BOARD OF ZONING APPEALS-ZONING

July 20, 2021
5:15 PM

DEPARTMENT OF PLANNING, PRESERVATION & SUSTAINABILITY
www.charleston-sc.gov/bza-z

**Video and microphone is currently disabled for all attendees.**
This meeting is being recorded.

Go to www.charleston-sc.gov/bza-z for instructions to join. Call (843) 724-3770 if you are experiencing technical difficulties.
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.
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 15, 2021 BZA-Z Minutes
(click on link below)
https://www.charleston-sc.gov/AgendaCenter/ViewFile/Agenda/_06152021-6619
Agenda Item #A-2

80 ASHLEY AVENUE
(HARLESTON VILLAGE)
TMS # 457-03-04-068

Request use variance from Sec. 54-203 to allow a café with indoor and outdoor patron use areas and garden shop, with on premises consumption of beer wine and liquor. Café limited hours: Monday to Friday 7:30a.m. to 6:30p.m.; Saturday and Sunday, 8:00a.m. to 6:30p.m. Garden store: Monday to Sunday, 10:00a.m. to 6:30p.m. Café staff arriving 1 hour earlier and leaving 1 hour later. Alcohol (beer, wine and liquor) sales to be tied to 7:30/8:00a.m. breakfast service.

Request variance from Sec. 54-317 to allow a café with indoor and outdoor patron use areas and garden shop with 2 off-street parking spaces (13 spaces required).

Zoned STR
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: July 20, 2021

Property Address: 80 Ashley Ave, Charleston, SC 29401 TMS #: 457.03.04.068

Property Owner: John B. Howard Daytime Phone: 704-607-8840

Applicant: SWB Holdings, LLC Daytime Phone: 704-516-4838

Applicant's Mailing Address: 85 Rutledge Ave, Charleston, SC 29401

E-Mail Address: swbrown67@gmail.com

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

Zoning of property: STR

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 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 opinions 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: [Signature] June 8, 2021

For office use only
Date application received: 
Staffperson: 
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):

1. Requesting a variance to allow commercial use in an STR residential zone, with the following conditions:
   a. The use will be limited to a cafe and garden shop as shown on the attached drawings.
   b. Cafe limited hours: Monday to Sunday: 7:30 to 9:00, 11:00 to 4:00. Garden shop: Monday to Friday: 10:00 to 6:00. Cafe staff arriving 1 hour earlier and leaving 1 hour later.
   c. Alcohol (beer, wine, and liquor) sales to be tied to 1260/803x1m breakfast service.
   d. Maximum seating capacity: 25 people.
   e. No outdoor speakers.

2. Requesting a variance to allow 2 onsite parking spaces instead of 13 parking spaces required (see sheet A203).

Please see the attached variance test narrative.

**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.
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 so as not to be prejudicial to the public interest.

**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 § 54-11, § 54-20k, 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) 724-2781 www.charleston-sc.gov/zoning
MEMORANDUM

TO: BOARD OF ZONING APPEALS-ZONING AND
LEE BACHTLDER, ZONING ADMINISTRATOR
CITY OF CHARLESTON

FROM: CAPERS G. BARR, III
ATTORNEY FOR SWB HOLDINGS, LLC, APPLICANT

DATE: FEBRUARY 22, 2021

SUBJECT: 80 ASHLEY AVENUE: APPLICATION FOR USE VARIANCE,
APPLICATIONS FOR EXCEPTION TO OFF-STREET PARKING
REQUIREMENTS

This memorandum supplements the application for a Use Variance and for a Parking Variance for the property at 80 Ashley Avenue filed January 29, 2021 by Laura F. Altman, AIA, on behalf of SWB Holdings, LLC.

Introduction and History:

Steve Brown is the single member of the applicant SWB Holdings, LLC. Mr. Brown and his wife Danielle live at 85 Rutledge Avenue in the northeast corner of the same city block as the subject property at 80 Ashley Avenue. The subject property is located in the block’s southwest corner. By this Application, SWB seeks to preserve and protect the existing 90-year old brick structure on the subject property, and to convert it to use as a small, pedestrian accessible neighborhood cafe and garden shop.

The historic use of 80 Ashley Avenue is unique. It has been used for commercial purposes only since at least 1902, within a residential neighborhood. (See Searborn map). As reported in the application previously filed, a photograph from approximately 1915 shows the property being used as “Cantwell’s Grocery” at about that date. Upon inquiry to retired City Attorney Frances Cantwell, Ms. Cantwell relates that the Cantwell family history compiled by her cousin, P. Michael Duffy reports that Ms. Cantwell’s great-grandmother operated the grocery store at 80 Ashley Avenue, and that her grandfather was managing the store by 1912. Undoubtedly the mustached gentleman in the photograph on Architectural Sheet P001 of the application in this case, was Ms. Cantwell’s grandfather.

The point to be made is that, although presently zoned for residential use, the property has not been used for residential purposes since at least before the turn of the last century. Admittedly, it has probably lost its technical non-conforming use status, but its historical use is surely germane to the immediate request for a use variance. Indeed, a use variance is
recognized vehicle to apply for a property that does not comport with the "one-size-fits-all"
construct of a zoning ordinance.

The property has also been the object of public interest. The Charleston Post and
Courier published an editorial on December 3, 2019 after "For Sale" signs were posted on the
property. The editorial advocated for the protection of the existing structure, "even as a
convenience store or small cafe". The editorial cites to numerous instances on the peninsula
where old gas service stations have been converted to current commercial use. (See Exhibit "A")

Moreover, the original application in this case was accompanied by 19 positive
endorsements from neighbors and seven additional favorable Facebook posts. It is within this
context, both historical and contemporary, that the within application for variance must be
considered.

The subject property classically qualifies for every element of the statutory variance test.

**The Property at 80 Ashley Avenue Qualifies for a Use Variance.**

The BZA-Z has authority to grant a variance where it finds that the circumstances of the
subject property meet four criteria stated in City Ordinance Section 54-924, as follows:

a. There are extraordinary and exceptional conditions pertaining to the particular piece
   of property;

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

c. Because of these conditions, the application of the ordinance to the particular piece of
   property would effectively prohibit or unreasonably restrict the utilization of the
   property.

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

The subject property at 80 Ashley Avenue qualifies for each of the variance criteria, as
discussed below:

1. **THERE ARE EXTRAORDINARY AND EXCEPTIONAL CONDITIONS
   PERTAINING TO THE PRICE OF PROPERTY.**

   In the case of 80 Ashley Avenue, the exceptional circumstances are several:

   a. The building on the property was constructed prior to 1950, meaning that any
demolition of the building, or even an elevation of the building to comply with flood regulations,
cannot be accomplished without permission of the Board of Architectural Review. Although
Applicant has no interest in demolishing the structure, it is fair to say that any attempt to approve
its demolition would be met by stiff resistance from the Historic Charleston Foundation, from the Preservation Society, and from neighborhood and peninsula residents, not to mention the Charleston Post and Courier. Even if demolition were sought, it is unlikely to be approved.

b. A residential use of the property would require, under City and FEMA flood regulations, that the building be elevated at least 8 additional feet from its present level. The dimensions of the building are approximately 55 feet in length by 20 feet wide. Elevating a structure that is so disproportionately narrow and long would result in a distorted aesthetic that would be the functional equivalent of the building's demolition. Any sense of retained historical appearance would be eroded by elevating it.

c. On the other hand, a commercial use of the structure would not require its elevation; and the building could be "flood proofed" for commercial uses by engineering devices and techniques.

d. The square footage for residential use required by the City Ordinance is 6,000 square feet. However, the entire lot contains only 3100 square feet, which would not permit any existing new residential construction without a variance, even if the existing structure were to be demolished. For any new construction, additional variances would also be required to comply with the setback constraints of the zoning ordinance.

e. On the other hand, the existing building may be used in its current location for commercial purposes, as-is, without reference to any setback requirements.

2. THESE CONDITIONS DO NOT GENERALLY APPLY TO OTHER PROPERTY IN THE VICINITY.

Every other property in the vicinity is occupied by established residential uses that, even if not compliant with current zoning regulations, are fixed and established non-conforming uses. On the other hand, and except for use of the existing building for commercial purposes, no other use may be made of the subject property without the variances discussed in the first paragraph above.

The circumstance that other properties in the vicinity may continue to be used without variance, whereas the subject property may not be used for its zoning category of STR, for residential purposes, without variance and BAR approval, creates conditions unique to the subject property that do not apply to other properties in the vicinity.

Moreover, the historical use of the subject property for commercial purposes, although not technically a non-conforming use, are relevant to this criteria. The property has not been used for residential purposes at least since before the turn of the last century.

Finally, every characteristic of the existing building signifies its "commercial use". The former bays of the former gas station are not replicated in any other structure in Harleston Village. No other nearby property is even closely similar.

The current zoning of the subject property requires that it be used for residential purposes. However, the application of the current zoning STR designation would effectively prohibit its use or would unreasonably restrict its utilization. This is because, as before discussed, no such uses may be made of the property without demolition approval, or without elevation approval, or without variances for required lot square footage and setbacks.

In summary, the subject property cannot presently be used for any purpose without some form of variance. The approval of the proposed use variance would permit the use of the property as-is, and would be dispense of the need for seeking further, multiple variances, except for the parking circumstances which will be later discussed. No minimum square footage requirements would be implicated. No setback variances would be required. No Board of Architectural Review demolition or elevation approvals would be required. In summary, the most reasonable and least restrictive application of the zoning ordinance to the subject property would be to grant the use variance as proposed.

Importantly, use of the building as-is will preserve and protect an historic structure.

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 ARNED BY THE GRANTING OF THE VARIANCE.**

The Harleston Village district presently contains several neighborhood pedestrian accessible cafes: the 60 Bull Street Cafe, the Queen Street Grocery at the corner of Queen and Logan, and the Second State coffee shop on Beaufain Street. There are also several corner grocery stores presently operating within the district of Harleston Village.

