentation and entertained questions from the Board. Mr. Derwort responded to questions received.</p> <p>Mr. Toby Ward, Jr., PA of the law firm Tobia G. Ward, Jr. PA (Attorney’s at Law) was present to represent the appellant.</p> <p>Mr. Ward referenced a legal brief prepared for the appellant (Backyard Bar N Grill/Phillip Boyd). This exhibit was introduced and passed out to Board members by Planning Staff.</p> <p>Mr. Ward presented the position outlined in the legal brief, that the appellant is not subject to a use discontinuance.</p> <p>Mr. Toby Ward called the following witnesses to speak in front of the Board:</p> <ol style="list-style-type: none"> <li>1. Phillip Boyd II (Business Owner)</li> <li>2. Dean Gainey (Property Owner)</li> </ol> <p>The Board asked several questions of Mr. Ward. Mr. Ward responded to these questions.</p> <p>The Board asked Danny Crowe (Board Attorney) if he would like to make any statements. Mr. Crowe outlined several points concerning the language of the City of Sumter Zoning &amp; Development Standard Ordinance and stated that the language</p>
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	<p>of the Article 6 provisions does not require that an intent to discontinue the use or abandon the premises be demonstrated.</p> <p>Mr. Kenneth Vicent and Mr. Charles Raymond spoke in support of the appellant's position.</p> <p>No one spoke in support of the Zoning Administrator's position/determination.</p> <p>After a brief discussion, Mr. Clay Smith made a motion to affirm the Zoning Official's determination that a "drinking place" use on the property is subject to a use discontinuance and thus reestablishment of such use on the property must be done so in full compliance the City of Sumter Zoning &amp; Development Standards Ordinance, subject to the findings of fact and conclusions developed by the BZA.</p> <p>The motion was seconded by Mr. Frank Shuler. The motion carried with a 3-2 vote (Smith, Shuler, &amp; Dunlap in favor) and (Weston &amp; Champion opposed).</p> <p>Board Attorney Danny Crowe asked Mr. Clay Smith to state the findings of fact and conclusion associated with the motion. Mr. Smith responded that the motion was made with the findings and conclusions outlined in the staff report.</p> <p><i>Mr. Frank Shuler recused himself for BOA-25-36.</i></p> <p><b>BOA-25-36, 99 Paisley Park (City)</b> was presented by Mr. Kerlyn Mondesir. The Board reviewed the request for a variance from R-15 district side setback requirements outlined in Article 3, Exhibit 3-1(A): Development Standards for Uses in R-15 District of the City of Sumter Zoning &amp; Development Standards Ordinance in order to construct an addition to the existing house that will be located +/- 9.5 ft. from the interior side property line. The required setback from the interior side property line is 12 ft. The property is located at 99 Paisley Park, is zoned Residential-15 (R-15), and is represented by TMS# 204-15-04-005.</p> <p>Mr. Mondesir stated the applicant is requesting a variance to the required interior side setback in order to construct a master bathroom and closest addition to the existing home.</p> <p>Mr. Mondesir added the requested variance would allow the homeowner to extend the structure while maintaining consistency with the existing building line, which already encroaches into the side setback.</p>
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	<p>Mr. Mondesir mentioned the home on the property was constructed in 1962 according to the Sumter County Tax Assessors' Office.</p> <p>Mr. Shawn Mathews was present to speak on behalf of the request.</p> <p>There was no opposition.</p> <p>After a brief discussion, Mr. Gene Weston made a motion to approve this request subject to the following:</p> <ol style="list-style-type: none"> <li>1. The home was built in 1962 and does not conform to the current setback requirements, and is considered to be a nonconforming site not subject to a discontinuance.</li> </ol> <p>The property is a corner lot with direct frontage on 2 streets. The house on the property is oriented in a diagonal manner, with the front directly aligned with the corner of Haile Dr. and Paisley Park.</p> <p>Layout of the house makes conforming with current interior side setback requirements more challenging than if the front of the house was aligned parallel to Haile Dr. The nature of the work, construction of a master bathroom and closet, can not be put in another location.</p> <ol style="list-style-type: none"> <li>2. The orientation of the house on the lot is similar to that of other corner lots within this neighborhood. However, corner lots makes up a small percentage of the lot in this neighborhood.</li> </ol> <p>The diagonal orientation of houses at corner lots is somewhat unique when looking at the city as a whole.</p> <ol style="list-style-type: none"> <li>3. Th application of the ordinance prevents the property owner from building the addition to the structure in a functional manner.</li> </ol> <p>The proposed addition is a master bathroom and closet.</p> <p>There are other places on the dwelling where an addition may be added in compliance with the setbacks standards, however: the proposed location is the most logical place for the addition, as it adjoins the master bedroom.</p> <ol style="list-style-type: none"> <li>4. Approval of this variance is not anticipated to result in substantial detriment to adjacent property or the public good.</li> </ol> <p>Approval is not anticipated to harm the character of the district.</p>
