Zoom Meeting Protocol

Order on Each Application:

• Chair announces each application followed by staff presentation and recommendation
• Staff presents application and City’s recommendation. Staff will control slide presentation
• Staff announces comments received and whether anyone has signed up to speak
• Applicant, after being sworn in, will be allowed to present their application if opposition or questions are raised, followed by public comments from pre-registered attendees in favor. Each speaker will be sworn in before speaking
• Staff then recognizes registered attendees for public comments in opposition. Each speaker will be sworn in
• Staff then recognizes the applicant for a short rebuttal before Chair closes public comments and begins Board discussion

Providing Comment:

• People who sign up to speak prior to the 12 noon deadline will be called on when it is your turn to speak and your microphone will be enabled. You may only speak once on each item.
• Your microphone will be disabled after you are finished speaking.

Go to www.charleston-sc.gov/bza-z for instructions to join. Call (843) 724-3770 if you are experiencing technical difficulties.
The Board of Zoning Appeals—Zoning has the authority to do three things:

1. Hear appeals to decisions of the Zoning Administrator;

2. Grant special exceptions, a fact finding function of the Board; and

3. Grant variances to the Zoning Ordinance if the application meets the hardship test outlined in Section 54-924 of the ordinance.
Board of Zoning Appeals-Zoning

Requirements for Granting a Variance
A variance may be granted by the Board of Zoning Appeals in an individual case of unnecessary hardship if the Board makes the following findings:

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; and

d. the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.
Agenda Item #A-1

Approval of June 1, 2021 BZA-Z Minutes
(click on link below)
https://www.charleston-sc.gov/AgendaCenter/ViewFile/Agenda/_06012021-6574
Agenda Item #B-1

48 SOCIETY STREET
(ANSONBOROUGH)
TMS # 458-01-03-039

Request reconsideration of the Board’s decision on May 4, 2021 to approve a salon with conditions in a STR (Single and Two Family Residential) zone district.
Appeal for Reconsideration to the
Board of Zoning Appeals – Zoning (BZA-Z)
City of Charleston

Applicants appealing for reconsideration of a Board decision or decision of the zoning administrator must submit the following information with the BZA-Z application and fee, to the Permit Center at 2 George Street:

in the case of an appeal for reconsideration of a Board decision, applicant shall state below the grounds upon which it is considered that the Board misapprehended or misconceived the question or questions involved, or the ground or grounds upon which it is considered that the Board has erred in its finding or disposition of the appeal, application or matter (add if an attachment if necessary). THE DEADLINE FOR SUBMITTING THIS APPEAL FORM WITH THE BZA-Z APPLICATION AND FEE IS THE CLOSE OF BUSINESS ON THE 5TH BUSINESS DAY FOLLOWING THE DATE OF THE BOARD DECISION BEING APPEALED.

HANA respectfully submits this Appeal for Reconsideration of the City of Charleston’s BZA-Z decision of May 4, 2021, Agenda Item #2 – 48 Society Street – a request for a “use variance” that resulted in the BZA-Z approving a “special exception” for a non-conforming salon use on the subject property.

We believe that the following points demonstrate that the BZA-Z erred in findings of fact, misapprehended statutes, and failed to follow stated protocols depriving residents of the opportunity to properly express their viewpoints. Therefore, the decision was rendered in error and should be reconsidered. We ask that the BZA-Z grant our appeal for reconsideration, withdraw their decision of May 4, 2021, and re hear the matter on a de novo basis.

Please see attachment for additional details and FOIA request submitted to the City of Charleston on May 8, 2021.

In the case of an appeal for reconsideration of a decision of the zoning administrator, applicant shall state below the interpretation(s) of the Zoning Ordinance being appealed, how the applicant is aggrieved by the interpretation(s), and what the applicant contends is the correct interpretation of the Zoning Ordinance (add as an attachment if necessary).

Signature of Applicant

[Signature]

Date: 5/10/2021

For office use only

Date application received: 5/10/2021

Time application received: 11:28

Personnel: [Signature]

Department of Planning, Preservation & Sustainability 2 George Street Charleston, South Carolina 29401

(843) 724-3781 www.charleston-sc.gov/zoning
To: City of Charleston, Board of Zoning Appeals-Zoning (BZA/Z)
From: Historic Ansonborough Neighborhood Association (HANA)
Date: May 10, 2021
Subject: Appeal for Reconsideration of BZA/Z Decision of May 4, 2021, to approve a Special Exception for 48 Society St (458-01-02-039)

HANA respectfully submits this Appeal for Reconsideration of the City of Charleston’s BZA/Z decision of May 4, 2021, Agenda Item #2 – 48 Society Street – a request for a “use variance” that resulted in the BZA/Z approving a “special exception” for an additional non-conforming use on the subject property for a beauty salon - a decision that went against the recommendation of the zoning administrator to deny approval of the special exception.

We believe that the points contained in this letter demonstrate that the BZA/Z erred in findings of fact, misapplied the statutes, and failed to follow stated protocols, thus depriving residents of their full opportunity to properly express their viewpoints and negatively impacting the board’s ability to properly consider the question(s) before it. The decision to grant approval for a special exception was rendered in error and should be reconsidered. We ask that the BZA/Z grant our appeal for reconsideration, withdraw their decision of May 4, 2021, and rehash the matter on a de novo basis.

HANA submitted a Freedom of Information Act (FOIA) request with the City of Charleston on May 8, 2021 (reference #F00591-050821; copy of request is attached) requesting:

1. Copies of all transcripts, video, and audio recordings of the May 4, 2021, BZA/Z meeting.
2. All written comments submitted to city staff and the board.
3. A list of all individuals properly registered to speak at the meeting.
4. A list of all individuals logged into the meeting via telephone and/or internet.

We feel that this information is both pertinent and likely to further substantiate the issues raised in this Appeal to Reconsider. Consequently, we ask that the board defer a hearing on the motion until the city fully responds to the FOIA request. Further, we request that the hearing be held at such time as the hearing can be conducted in-person to avoid the procedural issues prevalent during the May 4th meeting.

P.O. Box 22792, Charleston, SC 29413 Ansonborough@hotmail.com
Issues

1. The board erred by finding that the lack of a valid certificate of occupancy (CO) from 2010 to present-day, and the lack of evidence of a valid business license from 2010-2013, was an 'enforcement issue' and did not weigh on the question of 'continuous and legal use'. That was a misapprehension of the statute. Further, the zoning administrator and board made assertions and assumptions of fact in defense of the applicant that were not asserted by the applicant nor supported by evidence before the board.

   a. Sec. 54-908(b):
      States that the zoning administrator is the 'administrative officer' of the Zoning Ordinance.

   b. Sec. 54-908(d):
      'A certificate of occupancy . . . shall be applied for and issued before any such land shall be occupied or used.'

   c. Sec. 54-908(e):
      'A like certificate shall be applied for and issued for renewing, changing or extending a non-conforming use, existing at the time of the passage of this Chapter, and such certificate shall state that the use is a legal non-conforming use.'

   d. Sec. 54-908(f):
      'A record of all certificates of occupancy shall be kept on file in the office of the administrative officer.'

The statute clearly states that a certificate of occupancy shall be issued before a use is allowed. A certificate of occupancy shall state that the use is a legal non-conforming use. A record of all certificates of occupancy shall be kept on file in the office of the administrative officer (the zoning administrator).

There is no record or copy of a CO on file with the administrative officer, nor was one furnished by the applicant. The administrative officer stated several times in written correspondence that there was no CO on file. Therefore, there is no basis to find or infer that the multiple prior non-conforming uses were legal or continuous.

The zoning administrator is on record stating that the lack of CO issue could be solved by issuing a CO after the hearing. In a May 3 email, the zoning administrator stated: "I do believe this issue could be resolved if the City issued a new CO for this business. I would approve an application to do this and I believe the other approvals could be obtained fairly quickly. I am going to suggest to John Massalon that his client should submit the application." This statement prima facie recognizes that a CO did not exist as of the date of the May 4 hearing, and it misapprehends that a CO issued after that hearing would somehow solve the problem. As the nonconforming use had been discontinued for three years at some point in 2013, it cannot be retroactively resurrected by a 2021 CO.
Furthermore, neither the applicant nor their attorney claimed or asserted that they obtained a CO at any time—they were notably silent on the point. The board improperly inferred that an incomplete application for a CO from 2004 and a current business license constitute evidence that a CO was ("as must have been") issued for the business. There is no basis in evidence for this assumption by the board—it is speculative and formed the basis for wrongfully applying the special exception test rather than the 4-part variance test.

The failure to qualify for the special exception test is clearly supported by the rules of statutory construction. Zoning Code Section 54-110(c) regarding the special exception uses the words "non-conforming use" three times; Zoning Code 54-908(e) regarding the CO uses the identical words two times. The use of the same words "non-conforming use" throughout the Zoning Code in general, and Sections 54-110 and 54-908 particularly, clearly establishes the Certificate of Occupancy as a necessary precondition for the special exception. The statutory language "non-conforming use" is so clear and unambiguous that it must be given its plain and obvious meaning. Neither the zoning administrator nor the zoning board should have deemed themselves authorized to depart from statutory language which is entirely free from ambiguity. "A like certificate shall be applied for and issued for renewing, changing or extending a non-conforming use, existing at the time of the passage of this Chapter, and such certificate shall state that the use is a legal non-conforming use." (Emphasis provided.)

The applicant made no assertion, nor did they submit evidence, that they had a valid business license between 2010-2013. This would again evidence a discontinuance of a legal non-conforming use for more than 3 years, requiring the application of the variance test. The board dismissed this point of fact. It is worth noting that despite the board’s comments that compliance with business license requirements is an enforcement issue, the city’s Business License Ordinance (2020-146, Sec. 5(d) and 16(b)) requires a CO to substantiate a business license, and unlike the Zoning Ordinance, the Business License Ordinance (2020-146, Sec. 21) can impose monetary penalties or imprisonment for violations, thus underlining the seriousness of the compliance issue improperly dismissed by the board.

The burden of proof to demonstrate continuous legal non-conforming use is with the applicant and there was no factual evidence presented to support a valid CO or business license in effect continuously since 2010, when the applicant states they began operating at the property. Even this, the assertion that Prius Lily began operating at the property in 2010, is in question as the zoning administrator provided evidence of business operations commencing in 2004 (copy of a business card with 48 Society St as the address and an incomplete CO application listing 48 Society St as the principal place of business). However, one thing is consistent—there is no evidence of a valid, completed CO with zoning department approval for this business.

In the event a non-conforming use is discontinued for 3 years, by statute it reverts to conforming use (Sections 54-110 (a) and (c)). That is what the facts of this case support. On this basis, the proper test for the board to apply was the 4-part variance test, not the special exception test.

2. Public notice as to the purpose of the meeting was legally insufficient; the meeting itself failed to follow published protocols; the meeting failed to provide balance of time to the discussion between the applicant, supporters, and opponents; and the meeting failed to properly afford concerned residents their full opportunity to comment—whether by written submission or live participation via the virtual meeting.
After the meeting of May 4th, numerous residents expressed to members of the HANA board and city council members their shock and bewilderment at the overall conduct of the meeting. Unfortunately, this episode undermines residents’ confidence in the propriety of the board’s conduct and the functioning of the City of Charleston’s government.

a. Public Notice as to the meeting was legally insufficient – a concern noted within the board and then improperly dismissed. The meeting was advertised in the newspaper, noted on the BZAZ agenda, and posted on the property as a request for a use variance, yet the board changed the purpose to a special exception without notice to the public. It is significant that six of the May 4th meeting agenda items were identified as Section 54-110(c) special exception requests, but 48 Society St was not one of them as it was identified as a use variance request.

This improperly placed residents at a disadvantage. The request for the use variance was advertised as a discussion item on the agenda for HANA’s April 7th virtual membership meeting and it was vigorously discussed by membership during that meeting with particular emphasis on the 4-part test required for a variance. Both HANA and individual members relied upon the application submitted with the city, public notices and other research resources available to the public to address a use variance. As was clear when HANA’s written submission was paraphrased, HANA specifically addressed the request for a use variance, not a special exception.

This should serve as clear evidence that the public notice was insufficient for consideration of a special exception and failed to provide residents with a legally sufficient opportunity to prepare for and present the numerous challenges that the application poses to the neighborhood.

b. Written submissions do not appear to have been shared with the board and only one written submission from HANA was paraphrased for the record. (It was unclear whether HCF submitted their position in writing or via telephone.) If the board solely relies upon verbal statements provided during their public meetings as their basis for deliberations and does not place any weight on written submittals transmitted through city staff, then it should make this practice clear to the public.

c. Despite the zoning administrator’s statement that input from residents was overwhelmingly opposed to the application, there was no summary of how written submissions tallied – total number of submissions, numbers in support vs opposition, etc.

d. The written comments submitted were apparently shared with the applicant’s and tenant’s attorneys based on their repeated referrals to residents’ stated concerns and their statement that those concerns fell into ‘3 categories’. However, city staff communicated to at least one resident who inquired that a FOIA request was necessary for residents to view the submitted comments. This lack of transparency placed residents at a disadvantage compared to the applicants.

e. The applicant’s attorney, the tenant’s attorney and the tenant consumed a disproportionate amount of time – rather than the balance of time between the
applicant/supporters and opposition stipulated by the chair at the beginning of the
meeting.

f. The selection of individuals to speak in opposition appeared to be random and unfair; city
staff appeared to have difficulties with the mechanics of the meeting technology and
matching those who pre-registered to speak with those logged into the meeting.

g. There were numerous individuals who properly registered to speak, were logged into the
meeting, yet were not selected/enabled to speak. In at least one instance, an individual,
properly registered to speak, communicated with city staff during the meeting and was
assured that they would be recognized, yet were not.

The stated meeting requirements for conducting the meeting (see Attachment 1) do not
permit the board to limit the number of registered speakers that can speak. If an
individual has signed up, they are to be permitted to speak. There is no other way to
convey to the board the significant level of concern within the neighborhood.

h. The applicant’s attorney remained “live” with the ability to communicate with the board,
his clients, and their supporters throughout the meeting, whereas no one in opposition
was afforded the opportunity or ability to communicate unless activated/deactivated by
city staff.

i. The applicant’s attorney was directing city staff to activate specific supporters in real-
time. There was no protocol apparent from city staff to ensure that those individuals had
properly registered to speak.

j. The Chair of the meeting elected to disregard the written protocols controlling this
meeting. See Attachment 1 setting out meeting requirements. For reasons unknown, the
Board disregarded the requirement including providing supporters with a wide-ranging
opportunity to speak after opponents.

k. In general, the hearing failed to follow Robert’s Rules of Order as stipulated in the
Zoning Code Article 2, Section 4.

The cumulative effects of these deficiencies left an impression that the majority opinion amongst
residents was in support of the application. Yet the zoning administrator clearly stated that, to
the contrary, the feedback and input from residents was overwhelmingly in opposition.

It was also clear to those watching the board’s deliberations that the zoning administrator’s
recommendation against the application on the grounds that the new non-conforming use was not
“equally appropriate” was lost amongst the chaos, as the board did not reference it during their
deliberations.

3. The board failed to properly consider the appropriateness of the new beauty salon use as allowed,
not the impact of a finding of appropriateness to future requests to expand the salon use to the
entire ground floor. The board’s deliberations indicated that they focused on the business plan
and intent of the tenants as presented. There was a single follow-up question about future zoning
review/approval requirements, but the lack of further follow-up or discussion indicated that the

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P.O. Box 22792, Charleston, SC 29413  Ansonborough@hotmail.com
board did not thoroughly consider how a fully utilized salon would impact the adjacent residents and therefore the appropriateness of the use.

4. The board believes that it ameliorated any concerns about impact to neighbors by imposing several operating conditions upon the use—most of which were proposed by the applicants themselves. However, the ineffectiveness of enforcing the conditions renders them ineffectual and undermines the appropriateness finding of the board. As this whole case demonstrates, the zoning department is challenged to enforce statutory zoning requirements. The likelihood that they would or could enforce bespoke conditions placed on a single property is negligible. If any enforcement occurs, it will fall on the shoulders of the very residents who are intended to be protected by the conditions.

5. The board improperly relied upon a verbal assertion by the applicant that the property has sufficient off-street parking capacity to accommodate all the uses on the property. The requirements were calculated in real-time by city staff and the capacity of the property was supplied via the applicants' attorney from the applicant—clearly indicating that the topic had not previously been addressed. Likewise, there was no discussion of the zoning requirement for a beauty salon use (Sec. 54-318(d)) that the parking area be paved, whereas the parking area is presently gravel. In fact, the Applicant's submission was incomplete with respect to parking, a fact which should have been highlighted by the administrative officer. Zoning Code Section 54-316 requires a scaled site plan showing the location of existing and proposed parking, structures, and other improvements as well as a calculation of the required number of parking spaces under Zoning Code Section 54-317, Table 3.3. No such scaled site plan has been provided as of this date.

6. There was no discussion of how ADA requirements for parking, building entry, bathroom access, etc., would be accommodated for the new salon use. The parking area is currently gravel whereas all handicap parking must be hard surface (Sec. 54-318(d)). The proposed entrances (multiple) for the proposed salon have a step, not a ramp to accommodate wheelchairs. It is unclear if wheelchairs can be accommodated within the building as proposed, nor is it clear whether bathroom accessibility has been addressed. While we recognize that ADA requirements as to handicapped parking space size, quantity and location are determined by the Building Code and Federal Regulations, the parking requirements are clearly within the Zoning Ordinance and lead to the follow-up questions about the property's compliance in total.