Although the Applicant believes that at least two immediately adjacent property owners may oppose the proposed use variance, the benign impact of a low density limited hour neighborhood cafe primarily serving pedestrian residents of the district, and with significant landscaping additions to mitigate noise and light, do not present an unreasonable intrusion into the rights of other property owners. The use is compatible with other, similar cafes in Harleston Village and will contribute to the neighborhood ambience. The operative term in this component of the variance test is "substantial." It cannot be credibly found that the proposed use as a neighborhood cafe will pose a "substantial" detriment to adjacent property or to the public good.

Rather, and importantly, from a neighborhood benefit perspective, after almost 30 years of dormancy the subject property will be renovated, substantially contributing to community preservation, and paying to use a street corner that has for too long been vacant and near derelict.
Recommendations:
Right-Size Parking Codes/Ordinances/Policies

Overview:
In the past decade, a movement has grown in the parking and planning communities to “right size” codes, ordinances, and policies related to the provision of parking. Parking codes and ordinances meant to help protect communities from an influx of cars parking in wayward areas actually have worked against the design of functional and walkable development and streets. While Charleston has largely been insulated from overdevelopment of large surface lots and fragmented parking areas that cripple good urban design and walkability, the City’s parking codes have obstructed redevelopment and relegated an extensive, public off-street parking system to support development. The private parking that has been developed is largely underutilized, as described in the Existing Conditions Report.

What does “right-sized” parking mean?
It means developing context-appropriate codes and regulations that are designed to capture the character and intent of an area, rather than applying blanket policies to an entire area out of context. Right-sized policies can:
- Support economic development by reducing barriers to building mixed-use developments in urban centers
- Reduce housing costs and household monthly expenditures by allowing a larger demographic to participate in the urban, walkable market
- Encourage use of transit, rideshare, biking, and walking
- Reduce vehicle miles traveled (VMT) and greenhouse gasses (GHG)

Key Recommendations:
There are several steps that need to be considered to create right-sized parking codes, ordinances, and policies. The two primary components this study focuses on are:
- Modernizing parking requirements
- Implementing a fee in lieu of providing on-site parking

These two elements will likely have the highest impact on reducing the over-supply of parking in the community and promoting smarter design elements.
Many cities have either reduced or eliminated off-street parking requirements in urban districts by either “right sizing” the requirements or implementing a market-based approach that allows the developer to determine how much parking should be built. Right-sized parking requirements are typically based on data collected locally and aligned with observed parking demand. A market-based approach eliminates all requirements for off-street parking and allows the private sector or developer to decide how much parking is necessary. Reducing or eliminating off-street parking requirements reduces the cost of development and increases affordability, supports the use of other modes of transportation by not overbuilding parking, and allows for a more flexible approach to developing off-street parking. In addition, in historic cities like Charleston, reducing or eliminating off-street parking requirements allows for development consistent with the historic character of the City, where many lots do not have off-street parking.

The City should:

- Review existing parking requirements on the Peninsula and consider reducing or eliminating the off-street parking requirement in commercial and mixed-use districts.
- Consider a small lot, off-street parking exemption to support infill development and consistency with the historic patterns of development in Charleston.
- Exempt small-scale, pedestrian-oriented development from requiring off-street parking—such as businesses less than 3,000 square feet. This is consistent with the historic development pattern that makes much of Charleston such a walkable city.
- Expand opportunities for shared parking in the zoning code. Currently shared parking has to be within 400 feet and requires a 10-year lease. The distance should be expanded and lease requirements reduced. Allow all parking to be managed for shared public parking and not be an accessory to specific land uses.
- Aim to reduce the use of variances from parking requirements and instead, provide for context-sensitive solutions through exemptions, shared parking, parking reductions (e.g., for mixed-use development), and other strategies.

Another related option for the City is to develop a fee-in-lieu program to allow developer to pay a fee to the City for access to off-street parking. The fee would be placed in a fund to pay for existing or new parking stalls and access rights for the payee.

- Implement a fee in lieu of providing off-street parking, where developers can pay a fee for access to off-street parking. The fee-in-lieu requirement can be linked to specific uses, such as shared public parking for retail/restaurant uses and assigned parking for residential and office uses with a sliding fee schedule.
- Define a use for the in-lieu fee fund parking improvements, transportation/transit improvements, and mobility enhancements.
- Consider establishing parking districts in the City where parking is managed primarily at the district level. As an initial step, assess the amount and use of parking within each of the proposed parking districts for both on- and off-street parking. Develop strategies to improve the efficiency of parking management within each district.
Modern Mitigation

Recent efforts in the planning and urban design communities have created an approach called modern mitigation that focuses less on vehicular capacity improvements as a result of new land use investments. Instead, the concept of modern mitigation focuses on TOD as the first choice, making traffic reduction and parking demand a priority. Conventional approaches to development often times require more investment than development is capable of providing, creates more traffic and congestion on adjacent roadways, and reduces the likelihood that non-automotive modes will find increased users.

The primary benefits of modern mitigation focus on the following:

- Reducing reliance on single occupant vehicle trips
- Considering parking/traffic and congestion impacts to the entire transportation system
- Applying practices that are context-sensitive
- Maintaining a predictable process
- Designing solutions for all stakeholders

The process is intended to help developers understand mitigation options, rather than simply pointing to code-required parking and traffic improvements. Many communities have created TOD calculations as part of the development review process, helping developers realize multiple concepts to support demand mitigation. Some examples of measures that are used in place of parking and transportation capacity include:

- **Active transportation improvements.** Physical transportation network improvements that encourage people to walk and/or bicycle to community destinations, including sidewalks, bike lanes, and safer roadway crossings. These types of improvements serve not only the development, but also the community surrounding it. These are typically candidates for in-lieu fee funds.

- **Bicycle facilities.** Bike parking/storage above code requirements, bike showers/lockers, bike share, and other cycling amenities for the development and surrounding community.

- **Carpooling and ridesharing.** Development-based ridesharing subsidies, shuttle programs to support reduced vehicle ownership.

- **Carsharing.** Shared cars on the site of the development, incentivizes a reduction in car ownership.

- **Unbundling parking.** Removal of free parking in housing or office space and having tenants pay the true cost for that parking to reduce the reliance on the personal automobile and incentivize better commute decision-making.

- **Centralized shared parking.** In the place of on-site parking, development pays into a fee-in-lieu program to promote more centralized parking and reduce the number of spaces contained in a community.

- **Promoting transit.** Developers provide subsidized transit, provide shuttles/connections to destination areas or contribute to transit system improvements (vehicles, routes, stops, etc.).

- **Affordable housing.** Affordable housing in development to trigger mitigation points that lessen the transportation and/or parking burden.

- **Education, Marketing, and Information.** Developers contribute funds to the City’s non-automotive education programs to educate users and the surrounding community of the benefits of using non-vehicular means.

As the City implements the modernized recommendations associated with parking requirements and the in-lieu fee program, the concepts of modern mitigation should be adopted to further reduce the reliance on the personal automobile on the Charleston Peninsula and in the surrounding community.
EXISTING VIEW FROM CORNER OF ASHLEY AVENUE AND WENTWORTH STREET

EXISTING VIEW FROM NORTHWEST AT ASHLEY AVENUE

PROPOSED VIEW FROM CORNER OF ASHLEY AVENUE AND WENTWORTH STREET

PROPOSED VIEW FROM NORTHWEST AT ASHLEY AVENUE
80 Ashley Ave
Haven Garden Shop & Café
<table>
<thead>
<tr>
<th>Topic</th>
<th>HCF</th>
<th>PSC</th>
<th>MNN</th>
<th>Notes</th>
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<tbody>
<tr>
<td>Alcohol</td>
<td>The alcohol license is tied to a shared use agreement and could not separate as a separate tenant.</td>
<td></td>
<td></td>
<td>No conditions were recommended for consideration as of July 9, 2021</td>
</tr>
<tr>
<td>Deli Service</td>
<td>Limited hours for the sale of food and beverages due to consultation with the adjacent tenants</td>
<td>Ensure delivery is possible during hours of operation</td>
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<tr>
<td>Evening/ Nighttime Service</td>
<td>Staffing is being conducted for extended hours to support the adjacent tenants</td>
<td>Eliminate night-time seating by removing proposed glass roof</td>
<td>Twilight occurs between 5:30 pm and 6:00 pm</td>
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<tr>
<td>Hours</td>
<td>Hours of operation are limited, particularly in the evening</td>
<td></td>
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<td></td>
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<tr>
<td>Hours</td>
<td>Delayed opening until 8:00 am on Saturday and Sunday mornings</td>
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<tr>
<td>Menu</td>
<td>Full menu service offered until 6:00 pm</td>
<td>Full kitchen to justify food preparation only after 5:00 pm</td>
<td></td>
<td>HCF/PSC requests are in opposition to each other</td>
</tr>
<tr>
<td>Notes</td>
<td>Additional trees and other plantings along the north side of the parking area buffer light and noise</td>
<td>Limit party size to four outdoor seating to manage noise</td>
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<td></td>
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<tr>
<td>Seating Capacity</td>
<td>Capacity for seating capacity at 30 seats</td>
<td></td>
<td></td>
<td>While several neighbors have asked for additional outdoor seating, we will cap it at 20 (see the PSC recommendations)</td>
</tr>
<tr>
<td>Privacy</td>
<td>Additional trees and other plantings along the north side of the parking area buffer light and noise</td>
<td>Introduction of further screening between neighboring properties on the north and south</td>
<td></td>
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<tr>
<td>Gardening, Silt Wells</td>
<td>A special silt control system will control and filter to mitigate odor.</td>
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<td>Trash</td>
<td>Trash área is located away from the street. Street is screened by a solid trellis wall.</td>
<td>Incorporate trellis and new screening into the parking lot to mitigate odor.</td>
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<tr>
<td>Trash</td>
<td>Trash is located where the neighborhood is equipped (see diagram).</td>
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<tr>
<td>Trash</td>
<td>Trash area is located near the parking lot.</td>
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<tr>
<td>Above and Beyond</td>
<td>Stormwater treatment is not required for the treatment of the site and will be improved with</td>
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<tr>
<td>Above and Beyond</td>
<td>Additional silt control is not required for the treatment of the site and will be improved with</td>
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Haven is a small venue with seating farthest from any residence. It will not be the first to open, nor the last to close in Harleston Village.

