



# Spartanburg County

## Planning and Development Department

### Board of Zoning Appeals MINUTES

*April 27, 2021*

**Members**

**Present:**

Jack Gowan, Jr., Chairman  
Michael Padgett, Vice Chairman  
Kae Fleming  
Marion Gramling  
Thomas Davies  
Angela Geter  
Glenda Brady  
Jason Patrick

**Members**

**Absent:**

Louise Rakes

**Staff Present:**

Joan Holliday, Interim Director  
Rick Carpenter, Planner IV  
Rachel Dill, Development Coordinator I  
Ginny Dupont, County Attorney

*NOTICE: Pursuant to Section 30-4-80 of the S.C. Code of Laws, the annual notice of meetings for this Board was provided on or before January 1, 2015 via the County website. In addition, the Agenda for this Meeting was posted on the bulletin board at the entrance to the Administration Building as well as on the County's website and was emailed to all persons, organizations, and news media requesting notice.*

**1. Call to Order**

Chairman Jack Gowan, Jr. called the meeting to order.

**2. Approval of Minutes March 30, 2021 Meeting**

Mike Padgett made a motion to approve the minutes as submitted. Tom Davies seconded the motion. The motion carried with a vote of 7 to 0, with Jason Patrick absent for the vote.

**3. Unfinished Business –**

Mike Padgett inquired about a variance that had been postponed for Honey Wax on Highway 9. Mr. Padgett said it looked like the business was in operation. Planner Rick Carpenter said that he would alert the pertinent departments for an inspection.

**4. New Business –**

- A. Variance Request:**
- Carin Fletcher- 211 Bailey St.**
- Tax Map Number: 6-17-04-028.00**
- Variance On Rear Setback**

Rick Carpenter was sworn in and presented the following staff report(s):

**Variance Request**  
Staff Report

<b>Carin Fletcher</b>			
<b>Meeting Date: April 27, 2021</b>			
<b>Reference Name</b>	211 Bailey St.	<b>Applicable Zoning Ordinance</b>	ULMO
<b>Zoning District</b>		Partial Restrictive	
<b>Factual Dates</b>	<b>Variance Application Received</b>	3/30/2021	
	<b>Deadline for Variance</b>	3/30/2021	
	<b>Public Notice</b>	4/11/2021	
	<b>Adjoining Property Owner Notification</b>	4/12/2021	
	<b>Variance Signs Posted on Property</b>	4/12/2021	
	<b>Pre-Submittal Meeting(s)</b>		
Applicant	Carin Fletcher		
Applicant Status	Owner		
Map Number	6-17-04-028.00		
Variance Case Number	VAR-07-21		

**Request:**

The applicant is requesting to reduce the rear setback required in Table 3a – Residential Setbacks and Other Requirements of the Unified Land Management Ordinance.

<b>Setback</b>	<b>Requirement</b>	<b>Request</b>
Rear	20 Feet	16 Feet

**Background Information:**

The subject site was formerly occupied by a stick-built single family dwelling unit and the lot is approximately .17ac. According to the applicant, the original structure was destroyed in a fire and they are proposing a new dwelling unit on this parcel. The applicant is proposing a 1,064 square foot manufactured home that is approximately fourteen (14) feet by seventy-six (76) feet. When the original home was destroyed in a fire, the garage was saved. This garage is approximately 1,114 square feet and is on a permanent foundation. The new manufactured home is being placed at the minimum required distance from the existing garage. The placement of the proposed structure will require an encroachment into the rear setback.

**Total Acreage:**

6-17-04-028.00 – Approximate parcel acreage is 0.17 ac.

**Applicable Ordinance and Zoning:**

Section 2.02-1 Dimensional Standards, Table 3a – Residential Setbacks and Other Requirements of the Unified Land Management Ordinance.