In summary and as the foregoing clearly demonstrates, this Appeal for Reconsideration must be granted.

Respectfully submitted on behalf of the Historic Ansonborough Neighborhood Association.

[Signature]
James A Rice
President
Historic Ansonborough Neighborhood Association

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P.O. Box 22792, Charleston, SC 29413 Ansonborough@hotmail.com
Attachment 1

Zoom Meeting Protocol

Order on Each Application:

Chair announces each application followed by staff presentation and recommendation

• Staff presents application and City’s recommendation. Staff will control slide presentation

• Staff announces comments received and whether anyone has signed up to speak

• Applicant, after being sworn in, will be allowed to present their application if opposition or questions are raised, followed by public comments from pre-registered attendees in favor. Each speaker will be sworn in before speaking.

• Staff then recognizes registered attendees for public comments in opposition. Each speaker will be sworn in

• Staff then recognizes the applicant for a short rebuttal before Chair closes public comments and begins Board discussion [Highlighting Added]

Providing Comment:

• People who sign up to speak prior to the 12 noon deadline will be called on when it is your turn to speak and your microphone will be enabled. You may only speak once on each item.

• Your microphone will be disabled after you are finished speaking.

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1 This is a copy of page 2 from the Agenda for the May 4, 2021 meeting of the Board of Zoning Appeals. See -
PowerPoint Presentation (charleston-sc.gov)
Thank you for submitting a records request to the City of Charleston, South Carolina to be processed under the South Carolina Freedom of Information Act (FOIA). Your request was received on May 08, 2021, and is being processed in accordance with S.C. Code Ann. § 30-4-10, et seq. Your request has been assigned the reference number F000598-050821 for tracking purposes.

Records Requested: Information is requested by Historic Ansonborough Neighborhood Association (HANA). Records are requested pertaining to the City of Charleston BZAZ meeting of May 4, 2021, agenda item #2: 48 Society Street (458-01-02-003) - request for use variance from Sec.34-203 to allow a salon with days of operation Tuesday-Saturday and hours of operation 9a.m.-5p.m. in a STR (Single and Two Family Residential) zone district. Requested information: 1. Copies of all transcripts, video and audio recordings of the May 4, 2021, BZAZ meeting. 2. Copies of all written comments submitted to the city and/or the BZAZ addressing the requested use variance for 48 Society Street. 3. A list of all individuals registered to speak at the May 4, 2021, BZAZ meeting on the requested use variance for 48 Society Street - including the recorded indication of intent to speak in support, opposition or neutrality on the topic. 4. A list of all individuals logged into the May 4, 2021, BZAZ meeting whether via internet or telephone.
You can monitor the progress of your request at the FOIA Records Request Center. You'll receive a formal acknowledgment e-mail from the City within 10 business days (or within 20 business days for records more than 24 months old) when availability and cost have been determined.

Sincerely,
City of Charleston South Carolina
Application for Variance, Special Exception, Exemptions, or Extension Page 1 of 2 to the Board of Zoning Appeals - Zoning (BZA) City of Charleston

Instructions - This application, along with the required information and fee, must be submitted to the Permit Center at 2 George Street. Applications are due by 5pm on the deadline date and must be complete to be accepted and placed on an agenda. A sign will be posted on the property, and a public hearing will be conducted by the Board of Zoning Appeals - Zoning. Permits authorized by the Board cannot be issued during a five (5) business day appeal period following the decision of the Board; except for open variances, the appeal period shall be fifteen (15) calendar days. An appeal to the Board during this appeal period will result in further action on the application.

THE APPLICANT HEREBY REQUESTS:
☐ A Variance or Special Exception as indicated on page 2 of this application.
☐ Exemptions of a decision of the Board or action of a zoning official (attach Application Form)
☐ Extension of an unexpired Variance and/or Special Exception approval

MEETING DATE REQUESTED: April 4, 2021

Property Address: 148 Society St
TMS # 454-61-03-039

Property Owner: E. Jackson
Applicant: E. Jackson
Applicant’s Mailing Address: 148 Society St

Relationship of applicant to owner (same, representative, prospective buyer, other) SAME

Zoning of property: Mixed-use ST

Information required with application (check information indicated):
☐ Zoning plans or plats, including all variances, showing the variance(s) or special exceptions being requested.
☐ For new construction or additions within a Board zone, the MUC and permit on scaled plans.
☐ Scaled floor plans, with room sizes and the total area of each floor and each floor area of buildings not exceeding 10,000 square feet.
☐ Plats or plans, not to scale, showing compliance with special exception requirements.
☐ Check, credit card or cash checks payable to the City of Charleston.

Other than your verbal information:
☐ Photographs
☐ Letters or opinions from neighbors or organizations directly affected by your request currently gathering

I certify that the information on this application and any attachments is correct, that the proposed improvements comply with private neighborhood covenants, if any, and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the Board hearing and inspection.

Applicant: E. Jackson
Date: 3/11/21

For office use only
Date application received: 3/11/21
Date application on file: 3/11/21

For Special Exception requests, applicants should list the specific exception(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as §§ 94-110, §§ 94-206, or sections in Articles § (to be attached if necessary).

All approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Article 5, Part B of the zoning ordinance. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has elapsed.

Department of Planning, Preservation & Sustainability 2 Fine Arts Center, South Carolina 29401
(803) 774-8761  www.horrycounty.gov/planning
March 12, 2021

Edward and Leda Jackson
244 Ashley Avenue
Charleston, SC 29403

To Whom It May Concern,

48 Society Street is a family property now in its third generation of ownership. Leda’s grandfather purchased the property when it served the neighborhood as Keeler’s supermarket in the late 40’s. Keeler’s was in business through the early 1960’s. It was then her father’s office Mcintosh Travel for over 50 years. Since 2008 it has been the location of Leda’s studio and warehouse for her children’s clothing business Pixie Lily, now in its 21st year of business (www.pixielily.com).

When we say that we have poured blood, sweat and tears (in various measure, depending on the circumstances) into this property, we are not kidding. It has been a tremendous undertaking. We repainted the masonry from the inside out, replaced all rotten windows, balustrades and columns with sapie mahogany and made the building as energy efficient as possible. This was a complete renovation from the inside out, top to bottom. We learned the hard way that third generation owners will need to pay the piper, literally and figuratively. This was a change from Leda’s father who as a proper Charlestonian painted his office “as necessary” which meant only one side at a time.

Our renovation was undertaken to maintain commercial space on the first floor as it has been commercial and in continuous use for over 120 years. We worked with architect Becky Ferno and Mike Banta Renovations to ensure the first floor as commercial space only. Pixie Lily was operating in the space for the entire renovation, moving only for the final 2 month push.

We are asking for your support for a variance to allow us to rent to Maven at 48 Society Street. We currently have a signed lease with them based on verification the city provided to their commercial agent in early February (please see attachment) that our property was zoned mixed use. 48 Society is currently zoned for mixed use and has been a commercial presence in Aesnborough continually for so well over a century. It is our understanding that the mixed use zoning is not in dispute. The city has determined that Maven, which will operate as a studio for hair and makeup artists, will require a variance.

Both of us grew up in Aesnborough and we have many friends in the neighborhood. In fact Leda’s father William Mcintosh founded the Historic Aesnborough Neighborhood Association and both he and her mother served as president. He also served the city as president of the Preservation Society of Charleston and Leda served on the board for several terms. A vested interest in maintaining the quality of life for the residents of Aesnborough is literally in our DNA. Charleston and in particular, Aesnborough is our home. We understand the continuing threat to downtown neighborhoods and the fragility of Aesnborough in particular. Our goal is to be good stewards of 48 Society as well as the neighborhood and believe strongly that our tenants will not impact the quality of life or parking for our neighbors in any way. This is of the utmost importance to us.

We are not allowing any business signage on the exterior of the building, even if it were to receive approval from the city. We are including a diagram of the proposed Maven space as well as photographs of the parking area, the property from the corner and the entrance to the proposed business. A small sign not
visible from the street will mark the entrance to their studio. The tenants are currently Annapolitan
residents. They have secured 4 off-street parking spaces and will maintain normal 9-5 business hours on
Tuesday through Saturday.

Edward and Léda M. Jackson
Edward Cell 843.300.2380
Léda Office 843.579.0364
Léda Cell 843.723-0651
Agenda Item #B-2

1012 AVENUE OF OAKS
(MARYVILLE/ASHLEYVILLE)
TMS # 418-06-00-124

Request an appeal of the Zoning Administrator’s decision to deny building permit on the grounds that the proposed home exceeds the 2 ½ story height restriction for the SR-1 (Single-Family Residential) zone district under Sec. 54-301, because the home’s designed drive-under garage constitutes a 3rd story under Sec. 54-120.

Zoned SR-1
Application for Variance, Special Exception, Reconsideration, or Extension to the Board of Zoning Appeals — Zoning (R2A-2)

City of Charleston

Instructions: This application, along with the required information and fee, must be submitted to the Permit Center at 2 George Street. Applications are due by 12 Noon on the deadline date and must be complete to be accepted and placed on an agenda. A sign will be posted on the property, and a public hearing will be conducted by the Board of Zoning Appeals — Zoning. Permits authorized by the Board cannot be issued during a five (5) business day appeal period following the decision of the Board, except for use variances, the appeal period shall be fifteen (15) calendar days. An appeal to the Board during this appeal period stays all further action on the application.

THE APPLICANT HEREBY REQUESTS:
☐ A Variance and/or Special Exception as indicated on page 2 of this application.
☒ Reconsideration of a decision of the Board or action of a zoning official (attach Appeal form).
☐ Extension of an unexpired Variance and/or Special Exception approval.

MEETING DATE REQUESTED: June 15, 2021

Property Address_1012 Avenue of Oaks, Charleston, SC 29407_____ TMS #: _418-06-00-124_

Property Owner_Crescent Homes SC, LLC_______ Daytime Phone_843-579-9635_____

Applicant_E. Brandon Gaskins, Esq. Moore & Van Allen PLLC_______ Daytime Phone_843-579-7038_____

Applicant’s Mailing Address_PO Box 22828, Charleston, SC 29413_____

E-mail Address__gaskinsub@mva-law.com_____

Relationship of applicant to owner (same, representative, prospective buyer, other) Representative/Attorney_____ Zoning of property_SR-1_____

Information required with application: (check information submitted)
☐ Scalped plans or plats, including elevations, showing the variance(s) or special exception(s) being requested (3 sets)
☐ For new construction or additions within a flood zone, show HVAC units and platforms on scaled plans
☐ Scaled floor plans with rooms labeled and the total floor area for each dwelling unit noted are required for all density variances and building additions, unless exempted by the zoning staff (3 sets)
☐ Plans or documents necessary to show compliance with special exception requirements (3 sets)
☐ Check, credit card or cash [make checks payable to the City of Charleston]
☐ YES or NO—Is this Property restricted by any recorded covenant that is contrary to, conflicts with or prohibits the proposed land use encompassed in this permit application? § 6-29-1145 of the South Carolina Code of Laws

Optional but very helpful information:
☐ Photographs
☐ Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct, that the proposed improvement(s) comply with private neighborhood covenants, if there are any, and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the Board hearing and inspected.

Applicant__/s__ E. Brandon Gaskins________ Date _5/17/2021_____
Appeal for Reconsideration to the
Board of Zoning Appeals – Zoning (BZA-Z)

City of Charleston

Applicants appealing for reconsideration of a Board decision or decision of the zoning administrator must submit the following information with the BZA-Z application and fee, to the Permit Center at 2 George Street:

In the case of an appeal for reconsideration of a Board decision, applicant shall state below the grounds upon which it is considered that the Board misinterpreted or misconceived the question or questions involved, or the ground or grounds upon which it is considered that the Board has erred in its finding or disposition of the appeal, application or matter (add as an attachment if necessary). THE DEADLINE FOR SUBMITTING THIS APPEAL FORM WITH THE BZA-Z APPLICATION AND FEE IS THE CLOSE OF BUSINESS ON THE 5th BUSINESS DAY FOLLOWING THE DATE OF THE BOARD DECISION BEING APPEALED.

In the case of an appeal for reconsideration of a decision of the zoning administrator, applicant shall state below the interpretation(s) of the Zoning Ordinance being appealed, how the applicant is aggrieved by the interpretation(s), and what the applicant considers is the correct interpretation of the Zoning Ordinance (add as an attachment if necessary):

The City has denied a building permit for 1012 Avenue of Oaks on the grounds that the designed home exceeds the 2 1/2 story height restriction for the SR-1 zoning district under Zoning Code Section 54-301 because the home’s designed drive-under garage constitutes a “story” under Zoning Code Section 54-120. For the reasons set forth in the attached letter, a drive-under garage should not be considered a story, and the City’s interpretation is in error and contrary to the purposes of the zoning ordinances.

Signature of Applicant /s/ E. Brandon Gaskins Date 5/17/2021

For office use only
Date application received 5/12/21 Time application received 11:57 Staffperson
May 17, 2021

VIA EMAIL
Board of Zoning Appeals – Zoning
City of Charleston
2 George Street
Charleston, South Carolina 29401

Re: Crescent Homes SC, LLC
Appeal of Denial of Building Permit for 1012 Avenue of Oaks

Dear Members of the City of Charleston Board of Zoning Appeals:

Pursuant to S.C. Code Ann. § 6-29-800(A)(1) and City Zoning Code § 54-926, I am writing in support of Crescent Homes SC, LLC’s appeal of the City Planning Department’s denial of a building permit for 1012 Avenue of Oaks in the Avenue of Oaks subdivision in the City of Charleston. As explained in more detail below, the City denied Crescent Homes’ building permit application because the designed plan purportedly exceeds the 2 ½ story limitation for the SR-1 zoning district. This conclusion is based on the interpretation that the home’s designed drive-under garage area is a “story,” as defined by the City’s zoning code. This interpretation impacts not only 1012 Avenue of Oaks but eight other lots that are planned to have drive-under garages.

The City’s interpretation is in error because it conflicts with the City’s ordinances and is not supported by the text of the applicable zoning provisions. Moreover, the City’s interpretation is contrary to the purposes of the City’s zoning ordinances because it will encourage inconsistency in the subdivision’s home designs as a result of the City’s prior approval of other homes with drive-under garages. In addition, it will discourage elevated home designs intended to protect property and residents from the threat of flooding.

I. Factual Background

Crescent Homes is the owner and builder of residential lots in the Avenue of Oaks subdivision in the Maryville neighborhood of West Ashley. Avenue of Oaks is in zoning district SR-1, and it was developed subject to the cluster development requirements under Zoning Code §§ 54-299.11, et seq. The final plat of Avenue of Oaks with 42 developable lots was approved by the City in March 2020. (Ex. 1 – Final Plat.)

Avenue of Oaks is adjacent to the marshland of Oldtown Creek. As a result, it is in a relatively low area and has a higher risk of flooding. At the time the final plat was approved, all residential lots were in Flood Zones AE-14 or AE-13, which are special flood hazard areas under Code § 27-105. (Id.)

In the SR-1 zoning district, the maximum height for structures is 35’ and 2 ½ stories. (Zoning Code § 54-301.) Under Zoning Code § 54-120, “story” is defined as “that portion of a building included between the surface of any floor and the surface of the next floor above, or if there be no floor above, then the space between such and the ceiling next above it.” Although the City has not always interpreted this term consistently, the City’s Planning Department recent interpretation of
“story” has not included unfinished drive-under areas if such areas are within a flood zone. (Ex. 2 – Email re: Past Interpretation of Story; Ex. 3 – Email from L. Baskeldor, 3/9/21.)

Based on that interpretation, Crescent Homes designed 22 of the lots with a drive-under design and two stories of living space over the drive-under area. Of those, 13 lots have already received building permits from the City.

In January 2021, FEMA’s revised flood maps for Charleston County became effective pursuant to City Ordinance No. 2020-140. Under the new flood maps, 25 of the lots are now within Flood Zone X, and the other 17 lots are now within Flood Zone AE-11. (Ex. 4 – Plat w/’ New Flood Zones.) Of the 25 lots that are now within Flood Zone X, 9 lots utilize the drive-under design but do not have building permits.

On March 29, 2021, Crescent Homes applied for a building permit for 1012 Avenue of Oaks (Lot 6). (Ex. 5 – Permit Application.) The permit application included a schedule of building plans depicting the design for the home. (Ex. 6 – Building Plans.) The building plans show two stories of living space supported by piers and over a drive-under that serves as the home’s foundation. (Id.) The building plans also show that the drive-under garage is unfinished and unheated. The garage’s side and rear have louvered wood exterior walls, and the front of the home has two garage doors surrounded by brick exterior walls covering the piers. (Id.)

On April 15, 2021, Sean Killion, Associate Planner for the City, emailed Crescent Homes to provide notice that the proposed design for 1012 Avenue of Oaks did not comply with applicable zoning requirements. According to Mr. Killion, “[T]he proposed design has a drive under in an X flood zone. This would make the house 3 stories and therefore non-conforming to the SR-1 regulations. Please revise for zoning approval.” (Ex. 7 – Killion Email.)

This appeal challenges the City’s determination that the drive-under garage for 1012 Avenue of Oaks, as well as any other unpermitted lots in the subdivision with a drive-under garage in Flood Zone X, is a story under the City’s zoning ordinances.

II. Argument

This appeal raises the issue of whether the City’s planning department erred in denying the building permit for 1012 Avenue of Oaks based on its interpretation of the term “story,” as defined by Zoning Code § 54-120. As such, this case involves a matter of construction of the City’s zoning ordinances.