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	<p>The proposed addition will not encroach further into the setback area than the existing house, though it will add more house area that does not conform to current requirements.</p> <p>The motion was seconded by Mr. William Bailey and carried a unanimous vote.</p> <p><b>BOA-25-38, 718 S. Harvin St. (City)</b> was presented by Mr. Kerlyn Mondesir. The Board reviewed the request for a variance from R-6 district side front and side setback requirements outlined in <i>Article 3, Exhibit 3-2: Development Standards for Uses in R-6 District</i> of the City of Sumter Zoning &amp; Development Standards Ordinance in order to allow a +/-840 sq. ft. pavilion to be located +/- 10 ft. from the interior side property lines and +/- 10 ft. from the S. Harvin St. frontage. The required setback from the interior side property line for a nonresidential structure is 25 ft. and the required front setback on S. Harvin St. is 35 ft. The property is located at 718 S. Harvin St., is zoned Residential-6 (R-6), and is represented by TMS# 250-09-03-059.</p> <p>Mr. Mondesir stated the structure is an open-air gazebo constructed on a concrete slab.</p> <p>Mr. Mondesir added the structure must comply with nonresidential use setback requirements, as it is a principal structure and part of the larger church campus.</p> <p>Mr. Mondesire mentioned a building permit was applied for a 2023; however, the permit was never approved or issued, and construction proceeded without formal authorization.</p> <p>Mr. David Weeks and Ms. Debra Simmons were present to speak in favor of the request.</p> <p>Ms. Dorothy McBride was present for clarification on how this project would affect her property.</p> <p>There was no opposition.</p> <p>After a brief discussion, Mr. Clay Smith made a motion to approve this request subject to the following findings of fact and conclusions:</p> <ol style="list-style-type: none"> <li>1. The entirety of the Jehovah Missionary Baptist Church campus is spread out across multiple city blocks.</li> </ol> <p>This area is mainly utilized for overflow parking for church services and events.</p>
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	<p>The Harvin Street side of the property is residential in nature, while the Manning Ave. side is commercial in nature. This property spans the block between Manning Ave. and Harvin St. with direct frontage on Royal Ave.</p> <p>2. The conditions identified in this case are somewhat unique and do not generally apply to other individual properties in the surrounding area.</p> <p>Jehovah Missionary is a religious organization with a large campus has constructed a small structure on the property that due to its size and non-residential nature is considered to be a principal structure.</p> <p>The property is part of a campus environment with most of the property used for overflow parking for church services and events.</p> <p>The structure was placed with orientation toward the street dominated by residential use, with lower traffic volumes, and in a manner that would minimize impact on available parking spaces when not in use for activities.</p> <p>3. Application of the ordinance does not permit construction of this specific structural configuration without obtaining variance.</p> <p>The location of the structure allows for the property to maintain full functionality as an overflow parking for events and services, and keeps the structure oriented away from higher traffic commercial arterial roadway.</p> <p>4. While there is some concern related to safety of an outdoor classroom located +/- 10 ft. from a road right of way, based on available data, over the past ten years only two crashes have occurred at the intersection of Royal Avenue and South Harvin Street.</p> <p>South Harvin Street is a major collector, and Royal Avenue is a local access street. Traffic speeds are moderate, with 95% of vehicle traveling at or below 32 mph.</p> <p>The structure under review is orientated toward Harvin St., which is primarily residential in character with an historic pattern of front setbacks closer than the Ordinance required 35 ft. minimum.</p> <p>The applicant has installed chain link fencing around the entirety of the property, fully enclosing the gazebo structure.</p>
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	<p>Given the location in relation to the established front setbacks on Harvin St. and the safety measure implemented by the applicant to enclose the site with fencing, this variance should not be of substantial detriment to the adjacent property or to the public good.</p> <p>The motion was seconded by Mr. Frank Shuler and carried a unanimous vote.</p>
<b>DIRECTOR'S REPORT</b>	<p>Ms. Helen Roodman requested the Board notify the Planning Department of any days available for training.</p>
	<p>There being no further business, Mr. Clay Smith made a motion to adjourn the meeting at 4:48 p.m. The motion was seconded by Mr. Frank Shuler and carried a unanimous vote.</p> <p>The next regularly scheduled meeting is scheduled for December 10, 2025.</p>
	<p>Respectfully submitted,</p> <p><i>Kellie K. Chapman</i></p> <p>Kellie K. Chapman, Board Secretary</p>