**Staff Planner(s):**

Richard Carpenter – Planner IV

**Staff Position:**

Staff has determined that the proposed residential structure would be non-conforming due to encroachment into the rear setback along the eastern aspect of the property. This encroachment constitutes approximately 4 feet or 20% of the requirement. The applicant is proposing to establish a new residential dwelling three (3) feet offset from the existing garage. The following setbacks apply to this parcel and are required for residential use:

<b>Ordinance</b>	<b>Front Lot Line</b>	<b>Side Lot Line (1)</b>	<b>Side Lot Line (2)</b>	<b>Rear Lot Line</b>
Residential Setbacks and All Other Uses	20 Feet	10 Feet	7.5 Feet	20 Feet

This new dwelling unit is designed to contain a four (4) by four (4) porch for ingress and egress on the front and rear of the unit. The means of ingress and egress are consistent with the minimum allowance per South Carolina building code. Additionally, the proposed structure is positioned to meet the front setback exactly at twenty (20) feet. The depth of the lot is fifty-eight (58) feet, and once you include the twenty (20) foot front setback, and the twenty (20) foot rear setback, there are eighteen (18) total feet remaining. The proposed dwelling unit is fourteen (14) feet wide, with eight (8) total feet added for ingress and egress. This accumulates to a total of twenty-two (22) feet wide for the overall footprint of the dwelling unit.

The staff position for this case is that the applicant could meet the Ordinance by proposing a smaller structure and negate the need for a variance. However, the site potential has been maximized while attempting to meet the intent of the Ordinance with a home of functional size.

**Staff Analysis:**

The board may grant a variance for an unnecessary hardship if it makes and explains in writing all of the following findings.

**1. There are extraordinary and exceptional conditions pertaining to the particular piece of property**

**Staff Analysis.** The hardship for this site is the depth of the lot in relation to the required setbacks. The proposed manufactured home is impacted by the overall size of the lot in conjunction with the large garage. The applicant has the ability to meet the requirements of the Ordinance if the structure were reduced in size. However, the remaining developable space after accounting for all setbacks may not leave enough room for a functional home. As the first qualification, the hardship must result from strict application of the Ordinance itself. A hardship caused, or based, on the convenience of the owner should not be grounds for a variance.

*See Exhibit 2 for the applicant's response to the hardship caused by strict application of the Ordinance.*

**2. These conditions do not generally apply to other property in the vicinity**

**Staff Analysis.** The conditions subjected to the site do not generally apply to other adjacent properties. Some parcels in the general vicinity do share similar lot size characteristics and adjacent accessory structures, but adjacent parcels are deeper than the subject site.

*See Exhibit 2 for the applicant's response to the hardship caused by strict application of the Ordinance.*

**3. 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.**

**Staff Analysis.** The Strict application of the ordinance would not eliminate the applicant's ability to utilize this parcel for residential purposes. However, the applicant may be prevented from placing a home of a functional size on the lot.

*See Exhibit 2 for the applicant's response to the hardship caused by strict application of the Ordinance.*

**4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the area will not be harmed by the granting of the variance.**

**Staff Analysis.** The authorization of a variance, as it relates to the rear setback encroachment for the proposed structure, should not have a negative impact on overall community character. The proposed structure is for residential purposes and there are multiple manufactured homes located within this subdivision.

*See Exhibit 2 for the applicant's response to the hardship caused by strict application of the Ordinance.*

**The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance.**

**Staff Analysis.** The primary argument for this variance is the depth of the lot in relation to the rear setback requirements. This residential project could proceed at this location with a smaller structure. However, strict application of the Ordinance may result in unreasonable hardship as it relates to placing a home of a functional size on the lot.

**Exhibits:**

- 1. Context map**
- 2. Application**
- 3. Site design**
- 4. Frontal view of project site**

Rick Carpenter stated that the applicant was requesting a rear setback of 16' from the traditional setback of 20'. He said that the proposed dwelling unit was about 1000 sq. ft. and that the applicant is replacing the home that was previously destroyed. Mr. Carpenter also remarked that the previous home did not meet the current required setbacks.