In reviewing a zoning ordinance, the Board should give the ordinance a “practical, reasonable and fair interpretation consonant with the purposes, design, and policy of the lawmakers.” Bozeman v. Town of Sullivan’s Island Bd. of Zoning Appeals, 423 S.C. 169, 184, 813 S.E.2d 874, 881 (Ct. App. 2016). The ordinance’s language must be construed in context, and “the meaning of particular terms in a statute may be ascertained by reference to words associated with them in the statute. The language must also be read in a sense that harmonizes with its subject matter and accords with its general purpose.” Id.
In analyzing zoning ordinances, courts and zoning boards should be guided by the well-founded principle of law that:

Statutes or ordinances in derogation of natural rights of persons over their property are to be strictly construed as they are in derogation of the common law right to use private property so as to realize its highest utility and should not be impliedly extended to cases not clearly within their scope and purpose. It follows that the terms limiting the use of the property must be liberally construed for the benefit of the property owner.

*Helicopter Solutions, Inc. v. Hinde*, 414 S.C. 1, 13, 776 S.E.2d 753, 759 (2015). Furthermore, zoning ordinances must be construed "to allow people to use their property so as to realize its highest utility" when the ordinances are drafted so that people do not have a clear understanding as to what they are permitted to do with their property. *Keane/Sherrott *v* *Sheep* by *Keane v. Hodge*, 292 S.C. 459, 465, 357 S.E.2d 193, 196 (Ct. App. 1987).

In this case, the City's interpretation of "story" as including unfinished drive-under garages is in error because the City's ordinances demonstrate that City Council did not intend for such areas to be a "story." As stated above, the zoning code defines "story." In pertinent part, to mean "that portion of a building included between the surface of any floor and the surface of the next floor above." Zoning Code § 54-120. Therefore, whether a drive-under garage constitutes a "story" necessarily depends on whether it is a "floor."

Although the City's zoning code does not define "floor," City Council defined that term in its stormwater management ordinance. As a result, it is appropriate to look to that ordinance for guidance in determining the meaning of "floor." See *Mathis v. Hair*, 358 S.C. 48, 53, 594 S.E.2d 851, 854 (2003) (considering definitions of term in other statutes to determine statutory term's meaning); *United Sav. Ass'n of Tex. v. Timbers of Irwind Forest Assocs., Ltd.*, 484 U.S. 365, 371 (1988) ("Statutory construction . . . is a holistic endeavor. A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme."); *Brown v. Gardner*, 513 U.S. 115, 118 (1994) (looking to how ambiguous term is used in analogous statutes). This principle is especially applicable here because the City's interpretation of "story" depends on whether the home is located in a flood zone. See *Boehm*, 423 S.C. at 184, 813 S.E.2d at 881 (stating that a zoning ordinance "must also be read in a sense that harmonizes with its subject matter and accords with its general purpose"). Thus, the City's stormwater management ordinance provides the best guidance as to whether a drive-under garage in a flood zone is a "floor," and, thus, a "story."

In the stormwater management ordinance, the surface of an unfinished drive-under garage is not a "floor." This ordinance defines "floor" to mean "the top surface of an enclosed area in a building (including basement) i.e., top slab in concrete slab construction or top of wood flooring in wood frame construction. *The term does not include the floor of a garage used solely for parking vehicles.*" (Code § 27-103) (emphasis added). Furthermore, the stormwater ordinance further defines "lowest floor" as not including unfinished garages or enclosures. "An unfinished or flood resistant enclosure, usable solely for parking vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is
not built so as to render the structure in violation of the applicable non-elevated design requirements of this article." (Id.)

Here, the drive-under garage designed for 1012 Avenue of Oaks does not fall within the definitions of "floor" or "lowest floor" because it meets the express criteria for exclusion. It is an unfinished garage that is only partially enclosed and designed solely for parking vehicles and storage. Therefore, it is not a "floor," and consequently, it is not a "story."

Not only does a drive-under garage not meet the definition of "story," the City's interpretation of the term based on its relationship to a flood zone lacks textual support. According to the City, the determination of whether a drive-under garage is a story depends on whether it is in a flood zone and what flood zone it is in. The City approved building permits for other houses with drive-under garages in Avenue of Oaks on lots that were in Flood Zones AE-14 and AE-15 prior to the issuance of the new FEMA flood maps. In doing so, the City did not consider the drive-under garages on those lots to be a story, thereby concluding that the proposed design did not exceed the 2 1/2 story maximum height in the SR-1 zoning district. Now, however, the City takes the position that a drive-under garage is a story if it is located on a lot in Flood Zone X.

Yet nothing in the definition of "story" or any other zoning provision suggests that the term's meaning changes based on the location of a flood zone. In fact, the definition does not use the term "flood zone" in any manner. And the City's planning department has never articulated which specific flood zones or conditions permit a drive-under garage to be excluded from the definition of "story." Instead, the definition appears to be determined on the whims of the City's planning department, which has failed to provide property owners with a clear understanding of what criteria applies for determining whether a drive-under garage constitutes a "story." This type of decision making is the epitome of arbitrariness that cannot be tolerated under the rule of law.

In addition, the City's interpretation of "story" in this case undermines the purposes of the zoning code. Zoning ordinances are intended, among other things, "to facilitate the creation of a convenient, attractive, and harmonious community" and "to secure safety from fire, flood, and other dangers." S.C. Code Ann. § 6-29-710. The City's interpretation of "story" advances neither of these purposes.

In this case, Avenue of Oaks is an attractive community consisting of several elevated homes that utilize drive-under garages. Allowing other homes in the subdivision to utilize a similar design will support a harmonious community. Neither 1012 Avenue of Oaks nor the other homes planned with drive-under garages will be disproportionately higher than the permitted homes because they are all subject to the same maximum height requirements set forth in the zoning code. Put simply, there is no logical reason why some drive-under garages are permitted in Avenue of Oaks and others are not.

The City's interpretation of "story" is also contrary to the zoning ordinances' purpose of securing safety from flooding. Avenue of Oaks borders a marsh and is in a flood zone. Although the new flood map indicates the flooding risk is less than previously determined under the prior flood map, that risk has not been eliminated. The elevated design that utilizes drive-under garages helps protect property and residents from flooding risk. This fact has recently been recognized by the
City in the Dutch Dialogues efforts. As seen in the attached excerpts from the Dutch Dialogues report, using elevated designs is measure that is encouraged to protect our City's residents and their property not just from flooding today but also from the uncertain but growing threats from climate change and sea-level rise in the future. (Ex. 8 - Dutch Dialogues Report Excerpts.)

By interpreting “story” to include drive-under garages, the City is discouraging homeowners from using this design feature, thereby increasing the threat to safety and property from flooding. This interpretation is contrary to the purposes of the zoning ordinances and the City's other recent efforts to protect its residents and their property from flooding. Therefore, the City's interpretation of “story” should be rejected for this reason, as well as the others cited above.

III. Conclusion

In sum, the City's interpretation of “story” is not supported by the text of the relevant ordinances and is based on unclear standards that prevent property owners from understanding how they can utilize their property. Also, the City's interpretation is contrary to the purposes of zoning ordinances intended to create harmonious communities and protect residents and properties from the threat of flooding. As a result, the Board should reject the City's interpretation and grant Crescent Home's appeal.

On behalf of Crescent Homes, we appreciate your consideration of our position, and we look forward to presenting our position at your upcoming hearing.

Sincerely,

E. Brandon Gaskins

Enclosures: As stated.
Brandon Gaskins

From: Kelly McGuinn <kelly.mcguinn@crescenthomes.net>
Sent: Monday, November 11, 2019 10:53 AM
To: Ted Terry; Bob Pickard; Craig Hobart
Subject: Fwd: 1111 & 1131 Oak Bluff
Attachments: image001.png; image002.png

below is the last correspondence from the city on the oak bluff permits.
-Kelly

Begin forwarded message:

From: Killion, Sean <killions@charleston-sc.gov>
Sent: Thursday, November 7, 2019 12:03 PM
To: Permitting <permitting@crescenthomes.net>
Subject: RE: 1111 & 1131 Oak Bluff

Jessica,

I agree this is a complicated issue. The problem emerged when a former zoning planner who used to work for the City of Charleston approved a couple of 3 story structures in this subdivision that shouldn’t have been approved. Since then myself and Lee Batchelder have spoken with Bob that we would approve the ones in the direct neighborhood of those that shouldn’t have been approved in the first place (1131 Oak Bluff), but all future proposed houses must follow the SR-1 guidelines of 35’/72% stories.

Sean Killion
Associate Planner
City of Charleston | Department of Planning, Preservation and Sustainability
Zoning Division
2 George Street | Charleston, SC 29401
T:(843) 724-3779 | killions@charleston-sc.gov | www.charleston-sc.gov
Based off of the email you sent me, "for 1111 and 1131 Oak Bluff I came across a problem with the height of said buildings being over the SF-1 limits of 2 ½ stories. Both properties aren't located in a flood zone and therefore cannot be granted the FEMA exception," I was under the impression that both 1111 & 1131 had the same issues. Since 1111 was issued with the unfinished first floor and 1131 first floor is unfinished I thought that it would be issued as well. Am I reading that wrong? My apologies if I am, I myself am just getting confused.

If you should have any questions, please let me know.

Thank you,

JESSICA DICKSON
Permitting Coordinator
O: 843-573-9835 ext. 5101 | Permitting@crescenthomes.net
1510 Hay, 17 N. ML Pleasant, SC 29460 | www.crescenthomes.net
From: Killion, Sean <killion@charleston-sc.gov>
Sent: Thursday, November 7, 2019 11:35 AM
To: Permitting <permitting@crescenthomes.net>
Subject: RE: CORRECTIONS NEEDED- FW: 1111 & 1131 Oak Bluff

Jessica,

I have not received revisions that are 2.5 stories for 1131 Oak Bluff, therefore it cannot receive zoning approval.

Sean Killion | Associate Planner
City of Charleston | Department of Planning, Preservation and Sustainability
Zoning Division
2 George Street | Charleston, SC 29401
T:(843) 724-3779 | killion@charleston-sc.gov | www.charleston-sc.gov

From: Permitting <mailto:permitting@crescenthomes.net>
Sent: Thursday, November 7, 2019 11:32 AM
To: Killion, Sean <killion@charleston-sc.gov>
Subject: RE: CORRECTIONS NEEDED- FW: 1111 & 1131 Oak Bluff
Hey Sean,

I see that 1111 Oak Bluff is ready to be issued.

Do you happen to have any update on 1131 Oak Bluff?

If you should have any questions, please let me know.

Thank you,

JESSICA DICKSON
Permitting Coordinator

O: 843-573-9635 ext. 5101 | Permitting@crescenthomes.net
1510 Hwy. 17 N., Mt Pleasant, SC 29464 | www.crescenthomes.net

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From: Killion, Sean <killion@charleston-sc.gov>
Sent: Wednesday, October 2, 2019 11:10 AM
To: Permitting <permitting@crescenthomes.net>
Cc: Alltop, Crystal <alltop@charleston-sc.gov>
Subject: 1111 & 1131 Oak Bluff

4
Hello,

While reviewing the plans for 1111 and 1331 Oak Bluff I came across a problem with the height of said buildings being over the SI-1 limits of 2 ½ stories. Both properties aren't located in a flood zone and therefore cannot be granted the FEMA exception. This needs to be addressed in order to receive zoning approval. If you have any questions or concerns feel free to email me or call me at 843-724-3779.

Sean Killian | Associate Planner
City of Charleston | Department of Planning, Preservation and Sustainability
Zoning Division
2 George Street | Charleston, SC 29401
T: (843) 724-3779 | skillions@charleston-sc.gov | www.charleston-sc.gov
EXHIBIT 3
Hi Ross,

Sorry for my tardy response. I am not in favor of this change because it would conflict with our current zoning restrictions for most neighborhoods outside the peninsula which limit houses to 2 ½ stories. We already allow ground floor stories in flood zones to not count toward the 2 ½ story limit, which has worked well. However, with the amendment Ellis is proposing, we might as well change the 2 ½ story limit to 3 ½ stories which would be out of character for suburban neighborhoods. We ( zoning ) also don’t review building permit applications to make interior alterations to SF homes so we would have no way to catch conversions of ground floor spaces from storage/garage spaces to living spaces, which is sure to happen.

I do think we should consider modified height restrictions as we implement the new comp plan, which hopefully will lead into a concerted effort on behalf of the City to revise our zoning regulations. I think the new comp plan will reflect the Dutch Dialogues recommendations and others dealing with sea level rise so it seems appropriate to consider height restrictions then.

Thanks for asking. Let me know if you have any further thoughts or questions.

Lee C Batchelder AICP | Zoning Administrator
City of Charleston | Department of Planning Preservation & Sustainability
2 George Street | Suite 3100 | Charleston, SC 29401
T:(843) 724-3771 P:(843) 724-3772 | lbatchelder@charlestonsc.gov | www.charlestonsc.gov

Ross Appel <ross@mklawsc.com>
Sent: Monday, March 1, 2021 11:28 AM
To: Morgan, Christopher <cmorgan@charleston-sc.gov>; Batchelder, Lee <LBATCHelder@charleston-sc.gov>
Subject: FW: Revision to Definition of "Story" under City Ordinance

CAUTION: This email originated outside of the City of Charleston. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Christopher and Lee,

I hope this finds both of you well. I am forwarding an e-mail from Ellis Leseman regarding a rather technical zoning change. The logic behind this sounds reasonable to me, but I want to get your perspective on this issue.

Once you’ve had a chance to review, please let me know and we can go from there.

Thanks, as always.

Ross
Hello Ross,

I am writing to follow up on the issue that we had discussed over the past several months relating to revising the City’s Ordinances in order to encourage/allow newly constructed two-story homes to be elevated. This is a construction technique that is recommended repeatedly within the Dutch Dialogues.

Over the past two months, I’ve worked with Bill Eubanks in order to come up with the revision language that could facilitate this, which focuses on the definition of “story” under the City’s Zoning Ordinance. We’ve developed wording that we believe is narrowly tailored and would not result in any unintended consequences. In light of your knowledge and background, and your support for the idea, we wanted to present the language to you and get your thoughts. Once the language is in good form, we are hopeful that you and perhaps other members of City Council could steer this through to enactment and implementation.

Attached are: (1) highlighted excerpts from the Dutch Dialogues indicating the importance of elevating homes, both new and existing; and (2) the proposed draft language for a revision to the definition of “story” under the City’s Zoning Ordinance that, if adopted, would make an immediate impact by allowing new two-story homes to be elevated.

Under the existing language and interpretation, if a home is elevated, it cannot be two stories, because the City’s Planning, Preservation & Sustainability Department considers the unfinished area that would be underneath the house to be a “story.” This results in an elevated two-story house being considered a “three-story” house, which isn’t allowed in SR-1 and certain other zoning districts.

This wasn’t always the interpretation, but it has become the current view within the Department. The result of this interpretation is that, in order to have a new two-story home, the home cannot be elevated. This undermines the goal of adapting construction practices in order to expect and accommodate rain events, climate change, and sea level rise. It also imposes an undue limitation on the options available for purchasers of new homes.

Adopting the proposed revision is an important action that we, together as a City, can take to implement this key lesson and recommendations from the Dutch Dialogues.

Talk soon,
City of Charleston New Single Family Permit Application

Name and Address of Property Owner: Crescent Homes SC, LLC 572 Savannah Hwy, Charleston SC 29407
Contractor: Crescent Homes SC, LLC
Office No: 843-573-9635 x 510 E-mail: permitting@crescenthomes.net
State License No: 18591 City Business License No: 39245

Lot _ Block ___ Parcel ___ Address (if known) 1912 Avenue of Oaks
Subdivision Avenue of Oaks Phase TMS 418-06-00-124 Zoning

Heated Square Feet 1st Floor: 1200 2nd Floor: 1099 3rd Floor:
Unheated Square Feet (Includes garages, porches, decks): 1636
Actual setbacks: Front 17 Rear 9 North/East Side 9.29 South/West Side 12.71
Height of Dwelling: +/- 36’-9” (measured from the curb to the highest point of the finished roof)

"Is this an Affordable Housing Project?" NO
(If yes, a letter must be included with this application stating that the construction meets the Affordable Housing Ordinance requirements.)

REVIEW REQUIRES THE FOLLOWING PLANS WITH THIS APPLICATION:
Please see checklist for full requirements. Plans will not be accepted if all requirements have not been met.

1. THREE (3) SCALED SITE PLANS should be prepared, signed and sealed by a South Carolina licensed professional (i.e. surveyor or engineer; include state registration number on the site plan)
2. MANUAL detailing HVAC calculation - 1 copy
3. INTERNATIONAL ENERGY CONSERVATION CODE FORM - 1 copy
4. TWO (2) SETS of BUILDING PLANS
   - Indicating the height of all buildings measured from curb line elevation, or street elevation if there is no curb, to the highest point of the finished roof,
   - Plans by a registered design professional
   - Foundation plan
   - Framing Details or floor, wall, ceiling, roof, headers, beams, and girders
   - Floor Plans
   - Indicate how glazing will be protected from windborne debris
   - Structural details

NOTE: An engineering permit and inspection by the Engineering Division is required prior to the issuance of a Certificate of Occupancy. Call 724-3782 for permit information and inspection requests.

For customer service, please contact the Customer Service Coordinator at 843-724-7450
For technical information, please contact the following:
GIS 843-865-3230 Zoning 843-724-3755
Engineering 843-724-3782 Inspections 843-724-7448

4 certify that the information on the application and its attachments is correct, that the proposed improvement(s) comply with private neighborhood covenants, if any are any, and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be inspected for verification of same.

