

# Sumter City-County Planning Commission

April 24, 2024

## OA-24-03, Variance to Article 5.b.3 Special Design Criteria (County)

### I. THE REQUEST

**Applicant:** Sumter County

**Request:** Amend *Article 1.h.4.b* of the Sumter County Zoning & Development Standards Ordinance (the “Ordinance”) to add provision stating the Zoning Board of Appeals may not grant variances to the special design criteria outlined in *Article 5.b.3* of the Ordinance for hazardous and/or potentially disruptive land uses. And amend *Article 1.h.4.c* in order to clarify that the City-County Board of Zoning Appeals may modify a Special Exception use approval in order to impose additional conditions upon the proposed use, not to relax established special exception use criteria.

### II. BACKGROUND

The Sumter County Zoning & Development Standards Ordinance (the “Ordinance”), within the provisions of *Article 5: Performance Criteria for Certain Buildings, Uses and Projects*, lists certain uses that are hazardous and/or are potentially disruptive (See *Article 5.b.2*) and outlines special design criteria for these uses (See *Article 5.b.3*). Further, such uses require special exception approval by the Zoning Board of Appeals (BOA), an appointed board that has the authority to approve such uses. The BOA reviews special exception requests against the criteria outlined in *Article 1.h.4.c.2*, as outlined below:

1. The request complies with all applicable development standards contained elsewhere in this Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements.
2. The special exception will be in substantial harmony with the area in which it is located.
3. That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.

The BOA also reviews special exception requests against the special design criteria outlined *Article 5.b.3*, where applicable.

In addition to making decisions on special exception uses, the BOA considers variances (relief) from the requirements of the Ordinance in accordance with authority granted via state statute and within the Ordinance.

On occasion, applicants considering submission of a special exception application ask if a variance can be granted by the BOA to any of the *Article 5.b.3* requirements, as maybe applicable. This ordinance amendment seeks to firmly answer this question with clear language about the BOA’s authority to grant variances to these requirements.

***Proposed Text Amendment***

A strike-through of the proposed text amendment is attached as Exhibit 1.

**III. STAFF RECOMMENDATION**

Staff recommends approval of this request.

The proposed amendment removes the ability of the BOA to grant variances to *Article 5.b.3* special design criteria for hazardous and/or potentially disruptive land uses while clarifying that the BOA may not modify a use approval to be less restrictive than the established *5.b.3* special design criteria. Staff is of the opinion that these criteria are firm conditions set by County Council for the allowance of these “special uses” on a specific property. Variances to these requirements undermine the use related requirements put in place by County Council to protect the health, safety, and welfare of the general public.

**IV. PLANNING COMMISSION – April 24, 2024**

**OA-24-03, Amend Article 1.h.4.b & 1.h.4.c  
Variances & Special Exceptions**

**Ordinance Amendment  
Strike-Thru**

**Amend Article 1.h.4.b as follows:**

**b. Variances:**

1. To hear and decide appeals for variances from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Sumter City-County Zoning Board of Appeals makes and explains all of the following:
  - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property.
  - b. These conditions do not generally apply to other property in the vicinity.
  - c. 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.
  - d. 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.
2. The Sumter City-County Zoning Board of Appeals may not grant a variance the effect of which would be to:
  - a. Allow the establishment of a use not otherwise permitted in a zoning district.
  - b. Extend physically a nonconforming use of land.
  - ~~c.~~ Change zoning district boundaries shown on the Sumter County Official Zoning Map.
  - ~~e-d.~~ Provide relief from any special design review criterium outlined in Article 5.b.3. for certain hazardous and/or potentially disruptive land development activities.
3. The fact that property may be utilized more profitably, should a variance be granted, shall not be considered grounds for a variance.
4. In granting a variance, the Sumter City-County Zoning Board of Appeals may attach to it such conditions regarding location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to promote the public health, safety, or general welfare.

**Amend Article 1.h.4.c as follows:**

c. Special Exception:

1. Special exceptions are subject to the terms and conditions for the use set forth for such uses in the Zoning Ordinance.
2. Permits for Special Exceptions shall be evaluated by the Sumter City-County Zoning Board of Appeals on the basis of the following criteria:
  - a. That the Special Exception complies with all applicable development standards contained elsewhere in this Ordinance, including landscaping and bufferyards, off-street parking, and dimensional requirements.
  - b. That the special exception will be in substantial harmony with the area in which it is located.
  - c. That the special exception will not discourage or negate the use of surrounding property for use(s) permitted by right.
3. In granting a special exception, the Sumter City-County Zoning Board of Appeals may modify the application by ~~impose~~imposing such additional stipulations, conditions, or safeguards as, in its judgement, will enhance the siting of the special exception. At the conclusion of the review, the Sumter City-County Zoning Board of Appeals shall approve the application as submitted or as ~~specifically modified~~with ~~specific modification~~, or disapprove the application. If approved, the Sumter City-County Zoning Board of Appeals shall instruct the Zoning Administrator to issue such permits contingent on the ~~any~~ specific modification imposed. If disapproved, the Sumter City-County Zoning Borad of Appeals shall notify the applicant, in writing, of the action disapproving the application, with the reasons therefore.