Mr. Carpenter presented the board with an aerial image, site plan, and street view images. He referenced the diminutive size of the lot and said that the applicant would be able to meet setbacks if they decreased the overall square footage of the manufactured home that was to be placed on the site. He also mentioned that the decrease in size would be a hardship on the applicant and take away from the functionality and practical use of the dwelling.

Tom Davies requested to see the image of the previous home on the site. Mr. Carpenter showed the previous stick built dwelling and stated that it did not meet setbacks.

Chairman Jack Gowan asked if anyone had questions for Mr. Carpenter. There being none, Mr. Gowan opened the public hearing. He asked if there was anyone present to speak in favor of the variance request.

Carin Fletcher was sworn in. Ms. Fletcher said that she was the owner of the property and asked if anyone had questions for her. Mr. Gowan asked if anyone had questions for Ms. Fletcher. There being none, Ms. Fletcher was excused.

Mr. Gowan asked if anyone else was present to speak in favor of the variance. There being none, Mr. Gowan asked if anyone was present to speak in opposition of the variance.

Susan Oswalt was sworn in. Ms. Oswalt said that she was adjacent to the property at 210 Oak Street and wanted to know what the plans were for the parcel. She stated that there were flags placed in various locations and was concerned the applicant would be infringing upon her property. She also mentioned that she was upset by the idea of a manufactured home in the area since most homes were single family dwellings, and that the property value would decrease for neighboring owners.

Ms. Oswalt stated that she had photographs of the lot. The photographs were marked as evidence and shown to Ms. Dupont. Ms. Oswalt pointed out the building on the property and said that it was on the property line. The photographs were distributed to the Board for review. She said that she believed the property lines were not marked correctly. Angela Geter asked about the photograph of the mailbox. Ms. Oswalt said that the photo was to show the markers on the property and that it was located on Bailey Street. Kae Fleming asked where her property was located in reference to the photographs. Ms. Oswalt pointed out her property. She stated that her main concerns were that the property lines were marked incorrectly and that the intent to place a mobile home would decrease property value.

Chairman Gowan asked Mr. Carpenter if there was a survey of the property. Mr. Carpenter said that the site plan was drawn by the applicant, and that to his knowledge, per the applicant, the stakes were placed by a registered surveyor.

Mr. Padgett stated that based on current standards manufactured homes are considered single family homes and that the deed would list any restrictions that might prohibit the placement of a manufactured home on the lot.

Ms. Oswalt stressed again to the Board that the areas marked on the property differed from her opinion of the actual property lines. She also said that she believed the pins had been moved.

William Taylor was sworn in. Mr. Taylor asked if the home was to be a double wide or single wide. Mr. Gowan said that it looked to be a single wide.

Chairman Gowan asked if anyone else was present to speak in opposition. There being none, Mr. Gowan closed the public hearing. The board discussed the case among themselves.

Marion Gramling made a motion to grant the variance request for a reduction in the rear setback of 20' to 16' on the determination that the request meets all the criteria for granting a variance as set forth in Section 5.02-2(2) of the ULMO and the SC Local Government Comprehensive Planning Enabling Act (SC Code of Laws, Title 6, Chapter 29) as expressed in the Staff Report. Tom Davies seconded the motion. The motion carried with a vote of 8 to 0.

**B. Variance Request:  
SEJUJIGO LLC- 9098 Asheville Hwy  
Tax Map Number: 2-50-00-097.04  
Variance On Front Setback**

Rick Carpenter, already sworn in, presented the following staff report(s):

**Variance Request  
Staff Report**

<b>SEJUJIGO LLC</b>			
<b>Meeting Date: April 27, 2021</b>			
<b>Reference Name</b>	9098 Asheville HWY	<b>Applicable Zoning Ordinance</b>	ULMO
<b>Zoning District</b>		Partial Restrictive	
<b>Factual Dates</b>	<b>Variance Application Received</b>	3/16/2021	
	<b>Deadline for Variance</b>	3/30/2021	
	<b>Public Notice</b>	4/11/2021	
	<b>Adjoining Property Owner Notification</b>	4/12/2021	

	<b>Variance Signs Posted on Property</b>	4/12/2021
	<b>Pre-Submittal Meeting(s)</b>	
Applicant	Jignesh Patel	
Applicant Status	Project Coordinator	
Map Number	2-50-00-097.04	
Variance Case Number	VAR-06-21	

**Request:**

The applicant is requesting to reduce the total Front setback required in Table 3b – Commercial & All Other Uses – Setbacks and Other Requirements of the Unified Land Management Ordinance.