Applicant's Signature: ___________________________ Date: 3/29/2021

"You must fill out the second section of this application for your submittal to be considered complete. The International Residential Code Correction Sheet (IRC) is required by the Building Inspections Division for plan review."
International Residential Code Correction Sheet

THIS SECTION MUST BE COMPLETED BY THE APPLICANT

Contractor: Edward M. Terry, Crescent Homes SC, LLC
Address of Project (if known): 1012 Avenue Of Oaks
Number of: Stories 2  Rooms 6  Bathrooms 3.5  Bedrooms 3  Kitchens 1
Type of Construction: Wood Frame  Exterior of Building: Cement-board Siding
Type of: Heat (electric or gas) Gas  Roof Covering: Shingles
Foundation (if slab, monolithic or rammed: piers or continuous wall): Drive Under
Fireplace (pre fab or site built, wood burning or gas): Prefab, Gas
Are roof trusses being used? Yes  Is sewer available? Yes  (If not, DEEC septic tank approval must be submitted)
Permit includes: Electrical ( ), Plumbing ( ), Mechanical ( ), Gas ( ), Separate permit to be obtained.

Window Agreement: (Please sign and date)
Crescent Homes, SC LLC (Owner/Contractor/Agent) will install windows that meet the
American Architectural Manufacturer's Association specification per 2015 SC IRC, R609.3 for the following
address

Signature ________________________________ Date 2/29/2021

%%%%%%%%%%%%%%%%%%%%%%%%%%For office use only%%%%%%%%%%%%%%%%%%%%%%%%%%

ITEMS NOTED BELOW SHALL BE CORRECTED IN THE FIELD
( ) Submit under construction flood zone elevation certificate prior to rough-in inspections.
( ) Submit finished construction flood zone elevation certificate prior to final inspections.
( ) Submit as built v-zone and break away wall certifications prior to final inspections.

Approved By ________________________________ Date ________________

Corrections indicated above will be complied with.
Owner/Contractor/Agent ________________________________ Date ________________

Revised 2/20/2019
Good Morning Ms. Ashby,

Sent on behalf of Brandon Gaskins, please find attached the following:

1. Application;
2. Appeal Form;
3. Letter in support of Appeal dated May 17, 2021;

Sincerely,

Laura L. Phillips
Paralegal
843.576.7043
843.576.7099
lauraphillips@mvalaw.com

Moore & Van Allen

CONFIDENTIAL & PRIVILEGED: Unless otherwise indicated or shown from the nature of the following communications, the information contained herein is attorney-client privileged and confidential attorney-client work product. The communication is intended for the use of the individual or entity named above. If the reader of this communication is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, or are not sure whether it is privileged, please immediately notify us by return e-mail and destroy copies, electronic paper or otherwise, which you may have of this communication. Thank you.
EXHIBIT 6
CHARLESTOWNE
GARAGE LEFT
3-4 BEDROOMS / 3.5 BATHS

AVO 6
1012 Avenue of Oaks
Charleston, SC

SQUARE FOOTAGE TOTALS

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<td>(SECOND FLOOR HEATED (ELEV B)</td>
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<td>TOTAL AREA</td>
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OPTIONS

- 2ND. FLOOR MASTER SUITE BALCONY          | 140     |
- 1ST. FLOOR MASTER BATH BUNK/LOFT         | 418     |
- 2ND. FLOOR FRONT GLASSOY                 | 254     |

SCHEDULE OF DRAWING SET

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<td>ROOF PLAN</td>
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<tr>
<td>A4</td>
<td>GROUND FLOOR PLAN</td>
</tr>
<tr>
<td>A5</td>
<td>FIRST FLOOR PLAN</td>
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<tr>
<td>A6</td>
<td>SECOND FLOOR PLAN</td>
</tr>
<tr>
<td>E1</td>
<td>GROUND FLOOR ELECTRICAL</td>
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<tr>
<td>E2</td>
<td>FIRST FLOOR ELECTRICAL</td>
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<td>E3</td>
<td>SECOND FLOOR ELECTRICAL</td>
</tr>
<tr>
<td>D1</td>
<td>DETAILS</td>
</tr>
<tr>
<td>D2</td>
<td>DETAILS</td>
</tr>
</tbody>
</table>

From: Killion, Sean <killions@charleston-sc.gov>
Sent: Thursday, April 15, 2021 9:07 AM
To: Permitting <permitting@crescenthomes.net>
Subject: 1012 Avenue of Oaks

Good Morning,

I was reviewing the plans for 1012 Avenue of Oaks and I saw the proposed design has a drive under an X flood zone. This would make the house 3 stories and therefore non-conforming to the SR-1 regulations. Please revise for zoning approval.

Sean Killion Associate Planner
City of Charleston | Department of Planning, Preservation and Sustainability
Zoning Division
2 George Street | Charleston, SC 29401
T: (843) 724-3779 killions@charleston-sc.gov | www.charleston-sc.gov
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Report produced by Wagonner & Ball with text contribution from The Water Institute of the Gulf.
A Layered Approach

A layered planning approach begins with Charleston's most basic layer: its physical ground, the land and water upon which infrastructure and inhabitation, history and culture, are based.

Safety first. Safety is increased through elevation and redundancy. Multiple lines of defense begin outside the city, in the landscape, and are also structured from within. Sustainable inhabitation is connected to deep geology.

Elevation is salvation from inundation. Elevation is critical in low-lying place, and awareness of place translates to informed action. Charleston has areas of stable, relatively high ground, a critical asset in high water.

Know where you are. The Ashley and Cooper are tidal rivers. Shorelines shift across a low landscape, and plants and habitat move with them, if allowed. Healthy ecology supports a healthy economy and can provide protective benefits. Sustainable infrastructure aligns with ecological function. Water in the region must be understood as a holistic system, man-made and natural in tandem.

Work at multiple scales. Focus on the smallest scale, with an understanding of larger watershed and system functions. Conflicts between and within layers are acknowledged—culture and technology sometimes produce misalignments—and design solutions begin by asking what lies underneath.

Pursue multiple benefits. Single-purpose infrastructure is a poor investment.

No regrets. Make sure action taken now will not compromise future opportunities. Projects should fit within a comprehensive planning vision, but should be able to operate independently with success. Plans must be adaptable over time.
Disadvantages of a regional approach are that it requires:

- Robust implementation; the system is only as strong as its weakest link, requiring gates and barriers where open water crosses the (primary) lines of defense.
- Substantial inter- and intra-governmental cooperation and coordination.
- Additional measures, often related to stormwater drainage and local sea level rise adaptation.
- Reliable, steady investment, for long-term design, construction, operations and maintenance (O&M) funding. O&M costs are generally estimated as between 2%-4% per year of the original cost of construction.
- Trade-offs between protection and environmental considerations. Some environmental impacts can often be mitigated post construction, for a price.

Elements of a Theoretical Regional System
A hurricane risk reduction system for Charleston would consist of broad elements from offshore to inland areas.

- Reinforcing / strengthening / and possible reestablishment of barrier islands.
A robust intertidal and coastal marsh zone, buffering land and sea, with coastal marsh restoration, increased oyster banks and similar "building with nature" components.

Pockets of resilient, elevated communities, able to adapt to storm, surge and sea level rise outside of the primary coastal defense system.

A coastal defense alignment, behind which all infrastructure and buildings will be protected against the impacts of storm surge at the defined risk reduction level. This line would consist of coastal ridges, dunes, berms, sea dikes, levees and, where necessary (due to spatial constraints), floodwalls. Note: the Dutch have begun using more multifunctional flood protection structures in which primary flood protection and other economic, environmental, mobility or social benefits are combined.

Gates / Barriers integrated into the coastal defense line to limit storm surge impacts that would occur via open water channels. To lessen ecosystem impacts and ensure normal riverine and tidal exchange and shipping access, movable gates would be required. These are complex structures and can be vertical lift gates or navigable barriers or a combination thereof.
more) and bridges— with little to no landfill and no large-scale removal of existing soils and trees. Maintaining the existing coastal forest is essential: the average forest canopy should be maintained at 50% or more of land cover in this zone.

The ecological zone carries substantial flood risk and can expect to get wet in a 100-year storm which, oddly, means a 1% chance of flooding in any year but also a 26% chance that a home with a 30-yr mortgage will flood once over the mortgage term. Those living in this zone should be fully aware of the risk they assume by living there.

The transition zone is defined as areas between 10-15 ft above MSL. In the transition zone, development is possible, including clustered, elevated homes: Development here must respect the dynamic nature of the landscape, with fluctuating water levels and sufficient, maintained overland drainage channels, and the need for tailored flood risk reduction strategies. Fill should be sparingly used, primarily for road construction or to elevate only certain homes. The coastal forests in this zone should not be further degraded as trees are essential for storing and managing stormwater.

The community zone, at 15 feet and more above MSL, is on historic and stable sand ridges, the most prominent of which are along Mount Pleasant and Upper Battery Creek. This is stronger, higher, safer, and thus valuable ground, although it is neither scarce nor abundant. Clustered development combined with stormwater infiltration could be encouraged in this zone, especially where the soils readily infiltrate and store water. The existing water systems—channels, swales, creeks, ditches—in these zones must also be protected, maintained and not further compromised, filled or eliminated. These systems store and infiltrate stormwater, providing stormwater management and hydrologic balance. Clear rules to protect these hydrologic features must be developed and enforced.

<table>
<thead>
<tr>
<th>Zone</th>
<th>Approx. Elev. (NAVD)</th>
<th>Allowable Development Density</th>
<th>Allowable Foundation Types</th>
<th>Fill Allowed</th>
<th>Potential Stormwater BMPs</th>
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<tr>
<td>Wet Zone</td>
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<td>N/A</td>
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<td>Living Shorelines/Buffer</td>
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<td>Limited (Single)</td>
<td>Elevated</td>
<td>Roadways Only</td>
<td>Promote Buffers/Open Systems/Space/ Storage Only</td>
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<tr>
<td>Transition Zone</td>
<td>10 - 15'</td>
<td>Moderate</td>
<td>Elevated/Limited Slab on Grade</td>
<td>Limited</td>
<td>Closed Systems/ Open Space/Storage and Green Infrastructure/Infiltration</td>
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<tr>
<td>Community Zone</td>
<td>&gt; 15'</td>
<td>Moderate to Urban</td>
<td>Mix</td>
<td>Limited to Moderate</td>
<td>Green Infrastructure/ Infiltration and Limited Closed Systems</td>
</tr>
</tbody>
</table>

Elevation Zones
Four different zones are described relative to development strategies.
Church Creek

Landscape Context
The West Ashley / Church Creek area, unlike Johns Island or the Peninsula, is upland (but still low-lying), upstream, and influenced by fluvial conditions more than coastal ones. Ecologically, Church Creek and much of West Ashley is a water basin. The sponge-like functioning of the basin is compromised by constraints upon its water systems and by land-use and development patterns. While Church Creek is lower in elevation than both Johns Island and the Peninsula, the issues of hurricane storm surge and sea level rise are less urgent here.

Before human settlement, Church Creek was a sinuous waterway that had multiple branches and outlets. It was reminiscent of the nearby Angel Oak tree, with its vascular system that spread out in a multitude of winding paths. Just as the Angel Oak gives life, form and energy to Johns Island, the long forgotten Church Creek landscape provides the same for West Ashley. The Creek's natural functions are needed to restore health, safety and balance to the Ashley and Stono river watersheds. Ignore these, and more flood disruption and devastation along these floodplains will occur.

The Church Creek basin has been irreparably shaped by human activity. The basin, once once a lowland swamp between the Stono and the Ashley River, was first drained for rice cultivation. The second wave of alteration came after the Civil War when the it was further drained and cleared for phosphate mining. After phosphate extraction had subsided, the basin became a suburb. The system of ditches which drained the swamp became the drainage system for neighborhoods. The remaining swamp was developed, constraining an already unnatural drainage system.

North of the railroad, Church Creek is now entirely artificial, a man-made ditch that runs behind backyards, under culverts and through the old phosphate mines. This section suffers the worst flooding. Culverts constrain flow and homes are built directly along channel and old creek bed. Below the railroad the creek is tidal and still largely natural. Flood risk in this lower zone stems primarily from tidal impacts.

Development in the Basin
The flood challenge in Church Creek is partly about the water system and partly about occupation and land-use planning. Development pressure is high and most of the remaining developable space in the basin will be built out soon. Most of the basin is incredibly low in elevation. Homes in the floodplain may be only slightly lower than homes outside of it. Homes along the tidal portion of the creek are at an additional risk from tides and sea level rise. Neighborhoods' ability to store water is challenged. Even as development regulations become more strict, existing homes retain substantial tidal flooding and stormwater risks.

There are things to embrace and things to change in the Church Creek basin. The tidal landscape can be used to accrete land and resilient waterfront development. The retaining wall and the historical phosphate mines must become functioning pieces of a basin-wide stormwater system. New elevated homes have limited some flood risk but are disconnected from each other and the landscape. Without water and development working together problems are often transferred downstream.
New Development

Our proposed blue-green network might be supplemented with new or repurposed developments (red areas in opposite drawing) within the floodplain. This development pattern establishes a vision and direction for the region and can be achieved over the next decade or two. We suggest starting on this vision as soon as possible, through a process that includes new developments in the pipeline and those already on the drawing board.

Sea level rise will extend the floodplain inland. Some developments here—we all like to live near the water—are acceptable if properly elevated. An old Cajun saying is relevant: Elevation is Salvation from Inundation. But this development will have to adapt to the water system, not the other way around. A new type of water-centric development could be a cultural and economic asset for Charleston. Connectivity for cars, bikes, and pedestrians—via possible new linear parks—could reinforce this living with water vision.
Historic Charleston Foundation

Flood Adaptations for Historic Structures

Historic Examples of Building Elevations

Structures from the nineteenth century are raised several feet, with facades and porches that evoke a traditional, transitional atmosphere.
Credit: City of Charleston

Historic Charleston Foundation

Charleston is undeniably proud of its historic architecture. The city has one of the most, if not the most, important collections of residential and civic architecture in the United States for which Charleston was designated as a National Historic Landmark District in 1960. Both the local and the nationally recognized district have been greatly expanded over the years and for both designations, retaining the historic character of individual buildings is key to the preservation of the whole.

Until fairly recently, Charleston’s preservation community was adamantly opposed to elevating historic buildings simply because of flood risk. The visual character of a historic building is closely linked to its overall design, its height, massing, proportions and the overall scale of its architectural features. When an historic building is raised, the process can affect its integrity by altering its proportions and compromising its relationship to adjacent buildings and to the historic district as a whole. Massive damage from Hurricane Hugo in 1989 demonstrated the dangers for historic buildings within the low-lying areas of the city, yet the event – at the time – seemed isolated.

However today, with escalating rain events, sea level rise and tidal flooding, we know that water constitutes an increasing threat to our historic district, and our position on elevating threatened buildings has evolved.

A key component of historic preservation is adaptability, therefore, we must accommodate the elevation of historic buildings where warranted in order to improve resilience for our historic district and ensure their very survival.
Request variance from Sec. 54-301 to allow construction of 3-story single-family residences (Lots 1-7, 16 and 42) that exceed 25-ft. in height (Limit is 2 ½ stories, 35-ft.). Zoned SR-1
<table>
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<th>Lot</th>
<th>Address</th>
<th>Street</th>
<th>TMS #</th>
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<tr>
<td>1</td>
<td>1005</td>
<td>Avenue of Oaks</td>
<td>413-06-00-119</td>
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<tr>
<td>2</td>
<td>1007</td>
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<td>42</td>
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Application for Variance, Special Exception, Reconsideration, or Extension to the Board of Zoning Appeals – Zoning (BZA-Z)

City of Charleston

Instructions – This application, along with the required information and fee, must be submitted to the Permit Center at 2 George Street. Applications are due by 12 Noon on the deadline date and must be complete to be accepted and placed on an agenda. A sign will be posted on the property, and a public hearing will be conducted by the Board of Zoning Appeals – Zoning. Permits authorized by the Board cannot be issued during a five (5) business day appeal period following the decision of the Board, except for use variances, the appeal period shall be fifteen (15) calendar days. An appeal to the Board during this appeal period stays all further action on the application.

THE APPLICANT HEREBY REQUESTS:
- [ ] A Variance and/or Special Exception as indicated on page 2 of this application.
- [ ] Reconsideration of a decision of the Board or action of a zoning official (attach Appeal form).
- [ ] Extension of an unexpired Variance and/or Special Exception approval.

MEETING DATE REQUESTED: June 15

Property Address: See List of 9 lots Attached. THIS # see LIST attached.

Property Owner: Crescent House SC, LLC

Applicant: Kelly Palmer

Applicant’s Mailing Address: 572 Savannah Hwy, Charleston, SC 29407

E-mail Address: Kelly-Palmer@Ideas-group.com

Relationship of applicant to owner (name, representative, prospective buyer, other): Representation of Operations.