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<td>Mon – Wed</td>
<td>7:00a – 6:00p</td>
<td>7:30a – 6:30p</td>
<td>7:30a – 6:00p</td>
<td>11:00a – 9:00p</td>
<td>7:00a – 10:00p</td>
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<td>Thurs - Fri</td>
<td>7:00a – 9:00p</td>
<td>7:30a – 6:30p</td>
<td>7:30a – 6:00p</td>
<td>11:00a – 9:00p</td>
<td>7:00a – 10:00p</td>
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<tr>
<td>Saturday</td>
<td>8:00a – 9:00p</td>
<td>8:00a – 6:30p</td>
<td>8:00a – 6:00p</td>
<td>9:00a – 9:00p</td>
<td>9:00a – 10:00p</td>
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<td>Sunday</td>
<td>8:00a – 6:00p</td>
<td>8:00a – 6:30p</td>
<td>8:00a – 6:00p</td>
<td>9:00a – 3:00p</td>
<td>9:00a – 10:00p</td>
</tr>
</tbody>
</table>
| Seating Capacity | Inside: 18
Outside: 36
Total: 54 | Inside: 32
Outside: 18
Total: 50 | Inside: 32
Outside: 20
Total: 52 | Inside: 38
Outside: 10
Total: 48 | Inside: 42
Outside: 10
Total: 51 |
| Distance to Nearest Neighbor | 45 feet | 45 feet | 30 feet and residence above | 40 feet and residence above | 65 feet and residence above | 20 feet and residence above | Residence above |

First to Open: Green  Last to Close: Red
Two uses. One Space.

*Garden shop* to supply locals with a place to pick up fresh cut flowers, potted plants and botanical goods for their homes and gardens.

*Café* focused on light, local fare serving breakfast and lunch. Full wine, beer, and alcohol service.
**Neighborhood Support: Summary and Map**

<table>
<thead>
<tr>
<th>Petition Results</th>
<th>Signatures</th>
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<td>Total</td>
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<td>Charleston, 29403</td>
<td>525</td>
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<td>North Charleston, West Ashley, Mount Pleasant</td>
<td>880</td>
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<tr>
<td>Other</td>
<td>473</td>
</tr>
</tbody>
</table>

Mapped names and addresses to the right are included in the appendix.
Sample Menu: Breakfast, Lunch, Snacks

Produce and bread-centric menus are a key factor in controlling trash, odor, and food deliveries.

Sample Breakfast Menu:
- Hand-rolled Bagels & Spreads
- Breakfast Sandwiches & Toasts
- Fresh Smoothies
- Assorted Housemade Pastries
- Fruit Parfaits
- Coffees & Teas

Sample Lunch Menu:
- Breakfast items available all day
- Hand-rolled Bagel Sandwiches
- Fresh Salads
- Wine, Beer & Cocktails

Sample Evening Menu:
- Happy Hour Snacks
- Wine, Beer & Cocktails

Ice Cream Counter - Open all day
FAQs: Common Questions from the Community


TRAFFIC Nearly all of our employees walk or bike to work. We will provide bike racks for our customers. Our research tells us that a huge majority of our customers will come on foot or bike from the immediate neighborhood. Also, we have kept our parking spaces to minimum, because the CITY of CHARLESTON 2019 Traffic study says that’s the best way to REDUCE car traffic.

NOISE We have agreed to no outdoor speakers and have limited outdoor seating capacity to fewer than 20 people AND we close at 6:00pm. Over 90% of the outdoor space will be dedicated to the Garden Store. Further, the outdoor seating is at least of 45 feet from any neighbor’s property line. Extensive screening and planting will also filter sound, but we really get a bang for the buck by replacing all the pavement with pervious surfaces. Research shows that pervious surfaces significantly reduce sound transmission. Our efforts may even reduce the current traffic noise at the intersection.

FUTURE USE We live in this neighborhood, too. That is why we are asking for a USE VARIANCE, not a re-zoning. Even if we sell the building the USE VARIANCE stays in place protecting against unwanted future uses. Any future business would have to abide by the hours and restrictions in place.

LIQUOR Alcohol sales help ensure enough revenue is generated to cover the cost of restoration and keep the businesss viable. The liquor license can be tied to breakfast service to prevent other types of establishments in the future. The USE VARIANCE protects against any other commercial uses as well.

TRASH Haven will be on a weekly trash and recycling pick up schedule just like any other residential home in the neighborhood. No dumpsters! Haven will follow the same model as our other two locations, so we expect it to produce 5 times more recycling than trash. We are going to hide the bin storage area behind a 7 foot brick wall and provide aerial screening in the form of a pergola with vines.

DELIVERIES We use local suppliers who deliver goods in small sprinter vans, not large trailer trucks. Most deliveries can be scheduled for minimum disruption.

WHY NOT BUILD A RESIDENCE? The building cannot be demolished due to its historical status. So to be a residence, it would have to be adapted to meet FEMA standards. In this case, the existing building would have to be raised a minimum 10 feet. Further, the lot size does not meet the city’s minimum allowable lot size for a single-family home.
Stewardship: Greenscape and Water Management

Post and Courier: Charleston Area Lost More than 10,000 acres of tree cover since 1992, making floods worse.

**GREENSCAPE:**
- **New street trees** along Ashley Ave. and Wentworth St.
- Large potted trees throughout the property
- **Screening** plants for neighbor’s privacy and sound reduction
- Sound and water absorbing pervious surfaces
- Children’s **Sensory Garden** and Rain Garden

**WATER MANAGEMENT:**
- Rainwater catchment and rainwater use for irrigation
- Pervious surfaces for parking lot and outdoor seating areas
- Potential **bioswales** along curbs to capture and direct rainwater
July 2, 2021

VIA EMAIL ONLY

Lee C. Butcher, Jr., AICP, lscbo@charleston-sc.gov
Zoning Administrator
City of Charleston
Department of Planning, Preservation, & Sustainability
2 George St., Ste. 3100
Charleston, SC 29401

Re: 80 Ashley Avenue
Case No.: N/A
Our File No.: 2348-1

Dear Lee,

In regard to the above-referenced matter, enclosed please find a Memorandum in Opposition to the 80 Ashley Avenue Use Variance Application, along with exhibits A-I. I am submitting this information to be included in the record for consideration by the Board of Zoning Appeals during the next hearing on this application. I am providing courtesy copies of the enclosures to Mr. Barnes, Mr. Wilson and the City’s Corporation Counsel, Ms. Herdina.

If you have any questions, please do not hesitate to contact me.

Sincerely,

WILLS MASSALON & ALLEN LLC

John Massalon

JAM/e b
Enclosures

cc: Mr. Eric Rogers (via email)
Susan Herdina, Esquire (via email)
Capers G. Bart III, Esquire (via email)
James Wilson, Esquire (via email)
Memorandum In Opposition to the 80 Ashley Ave. Use Variance Application

I. Procedural History:

80 Ashley Avenue, located in Charleston, South Carolina, is an STR residentially zoned property owned by John "Demi" Howard (hereinafter "the owner"). The property is currently under a contingency purchase agreement. The buyers, upon information and belief, are an investment group headed by Danielle Brown (hereinafter "the applicants"). On or about February 2, 2021, the applicants presented their development plan to the Charleston Village Neighbors Association (hereinafter "CVNA") to obtain a use variance and a parking variance so that the property could be repurposed for commercial retail sales and food & beverage. The CVNA decided not to support the application as evidenced by the letters to the applicants and the Zoning Administrator attached as Exhibit "A."

On April 20, 2021, the applicants then sought a hearing before the Charleston City Board of Zoning Appeals (hereinafter "BZA") concerning the same use variance requests as referenced above. The board deferred ruling on the application, recommending instead that the objecting neighbors meet with the applicants to discuss the possibility of a mutual settlement ahead of a future reconsideration. The matter has not been heard nor has there been approval or denial issued.

II. Factual Background:

At some point in or around 1978, Arden Howard purchased the subject property. Upon information and belief, the property was a functional business engaged in automotive retail services, and prior to that had been a gas station dating back several decades. The owner, a Charleston based developer and builder, purchased the property in or around 1982. Upon information and belief, the property was utilized as a commercial business until 1990. The property’s non-conforming use exemption lapsed several decades ago and reverted to its current residentially zoned status.

Upon additional information and belief, approximately seventeen (17) years ago, the owner proposed developing 80 Ashley into a two (2) unit condominium. At that time, the adjacent neighbors did not object until it was confirmed that the owner sought to expand the project to include three (3) units with zero lot lines and an added height variance. The BZA denied the variance requests. See: the owner’s "Letter to the Editor" published in the Charleston Post & Courier [4/27/2021] attached as Exhibit "B."

Since then, the owner has engaged in the process of demolition by neglect. For a period of years, the building has been exposed to the open elements which in-turn has allowed squatters, crime, and criminal gatherings on the abandoned parking lot. Indeed, we are informed that on several occasions the immediate neighbors filed complaints with the Charleston Police Department, among other things, that the building be shuttered and that the lot be insulated against commercial parking and criminal trespass.

Throughout his ownership it is believed that the owner received multiple offers to purchase the property. The lot was finally placed on the market in the spring of 2019 at price believed to be well above
its fair market value. Within the last few months, we understand that the owner received an offer with no contingencies to purchase the property for an amount equal to the one offered by the applicants. The owner, by and through his agent, declined the offer.