Setback	Requirement	Request
Front	40 Feet	30 Feet

**Background Information:**

The subject site is currently occupied by a 2,124 square foot self-service convenience store and the lot is approximately .78ac. The applicant is proposing the construction of an additional commercial business that is separate to the aforementioned use. This new business, a liquor store, is classified as high intensity commercial within the Unified Land Management Ordinance (ULMO). The existing structure, constructed in 1990, met the zoning requirements for commercial setbacks. However, the applicant is proposing a new addition to this structure along John Dodd Road.

The proposed commercial structure will be attached to the existing store along the northern aspect. However, the site is positioned on the corner of Asheville Highway and John Dodd Road and has two front setbacks imposed. The front setback from Asheville Highway is fifty (50) feet, and the setback from John Dodd Road is forty (40) feet. The proposed expansion is projected to encroach into the front setback along John Dodd Road. Additionally, the South Carolina Department of Health and Environmental Control must approve the location of the liquor store, and the applicant expects no conflict and approval to be granted. Staff expects this approval to be forthcoming but have classified the construction as speculative until final verification is received.

**Total Acreage:**

2-50-00-097.04 – Approximate parcel acreage is 0.78 ac.

**Applicable Ordinance and Zoning:**

Section 2.02-1 Dimensional Standards, Table 3b – Commercial & All Other Uses – Setbacks and Other Requirements

**Staff Planner(s):**

Richard Carpenter – Planner IV

**Staff Position:**

Staff has determined that the proposed commercial structure would be non-conforming due to encroachment into the front setback along John Dodd Road. This encroachment constitutes approximately 6.5 feet up to 9.8 feet or 25% of the total requirement. The applicant is proposing to construct a new commercial business that is designed to be a stand-alone use adjacent to the existing convenience store.

The use, a liquor store, is classified as high intensity commercial in the ULMO. The existing structure was designed to meet minimum commercial setback standards. However, the proposed structure is designed to continue along the original storefront, which would create a setback encroachment along John Dodd Road unless the design was reduced in size. The following setbacks apply to this parcel and are required for commercial use:

<b>Ordinance</b>	<b>Front Lot Line (1)</b>	<b>Front Lot Line (2)</b>	<b>Side Lot Line</b>	<b>Rear Lot Line</b>
Commercial Setbacks and All Other Uses	50 Feet	40 Feet	15 Feet	20 Feet

Commercial structures on collector streets have a front setback of forty (40) feet, and the applicant has requested to reduce the setback to thirty (30) feet. This reduction would allow the applicant the ability to construct the additional commercial structure at the desired size and along the original store frontage.

The staff position for this case is that the applicant could meet the Ordinance by proposing a slightly smaller structure, or alternative placement, and negate the need for a variance. However, the applicant does have a hardship based on the double street frontage but there is ample room for development that would not encroach into a setback. The hardship test requires that the applicant show that strict compliance with the zoning Ordinance would prevent any reasonable use of the property.

**Staff Analysis:**

The board may grant a variance for an unnecessary hardship if it makes and explains in writing all of the following findings.

**1. There are extraordinary and exceptional conditions pertaining to the particular piece of property**

**Staff Analysis.** The hardship for this site is the location of the proposed structure in relation to the two front setbacks. The existing structure was designed to meet, and exceed, the commercial setback requirements. However, the proposed site expansion is projected to encroach into the front setback along John Dodd Road. The applicant has the ability to meet the requirements of the Ordinance if the structure were reduced in size or moved. As the first qualification, the hardship must result from the strict application of the Ordinance itself. A hardship caused or based on the convenience of the owner should not be grounds for a variance.