Zoning of property: R-1 Cluster

Information required with application: (check information submitted)
- [ ] Scale plans or plans, including elevations, showing the variance(s) or special exception(s) being requested (3 sets)
- [ ] For new construction or additions within a flood zone, show HVAC units and platform on scale plans
- [ ] Scale floor plans with rooms labeled and the total floor area for each dwelling unit noted are required for all density variances and building additions, unless exempted by the Zoning staff (3 sets)
- [ ] PLANS or documents necessary to show compliance with special exception requirements (3 sets)
- [ ] Checks, credit card, or cash (make checks payable to the City of Charleston)
- [ ] YES or NO - Is this property restricted by any record covenant that is contrary to, conflicts with or prohibits the proposed land use encompassed in this permit application? § 6-29-1145 of the South Carolina Code of Laws

Optional but very helpful information:
- [ ] Photographs
- [ ] Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct, that the proposed improvements comply with private neighborhood covenants, if there are any, that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the Board hearing and inspected.

Applicant: 

Date: 5-19-71

For office use only

Date application received 

Time application received 

Fee $ 

Receipt #
For **Variance** requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance test that follows is met (add as an attachment if necessary):

---

**Variance Test:** The Board of Zoning Appeals Zoning is authorized to approve a variance from the requirements of the Zoning Ordinance when strict application of the zoning ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.
2. These conditions do not generally apply to other property in the vicinity.
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, and
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. (SC Code of Law § 6-29-180)

---

For **Special Exception** requests, applicants should list the specific approval(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as §§ 24-110, § 24-200, or sections in Article 9 (add as an attachment if necessary):

---

All approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Article 9, Part 5 of the zoning ordinance. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has lapsed.

Department of Planning, Preservation & Sustainability  2 George Street  Charleston, South Carolina 29401
(843) 724-3701  www.charleston-sc.gov/zoning

5/19
AVENUE OF OAKS VARIANCE REQUEST

Pursuant to S.C. Code Ann. § 6-29-800 and Zoning Code § 54-924, Applicant Crescent Homes SC, LLC submits this information in response to the applicable criteria in support of a variance for nine lots (Lots 1, 7, 18, and 42) within the Avenue of Oaks subdivision.

1. There are extraordinary and exceptional conditions pertaining to the particular properties.

Extraordinary and exception conditions pertain to these particular properties because they have been impacted by the new FEMA flood maps, which became effective in January 2021 pursuant to Ordinance No. 2020-44. Under the City planning department’s interpretation of the zoning code, a drive-under garage area of a home is not considered a “story” for purposes of determining compliance with a zoning district’s height restrictions if the home is located in a certain flood zone.

At the time Avenue of Oaks was being designed, all of the developable property was located in either Flood Zones AE13 or AE14. As a result, Crescent Homes designed the subdivision based on the City’s interpretation that all homes could be designed with drive-under garages that would not be considered a “story” for purposes of the SR-1 zoning district’s 2 1/2 story height restriction. Relying on this interpretation, Crescent Homes designed 22 of the lots in Avenue of Oaks to have drive-under garages with two stories of living space above.

The City approved the final plat for Avenue of Oaks in March 2020, and Crescent Homes began developing the lots in accordance with its design. To date, Crescent Homes received building permits for 13 out of the 22 planned homes that utilize a drive-under garage. However, FEMA issued new flood maps for Charleston County in 2020, which became effective in January 2021. As a result of the flood map changes, the nine remaining lots planned for drive-under garages have been rezoned from Flood Zone AE13 to Flood Zone X.

Under the City’s interpretation of the zoning ordinances, a drive-under garage area on a lot in Flood Zone X is considered a story. Therefore, the homes designed for these nine remaining lots with two stories of living space above a drive-under garage are considered three-story homes and, consequently, not in compliance with the applicable height restrictions for SR-1, according to the City’s interpretation.

Based on these facts, the changes to the flooding zones during the development process after the final plat has been approved constitutes an extraordinary and exceptional condition.

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

Crescent Homes is unaware of any other properties in the vicinity that were under development and impacted by the flood map changes. Therefore, these conditions do not generally apply to other property in the vicinity.
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.

The application of the City's interpretation of "story" and SR-1 height restrictions will unreasonably restrict the utilization of the property by prohibiting two-story homes with drive-under garages and by nullifying Crescent Home's existing designs for the subdivision. Although Crescent Homes can utilize the nine lots in question with other designs, it is "not required to show that without the variance there exists no feasible conforming use for the property in question" to show an unreasonable restriction. "Restaurant Row Assoc. v. Hobby City," 355 S.E.2d 442, 446 (1989).

In this case, the inability to use the design of two stories over a drive-under garage is unreasonable because the lots in question remain in a flood zone and are subject to the risk of flooding. The City's interpretation is forcing a choice between a one-story living space with a drive-under garage to protect from flooding or two-stories of living space without additional flood protection from being elevated over a drive-under garage. Because the designs in question provide for reasonably sized homes, especially considering the narrow lot dimensions utilized under the cluster development zoning ordinance for this neighborhood, this is an unreasonable choice being imposed by the City's interpretation of the ordinance.

The unreasonableness of this choice is compounded by the fact that the design in question was permissible just a few months ago before the new flood maps became effective. The subdivision was designed based on the old flood maps and in reliance on the reasonable belief that drive-under garages could be utilized without them being considered a story. It would now be unreasonable to restrict the use of the drive-under designs when other homes have already been permitted with the same design feature.

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 district will not be harmed by the granting of the variance.

The authorization of the variance will not be of substantial detriment to adjacent property as those properties have homes that utilize the same drive-under garage feature. Thus, the design of the new homes will be harmonious with those properties and consistent with the original plan for the subdivision.

The variance will also not be of any detriment to the public good. If anything, the public good will be enhanced because the drive-under design will provide additional protection from possible flooding, thereby reducing the potential social and indirect impacts that flooding often creates.

Last, the variance will not harm the character of the zoning district as the homes will comply with all other zoning requirements for the SR-1 zoning district, and the variance will not permit prohibited uses. Significantly, even if the drive-under garages are permitted with a variance, the homes will still be subject to the maximum height restrictions imposed by the zoning code.
Agenda Item #B-4

2 ANSON STREET
TMS # 458-05-03-131

Request third one-year extension of a vested right, pursuant to Sec. 54-962, that expired on December 31, 2020. Vested right pertains to a special exception granted under Sec. 54-220 on February 2, 2016 for a 50-unit accommodations use with conditions in a GB-A (General Business-Accommodations) zone district.
Application for Variances, Special Exception, Reconsideration, or Extension to the Board of Zoning Appeals – Zoning (BZA-2)

City of Charleston

Instructions – This application, along with the required information and fee, must be submitted to the Permit Center at 2 George Street. Applications are due by 12 Noon on the deadline date and must be complete to be accepted and placed on an agenda. A sign will be posted on the property, and a public hearing will be conducted by the Board of Zoning Appeals – Zoning. Permits authorized by the Board cannot be issued during a five (5) business day appeal period following the decision of the Board, except for use variances, the appeal period shall be fifteen (15) calendar days. An appeal to the Board during this appeal period stays all further action on the application.

THE APPLICANT HEREBY REQUESTS:
☐ A Variance and/or Special Exception as indicated on page 2 of this application
☐ Reconsideration of a decision of the Board or action of a zoning official (attach Appeal form).
☒ Extension of an expired Variance and/or Special Exception approval

MEETING DATE REQUESTED: June 15, 2021

Property Address: 660 E. Bay Street, Charleston, SC 29401

Property Owner: Rainbow Market, LLC

Daytime Phone: 843-727-3208

Applicant: G. Trent Holmes Walker, Walker Gressette Freeman & Linton, LLC

Daytime Phone: 843-727-3208

Applicant’s Mailing Address: 16 Holm Street, Charleston, SC 29401

E-mail Address: Walker@eglaw.com

Relationship of applicant to owner (same, representative, prospective buyer, other) Attorney

Zoning of property: GB

Information required with application: (check information submitted)
☐ Scaled plans or plots, including elevations, showing the variance(s) or special exception(s) being requested (3 sets)
☐ For new construction or additions within a flood zone, show HVAC units and platform on scaled plans
☐ Scaled floor plans with rooms labeled and the total floor area for each dwelling unit noted, required for all density variances and building additions, unless excepted by the Zoning Code (3 sets)
☐ Plans or documents necessary to show compliance with special exception requirements (3 sets)
☐ Check, credit card or cash (make checks payable to the City of Charleston)

YES ☒ NO ☐ Is this Property restricted by any recorded covenant that is contrary to, conflicts with or prohibits the proposed land use encompassed in this permit application? § 6-29-1145 of the South Carolina Code of Laws

Optional but very helpful information:
☐ Photographs
☐ Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct, that the proposed improvement(s) comply with private neighborhood covenants, if there are any, and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the Board hearing and inspected.

Applicant: G. Trent Holmes Walker

Date: May 14, 2021

For office use only
Date application received: Time application received:

Receipt #
BZA-Z Application (continued)  Page 2 of 2

For **Variance** requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance test that follows is met (add as an attachment if necessary):


**Variance Test:** The Board of Zoning Appeals (Zoning) is authorized to approve a variance 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 Board makes the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.
2. These conditions do not generally apply to other property in the vicinity.
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; and
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. (SC Code of Laws § 6-24-800)

For **Special Exception** requests, applicants should list the specific approval(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as § 54-110, § 54-206, or sections in Article 5 (add as an attachment if necessary):

Filing an extension of the previously approved BZA Special Exception for a 50 room inn.

SEE ATTACHED.


All approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Article 9, Part 5 of the zoning ordinance. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has lapsed.
For Special Exception requests, applicants should list the specific approval(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as § 54-416, § 54-206, or sections in Article 5 (add as an attachment if necessary):

The Property Owner is applying for the one-year extension for the special exception for accommodations use for a 50-room inn that was granted by the BZA on February 2, 2016.

Under S.C. Code 66-29-1530 of South Carolina's Vested Rights Act, and City Ordinance 54-962, an owner receiving a special exception is entitled to five (5) one-year extensions.

The Property Owner applied for and obtained these one-year extensions two times. The BZA approved the second one-year extension on December 17, 2019. A record of the BZA decision approving the extension is in its meeting on December 17, 2019, is attached here. It expired on December 31, 2020.

The Property Owner hereby is applying for a third one-year extension that would expire on December 31, 2021. The Property Owner requests that the Board consider this application even though the second one-year extension expired based on the following:

- The global coronavirus pandemic over the last 15 months has been highly disruptive. Strict application of deadlines has been waived in most instances. Here the Property Owner and its representative failed to apply before December 31, 2020, in large part because of the extenuating circumstances of the pandemic.
- The South Carolina General Assembly now has under consideration bills in both the House and the Senate that recognize the extenuating circumstances of the pandemic and would automatically suspend any filing deadlines and automatically extend any approvals that were in place at the time of the pandemic, copies of these bills are also attached.
- If the Property Owner had applied before December 31, 2020, the Board would have granted the one-year extension since the approval is automatic and non-discretionary except in extraordinary circumstances, none of which are applicable here.
- The Property Owner is not seeking to extend this one-year extension beyond the time it would have expired had the application been made and granted before December 31, 2021.
- There is no prejudice to anyone from granting the one-year extension to the Property Owner effective at the expiration of the last one-year extension.
- The applicable City ordinance explicitly requires the first request for one-year extension to be made before the expiration of the initial two-year period but does not explicitly require that each subsequent extension be requested before the expiration of each one-year extension:
  - Sec. 54-962 - Terms. The approval of a site specific development plan results in a two-year vested right in the approved site specific development.
plan. Upon application by the landowner of property with a vested right at the end of the two-year vested right term to the local governing body that approved the site-specific development plan, the term shall be extended on an annual basis for up to five (5) annual extensions, provided there have been no amendments to this Chapter which precludes or prohibits any aspect of the site-specific development plan. (Ord. No. 2003-99, § 1, 6-21-05).

- The Property Owner applied for, and obtained, the first one-year extension before the end of the initial two-year vesting period in compliance with the conditions of this ordinance.
Board of Zoning Appeals – Zoning
City of Charleston

PROPERTY LOCATION, TMS NUMBER[s] AND DESCRIPTION OF REQUEST(s):
2 ANSON ST. (458-06-03-131)

Request second one-year extension of a vested right that expires on December 31, 2019, pursuant to Sec. 54-967. Vested right pertains to a special exception granted under Sec. 54-220 on February 2, 2016 for a 50-unit accommodations use in a GB-A (General Business-Accommodations) zone district.

ORDER ON SPECIAL EXCEPTION REQUEST:
The Board of Zoning Appeals held a public hearing to consider the above request for a special exception which may be permitted by the Board pursuant to the Zoning Ordinance for the property described above. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions:

DENIED: The Board concludes that the standards in the Specifics of the Zoning Ordinance listed above, which are applicable to the requested special exception, have not been met and, therefore, denies the special exception.

APPROVED: The Board concludes that the standards in the Specifics of the Zoning Ordinance listed above, which are applicable to the requested special exception, have been met and, therefore, approves the special exception, subject to the following conditions:

Date issued: [Date]
Chairman: [Signature]

ORDER ON VARiances REQUEST:
The Board of Zoning Appeals held a public hearing to consider an appeal for a variance from the Zoning Ordinance for the property described above. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions:

DENIED: The Board concludes that the requirements for granting a variance have not been met and, therefore, denies the variance.

APPROVED: The Board concludes that the variance is needed to:
1. Reflect a situation that is not generalizable or that is unique to the property.
2. Provide an exceptional use that is compatible with the general public interest.
3. Protect the public health, safety, and welfare.
4. Promote the general welfare.

The variance will be subject to the following conditions: [List conditions]

Date issued: [Date]
Chairman: [Signature]

All findings of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Section 54-952. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has elapsed.
A JOINT RESOLUTION


Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This joint resolution may be cited as the "Permit Extension Joint Resolution of 2022".

SECTION 2. As used in this joint resolution:

(1) "Department" means the South Carolina Department of Health and Environmental Control.

(2) "Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure or facility, or any grading, soil removal or relocation, excavation or landfill, or any use or change in the use of any building or other structure or land or extension of the use of land.

(3) "Development approval" means an approval issued by the State, an agency or subdivision of the State, or a unit of local government, regardless of the form of the approval, that is for the development of land or for the provision of water or wastewater services by a governmental entity, including:

(a) an approval of an erosion and sedimentation control plan, land disturbance permit application, or stormwater management plan granted by a local government or by the department;

(b) a water or wastewater permit issued by the department, including authorization for construction and installation of lines and infrastructure extending water and sewer service and authorization to connect to available or proposed lines and infrastructure;

(c) an NPDES permit issued by the department for the construction, operation, and expansion of a publicly owned treatment works;

(d) a 401 water quality certification issued by the department;

(e) an air quality permit issued by the department;

(f) an approval by a county or its authorized boards and commissions of sketch plans, preliminary plans, plans regarding a subdivision of land, a site-specific development plan or a phased development plan, or a building permit;

(g) an approval by a city or its authorized boards and commissions of sketch plans, preliminary plans, plans regarding a subdivision of land, a site-specific development plan or a phased development plan, or a building permit; and

(h) a permit issued by the Office of Coastal Resource Management.

SECTION 3. A governmental entity that issued a building permit that has expired and has not been renewed by the governmental entity for one year, shall issue the building permit at no additional cost; however, the building permit must comply with existing rules and regulations in effect at the time the building permit is reissued.

SECTION 4. This joint resolution is intended to apply retroactively. For development approval that is current and valid on December 31, 2020, the running of the period of the development approval and any associated vested right is suspended during the period beginning January 1, 2021, and ending December 31, 2024.
SECTION 5. This joint resolution may not be construed or implemented to:

(1) extend a permit or approval issued by the United States or its agencies or instrumentalities;

(2) extend a permit or approval for which the term or duration of the permit or approval is specified or determined pursuant to federal law;

(3) shorten the duration that a development approval would have had in the absence of this joint resolution;

(4) prohibit the granting of additional extensions provided by law;

(5) affect an administrative consent order issued by the department in effect or issued at any time from the effective date of this joint resolution to December 31, 2024;

(6) affect the ability of a governmental entity to revoke or modify a development approval pursuant to law;

(7) modify a requirement of law that is necessary to retain federal delegation by the State of the authority to implement a federal law or program; or

(8) affect a Certificate of Need issued pursuant to Article 3, Chapter 7, Title 44 or a Demonstration of Need issued pursuant to Article 2, Chapter 96, Title 44.

SECTION 6. Within thirty days after the effective date of this joint resolution, each agency or subdivision of the State to which this joint resolution applies shall submit a notice for publication to the State Register listing the types of development approvals that the agency or subdivision issues and noting the suspension provided in this joint resolution. This section does not apply to units of local government.

SECTION 7. The provisions of this joint resolution must be liberally construed to effectuate the purposes of this joint resolution.

SECTION 8. This joint resolution takes effect upon approval by the Governor.

This web page was last updated on January 23, 2021 at 2:24 PM

A JOINT RESOLUTION

TO EXTEND CERTAIN GOVERNMENT APPROVALS AFFECTING ECONOMIC DEVELOPMENT WITHIN THE STATE.

Whereas, there exists a state of economic emergency in the State of South Carolina and the nation, which has drastically affected various segments of the South Carolina economy; and

Whereas, as a result of the COVID-19 pandemic, the economy has experienced a decline, including reduced demand, canceled orders, declining sales and rentals, and layoffs; and

Whereas, the current national economic downturn has severely weakened several industries due to
closures and a dearth of buyers during the COVID-19 pandemic, uncertainty over the state of the economy, and increasing levels of unemployment; and

Whereas, it is the purpose of this joint resolution to help rectify some of the hardships currently being faced through an extension of permits. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This joint resolution must be known and may be cited as the "Permit Extension Joint Resolution of 2021".

SECTION 2. As used in this resolution:

(1) "Department" means the South Carolina Department of Health and Environmental Control.