As stated above, the applicants have indicated that they entered into a contingency agreement to purchase the property provided that they can obtain a use variance to convert the derelict building into a bar and restaurant with a retail space, including outdoor dining and alcohol sales. The applicants further seek an additional variance which would allow them to convert the parking lot into an outdoor dining and bar patio thus reducing parking from a required thirteen (13) spaces down to two (2). See: Use Variance Application attached as Exhibit C, Havenomicsky.com/doc as Exhibit D, Danielle Brown’s 4/20/21 BZA Testimony (a transcript or recording of the hearing has been requested and will be supplied when it is available).

The applicants argue that the building is of such a unique character that it can only be used for commercial purposes and that food and beverage sales is the only viable financial option in order to preserve the building via the revenues such sales would create. They also argue that the existing FEMA regulations substantially preclude residential use. The applicants further argue that a parking variance is required so that the existing parking lot can be converted to outdoor dining and that the current parking requirements be grossly relaxed.

Although convoluted, the applicants are essentially making three (3) arguments in favor of the variance requests:
(i) BZ Ashley is in such decay that it can only be saved as a commercial space;
(ii) Financial hardship precludes the property from being used as anything other than food and beverage; and
(iii) The new design requires a reduction in mandated parking spaces.

Absent a variance, the applicants claim that the owner will likely apply for a demolition permit with respect to the building structure.

III. Issue:
(A) Can the applicants obtain either use variance where the disabilities were created by the applicants themselves?
(B) Can economic hardship justify the granting of a use variance?
(C) Can the BZA consider a use variance request where the applicant created the hardship or disability from which they now seek relief?
(D) Where an applicant presents their case in support of a use variance but fails to meet the burden of proof can the requested variance be granted?
IV. Analysis

As to all issues the answer is clearly no. The South Carolina Supreme Court has already addressed these issues and repeatedly affirmed that property owners are not entitled to relief for self-created hardships through a use variance or the granting of a use variance through economic hardship. Moreover, the BZA cannot consider economic hardship under state law and cannot grant a use variance in instances where the applicant lacks the legal right to request a particular use variance. Moreover, even if the BZA were to consider the matter again, the applicants have already presented their case and failed to meet their burden of proof. As a consequence, the BZA must deny the pending application.

(1) The Building: Use Variance #1

As an initial matter, the investment group and the current owner are treated the same under South Carolina law. That is to say, that where a purchaser buys property with a known disability that party is treated the same as the seller who created the disability. Ruth v. City of Greenville, 246 S.C. 268, 143 S.E.2d 527 (1965); Greenville County Building Official v. Lewis, 290 S.C. 513, 351 S.E.2d 584 (Ct. App. 1986); Restaurant Row Associates v. Henry County, 335 S.C. 299, 516 S.E.2d 442 (1999). Moreover, where a purchaser buys realty with the intention of applying for a variance, the purchaser cannot contend that the restrictions caused it such a particular hardship that entitles it to special privileges. Ruth, Supra.

The South Carolina Local Government Comprehensive Planning Act (Zoning Enabling Act) sets forth the standard of review recognizing that local zoning boards essentially function as a jury and quasi-judicial entity. The boards exist to hear and decide variance appeals in instances where unnecessary hardship could result. S.C. Code Ann. Section 6-29-800(2). Factual findings of the board will not be disturbed unless there is no evidence in the record to support its decision. Bob Jones University, Inc. v. Greenville, 243 S.C. 251, 133 S.E.2d 843 (1963); Hiepler v. Zoning Bd. of Appeals for the City of Beaufort, 346 S.C. 403, 552 S.E.2d 62 (Ct. App. 2001). Indeed, courts generally do not interfere with the decisions of local zoning authorities however-boards are required to uphold and implement the law as written. Ruth, Supra.

Under South Carolina law, quasi-judicial bodies like the BZA are substantially free to create procedural processes and safeguards for the purposes of a hearing provided that any resulting conclusions be supported by competent, material, and substantial evidence. United Corp. v. S.C. Bd. of Control, 346 S.C. 136, 551 S.E.2d 263 (2001)(decided under the South Carolina Procurement Code).

In this case the applicants were clearly aware of the disability or hardship. Indeed, their submittal to the BZA clearly state their belief that the change in use is necessary for the preservation and renovation of 80 Ashley. See Exhibit C. Accordingly, the investment group essentially stands in the shoes of the owner in terms of requesting use variances to overcome self-created hardships.

Further, the South Carolina Supreme Court has clearly stated that a “financial hardship” does not create a condition entitling the applicant to a relaxation of the applicable zoning requirement. Henry County, Supra.

In this case, the applicants are claiming that the variances should be granted because of a financial hardship. Specifically, the applicant’s claim is that in order to preserve the building that it must not only be
used for commercial purposes, but that food and alcohol sales are the only viable economic option. In support of this position, they further claim that light commercial office space insufficiently generates only thirty-five dollars ($35.00) per square foot in Charleston. Danielle Brown’s 4/20/21 BZA Testimony.

Indeed, Section 6-29 (A)(1)(d)(i) of the S.C. Code of Laws states that even if property may be utilized more profitably with the granting of a variance the claim may not be considered grounds for the issuance of such a variance. This law is further noted and upheld in *Bowen v. Charleston*, 226 S.C. 459, 85 S.E.2d 708 (1955).

South Carolina law dictates that an owner complaining of a hardship which he has created is not entitled to a variance. *Bush v. Hutto*. Further, a claim for unnecessary hardship cannot be based on conditions created by the owner nor by the purchaser who knew or should have known of the disability after the enactment of a zoning regulation. *id.*

In this case, the owner intentionally engaged in the policy of demolition by neglect. The subject property supported a commercial enterprise from before World War I until approximately 1990. The owner, through his own conduct, allowed the building to essentially disintegrate into its current state of disrepair and now requests a curative variance to fix the problem.

Decades ago, the owner could have properly maintained the building and continued to operate it or to lease it to another business in order to maintain continued non-conforming use. He did neither. Instead, he allowed the property to deteriorate. The buyers, fully aware of the property’s current zoning, now contend that such a use variance is required to preserve the building or that the owner will apply for demolition permit in order to cure the very condition that he created. Danielle Brown’s 4/20/21 BZA Testimony. See: [hexagonshiley.com/faps attached as Exhibit E.](“The building cannot be demolished due to its historic status”); (emphasis added).

The argument of financial hardship must fail. The state law and supporting supreme court reference mandates that financial hardship cannot support the issuance of a use variance. *Bush v. Hutto*. Accordingly, the applicants cannot claim the necessity of a high impact use like a restaurant over light commercial office use based solely on their claims concerning economic hardship.

Furthermore, a use variance predicated on neglected condition is not supported by the law. *id.* The courts have unequivocally held that self-inflicted hardship intentionally created by an owner for the purposes of laying the basis for a variance application cannot be considered. *id.* In the present case this is exactly what the owner did. He created the derelict building and now he has raised the prospect of demolishing it unless his variance is granted.

As a final consideration, the applicants claim that FEMA precludes future residential use of the property. See: [hexagonshiley.com/faps attached as Exhibit E; Danielle Brown’s 4/20/21 BZA Testimony.](This is an overstated position. The applicants also claim that raising the building “Would destroy the architectural character of SO Ashley.” (emphasis added). This statement is simply opinion. There are 4,000 minus rated structures in Charleston per FEMA, Post & Courier, October 29, 2020, updated May 4, 2023.) “Thousands of buildings are lower than FEMA wants.”

Moreover, the applicants’ social media states: “Why can’t the building be a residence? It would have to be adapted to meet FEMA standards.” (emphasis added). [hexagonshiley.com/faps attached as Exhibit E.](This is a statement of opinion not fact. A FEMA variance is available for historic structures in

Page 4 of 9
Charleston upon application and is issued by the City of Charleston Board of Appeals, which is administered by the Building Inspections Division in the Department of Public Service. See: FEMA Variance Handout and Map attached as Exhibit F; FEMA Publication P-467-2; Federal Management Bulletin Historic Structures, May 2008 attached as Exhibit G. A variance is required where the cost of renovation exceeds 50% of the structure's value. See: City of Charleston Ordinance, Sec. 27-115 and FEMA Variance Handout and Map attached as Exhibit F.

In this case, the property under consideration is a gutted brick building shell. Referring to the variance factors in Section 27-115 (d), it seems that the existing structure could readily be renovated utilizing a FEMA historic structure variance. The point being that the building could certainly be used for residential purposes despite the applicants’ claims.

All of this said, it matters not because the applicants (or their predecessors) cannot self-create the claimed hardship and then seek relief from the BZA to accomplish their financial objectives in redeveloping this property. The BZA should not consider the variance request pursuant to existing case law.

Practical difficulty or unnecessary hardship, to ground a variance, is not mere hardship, inconvenience, interference with convenience or economic advantage, disappointment in learning that land is not available for business uses, financial or pecuniary hardship or disadvantage, loss of prospective profits, prevention of an increase of profits, or prohibition of the most profitable use of property.... And it is not per se a sufficient reason for a variance that a nonconforming use is more profitable to the landowner, or that his land is better adapted for a forbidden use than for the one which is permitted.


Although the applicants make a point in their social media campaign to highlight that the pending request is for a variance not a rezoning, here the applicants are trying to achieve the outcome of a rezoning through the less rigorous variance process. A use variance such as the one that applicants seek authorizes a land use that is otherwise not permitted by the zoning ordinance, which is basically the same result as a rezoning. Furthermore, a use variance, like a rezoning, is not a personal right limited to use by the current applicants. Instead, a use variance “runs with the land” and can be used by subsequent owners and/or tenants of BD Ashley. Applicants acknowledge, as they must, that “[e]ven if we sell the building the USE VARIANCE stays in place ...”. at www.ashley.com/flags attached as Exhibit E. (emphasis in original).