*See Exhibit 2 for the applicant’s response to the hardship caused by strict application of the Ordinance.*

**2. These conditions do not generally apply to other property in the vicinity**

**Staff Analysis.** The conditions subject to the site do not generally apply to all adjacent properties. Some parcels in the general vicinity do share this burden, but that only extends to properties found on corner lots.

*See Exhibit 2 for the applicant’s response to the hardship caused by strict application of the Ordinance.*

**3. 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.**

**Staff Analysis.** The Strict application of the ordinance would not eliminate the applicant's ability to utilize this parcel. The existing structure would be able to continue operation without a variance for the front setback encroachment. In addition, the proposed structure may be constructed with a smaller footprint or in a different orientation to meet the Ordinance.

*See Exhibit 2 for the applicant's response to the hardship caused by strict application of the Ordinance.*

**4. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the area will not be harmed by the granting of the variance.**

**Staff Analysis.** The authorization of a variance, as it relates to the front setback encroachment for the proposed structure, should not have a negative impact on overall community character. The corridor where this parcel is located is primarily dominated by commercial use.

*See Exhibit 2 for the applicant's response to the hardship caused by strict application of the Ordinance.*

**The fact that property may be utilized more profitably, if a variance is granted, may not be considered grounds for a variance.**

**Staff Analysis.** The primary argument for this variance is the location of the existing and proposed structures in relation to the front setback requirements. This commercial project could proceed at this location while utilizing the existing structure and/or a new structure with a modified footprint to meet the Ordinance.

**Exhibits:**

- 1. Context map**
- 2. Application**
- 3. Site design**
- 4. Frontal view of project site**

Rick Carpenter said that the applicant was seeking a reduction in the front setback and that the applicants were present for any questions. He explained that it will be an expansion of an existing self-service convenience store that had been located on the site for decades. The property is a corner lot and, therefore, had two front setbacks. He said that are other aspects of the property that did not meet current standards, but that the applicant was cooperative in correcting those issues.

Mr. Carpenter presented the board with an aerial view, site plan, and plat of the property. He stated that the applicant could meet the current required setbacks if the expansion of the building was reduced in size or in alternate location on the property.

Chairman Jack Gowan asked if there were any questions for Mr. Carpenter.

Mike Padgett pointed out an area in the staff report where the Department of Revenue was listed instead of DHEC and requested it be changed for the minutes.

Tom Davies asked if there were issues with the other side of the property that would prohibit the expansion in that direction. Mr. Carpenter said that he was unaware of any problems.

Chairman Gowan opened the public hearing. Mr. Gowan asked if there was anyone present to speak in favor of the variance.

Mr. Mayur Patel was sworn in. He referred to the image of the property and the location of Old John Dodd Road. He said that the submitted plans for expansion were to preserve future development or use of the property. Mr. Patel stated that the property lines appeared to be off and that the structure was not square on the parcel.

Chairman Jack Gowan asked if there was anyone else present to speak in favor of the variance. There being none, Mr. Gowan asked if anyone was present to speak in opposition of the variance. There being none, Mr. Gowan closed the public hearing.

The Board discussed the case among themselves. Marion Gramling expressed a desire to see a full site plan. The applicant supplied a site plan, and it was marked as evidence. The board reviewed the submitted site plan.

Marion Gramling made a motion to deny the variance request for a reduction in the front setback on the determination that the request does not meet all the criteria for granting a variance as set forth in Section 5.02-2(2) of the ULMO and the SC Local Government Comprehensive Planning Enabling Act (SC Code of Laws, Title 6, Chapter 29) as expressed in the Staff Report. Tom Davies seconded the motion. The motion carried with a vote of 7 to 1 with Jack Gowan voting in favor of the variance.

**4. Other Business - None**

**5. Adjourn**

There being no other business, Mike Padgett made a motion to adjourn. Angela Geter seconded the motion. The motion carried with a vote of 8 to 0.