(2) "Development" means the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure or facility; or any grading, soil removal or relocation, excavation or landfill, or any use or change in the use of any building, other structure, land, or extension of the use of land.

(3) "Development approval" means an approval issued by the State, an agency or subdivision of the State, or a unit of local government, regardless of the form of the approval, that is for the development of land or for the provision of water or wastewater services by a governmental entity, including:

(a) an approval of an erosion and sedimentation control plan, land disturbance permit application, stormwater management plan granted by a local government or by the department;

(b) a coastal zone consistency certification issued by the department's Office of Ocean and Coastal Resource Management;

(c) a water or wastewater permit issued by the department, including authorization for construction and installation of lines and infrastructure extending water and sewer service and authorization to connect to available or proposed lines and infrastructure;

(d) a National Pollutant Discharge Elimination System permit issued by the department for the construction, operation, and expansion of a publicly owned treatment works;

(e) a do1 water quality certification issued by the department;

(f) a critical area permit issued by the department's Office of Ocean and Coastal Resource Management;

(g) an air quality permit issued by the department;

(h) an approval by a county or its duly authorized boards and commissions of sketch plans, preliminary plans, plats regarding a subdivision of land, a site-specific development plan or a phased development plan, or a building permit. For a building permit that has expired and has not been renewed by the county for one year, the building permit must be issued at no additional cost;
however, the building permit must comply with the existing rules and regulations in effect at the time the building permit is issued; and

(i) an approval by a city or its duly authorized boards and commissions of sketch plans, preliminary plans, plans regarding a subdivision of land, a site-specific development plan or a phased development plan, or a building permit. For a building permit that has expired and has not been renewed by the city for one year, the building permit must be issued at no additional cost; however, the building permit must comply with the existing rules and regulations in effect at the time the building permit is issued.

SECTION 3. This joint resolution is intended to apply retroactively. For development approval that is current and valid at any point during the period beginning January 1, 2018, and ending December 31, 2023, the running of the period of the development approval and any associated vested right is suspended during the period beginning January 1, 2018, and ending December 31, 2023.

SECTION 4. This joint resolution may not be construed or implemented to:

(1) extend a permit or approval issued by the United States or its agencies or instrumentalities;

(2) extend a permit or approval for which the term or duration of the permit or approval is specified or determined pursuant to federal law;

(3) shorten the duration that a development approval would have had in the absence of this joint resolution;

(4) prohibit the granting of additional extensions provided by law;

(5) affect an administrative consent order issued by the department in effect or issued at any time from the effective date of this resolution to December 31, 2023;

(6) affect the ability of a governmental entity to revoke or modify a development approval pursuant to law;

(7) modify a requirement of law that is necessary to retain federal delegation by the State of the authority to implement a federal law or program;

(8) affect a Certificate of Need issued pursuant to Article 3, Chapter 7, Title 44 of the 1976 Code or a Demonstration of Need issued pursuant to Article 2, Chapter 96, Title 44 of the 1976 Code; or

(9) affect SCDHEC-OCRPM permits issued pursuant to R.J30-12(N) Access to Coastal Islands.

SECTION 5. Within thirty days after the effective date of this joint resolution, each agency or subdivision of the State to which this joint resolution applies shall place a notice in the State Register listing the types of development approvals that the agency or subdivision issues and noting the extension provided in this joint resolution. This SECTION does not apply to units of local government.

SECTION 6. The provisions of this joint resolution must be liberally construed to effectuate the purposes of this joint resolution.
SECTION 7. This joint resolution takes effect upon approval by the Governor.

This webpage was last updated on April 6, 2021 at 3:59 PM
Request third one-year extension of a vested right, pursuant to Sec. 54-962, that expired on December 31, 2020. Vested right pertains to a special exception granted under Sec. 54-220 on February 2, 2016 for a 50-unit accommodations use with conditions and a variance granted from Sec. 54-306 to allow a 3-story building in a GB-A (General Business-Accommodations) zone district.
Application for Variance: Special Exception, Reconsideration, or Extension to the Board of Zoning Appeals - Zoning (R2X-2)

City of Charleston

Instructions – This application, along with the required information and fee, must be submitted to the Permit Center at 2 George Street. Applications are due by 12 Noon on the deadline date and must be complete to be accepted and placed on an agenda. A sign will be posted on the property, and a public hearing will be conducted by the Board of Zoning Appeals – Zoning. Permits authorized by the Board cannot be issued during a five (5) business day appeal period following the decision of the Board, except for use variances, the appeal period shall be fifteen (15) calendar days. An appeal to the Board during this appeal period stays all further action on the application.

The Applicant hereby requests:

☐ A Variance and/or Special Exception as indicated on page 2 of this application.
☐ Reconsideration of a decision of the Board or action of a zoning official (attach Appeal form).
☒ Extension of an unexpired Variance and/or Special Exception approval.

Meeting Date Requested: June 15, 2021

Property Address 46-48 Market Street, Charleston, SC 29401
TMS # 458-06-03-035

Property Owner Rainbow Market, LLC
Daytime Phone 843-309-0999

Applicant Q. Trenton Walker, Walker, Gressette Freeman & Linton, LLC
Daytime Phone 843-727-2208

Applicant’s Mailing Address 66 Hasell Street, Charleston, SC 29401
E-mail Address walker@wfflaw.com

Relationship of applicant to owner (name, representative, prospective buyer, other): Attorney

Zoning of property: GB

Information required with application (check information submitted)

☐ Scaled plans or plots, including revisions, showing the variance(s) or special exception(s) being requested (3 sets)
☐ For new construction or additions within a flood zone, show H:\:\:\:\ units and foundation on scaled plans
☐ Scaled floor plans with rooms labeled and the total floor area for each dwelling unit noted are required for all density variances and building violations, unless exempted by the Zoning staff (3 sets)
☐ Plans or documents necessary to show compliance with special exception requirements (3 sets)
☐ Check credit card or cash refusal checks payable to City of Charleston
☐ YES ☐ NO - Is the property restricted by any recorded covenant that is contrary to, conflicts with or prohibits the proposed land use encompassed in this permit application? § 6-29-1145 of the South Carolina Code of Laws

Optional but very helpful information:

☒ Photographs
☐ Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct, that the proposed improvement(s) comply with private neighborhood covenants, if there are any, and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the Board hearing and inspected.

Applicant: Q. Trenton Walker

Date: May 14, 2021

For office use only

Date application received: _________________ Fee: $ _________________ Time application received: _________________
For **Variances** requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance test that follows is met (add as an attachment if necessary):

SEE ATTACHED.

---

**Variance Test:** The Board of Zoning Appeals (BZA) is authorized to approve a variance 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 Board makes the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.
2. These conditions do not generally apply to other property in the vicinity.
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; and
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. (SC Code of Laws § 6-29-800)

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For **Special Exceptions** requests, applicants should list the specific approval(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as § 54-110, § 54-206, or sections in Article 5 (add an attachment if necessary):

Filing an extension of the previously approved BZA Special Exception for a 50 room inn.

SEE ATTACHED.

---

All approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Article 9, Part 5 of the zoning ordinance. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has lapsed.
For Variance requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance test that follows is met (add as an attachment if necessary):

For Special Exception requests, applicants should list the specific approval(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as § 54-110, § 54-206, or sections in Article 5 (add as an attachment if necessary):

The Property Owner is applying for one-year extensions for a height variance that allowed for 3 stories instead of 2½ stories and for the special exception for accommodations use for a 50-room inn that were granted by the BZA on February 2, 2016.

Under S.C. Code §6-29-1530 of South Carolina’s Vested Rights Act, and City Ordinance 54-962, an owner receiving a special exception is entitled to five (5) one-year extensions.

The Property Owner applied for and obtained these one-year extensions two times. The BZA approved the second one-year extension on December 17, 2019. A record of the BZA decision approving the extensions in its meeting on December 17, 2019, is attached hereto. It expired on December 31, 2020.

The Property Owner hereby is applying for a third one-year extension that would expire on December 31, 2021. The Property Owner requests that the Board consider this application even though the second one-year extension expired based on the following:

- The global coronavirus pandemic over the last 15 months has been highly disruptive. Strict application of deadlines has been waived in most instances. Here the Property Owner and its representative failed to apply before December 31, 2020, in large part because of the extenuating circumstances of the pandemic.
- The South Carolina General Assembly now has under consideration bills in both the House and the Senate that recognize the extenuating circumstances of the pandemic and would automatically suspend any filing deadlines and automatically extend any approvals that were in place at the time of the pandemic. Copies of these bills are also attached.
- If the Property Owner had applied before December 31, 2020, the Board would have granted the one-year extension since the approval is automatic and non-discretionary except in extraordinary circumstances, none of which are applicable here.
- The Property Owner is not seeking to extend this one-year extension beyond the time it would have expired had the application been made and granted before December 31, 2021.
- There is no prejudice to anyone from granting the one-year extension to the Property Owner effective at the expiration of the last one-year extension.
- The applicable City ordinance explicitly requires the first request for one-year extension to be made before the expiration of the initial two-year period but does not explicitly
require that each subsequence extension be requested before the expiration of each one-year extension:
  • Sec. 54-962. - Term. The approval of a site specific development plan results in a two-year vested right in the approved site specific development plan. Upon application by the landowner of property with a vested right at the end of the two-year vested right term to the local governing body that approved the site specific development plan, the term shall be extended on an annual basis for up to five (5) annual extensions, provided there have been no amendments to this Chapter which precludes or prohibits any aspect of the site specific development plan. (Ord. No. 2003-99, § 1, 6-21-05).

• The Property Owner applied for, and obtained, the first one-year extension of these approvals before the end of the initial two-year vesting period in compliance with the conditions of this ordinance.
Request second one-year extension of a vested right that expires on December 31, 2019, pursuant to Sec. 94.962. Vested right pertains to a special exception granted under Sec. 54.220 for a 50-unit accommodations use and a variance granted from Sec. 55.300 to allow a 3-story building on February 2, 2016 with conditions in a G-B-A (General Business-Accommodations) zone district.

Order(s)/Special Exception Request:
The Board of Zoning Appeals holds a public hearing to consider the above appeal for a special exception which may be permitted by the Board pursuant to the Zoning Ordinance for the property described above. After consideration of the evidence and arguments presented, the Board reaches the following findings of fact and conclusions:

DENIED: The Board concludes that the standards in the Sections of the Zoning Ordinance cited above, which are applicable to the requested special exceptions, have not been met and therefore orders that the special exceptions be denied.

The Board concludes that the standards in the Sections of the Zoning Ordinance cited above, which are applicable to the requested special exceptions, have been met and therefore orders that the special exceptions be granted subject to the following conditions, if any:

Date Issued: 12/30/2019
Chancellor:

Variance Request:
The Board of Zoning Appeals holds a public hearing to consider an appeal for a variance from the zone regulations of the Zoning Ordinance for the property described above. After consideration of the evidence and arguments presented, the Board reaches the following findings of fact and conclusions:

DENIED: The Board concludes that the requirements for granting a variance have not been met and, therefore, denies that the variance be granted.

APPROVED: The Board concludes that:
1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
3. Relief of the variance would not result in undesirable and unnecessary restrictions to the development of the property, and
4. Authorization of the variance will not be detrimental to adjacent property or to the public good, and
the condition of the district will not be harmed by the granting of the variance.

THE BOARD THEREFORE finds that the applicant has an extraordinary hardship and orders that the variance be granted, subject to the following conditions, if any:

Date Issued: 12/30/2019
Chancellor:

Approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Section 94.963. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has elapsed.
South Carolina General Assembly
124th Session, 2021-2022

H. 3062

STATUS INFORMATION

Joint Resolution
Sponsors: Reps. Bailey and Hiott
Document Path: /council/bills/jr/jr3062.doc

Introduced in the House on January 12, 2021
Currently residing in the House Committee on Judiciary

Summary: Development

HISTORY OF LEGISLATIVE ACTIONS

<table>
<thead>
<tr>
<th>Date</th>
<th>Body</th>
<th>Action Description with journal page number</th>
</tr>
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<tbody>
<tr>
<td>12/9/2019</td>
<td>House</td>
<td>Filed</td>
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<td>12/9/2020</td>
<td>House</td>
<td>Referred to Committee on Judiciary</td>
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<tr>
<td>1/12/2021</td>
<td>House</td>
<td>Introduced and read first time</td>
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<td>1/12/2021</td>
<td>House</td>
<td>Referred to Committee on Judiciary</td>
</tr>
</tbody>
</table>

View the latest legislative information at the website.

VERSIONS OF THIS BILL

12/9/2020

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

A JOINT RESOLUTION


Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This joint resolution may be cited as the "Permit Extension Joint Resolution of 2021".

SECTION 2. As used in this joint resolution:

(1) "Department" means the South Carolina Department of Health and Environmental Control.

(2) "Development" means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure or facility, or any grading, soil removal or relocation, excavation or landfill, or any use or change in the use of any building or other structure or land or extension of the use of land.

(3) "Development approval" means an approval issued by the State, an agency or subdivision of the State, or a unit of local government, regardless of the form of the approval, that is for the development of land or for the provision of water or wastewater services by a governmental entity, including:

(a) an approval of an erosion and sedimentation control plan, land disturbance permit application, or stormwater management plan granted by a local government or by the department;

(b) a water or wastewater permit issued by the department, including authorization for construction and installation of lines and infrastructure extending water and sewer service and authorization to connect to available or proposed lines and infrastructure;

(c) an NPDES permit issued by the department for the construction, operation, and expansion of a publicly owned treatment works;

(d) a 401 water quality certification issued by the department;

(e) an air quality permit issued by the department;

(f) an approval by a county or its authorized boards and commissions of sketch plans, preliminary plans, plats regarding a subdivision of land, a site-specific development plan or a phased development plan, or a building permit;

(g) an approval by a city or its authorized boards and commissions of sketch plans, preliminary plans, plats regarding a subdivision of land, a site-specific development plan or a phased development plan, or a building permit; and

(h) a permit issued by the Office of Coastal Resource Management.

SECTION 3. A governmental entity that issued a building permit that has expired and has not been renewed by the governmental entity for one year, shall issue the building permit at no additional cost; however, the building permit must comply with existing rules and regulations in effect at the time the building permit is reissued.

SECTION 4. This joint resolution is intended to apply retroactively. For development approval that is current and valid on December 31, 2020, the running of the period of the development approval and any associated vested right is suspended during the period beginning January 1, 2021, and ending December 31, 2024.
SECTION 5. This joint resolution may not be construed or implemented to:

(1) extend a permit or approval issued by the United States or its agencies or instrumentalties;

(2) extend a permit or approval for which the term or duration of the permit or approval is specified or determined pursuant to federal law;

(3) shorten the duration that a development approval would have had in the absence of this joint resolution;

(4) prohibit the granting of additional extensions provided by law;

(5) affect an administrative consent order issued by the department in effect or issued at any time from the effective date of this joint resolution to December 31, 2024;

(6) affect the ability of a governmental entity to revoke or modify a development approval pursuant to law;

(7) modify a requirement of law that is necessary to retain federal delegation by the State of the authority to implement a federal law or program; or

(8) affect a Certificate of Need issued pursuant to Article 3, Chapter 7, Title 44 or a Demonstration of Need issued pursuant to Article 2, Chapter 96, Title 44.

SECTION 6. Within thirty days after the effective date of this joint resolution, each agency or subdivision of the State to which this joint resolution applies shall submit a notice for publication to the State Register listing the types of development approvals that the agency or subdivision issues and noting the suspension provided in this joint resolution. This section does not apply to units of local government.

SECTION 7. The provisions of this joint resolution must be liberally construed to effectuate the purposes of this joint resolution.

SECTION 8. This joint resolution takes effect upon approval by the Governor.

This web page was last updated on January 23, 2021 at 2:24 PM
A JOINT RESOLUTION

TO EXTEND CERTAIN GOVERNMENT APPROVALS AFFECTING ECONOMIC DEVELOPMENT WITHIN THE STATE.

Whereas, there exists a state of economic emergency in the State of South Carolina and the nation, which has drastically affected various segments of the South Carolina economy; and

Whereas, as a result of the COVID-19 pandemic, the economy has experienced a decline, including reduced demand, canceled orders, declining sales and rentals, and layoffs; and

Whereas, the current national economic downturn has severely weakened several industries due to closures and a dearth of buyers during the COVID-19 pandemic, uncertainty over the state of the economy, and increasing levels of unemployment; and

Whereas, it is the purpose of this joint resolution to help rectify some of the hardships currently being faced through an extension of permits. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

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(1) 'Department' means the South Carolina Department of Health and Environmental Control.

(2) 'Development' means the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any building or other structure or facility; or any grading, soil removal or relocation, excavation or landfill, or any use or change in the use of any building, other structure, land, or extension of the use of land.