While the ordinance governing variances allows the BZA to put conditions on approval under Section 54-235, the imposition of conditions in this instance would not be sufficient to protect the neighbors because the underlying use change that has been requested is fundamentally incompatible with the surrounding properties and the neighborhood. If the proposed variances are approved with the conditions suggested by the applicants or other conditions, the burden of enforcement will fall squarely on the neighbors like Mr. and Mrs. Rogers. No one from City Staff or the City Police will monitor the operations to ensure that the applicants comply with the conditions. Instead, Mr. and Mrs. Rogers will necessarily be placed in the untenable position of policing compliance. Further, conditions to limit noise, light pollution and smells are not subject to any objective, measurable criteria which will make...
enforcement difficult, regardless of who monitors the compliance. Moreover, if the commercial use is re-established, experience with other properties teaches that it is likely that the applicants, or successor owners or operators, will return to the BZA later to seek more liberal conditions. While additional variances would be needed to change any conditions imposed by this Board, the fact remains that if a variance is granted to allow the proposed non-conforming use, the burden on neighboring properties to oppose a subsequent modification of operating conditions will be significantly heavier.

(2) The Parking: Use Variance #2

The second variance request for parking is equally unsupported by the law. Applying the above standards, the applicants themselves are attempting to repurpose the property’s parking area into an outdoor area for alcohol consumption, dining, and retail sales. See Use Variance Application attached as Exhibit C. Danielle Brown’s 4/20/21 BZA Testimony.

Clearly this is a condition created by the applicants themselves, who suggest in the alternative that customers, staff, and delivery drivers can simply park on the adjacent congested streets in contrast to the City of Charleston’s Parking Study of 2019 (discussed below). Their variance application seeks to reduce parking from thirteen (13) spaces down to two (2). In other words, they wish to use virtually the entire lot for food and beverage via a use variance and to rely on the new existing and already congested neighborhood street parking.

Use variances are tools that allow modifications to otherwise legitimate zoning (residential in this case). Steenwyck v. Board of Adjustment of Charleston, 230 S.C. 440, 96 S.E.2d 456 (1957). Where property use is more burdensome than intended without impairment to the public good, the BZA has certain limited powers to fit a square peg in a round hole. This said, the granting of any such variance has to be sparingly granted and only when the valid use falls fully within the specified regulations. Heny Countv. Supra.

In this case, as with all others, the board is required to follow the law regardless of any sense of justice that might differ. Steenwyck. Supra. Boards, such as the BZA, are further required to uphold local ordinances and cannot act in an arbitrary manner so as to prevent inconsistent and invalid interpretations. Heny County. Supra.

Applying the above case law, the applicants cannot create a disability and then seek a use variance in order to cure the very same disability which they themselves created. Id. In the application itself and supporting renderings, the applicants call for the conversion of the existing lot into an outdoor dining and retail space. Danielle Brown’s 4/20/21 BZA Testimony. The applicants further expect patrons and staff to park remotely at Colonial Lake or elsewhere. Id.

This plan of course requires that there actually be sufficient available parking at Colonial Lake which, depending on the precise location, may exist several blocks away. The reality, one known all too well by the applicants, is that the staff of approximately ten (10) people along with a percentage of patrons (35 or more) would simply park along the adjacent residential streets. See Page 15 and pages 114-116 of the City of Charleston’s 2019 Parking Study. This would lead to unwanted neighborhood congestion, a lack of parking for the actual homeowners, and numerous instances of illegal parking.
In the instant case, the BZA has deferred ruling on the matter in order to encourage additional settlement or compromise discussions between the parties. This said, the matter is not properly before the BZA as the applicants lack standing because the claimed defects are self-created. Accordingly, if the BZA were to in-fact allow such variance requests then any such ruling would indeed run contrary to the state court’s various holdings. Stevenson, Supra. Indeed, the requests themselves are invalid and granting such an application would create an arbitrary and invalid precedent contrary to the applicable regulations and law.

V. Analysis of Issue D:

The Union holding makes it clear that the South Carolina Rules of Evidence are not absolutely applied within a quasi-judicial hearing; however Rules 403 and 408 substantially demand the same considerations as Union identifies in that the evidence be competent, material, and substantial. Under Rule 402 of the South Carolina Rules of Evidence, all relevant evidence is generally admissible. State v. Alexander, 303 S.C. 377, 401 S.E.2d 146. This said, Rule 403 states that relevant evidence may be excluded where the probative value of certain evidence is substantially outweighed by the danger of unfair prejudice. Id.

In addition, the variance applicant bears the burden of proof in establishing existence of the four statutory criteria for a variance to be granted. Sec. S.C. Code Ann. Sec. 6-25-800, Horry County, Supra. Where the applicants fail to meet their burden of proof, the BZA is compelled to deny the application. Stevenson, Supra.

Accordingly, the applicants must prove that under Section 6-25-800(2) an approval of a use variance application will not be substantially detrimental to the adjacent properties. Id. In Hernandez v. Town of Mt. Pleasant, 631 S.E.2d 474 (S.C. 2005), a copy of which is attached as Exhibit E, the court of Appeals upheld the board’s denial of a variance due to the substantial detriment to the neighboring property having considered the issues of overcrowding, debris, along with the negative effect on property values should the variance be granted Id. The court reasoned that the denial of the variance was to be upheld because the adjacent property owner’s testimony was entitled to significant weight and justified the denial. Id.

This answer the question, what is “Substantial Detriment” as referenced under Section 6-25-800? The above case testifies that testimony from adjacent neighbors concerning the obvious issues associated with debris, community lifestyle, overcrowding, etc., are all weighted elements that go into a “Substantial Detriment” analysis. There is no cookie cutter answer and the dictionary definitions cited by the applicants from Webster’s Dictionary are irrelevant. The question is whether or not the applicants can, or in this case have, produced sufficient credible material evidence to overcome the adjacent neighbors’ opposition testimony.

In this case, Ms. Brown provided the only claimed substantive testimony on behalf of the applicants during the 4/20/21 BZA hearing. Critically, she testified that the investment group is not the proposed operators and would presumptively execute a commercial lease in favor of the actual operators. HAvemansuchley.com/docs attached as Exhibit E. Ms. Brown testified about parking, trash, deliveries, noise, and generally about the claimed limited impact of the plans to the neighborhood. Danielle Brown’s 4/20/21 BZA Testimony.
The obvious problem with that testimony is that Ms. Brown will not be the operator. She would have no day-to-day knowledge of or even influence over staff and patron parking. Similarly, she would have no knowledge or control over the size of delivery trucks, their delivery schedules, odors, or similarly intimidating patrons. Once the investment group/applicants execute a commercial lease of the premises to the operators then the operators, not the applicants, will likely be in control of managing these issues pursuant to the lease agreement.

No evidence, either documentary or testimonial, was ever produced by the applicants supporting their claim of a minimal impact to the adjacent properties. The only substantive testimony outside of supporting opinions from remote residents comes from Ms. Brown, and her was neither competent, material, nor substantial. Her testimony is merely supposition.

Indeed, aside from Ms. Brown’s testimony, the applicant’s own website is similarly confusing as it mischaracterizes some of the parking related matters. Specifically, it states that: “We have kept our parking to a minimum because the City of Charleston Parking Study of 2012 says that this reduces traffic.” (emphasis added), Havenonashley.com/FAQ attached as Exhibit E.

The cited report does not support the applicants’ argument. Presumably Ms. Brown relies on pages 120-126 of the same report which does speak to the issue of reduced mandatory off street parking requirements. What applicants conveniently neglect is that the cited standard is applied to “commercial and mixed-use districts” and that the property developer be subject to a fee in lieu of providing on-site parking, id. at 116. In point of fact the study draws no comparison between off street parking and traffic conditions at all. id.

The applicants ignore the fact that on page 3 of the same study it states “[t]he greater majority of respondents find places to park immediately adjacent to the target property or at most three (3) blocks away.” id. at 15. This report relies in the face of Ms. Brown’s own testimony on the subject of parking as it relates to the staff and patrons. In sum, the misuse of the parking study is endemic to the applicants’ case as a whole. The applicants are requesting an extraordinary remedy without any comprehensive supporting evidence again in contrast to the Stevenson and Linnax South Carolina Supreme Court holdings.

Moreover, the applicants offered no probative evidence on whether or not the project would create a substantial detriment to the adjacent properties as required by Sec. 6-29-800. There were no assessments, reports, studies, expert testimony, or evaluations concerning sound, odor, financial impact, or traffic. Ms. Brown instead provided opinion testimony on matters which she is not qualified to testify. Applicants have had months to secure traffic studies along with adjoining property evaluations, appraisals, and community impact studies yet submitted nothing other than unsubstantiated conclusions.

Ms. Brown further testified that the applicants had considered hiring a sound testing firm and then theorized about the probable test conclusions. She did so without knowledge of the testing equipment, conditions, or traffic to name but a few examples. Danielle Brown’s 4/20/21 BZA Testimony. Again, this is another example of the applicants’ repeated failure to meet their burden of proof.

With all of this said, even if Ms. Brown’s testimony was competent and relevant, and admissible under the Linnax holding, the applicants did not meet their burden of proof in order to establish the granting of such a variance. Indeed, the only evidence provided came from Ms. Brown and for the reasons
stated above it has little to no probative value. As such, and per the state supreme court mandates, the BZA is bound to enforce the law as written regardless of emotion or preference. *Stevenson v. Supra.* Accordingly, the pending variance application must be denied as the applicants have already unsuccessfully proffered their case to the BZA.

**VI. Conclusion**

In sum, the use variance application is unsupported as a matter of law as the conditions from which the applicants seek relief are either self-created or irrelevant. Accordingly, the applicants hold no legal right to seek relief through curative variances. More significantly, as there is no inherit right to the variances themselves, the BZA is an improper forum as the board cannot consider variances of the type submitted in this proceeding.

Furthermore, even if the applicants were entitled to further consideration by the BZA, the board is bound by well settled law to deny the variance application as the applicants failed to meet their burden of proof. Accordingly, pursuant to well settled law the application must be denied.

This the 2nd day of July, 2021.

/s/ John A. Massalon
John A. Massalon (SC Bar #102739)
WILSES MAAUSALON & ALLEN LLC
Post Office Box 859
Charleston, South Carolina 29402
(843) 727-1344
jmassalon@amslawfirm.net
ATTORNEYS FOR ERIC ROGERS

CHARLESTON, SC

July 2, 2021
Harleston Village Association
P.O. Box 584, Charleston, SC 29402

February 12, 2021

SENT VIA EMAIL:
Daniele and Steve Brown
Charleston, SC 29401

Re: 80 Ashley Avenue

Dear Mr. and Mrs. Brown,

We appreciate your time last week to present your plans for 80 Ashley Avenue. Unfortunately, we cannot support your project as proposed.

We understand that there is significant neighborhood support for a concept such as the one you have put forth and our board indeed is not opposed to a non-residential use for this property. We want to see the building reused and renovated and the property beautified. There is much potential there. However, we feel the size and scope of the operation as currently proposed places too heavy a burden on the adjacent neighbors.

We thank you for your time and efforts in presenting to our board and are happy to hold another meeting if the you would like to discuss something less intense and more appropriate for this location.

Best Regards,

Harleston Village Association

cc: Seekings, Mike (via email)
March 7, 2021

Lee C. Batchelder, AICP  
Zoning Administrator  
City of Charleston  
Department of Planning, Preservation, & Sustainability  
2 George Street, Suite 3100  
Charleston, SC 29401

Re: 80 Ashley Avenue; Application For Use Variance; Applications For Exception To Off-Street Parking Requirements

Dear Lee:

The Harleston Village Association Board ("HVA") has supported and will continue to support appropriate opportunities for non-residential use of property throughout Harleston Village. As an entity that was chartered to promote the entire neighborhood, it is HVA's position that offices, grocery and/or markets, cafes, and similar low-impact entities are valuable additions to our community.

With the rapid pace of development that is consuming Charleston, it is vital that our community strive to achieve a balance between dense urbanization and homogenous residential areas. Although it is true that commercial properties could lead to an increase of non-residents in the Village and other livability concerns, HVA maintains that the resulting positives to the community will outweigh the harm — assuming the proposed commercial use is appropriate in scale and scope. After all, if residents of the Village are able to easily walk to their doctor’s appointment or coffee shop they will benefit from the convenience and help to reduce traffic.

Here, 80 Ashley Ave. is a valuable architectural asset and is much deserving of beautification. First and foremost, the historic structure must be preserved; however, without a significant investment it is at risk of collapse or teardown. It is no secret that the required investment and logistical challenges presented by this property have restricted previous revitalization efforts, affording years of neglect and abandonment.

Based on the aforementioned rationale, HVA is supportive of a non-residential use for 80 Ashley Ave. Moreover, it is our position that a low-impact commercial enterprise is suitable for this property. However, because the property is zoned residential the proposed commercial enterprise requires a "use variance" from the Charleston Board of Zoning Appeals (BZA-Z).

Accordingly, this application is subject to the Variance Test. City of Charleston Zoning Ordinance § 54-924; S.C. Code Ann. § 6-29-800. Among other criteria included in the Variance...
Test, the applicant must demonstrate that “the authorization of a variance will not be a 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.” § 54-92-4(c). It is HVA’s position that on this point, the applicant’s proposed use does not comply.

Although HVA maintains that neither the public good nor the character of the district will be harmed by the requested variance, the proposed use could create a “substantial detriment to the adjacent property.” HVA’s position is based on property inspections and extensive communications with the applicants, adjacent property owners and/or residents, and countless other members of the community.

In light of HVA’s desire to encourage a variety of uses for property in Harleston Village, we remain optimistic that the applicants and adjacent owners are able to reach a compromise. However, until such time that a compromise is reached, HVA is unable to support the applicant’s variance request.

With kind regards, I am,

Very truly yours,

/s/ Scott W. Anthony

Scott W. Anthony, President
Harleston Village Association

CC: Seekings, Mike: mike@seekingslaw.com;
    Ashley Penoyer: ash@penoyercharleston.sc.gov
EXHIBIT “B”
Letters: 80 Ashley Ave. project stopped by vocal few

APR 27, 2021

Plans for 80 Ashley Ave. in Harleston Village have been opposed by some local residents.

FILE/ROBERT BERMAS/STAFF

COLUMNISTS

Gilbreth column: Encouraging preservation successes, concerns

BY EDWARD M. GILBRETH

I take exception to Dr. Edward M. Gilbreth's column in the April 22 Post and Courier and the reasons for many stalled projects leading to "demolition by neglect" on city properties.
COVID-19 or pent-up capitalization doesn't prevent action, and it is wrong for preservation organizations and review boards to think so.

As the owner of 80 Ashley Ave., I've seen it happen.

In the April 14 commentary from the Harleston Village Association about the same property, half of the article spoke of how mixed commercial use in Harleston Village would be beneficial to the residents, the city and the building. But the second half cited a few adjacent neighbors' complaints as a reason for opposing the plan.

The association says it wants what is good for everyone but seems to appease only a small, vocal minority.

In 2002, I met and worked with this association for a year on a plan for 80 Ashley, modifying plans several times to get support for a proposed development that would have saved the building and upgraded the property. During a Board of Zoning Appeals meeting, a citizen who showed up to rant and rave gained control of the proceedings and caused the project to falter, so the application was withdrawn.

In the April 13 meeting, similar dynamics played out. The board was swayed by a few loud voices.

Until we stay focused on what is best for our community, preservation and buildings over complaints by a few vocal residents, demolition by neglect will sadly continue.

JOHN B. HOWARD

CEO, Palmetto Craftsmen Inc.

Romney Street

Charleston
The Goal: Obtain a "Use Variance"

We are requesting a use variance for this property from the City of Charleston's Zoning Board. What was historically commercial, because of its recent status as an abandoned building, has reverted to a residential status. We know it's nearly impossible and certainly impractical to convert this space to a residence (see FEMA restrictions, city setbacks, lot size and general building).

We are requesting that the city approve our application for a use variance with the following legal restrictions:

- Permits for a cafe and garden shop only
- Limited capacity and no amplified music outside
- Limited hours of operation
- Alcohol beverage consumption to morning operating hours
- A washroom that can be used by the immediate neighbors
- A horizontal fence for the immediate neighbors
- No objection to any air or street noise
- No parking or noise
- No lights or other noise
- Landscaping choices that absorb acoustics, odors, or other nuisances

Not Re-Zoning the Property

We understand the need to be mindful of our location within a neighborhood, and we are working diligently to address any potential concerns. And it's important to note that we are not asking to rezone the building. That means any future tenant or owner of the building would have to abide by the use variance restrictions and fit the needs of the business described on reapply for the zoning board.
We need your support: Make your voice heard!

City of Charleston

The City of Charleston represents its citizens in a similar way as the neighborhood does. They represent the views of the neighborhood as a whole and not just those residents in opposition. If you live in the neighborhood, email Scott Anthony, President of HVA, at scott.jay.smith@gmail.com or click the link below to sign your name in support of saving a piece of history that so many Charlestonians know.

Email the City

Harleston Village Association

The Neighborhood Association represents its denizens in a similar way as the city. They represent the views of the neighborhood as a whole and not just those residents in opposition. If you live in the neighborhood, email Scott Anthony, President of HVA, at scott.jay.smith@gmail.com or click the link below to sign your name in support of the cafe garden shop concept with the stipulations we have listed.

Email the Village

Join Our Coalition!

We've heard from so many amazing individuals who want to help save this building. Now we need to show that support in writing. Take 30 seconds and click the button below to sign your name in support of saving a piece of history that so many Charlestonians know.

Sign the Petition
EXHIBIT “E”
Haven on Ashley

Your Questions

What about traffic?
Nearly all of our employees walk or bike to work and we will provide bike racks for our customers as well. Our research tells us that a huge majority of our customers will come on foot or bike from the immediate neighborhood. Also, we have kept our parking spaces to a minimum, because the CITY OF CHARLESTON 2012 Traffic study says that's the best way to REDUCE car traffic.

What about noise?
We have agreed to no outdoor speakers and have limited outdoor seating capacity to fewer than 25 people. AND we close at 6:30pm. AND the outdoor seating is at least 45 feet from any neighbor's property line. Extensive screening and planting will also help, but we really get some bang for the buck by replacing all the pavement with pervious surfaces. Research shows that pervious surfaces significantly reduce sound transmission. Our efforts may even reduce the current traffic noise at the intersection.

What about trash?
Haven will be on a weekly trash and recycling pick up schedule just like any other residential home in the neighborhood. No dumpsters! Haven will follow the same model as our other two locations, so we expect it to produce 5 times more recycling than trash. We are also going to hide the bin storage area behind a 7.5 brick wall and also provide aerial screening in the form of a pergola with vines.

What about cooking smells?
We have committed to buying an industrial filtration system that is almost 100% effective at reducing cooking smells. It works by scrubbing the air as it moves through the kitchen's venting system.

I'm worried about future tenants.
So are we. We live in this neighborhood, too. That is why we are asking for a USE VARIANCE, not a rezoning. Even if we sell the building the USE VARIANCE stays in place protecting against unwanted future uses.

What are your hours?
Haven Cafe + Bakery:
Monday - Friday: 7:30am - 9:00pm
Saturday - Sunday: 8:00am - 5:00pm

The Garden Shop
Monday - Sunday: 10:00am - 6:30pm
Haven on Ashley

What’s the concept again?
A café and garden store in one location. This NOT:
a full-service restaurant
going to be open for dinner service

Why can’t the building be a residence?
The building cannot be demolished due to its historical status. So it would have to be adapted to meet FEMA standards. In this case, the existing building would have to be raised over 8 feet. Further, the lot size does not meet the city’s minimum allowable lot for a single family home.

Who is going to run the café and the garden store?
We have partnered with proven local entrepreneurs. Haven Café + Bakery will be operated by the owners of Harbinger Café. They encourage you to visit so you can see how well these establishments blend into their neighborhood and have become an integral part of the community.