(3) 'Development approval' means an approval issued by the State, an agency or subdivision of the State, or a unit of local government, regardless of the form of the approval, that is for the development of land or for the provision of water or wastewater services by a governmental entity, including:

(a) an approval of an erosion and sedimentation control plan, land disturbance permit application, or stormwater management plan granted by a local government or by the department;

(b) a coastal zone consistency certification issued by the department's Office of Ocean and Coastal Resource Management;

(c) a water or wastewater permit issued by the department, including authorization for construction and installation of lines and infrastructure extending water and sewer service and authorization to connect to available or proposed lines and infrastructure;

(d) a National Pollutant Discharge Elimination System permit issued by the department for the construction, operation, and expansion of a publicly owned treatment works;

(e) a 401 water quality certification issued by the department;

(f) a critical area permit issued by the department's Office of Ocean and Coastal Resource Management;

(g) an air quality permit issued by the department;

(h) an approval by a county or its duly authorized boards and commissions of sketch plans, preliminary plans, plats regarding a subdivision of land, a site-specific development plan or a phased development plan, or a building permit. For a building permit that has expired and has not been renewed by the county for one year, the building permit must be issued at no additional cost;
however, the building permit must comply with the existing rules and regulations in effect at the time the building permit is reissued; and

(i) an approval by a city or its duly authorized boards and commissions of sketch plans, preliminary plans, plans regarding a subdivision of land, a site-specific development plan or a phased development plan, or a building permit. For a building permit that has expired and has not been renewed by the city for one year, the building permit must be issued at no additional cost; however, the building permit must comply with the existing rules and regulations in effect at the time the building permit is reissued.

SECTION 3. This joint resolution is intended to apply retroactively. For development approval that is current and valid at any point during the period beginning January 1, 2018, and ending December 31, 2023, the running of the period of the development approval and any associated vested right is suspended during the period beginning January 1, 2018, and ending December 31, 2023.

SECTION 4. This joint resolution may not be construed or implemented to:

(1) extend a permit or approval issued by the United States or its agencies or instrumentalities;

(2) extend a permit or approval for which the term or duration of the permit or approval is specified or determined pursuant to federal law;

(3) shorten the duration that a development approval would have had in the absence of this joint resolution;

(4) prohibit the granting of additional extensions provided by law;

(5) affect an administrative consent order issued by the department in effect or issued at any time from the effective date of this resolution to December 31, 2023;

(6) affect the ability of a governmental entity to revoke or modify a development approval pursuant to law;

(7) modify a requirement of law that is necessary to retain federal delegation by the State of the authority to implement a federal law or program;

(8) affect a Certificate of Need issued pursuant to Article 3, Chapter 7, Title 44 of the 1976 Code or a Demonstration of Need issued pursuant to Article 2, Chapter 96, Title 44 of the 1976 Code; or

(9) affect SCDHEC-OCR M permits issued pursuant to R.30-12(N) Access to Coastal Islands.

SECTION 5. Within thirty days after the effective date of this joint resolution, each agency or subdivision of the State to which this joint resolution applies shall place a notice in the State Register listing the types of development approvals that the agency or subdivision issues and noting the extension provided in this joint resolution. This SECTION does not apply to units of local government.

SECTION 6. The provisions of this joint resolution must be liberally construed to effectuate the purposes of this joint resolution.
SECTION 7. This joint resolution takes effect upon approval by the Governor.

This web page was last updated on April 6, 2021 at 3:59 PM
Agenda Item #B-6

125/127 SMITH STREET
(RADCLIFFEBOROUGH)
TMS # 460-15-04-013 AND 012

Request special exception under Sec. 54-110 to allow a property line adjustment that reduces the non-conforming lot area for 125 Smith St. from 2,556sf to 2,173sf and increases the non-conforming lot area for 127 Smith St. from 2,431sf to 2,814sf (4,000sf required).

Request variance from Sec. 54-301 for 125 Smith St. to allow a 42% lot occupancy and 7-ft. total side setback (35% limit, existing lot occupancy 36%; 15-ft. required).

Request special exception under Sec. 54-501 to allow construction of a single-family residence on a lot of insufficient size at 127 Smith St. (Lot area 2,814sf; 4,000sf required).

Request variance from Sec. 54-301 to allow construction of a single-family residence at 127 Smith St. with a 1.5-ft. south side setback, a 13-ft. total side setback and 44% lot occupancy (9-ft. 15-ft. required, 35% limitation)

Zoned DR-1
Application for Variance, Special Exception, Reclassification, or Extension

City of Charleston

Instructions – Submit this application, along with the required information and fee, to the Permit Center at 2 George Street. Applications are due by 12 Noon on the deadline date and must be complete to be accepted and placed on an agenda. A sign will be posted on the property, and a public hearing will be conducted by the Board of Zoning Appeals – Zoning. Permits authorized by the Board cannot be issued during a five (5) business day appeal period following the decision of the Board, except for use variances, the appeal period shall be fifteen (15) calendar days. An appeal to the Board during this appeal period stays all further action on the application.

THE APPLICANT HEREBY REQUESTS:
☐ A Variance and/or Special Exception as indicated on page 2 of this application.  
☐ Reconsideration of a decision of the Board or action of a zoning official (attach Appeal form).  
☐ Extension of an unexpired Variance and/or Special Exception approval.

MEETING DATE REQUESTED: June 1, 2021

Property Address 3231/127 South Street, Charleston, SC 29403  TMS #: 049-15-013 049-15-04-013

Property Owner: Michael Elison  Daytime Phone: 770-812-206

Applicant: Michael Elison  Daytime Phone: 770-812-206

Applicant's Mailing Address: 322 South Street, Charleston, SC 29403

E-mail Address: mke_elison@gmail.com

Relationship of applicant to owner (same, representative, prospective buyer, other): Same

Zoning of property: OR-1

Information required with application: (check information submitted)
☐ Scattered lots or tracts, including elevations, showing the variance(s) or special exception(s) being requested (3 sets)
☐ For new construction or additions within a flood zone, show HVAC units and platform on scaled plans
☐ Scattered lots or tracts labeled and the total floor area for each dwelling unit noted are required for all density variances and building additions, unless exempted by the Zoning staff (3 sets)
☐ Plans or documents necessary to show compliance with special exception requirements (3 sets)
☐ Check, credit card or cash (make checks payable to the City of Charleston)
☐ YES or NO: Is this property restricted by any recorded covenant that is contrary to, conflicts with or prohibits the proposed land use encompassed in this permit application? § 6-29-1145 of the South Carolina Code of Laws

Optional but very helpful information:
☐ Photographs
☐ Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct, that the proposed improvements comply with private neighborhood covenants, if there are any, and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the Board hearing and inspected.

Applicant: 

Date: 4/03/21

For office use only
Date application received: 
Fee: 
Time application received: 
Receipt #
For **Variance** requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance test that follows is met (add as an attachment if necessary):

*See Attached.*

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Variance Test: The Board of Zoning Appeals-Zoning is authorized to approve a variance 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 Board makes the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
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; and
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. (SC Code of Laws § 6-29-800)

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For **Special Exception** requests, applicants should list the specific approval(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as § 54-110, § 54-206, or sections in Article 5 (add as an attachment if necessary):

*See Attached.*

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All approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Article 9, Part 5 of the zoning ordinance. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has lapsed.
BZA-A Application – Variance Requests for 127 Smith Street

Request for Lot Line Adjustment to 127 Smith Street:
The applicant owns both 125 and 127 Smith which are adjacent properties that share a property line to the north of 125 and south of 127. The applicant requests to move the north property line of 125 Smith Street inward, reducing the size of the lot and the existing non-conformity. The purpose in doing this is to restore 127 Smith's lot to a more common rhythm and orientation to the street than the existing condition. Thus, providing an opportunity to build a new structure on 127 Smith that respects the street scale.

1) The current home at 125 Smith Street is existing non-conforming, it was moved from another location and placed on this lot in a manner not normally seen in the city, with its porches oriented to the north. Moreover, its placement on the lot disrupts the historic pattern.

2) There are no other houses that have been moved and placed on a lot with this orientation throughout the entire neighborhood.

3) 127 Smith will require variances to build on it as it is currently too small. By approving this request, 127 Smith gains an additional 383 Sq Ft, which allows for a new home to be properly oriented on the lot.

4) The character of the district is improved by this request and supported by its neighbors as it restores the traditional rhythm and orientation to the street.

Request for Setback Adjustment to 127 Smith Street:
The applicant is requesting relief from the south side setback of 9 feet to a side setback of 1.5 feet. The applicant is seeking relief from the combined side setback requirement of 18 feet to 13.5 feet.

1) This lot was subdivided in a highly unusual manner to promote the relocation of a historic house on an adjacent lot.

2) This is a vacant lot that is existing nonconforming. There are no other vacant lots of this size in the neighborhood.

3) Denying this request would unreasonably restrict the owner's ability to build a functional, modern home and thus utilize this property to its fullest potential under the zoning residential ordinance.

4) The authorization of this variance has absolutely no detrimental impact to the adjacent neighbor. The applicant is also the adjacent neighbor to the south. See the letter of support from the adjacent neighbor to the north.
Agenda Item #B-7

40 SAVAGE STREET
(CHARLESTOWNE)
TMS # 458-09-03-155

Request special exception under Sec. 54-110 to allow a horizontal expansion (kitchen expansion/bedroom) and vertical extension (master bedroom suite/closet/stairs) that extends a non-conforming 1.9-ft. east side setback and non-conforming 3-ft. rear setback (3-ft. and 25-ft. required).

Zoned DR-1F
Application for Variance, Special Exception, Reconsideration, or Extension to the Board of Zoning Appeals – Zoning (BZA/2) City of Charleston

Instructions – This application, along with the required information and fee, must be submitted to the Permit Center at 2 George Street. Applications are due by 12 Noon on the deadline date and must be complete to be accepted and placed on an agenda. A sign will be posted on the property, and a public hearing will be conducted by the Board of Zoning Appeals – Zoning. Permits authorized by the Board cannot be issued during a five (5) business day appeal period following the decision of the Board, except for use variances, the appeal period shall be fifteen (15) calendar days. An appeal to the Board during this appeal period stays all further action on the application.

THE APPLICANT HEREBY REQUESTS:
☐ A Variance and/or Special Exception as indicated on page 3 of this application.
☐ Reconsideration of a decision of the Board or action of a zoning official (attach Appeal Form).
☐ Extension of an unexpired Variance and/or Special Exception approval.

MEETING DATE REQUESTED: 06.15.21

Property Address 40 Savage Street
TMS # 465-12-03-131

Property Owner
Charis Allen

Applicant
E & Fava Architects

Daytime Phone
843-723-5999

Applicant’s Mailing Address
54 Broad Street, Charleston SC 29401

Email Address ng@efava.com

Relationship of applicant to owner (same, representative, prospective buyer, other) ARCHITECT

Zoning of property DR 1F

Information required with application: (check information submitted)
☐ Scaled plans or plats, including elevations, showing the variance(s) or special exception(s) being requested (3 sets)
☐ For new construction or addition within a flood zone, show FEMA units and platform on scaled plans
☐ Scaled floor plans with rooms labeled and the total floor area for each dwelling unit noted are required for all density variances and building additions, unless exempted by the Zoning staff (3 sets)
☐ Plots or documents necessary to show compliance with special exception requirements (3 sets)
☐ Check, credit card or cash (make checks payable to city of Charleston)

YES ☐ NO ☐ Is this property restricted by any recorded covenant that prohibits the proposed land use encompassed in this permit application? § 6-29-1145 of the South Carolina Code of Laws

Optional but very helpful information:
☐ Photographs
☐ Letters or petitions from neighbors or organizations directly affected by your request

I certify that the Information on this application and any attachments is correct, that the proposed improvement(s) comply with private neighborhood covenants, if any, and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the Board hearing and inspected.

Applicant E & Fava Architects

Date 06.14.21

For office use only
Date application received ____________________
Time application received ____________________
Stafferson ____________________ Fee $ ____________________
Receipt # ____________________
For Variance requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance test that follows is met (add as an attachment if necessary):

Variance Test: The Board of Zoning Appeals Zoning is authorized to approve a variance 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 Board makes the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the area;
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; and
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. (SC Code of Laws § 6-29-106)

For Special Exception requests, applicants should list the specific approval(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as § 54-110, § 54-206, or sections in Article 5 (add as an attachment if necessary):

- Request board review & approval of requested special exception per plans as submitted
- To increase the existing non-conforming rear yard setback (by removing non-conforming rear outbuilding)
- That is presently/approximately just 1.5' from rear yard property line as shown to allow more space
- Between building and rear yard property line
- All other setbacks/lot coverage and zoning requirements are accommodated

All approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Article 9, Part 5 of the zoning ordinance. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has passed.
Agenda Item #B-8

12 TRADD STREET
(CHARLESTOWNE)
TMS # 458-09-03-155

Request special exception under Sec. 54-110 to allow a horizontal expansion (kitchen expansion/stair/hallway) and vertical extension (loft/stair) that extends a non-conforming 1.5-ft. north side setback (3-ft. required).

Request variance from Sec. 54-301 to allow an addition (stair/hallway) with a 0-ft. rear setback having a 62% lot occupancy (3-ft. required, 35% limitation; existing lot occupancy 55%).

Zoned SR-5
City of Charleston

Instructions - This application, along with the required information and fee, must be submitted to the Permit Center at 2 George Street. Applications are due by 12 Noon on the deadline date and must be complete to be accepted and placed on an agenda. A sign will be posted on the property, and a public hearing will be conducted by the Board of Zoning Appeals - Zoning. Permits authorized by the Board cannot be issued during a five (5) business day appeal period following the decision of the Board, except for use variances, the appeal period shall be fifteen (15) calendar days. An appeal to the Board during this appeal period stays all further action on the application.

THE APPLICANT HEREBY REQUESTS:
☐ A Variance and/or Special Exception as indicated on page 2 of this application.
☐ Reconsideration of a decision of the Board of action of a zoning official (attach Appeal form).
☐ Extension of an expired Variance and/or Special Exception approval.

MEETING DATE REQUESTED: 06.15.21

Property Address: 12 broad street

TMS #: 558-09-03-185

Property Owner: bow & edward pitchard

Daytime Phone: 843.723.5099

Applicant: e e lava architects

Daytime Phone: 843.723.5099

Applicant's Mailing Address: 54 broad street, charleston, sc 29401

E-mail Address: e@eellee.com

Relationship of applicant to owner [same, representative, prospective buyer, other] architect

Zoning of property: SR-5

Information required with application: (check information submitted)
☐ Scaled plans or plans, including elevations, showing the variance(s) or special exception(s) being requested (3 sets)
☐ For new construction or additions within a flood zone, show HVAC units and platform on scaled plans
☐ Scaled floor plans with room size labeled and the total floor area for each dwelling unit noted are required for all density variances and building additions, unless exempted by the zoning staff (3 sets)
☐ Plans or documents necessary to show compliance with special exception requirements (3 sets)
☐ Check, credit card or cash (make checks payable to the City of Charleston)
☐ YES ☐ NO - Is the property restricted by any recorded covenant that is contrary to, conflicts with or prohibits the proposed land use encompassed in this permit application? § 6-29-1145 of the South Carolina Code of Laws

Optional but very helpful information:
☐ Photographs
☐ Letters or petitions from neighbors or organizations affected by your request

I certify that the information on this application and any attachments is correct, that the proposed improvement(s) comply with private neighborhood covenants, if there are any, and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the board hearing and inspected.

Applicant: e e lava architects

Date: 06.14.21

Fee $5

Time application received

Receipt #
For **Variance** requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance test that follows is met (add as an attachment if necessary):

See Attached

Variance Test: The Board of Zoning Appeals - Zoning is authorized to approve a variance 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 Board makes the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.
2. These conditions do not generally apply to other property in the vicinity.
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 to the public good, and the character of the district will not be harmed by the granting of the variance.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. (SC Code of Laws § 6-29-1000)

For **Special Exception** requests, applicants should list the specific approval(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as § 54-110, § 54-206, or sections in Article 5 (add as an attachment if necessary):

Respectfully request a special exception for modifications to existing non-conforming conditions that allow small rear addition at location of existing & former additions, or rear or property that does not negatively impact adjacent properties

All approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Article 9, Part 5 of the zoning ordinance. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has lapsed.
a. There are extraordinary and exceptional conditions pertaining to the particular piece of property.

The subject lot at 12 Tradd Street has apparently existed in its current form and configuration - as have the lots now known as 14 Tradd Street, 16 Tradd Street and 2 Bedon’s Alley - since the mid to late eighteenth century as evidenced by the attached chain of title document, guide for Historic Charleston docents document, Article entitled, "Do You Know Your Charleston" by Robert P. Stockton published in The News & Courier under The Peak & Courier likely on November 3, 1975, the excerpt from The Buildings of Charleston: A Guide to the City's Architecture, POSTON, J (1997 Ed.), p.139 and the approved South Carolina Historic Preservation Office Form S-1 for 12 Tradd Street. There is certainly no doubt that the lot at 12 Tradd Street existed in its current configuration by no later than 1788.

The subject property is zone SR-5. The current City of Charleston zoning ordinance requirements for newly created lots zoned SR-5 is 2,500 square feet. The subject property is 2,883 square feet. The allowable lot occupancy under the zoning ordinance is thirty-five percent which, for the subject lot equates to 1,009.05 square feet.

Though it appears that there was a structure on the subject property as early as 1748 - which likely forms a part of the current structure - it is clear the current structure - with the exception of two minor twentieth/twenty-first century additions - has existed in substantially the same form since 1788. Thus, the current structure located on the subject property and the configuration of the subject lot existed in current form more than 150 years prior to the enactment of first City of Charleston zoning ordinance in the 1930s. The structure is a category one structure, the ability to alter it is limited, if it can be altered at all.

The footprint of the structure currently located on the subject property covers 1,595 square feet. This includes the two twentieth/twenty-first century additions, one of which, the hyphen, is one-hundred twenty-five square feet (125 ft²) and the other of which, the utility shed, is fifty-six square feet (56 ft²). The structure thus covers 55.324% of the available lot area.