The Garden Shop will be operated by the owners of the beloved Meeting Green on upper Meeting Street.

How often will you get deliveries?
We use local suppliers who deliver goods in small sprinter vans, not large trailer trucks. Most deliveries can be scheduled for minimum disruption.
Agenda Item #B-1

1 ASHLEY BOULEVARD
(CHARLESTOWNE)
TMS# 457-11-01-039

Request the second one-year extension of a vested right that expires on June 5, 2021, pursuant to Sec. 54-962. Vested right is an approved variance under Sec. 54-353 for attached dwelling units (duplexes) in a STR (Single-Two Family Residential) zone district.
Application for Variance, Special Exception, Reconsideration, or Extension to the Board of Zoning Appeals – Zoning (BZA-Z)

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 will null 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:

Property Address: 111 ASHLEY BLVD
TMS #: 457-10-0-039

Property Owner: BARNES, MOUTtrie, WARD, LLC
Daytime Phone:

Applicant: NEIL STEVENSON ARCHITECTS (TARA ROMANO)
Daytime Phone: 843-442-0000

Applicant’s Mailing Address: 500 KING ST, SUITE B, CHARLESTON SC 29403
E-mail Address: TARA@NEILSTEVENS ARCHITECTS.COM

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

Zoning of property STR

Information required with application: [check information submitted]
☐ Scaled plans or plans, including elevations, showing the variances or special exceptions being requested (3 sets)
☐ For new construction or additions within a flood zone, show floodplain maps 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:

Date: 09/27/21

For office use only
Date application received ________
Signature: __________________________
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):

**REQUESTING 2ND ONE-YEAR EXTENSION OF VARIANCE APPROVAL**

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**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 (add as an attachment if necessary):

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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.
Order on Special Exception Request

Order on Variance Request

The Board of Zoning Appeals-Zoning held a public hearing to consider an appeal for a variance from the strict application of the Zoning Ordinance for the property described above. After consideration of the evidence and arguments presented, the Board makes the following findings of facts and conclusions.

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

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. 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. 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.

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

Date Issued: 6/3/18
Chairman

Approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Section 54-462. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has elapsed.
PROPERTY LOCATION, TS NUMBER(S) AND DESCRIPTION OF REQUEST(S):

1. ASHLEY BLVD. (CHARLESTOWN) (437-11-01-039)
Request the first one-year extension of a vested right that expired on June 5, 2020, pursuant to Sec. 36-962. Vested right is an approved variance under Sec. 36-353 for attached dwelling units (duplexes) in a STR (Single-Two Family Residential) zone district.

Order on Special Exception Request

The Board of Zoning Appeals - Zoning held a public hearing to consider the above appeal for a special exception which may be granted by the Board pursuant to the Zoning Ordinance for the property described above. After consideration of the evidence and arguments presented, the Board finds the following facts and conclusions:

Q DENIED. The Board concludes that the standards in the Section(s) of the Zoning Ordinance listed above, which are applicable to the requested special exception, have not been met and therefore orders that the special exception be denied.

Q APPROVED. The Board concludes that the standards in the Section(s) of the Zoning Ordinance listed above, which are applicable to the requested special exception, have been met and therefore orders that the special exception be granted subject to the following conditions, if any:

Date issued: [Signature]
Chairman

Order on Variance Request

The Board of Zoning Appeals - Zoning held a public hearing to consider an appeal for a variance from the direct application of the Zoning Ordinance for the property described above. After consideration of the evidence and arguments presented, the Board finds the following facts and conclusions:

Q DENIED. The Board concludes that the requirements for granting a variance have not been met and therefore orders that the variance be denied.

Q 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. The granting of the variance is in the public interest.
4. The public interest would be significantly served by the variance.

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

Approval of first one-year extension to expire June 5, 2021.

Date issued: [Signature]
Chairman

Approval of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Section 14-962. Applicants may not apply for the same request that has been denied by the Board until two (2) years after denial.
Agenda Item #B-2

411 MEETING STREET
(CANNONBOROUGH/ELLIOTBOROUGH)
TMS # 459-09-03-114

Request the fourth one-year extension of a vested right that expires on December 31, 2021, pursuant to Sec. 54-962. Vested right pertains to a special exception granted under Sec. 54-220 on June 7, 2016 with conditions for a 300-unit accommodations use in a MU-2 (Mixed Use 2) zone district.
Application for Variance, Special Exception, Reconsideration, or Extension — 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 at 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. Any appeal to the Board during this appeal period stops 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: July 20, 2021

Property Address 411 Meeting Street TMS # 459-09-23-114

Property Owner Bennett Meeting Street, LLC Daytime Phone 843-722-8169

Applicant Womble Bond Dickinson (US) LLP Daytime Phone 843-720-6640

Applicant’s Mailing Address James Wilson 5 Exchange Street, Charleston SC 29401

Email Address James.wilson@wbdus.com

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

Zoning of property MU-2 Accommodations

Information required with application (check information submitted)
☐ Administration of planned developments, showing any variance(s) or special exception(s) being requested (3 sets)
☐ For new construction or additions within a flood zone, show FEMA 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 occupancy, 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 check payable to the City of Charleston)
☐ YES or NO — is the proposed land use encompassed in the permit application? § 6-29-1145 of the South Carolina Code of Laws

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

I certify that the information on the 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 inspection.

Applicant ____________________________ Date 6/11/21

For office use only
Date application received ____________
Signature ______________ For $ ____________
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).

**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 § 6-29-400)

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, § 54-208, or sections in Article 9 (add as an attachment if necessary).

See Attached Exhibit A.

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.
EXHIBIT A

Application for Extension of Special Exception

Pursuant to Section 54-962 of the Ordinances of the City of Charleston, the Owner hereby requests a one-year extension of the previously approved Special Exception for a 300 room full service conference hotel and residential unit project to be constructed at 413 Meeting Street. A copy of the Minutes from the previously approved Special Exception granted by the BZA on June 7, 2016, along with copies of the previously approved First, second and third one-year extensions granted by the BZA on May 1, 2018, March 19, 2019, and June 2, 2020, are attached hereto and incorporated herein by reference. This is the fourth one-year extension being requested.

Pursuant to Section 54-962, the Permit Extension Joint Resolutions of 2010 and 2013 (as defined in Section 54-961) had the effect of suspend the running of the period of a vested right until December 31, 2016. As a result, the two-year vested right term for the Special Exception for 413 Meeting Street commenced on January 1, 2017 and extended through December 31, 2018. The first one-year extension period granted by the BZA commenced on January 1, 2019 and extended through December 31, 2019. The second one-year extension granted by the BZA commenced on January 1, 2020 and extends through December 31, 2020. The third one-year extension granted by the BZA commenced on January 1, 2021 and extends through December 31, 2021. Based on the foregoing, the fourth one-year extension period shall commence on January 1, 2022 and extend through December 31, 2022.
PROPERTY LOCATION, TMS NUMBER(S), AND DESCRIPTION OF REQUEST(S):
411 MEETING STREET (CANNONBOROUGH/ELLIOTBOROUGH) (509-09- 03-114)
Request one year extension of a vested right that expired on December 31, 2018, pursuant to Sec. 54- 892. Vesting right pertains to a special exception granted under Sec. 54-228 on June 7, 2016, with conditions for a 300-unit accommodations use in a MU-3 (Mixed Use) zone district.

Findings of Fact and Conclusions
The Board of Zoning Appeals hereby finds the following facts, in order that the special exception be allowed.

DENIED. The Board concludes that the request is not in accordance with the Zoning Ordinance listed above, which is applicable to the requested special exception. The Board hereby finds that the special exception is not in accordance with the Ordinance.

APPROVED. The Board concludes that the request is in accordance with the Zoning Ordinance listed above, which is applicable to the requested special exception. The Board hereby finds that the special exception is in accordance with the Ordinance.

Date issued: 5/11/18

Order on Variance Request
The Board of Zoning Appeals hereby grants a variance for the property, and the request for issuance of the following variance, which has not been met:

DENIED. The Board concludes that the requirements of the Ordinance have not been met, and therefore denies the variance as requested.

APPROVED. The Board concludes that the requirements of the Ordinance have been met, and therefore grants the variance as requested.

The Board, therefore, finds that the application is meritorious, and ordains that the variance be granted, subject to the following conditions, if any:

Date issued: 5/11/18

[Signature]
PROPERTY LOCATION, TAX IDENTIFIER, AND DESCRIPTION OF REQUEST:

432 MEETING ST, SPANISH-MARSHALL-SURVIVAL ROUCH (29841-415)
Request a special use permit extension of a special use permit that expires on December 31, 2019, pursuant to Title 18, §4-6(c), which permits for a capital expansion granted under Sec. 9-13 of RZU on June 1, 2018, with conditions for a 300+ stall accommodation use as in a RZU (Mild Use) zone allowed.

ORDER OF APPEAL:
The Board of Zoning Appeals does hereby declare that the applicant has satisfied all conditions required for a special use permit extension. The Board finds that the use as described in the application satisfies all conditions required for a special use permit extension. The applicant has satisfied all conditions required for a special use permit extension.

Date issued: ____________________

Date granted: ____________________
PROPERTY LOCATION, TAX MAP NUMBER(S) AND DESCRIPTION OF REQUESTED BLDG.

411 MEETING PL, C/O GIBRALTAR HILL (OTISBOROUGH) (56-1-23-193)

Request: To utilize onSite extension of a vacant right that expires on December 31, 2020, pursuant to Sec. 54-992. The vacant right pertains to a special exception granted under Sec. 54-992 on June 7, 2016, with conditions for a 300-unit accommodations use in a MU-2 (mixed use) zone district.

Applicant: [Name]

The object of Zoning Appeal is to bring a public hearing to consider the above, pursuant to the Board of Appeals of the County of Suffolk, 2004, Sec. 29.2.0. After consideration of the evidence and arguments presented, the Board makes the following findings of fact:

1. DENIED: The Board finds that the applicant is the property owner of the property described above, and that the applicant is the person described in the proposal submitted. The height and bulk of the structure are consistent with the regulations of the zoning district.