The City of Charleston zoning ordinances are, as required by the enabling legislation, applied uniformly throughout the City of Charleston: the peninsula, West of the Ashley, Danielle Island, James Island. Other than the peninsular, none of these areas were a part of the City of Charleston of Charleston until the 1960s, well after the City of Charleston enacted zoning ordinances. More than three-fourths of the City of Charleston’s land mass and contains well more than two-thirds of its population. See "Charleston’s 350 years old, but most of the city’s growth happened during the last 50," SLADE, D., published in the Post and Courier, August 26, 2020. Until 1849 the City of Charleston was limited to the peninsula below what is now Calhoun Street. Id. In 1849, Charleston extended its boundaries to Mt. Pleasant Street tripling its size. Id. The City of Charleston grew no further until it crossed the Ashley River in the 1960s. Id.
The structures on the lower peninsula below Calhoun Street, unlike the properties West of the Ashley, on James Island and on Daniel Island, were built without regard for current zoning and without the items associated with modern living, such as plumbing, sewage, electricity and air conditioning. Structures built West Ashley, on James Island and on Daniel Island were typically built with modern conveniences and with the ability to be altered or even demolished and rebuilt within the confines of the zoning ordinances. This is not true of most of the properties on the lower peninsula, especially those South of Calhoun Street.

The extraordinary and exceptional condition is that the subject lot, created the mid to late eighteenth century is 55.324% covered by an eighteenth century Category One structure which cannot be altered.

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

According to Merriam-Webster Dictionary, “Vicinity” means “a surrounding area or district.” “Quality or state of being near.” As noted in Schedule One attached hereeto, most of the twenty-two properties closest to the subject property, twelve, more than half, have lot area coverage greater than the subject property. Of the three properties with a lot area coverage less than the subject property, three were constructed within the last forty years and only two meet the zoning requirement of thirty-five percent.

Most of the other structures located on the properties in the vicinity have been added onto and are larger. The subject property remains relatively pure in that it has not been altered or expanded to accommodate 21st century life. These conditions, therefore, generally apply to the subject property and not those in close proximity.

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.**

The purpose of the requested modest variance request is to allow the subject property to accommodate 21st century life with minimal impact on the historic fabric of the structures on the subject property. The absence of these variances would unreasonably restrict the use of the property by either requiring removal of historic fabric or creating a space which is not functional. The ordinance does not require that the application of the ordinance prevent or prohibit use of the property or that another solution be found irrespective of its functionality; only that application “unreasonably restrict” its utilization, or stated another way, its use. That is the situation here. Application of the ordinance to the subject property “unreasonably restrict” its utilization in the absence of the modest variances requested herein.

d. **The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.**
The authorization of the modest variances requested “will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.” As noted, the majority of the properties in the vicinity have lot area coverages greater than the lot area coverage of the subject property, so the variances will bring the subject property more in line with its neighbors as it relates to lot area coverage. Thus the granting of the variances will not only not be of substantial detriment to the character of the district, but of no detriment at all.

In the case of the proposed expansion of the hyphen, no one on any of the adjoining properties will ever be aware of the existence of the expansion without entering the subject property itself. Thus, the granting of the variance as to the hyphen cannot possibly be of substantial detriment since the residents of the neighboring properties will be unaware of the existence of the hyphen’s expansion unless told about it.

In the case of the proposed variance at the rear of the subject property, the area is surrounded by an eight to ten foot brick wall. As a result, the impact of the proposed expansion on the neighboring properties will be minimal, if at all. The proposed expansion will in no way be of substantial detriment.

CONCLUSION

Based on the foregoing, the requested variances clearly meet the variance test set forth in the ordinance. Therefore, the requested variances must be granted.
**Schedule One**

The following information was calculated based on deeds and plats of records and information on file with the Charleston County Treasurer’s Office:

2 Beadon’s Alley: 62.298% lot area coverage
4 Beadon’s Alley: 58.032% lot area coverage
6 Beadon’s Alley: 58.057% lot area coverage
73 East Bay and 7% Tradd: 71.182% lot area coverage
75 East Bay: 81.324% lot area coverage
79 East Bay, 81 East Bay, 0 Tradd, 2 Tradd and 4 Tradd: 76.874% lot area coverage
1 Tradd: 66.023% lot area coverage
3 Tradd: 60.836% lot area coverage
5 Tradd: 55.580% lot area coverage
6 Tradd: 51.274% lot area coverage
7 Tradd and 10 Longitude Lane: 41.771 lot area coverage
8 Tradd: 61.946% lot area coverage
9 Tradd and 11 Tradd and 6 Longitude Lane: 35.9% lot area coverage
10 Tradd: 64.526% lot area coverage
12 Tradd: 55.324% lot area coverage
13 Tradd: 26.556% lot area coverage
14 Tradd: 63.636% lot area coverage
15 Tradd: 20.286% lot area coverage
16 Tradd: 78.134% lot area coverage
17 Tradd and 0 Longitude Lane: 63.5% lot area coverage
19 Tradd: 50.296% lot area coverage
20 Tradd: 33.415% lot area coverage
22 Tradd: 44.282% lot area coverage

! Structure built in 1990.
& Structure built in 1980.
Lot square footage used to calculate lot area coverage includes 932 sq ft of unbuildable driveway access to Longitude Lane.

* Indicates a condominium.

Lot square footage used to calculate lot area coverage includes unbuildable driveway access to Longitude Lane.

Lot square footage used to calculate lot area coverage comprised of three separate lots and includes unbuildable driveway access to Longitude Lane. All structure on the property constructed in 2005.
Existing Garden EAST

Proposed Garden EAST

HYPHEN AND DEPENDENCY ELEVATION NOT VISIBLE FROM PUBLIC RIGHT OF WAY
Agenda Item #B-9

8 FENWICK DRIVE
(OLD WINDERMERE)
TMS # 421-11-00-025

Request variance from Sec. 54-301 to allow one-story additions (pantry/porch/carport/shed/covered walkway) with a 2-ft. rear setback; to allow a carport with a 20-ft. front setback (25-ft. and 60-ft. required).

Zoned SR-2
Application for Variance, Special Exception, Reconsideration, or Extension to the Board of Zoning Appeals – Zoning (BZA-Z)

City of Charleston

Instructions – This application, along with the required information and fee, must be submitted to the Permit Center at 2 George Street. Applications are due by 12 Noon on the deadline date and must be complete to be accepted and placed on an agenda. A sign will be posted on the property, and a public hearing will be conducted by the Board of Zoning Appeals – Zoning. Permits authorized by the Board cannot be issued during a five (5) business day appeal period following the decision of the Board, except for use variances, the appeal period shall be fifteen (15) calendar days. An appeal to the Board during this appeal period stays all further action on the application.

THE APPLICANT HEREBY REQUESTS:

☐ A Variance and/or Special Exception as indicated on page 2 of this application.
☐ Reconsideration of a decision of the Board or action of a zoning official (attach Appeal form).
☐ Extension of an expired variance and/or Special Exception approval.

MEETING DATE REQUESTED: 6/17/21

Property Address: 8 Fenwick Dr.

Property Owner: Troy Bader

Applicant: Troy Bader

Applicant’s Mailing Address: 8 Fenwick Dr.

Daytime Phone: 912-313-0870

Relationship of applicant to owner (same, representative, prospective buyer, other): Same

Zoning of property: SR 2

Information required with application: (check information submitted)

☒ Scattered plants or lots, including elevations, showing the variance(s) or special exception(s) being requested (3 sets)
☒ For new construction or additions within a flood zone, show HVAC units and plenum on scaled plans
☒ Scaled floor plans with rooms labeled and the total floor area for each dwelling unit noted are required for all density variances and building additions, unless exempted by the Zoning staff (3 sets)
☒ Plans or documents necessary to show compliance with special exception requirements (3 sets)
☒ Check, money order or cash (make checks payable to the City of Charleston)
☒ NO (If this Property restricted by any recorded covenant that is contrary to, conflict with or prohibit the proposed land use encompassed in this application? § 6-29-1145 of the South Carolina Code of Laws)

Optional but very helpful information:

☒ Photographs
☒ Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct, that the proposed improvements comply with private neighborhood covenants, if any, and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the Board hearing and inspection.

Applicant: Troy Bader

Date: 6/17/21

For use only

Date application received

Street

Tax Lot

Fee

Time application received

Receipt

$
BZA-Z Application (continued)

For **Variance** requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance test that follows is met (add as an attachment if necessary):

"WE WOULD LIKE TO IMPROVE THE FUNCTIONAL INTEGRITY OF THIS VERY CLASSIC 1928 HOME WE JUST PURCHASED.

GIVEN THE CURRENT ZONING IT'S IMPOSSIBLE TO MAKE THESE IMPROVEMENTS OF A TWO-CAR OPEN GARAGE AND A SCREEN PORCH. WE'VE PROVIDED TWO OPTIONS AND WOULD GREATLY APPRECIATE YOUR CONSENT ON EITHER OPTION"

Variance Test: The Board of Zoning Appeals-Zoning is authorized to approve a variance 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 Board makes the following findings:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
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; and
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. (SC Code of Laws § 6-29-800)

For **Special Exception** requests, applicants should list the specific approval(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as § 54-110, § 54-206, or sections in Article 5 (add as an attachment if necessary).

All approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Article 9, Part 5 of the zoning ordinance. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has lapsed.

Department of Planning, Preservation & Sustainability 2 George Street Charleston, South Carolina 29401
(843) 724-3781 www.charleston-sc.gov/zoning
Agenda Item #B-10

511 RUTLEDGE AVENUE
(WESTSIDE)
TMS # 460-07-02-220

Request use variance from Sec. 54-203 to allow a dental office on the ground floor with days of operation Monday-Saturday and hours of operation 8am-5pm in a DR-1F (Diverse-Residential) zone district.
Application for Variance, Special Exception, Reconsideration, or Extension to the Board of Zoning Appeals – Zoning (BZA-Z)

City of Charleston

Instructions – This application, along with the required information and fee, must be submitted to the Permit Center at 2 George Street. Applications are due by 12 Noon on the deadline date and must be complete to be accepted and placed on an agenda. A sign will be posted on the property, and a public hearing will be conducted by the Board of Zoning Appeals – Zoning. Permits authorized by the Board cannot be issued during a five (5) business day appeal period following the decision of the Board, except for use variances, the appeal period shall be fifteen (15) calendar days. An appeal to the Board during this appeal period stays all further action on the application.

The applicant hereby requests:
- [ ] A Variance and/or Special Exception as indicated on page 2 of this application.
- [ ] Reconsideration of a decision of the Board or action of a zoning official (attach Appeal form).
- [ ] Extension of an expired Variance and/or Special Exception approval.

Meeting Date Requested: June 15th

Property Address: 511 Rutledge
TMS # H90-07-02-220

Property Owner: Richard Fishman
Daytime Phone: 704-444-7620

Applicant: Dr. Susan Dubinski
Daytime Phone: 704-444-7620

Applicant’s Mailing Address: 505 E Lee St #100, Charlotte NC 28202

Relationship of applicant to owner (same, representative, prospective buyer, other): Prospective Buyer

Zoning of property: Current: B2-R

Information required with application: (check information submitted)
- [ ] Finished plans of public improvements, including variances, showing the variances or special exceptions being requested (3 sets)
- [ ] For new construction or additions within a flood zone, show HVAC units and platform on scaled plans
- [ ] Scaled floor plans with rooms labeled and the total square footage for each dwelling unit noted are required for all density variances and building additions, unless exempted by the Zoning staff (3 sets)
- [ ] Plans or documents necessary to show compliance with special exception requirements (3 sets)
- [ ] Check, credit card or cashier’s check payable to the City of Charleston
- [ ] YES or NO – Is this Property restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the proposed land use encompassed in this permit application? § 6-170-4145 of the South Carolina Code of Laws

Optional but very helpful information:
- Photographs
- Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct, that the proposed improvement(s) comply with private neighborhood covenants, if there are any, and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the Board hearing and inspected.

Applicant: [Signature]

Date: [Date]

For office use only
Date application received: [Date]
Staffperson: [Signature]
Fee: [Fee]
Time application received: [Time]
Receipt #: [Receipt #]
BZA-Z Application (continued)

For Variance requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance(s) meets the standards set forth in the zoning ordinance.

For Special Exception requests, applicants should list the specific exception(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as § 54-110, § 54-206, or sections in Article 5 (add as an attachment if necessary).

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other properties or the proposed building structure, or use as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. (SC Code of Laws § 6-29-800)

All approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Article 9, Part 5 of the zoning ordinance. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has lapsed.
Needed health care to the surrounding community. We seek to be a staple of the community, dedicated to the revitalization & preservation of peninsula area. We plan to quickly & respectfully operate within the existing structure, making improvements requiring restructuring interior divisions. We will operate from 8-5 Monday-Friday, with some Saturday appointments available. We plan to employ 5 employees. Parking will be made available for patients & some staff with the onsite & parking space area.
ADA ACCESS, EXISTING DOOR ONLY
2'-6" REQUIRED TO BE 3' DOOR WITH 1'-6" ACCESS AREA ON HANDLE SIDE
Agenda Item #B-11

638 KING STREET
(CANNONBOROUGH/ELLIOTBOROUGH)
TMS # 460-04-04-027 AND 028

Request variance from Sec. 54-317 to allow a restaurant use with 328sf of inside patron use area with one off-street parking space (3 spaces required).

Zoned GB
Application for Variance, Special Exception, Reconsideration, or Extension to the Board of Zoning Appeals – Zoning (BZA-Z)
City of Charleston

Instructions - This application, along with the required information and fee, must be submitted to the Permit Center at 2 George Street. Applications are due by 12 Noon on the deadline date and must be complete to be accepted and placed on an agenda. A sign will be posted on the property, and a public hearing will be conducted by the Board of Zoning Appeals – Zoning. Permits authorized by the Board cannot be issued during a five (5) business day appeal period following the decision of the Board, except for use variances, the appeal period shall be fifteen (15) calendar days. An appeal to the Board during this appeal period stays all further action on the application.

THE APPLICANT HEREBY REQUESTS:
☐ A Variance and/or Special Exception as indicated on page 2 of this application.
☐ Reconsideration of a decision of the Board or action of a zoning official (attach Appeal form).
☐ Extension of an unexpired Variance and/or Special Exception approval.

MEETING DATE REQUESTED: JUNE 15
Property Address: 530 KING ST.
Property Owner: Pen DAlessandro
Applicant: AJ Architects
Applicant’s Mailing Address: 530 King St.

Relationship of applicant to owner (same, representative, prospective buyer, other) architect

Zoning of property:

Information required with application: (check information submitted)
☒ Scaled plans or plats, including elevations, showing the variance(s) or special exception(s) being requested (3 sets)
☒ For new construction or additions within a flood zone, show HVAC units, and platform on scaled plans
☒ Sealed floor plans with rooms labeled and the total floor area for each dwelling unit noted are required for all density variances and building additions, unless exempted by the Zoning Staff (3 sets)
☒ Plans or documents necessary to show compliance with special exception requirements (3 sets)
☒ Check, credit card or cash (make checks payable to the City of Charleston)
☒ YES of NO – Is this Property restricted by any recorded covenant that is contrary to, conflicts with or prohibits the proposed land use encompassed in this permit application? § 6-29-1145 of the South Carolina Code of Laws

Optional but very helpful information:
☒ Photographs
☒ Letters or petitions from neighbors or organizations directly affected by your request

I certify that the information on this application and any attachments is correct, that the proposed improvement(s) comply with private neighborhood covenants, if there are any, and that I am the owner of the subject property or the authorized representative of the owner. I authorize the subject property to be posted with a notice of the Board hearing and inspected.

Applicant: ____________________________ Date: 5/17/21

For office use only:
Date application received __________ Staffperson __________ Fee: __________ Time application received __________ Return #: __________
For **Variance** requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance test that follows is met (and as an attachment if necessary):

**SEE LETTER ATTACHED**

**Variance Test:** The Board of Zoning Appeals is authorized to approve a variance 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 Board makes the following findings:
1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
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; and
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use as the board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare. (SC Code of Laws § 6-29-800)

For **Special Exception** requests, applicants should list the specific approval(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as § 54-110, § 54-206, or sections in Article 5 (and as an attachment if necessary).

All approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Article 9, Part 5 of the zoning ordinance. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has lapsed.
aj architects

Penny Ye Asta, Senior Zoning Planner
City of Charleston Zoning Department
2 George Street, Suite 3100
Charleston SC 29401

Re: Zoning Request - 638 King Street

Dear Penny,

Please consider this letter an attachment to the Zoning application for 638 King Street. My clients have leased this property with the intention of renovating the space to become a small restaurant. The lot is zoned GB, Non-residential use, and the one-story building we have referenced is part of an horizontal regime with 634 and 636 King Street. 638 King has been allocated one on-site parking space. So, this proposed renovation will require the following Zoning approval:

VARIANCE

Establishment of a new tenant use, restaurant, with one off-street parking space.

Ordnance will require 4 parking spaces based on the patron use area allocated in our conceptual design, so the request will be to consider a variance for 3 parking spaces.

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property:
   This property has a limited amount of area to dedicate to off-street parking.

2. These conditions do not generally apply to other property in the vicinity:
   The immediate properties in the regime have been allocated more parking based on total SF of the interior space.

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; and

4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance. We believe that any use proposed for this space will require a parking variance.

This proposed use, restaurant, is in keeping with typical use in the King Street commercial corridor. If this variance were not granted, use of this space will be limited. We do not believe this is an unreasonable request.

Thank you for your consideration,

Ashley Jennings