2. APPROVED: The Board concludes that the requirements for granting a variance have not been met, therefore, the variance cannot be granted.

3. APPROVED: The Board concedes that:
   1. There are no relevant or pertinent public or private uses of the property.
   2. There are no relevant or pertinent public or private uses of other properties.
   3. The Board of Appeals has not been provided with any evidence indicating the existence of the public good or the public interest that would be served by granting the variance.

The Board, therefore, has determined that an unnecessary hardship and/or that the variance is inconsistent with the following conditions:

[Signature]

Date:

[Date]

[Name]

Champion

Applicant's Notice of Appeal Request

[Text]

[Signature]

Date:

[Date]

[Name]

Champion
Agenda Item #B-3

19 HAGOOD AVENUE
(WESTSIDE)
TMS # 460-00-00-017

Request the second one-year extension of a vested right that expires on July 17, 2021, pursuant to Sec. 54-962. Vested right pertains to a special exception granted under Sec. 54-220 on July 17, 2018 for a 250-unit accommodations use in a MU-2/WH (Mixed Use 2 Workforce Housing) zone district.
Application for Variance, Special Exception, Reclassification, 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 the 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.
☐ Reclassification 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: ________________

Property Address ________________ 19 Highood Avenue ________________ TMS # ________________

Property Owner ________________ South Point Ventures, LLC ________________ Daytime Phone ________________ 843-722-8169 ________________

Applicant ________________ Womble Bond Dickinson (US) LLP ________________ Daytime Phone ________________ 843-720-4640 ________________

Applicant’s Mailing Address ________________ James M. Wilson, 5 Exchange Street, Charleston SC 29401 ________________

E-mail Address ________________ James.m.wilson@wbd.us.com ________________

Relationship of applicant to owner (same, representative, prospective buyer, etc.) ________________ Attorney ________________

Zoning of property ________________ MU-2/ZW/4. Accommodations ________________

Information required with application: (check information submitted)
☐ Scattered 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 CMAP plans and permission on scaled plans.
☐ Scattered 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 (2 sets)
☐ Plans or documents necessary to show compliance with special exception requirements (2 sets)
☐ Check, receipt card or your check payable to the City of Charleston
☐ YES or NO. Is this property restricted by any regulations covered by any other ordinance that conflicts with or prohibits
   the proposed land use encompassed in this permit application?  2013-1145 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, 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 ________________ Date ________________ 6/13/21

For office use only
Date application received ________________ Fee $ ________________ Time application received ________________
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):

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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 § 6-29-100)

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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 § 54-1:18, § 54-206, or sections in Article 5 (add as an attachment if necessary):

See Attached Exhibit A

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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.

Department of Planning, Preservation & Sustainability
2 George Street
Charleston, South Carolina 29401
(843) 724-3761
www.charleston.gov/zoning

5/19
EXHIBIT A

Application for Extension of Special Exception

Pursuant to Section 54-962 of the Ordinances of the City of Charleston, the Owner hereby requests a one-year extension of the previously approved Special Exception for a 250 room hotel project to be constructed at 19 Hagood Avenue. A copy of the Minutes from the previously approved Special Exception granted by the BZA on July 17, 2018, along with copies of the previously approved first one-year extension granted by the BZA on June 2, 2020, is attached hereto and incorporated herein by reference. This is the second one-year extension being requested.

The initial two-year vested right term for the Special Exception for 19 Hagood Avenue commenced on July 17, 2018 and extends through July 17, 2020. The first one-year extension granted by the BZA commenced on July 17, 2020 and extends through July 17, 2021. This second one-year extension period should commence on July 17, 2021 and extend through July 17, 2022.
PROPERTY LOCATION, TM NUMBER(S) AND DESCRIPTION OF REQUESTED:
19 HAGOOD AVE. (WESTSIDE) (460-00-00-017)
Request special exception under Sec. 54-220 to allow a 250-unit accommodations use in a MU2WH
(Mixed Use 2 Workforce Housing) zone district.

Action and Resolution:
The Board of Zoning Appeals hereby 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 Section(s) of the Zoning Ordinance listed above, which are applicable to the requested special exception(s), have not been met and therefore denies the special exception(s) for the following reasons:

APPROVED. The Board concludes that the standards in the Section(s) of the Zoning Ordinance listed above, which are applicable to the requested special exception(s), have been met and therefore grants the special exception(s) for the following reasons:

Order on Variance Request:
The Board of Zoning Appeals hereby held a public hearing to consider an appeal for a variance from the strict application of 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, rejects the variance for the following reasons:

APPROVED. The Board concludes that:
1. There are extraordinary and exceptional conditions pertaining to the particular place 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 place of property would effectively penalize or unreasonably restrict the utilization of the property; and
4. 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 impaired by the granting of the variance.

The Board, therefore, finds that the applicant has an unexcusable hardship and orders that the variance be granted, subject to the following conditions, if any:


Date Issued: Chairman

Approval of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Section 54-982. Applicants may not apply for the same request that has been denied by the Board until
The Board of Zoning Appeals hereby finds and determines that the property described in the application for variance, specified in Exhibit A to the application, is located at 1234 Elm Street, in the City of New York, County of New York, State of New York.

The Board hereby finds and determines that the variance is necessary for the safety and welfare of the community, and that the approval of the variance will not be detrimental to the public welfare or to the health, safety, comfort, or convenience of the residents of the neighborhood.

The Board hereby grants the variance, subject to the following conditions:

1. The variance shall be granted subject to the condition that the property owner shall comply with all applicable zoning regulations and laws.
2. The variance shall be valid for a period of five years from the date of approval.
3. The property owner shall keep the property in a clean and well-maintained condition.
4. The variance shall not be construed as a precedent for granting similar variances in the future.

The Board requests that the applicant provide evidence of compliance with the applicable zoning regulations and laws.

The variance is approved as of [Date].

[Signature]

[Date]

Order on Variance Request

The Board of Zoning Appeals has approved the variance request as outlined in the application. The variance is subject to the conditions outlined above. The applicant is required to comply with all applicable zoning regulations and laws.

[Signature]

[Date]
Agenda Item #B-4

246 SPRING STREET
(WESTSIDE)
TMS # 460-10-02-005

Request the fourth one-year extension of a vested right that expires on December 31, 2021, pursuant to Sec. 54-962. Vested right pertains to a special exception granted under Sec. 54-220 on December 18, 2012 for a 125-unit accommodations use in a MU-2/WH (Mixed Use 2 Work Force Housing) zone district
Application for Variance, Special Exception, Reclassification, or Extension

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. 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 in action of a zoning official (Attach Appeal Form).
- Extension of an unexpired Variance and/or Special Exception approval.

Meeting Date Requested: July 20, 2021

Property Address: 244 Spring Street

Property Owner: Spring Street Ventures, LLC

Applicant: Wendi Bond Dickinson (A) LLP

Applicant's Mailing Address: 300 Exchange Street, Charleston, SC 29401

Email Address: james.wilson@wbd-us.com

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

Zoning of property: BU-2/WH, Accommodations

Information required with application (check information submitted):
- School plans or plans showing elevations, showing the variance or special exception being requested (3 sets)
- For new construction or additions within a flood zone, show FVWU units and positions on scaled plans
- Scaled floor plans with rooms labeled and the total floor area for each developing unit noted are required for all density variances and building additions, unless corrected by the zoning staff (3 sets)
- Plans or documents necessary to show compliance with special exception requirements (3 sets)
- Check box 8: Is the proposed land use encompassed in this permit application? Yes or No? Is the property restricted by any recorded covenants, conditions, or restrictions that are contrary to, or conflict with, or prohibit the proposed land use? Yes or No? If Yes, list the restrictive covenants, conditions, or restrictions that are contrary to, or conflict with, or prohibit the proposed land use?

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(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: 6/11/21

Fee Schedule

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For office use only

Date application received: 

Signature: 

Fees paid: 

Receipt #: 

City of Charleston

Permit Number: 

Time application received: 

Fees paid: 

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 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 hardships. 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.
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 by 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 § 6-29-400)

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):

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See Attached Exhibit A.

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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.
EXHIBIT A

Application for Extension of Special Exception

Pursuant to Section 54-962 of the Ordinances of the City of Charleston, the Owner hereby requests a one-year extension of the previously approved Special Exception for a 125 room hotel project to be constructed at 246 Spring Street. A copy of the Minutes from the previously approved Special Exception granted by the BZA on December 18, 2012, along with copies of the previously approved first, second and third one-year extensions granted by the BZA on November 6, 2018, June 18, 2019, and June 2, 2020, are attached hereto and incorporated herein by reference. This is the fourth one-year extension being requested.

Pursuant to Section 54-962, the Permit Extension Joint Resolutions of 2010 and 2013 (as defined in Section 54-961) had the effect of suspending the running of the period of a vested right until December 31, 2016. As a result, the two-year vested right term for the Special Exception for 246 Spring Street commenced on January 1, 2017 and extended through December 31, 2018. The first one-year extension granted by the BZA commenced on January 1, 2019 and extended through December 31, 2019. The second one-year extension granted by the BZA commenced on January 1, 2020 and extends through December 31, 2020. The third one-year extension granted by the BZA commenced on January 1, 2021 and extends through December 31, 2023. Based on the foregoing, this fourth one-year extension period should commence on January 1, 2022 and extend through December 31, 2022.
PROPERTY LOCATION: THE NUMBERS AND DESCRIPTION OF ACCRESSION
240 SPRING ST, WESTBURY (410-395-0503)
Application for special use of the property in a Z-2A/Ro
(Under Zoning Resolution ZON 1.2.1, the special use is prohibited by the.

APPEAL OF SPECIAL EXCEPTION REQUEST
The Board of Zoning Appeals hereby requests an appeal to consider the above request for a special exception which has been made by the owner of the property, Mr. Smith, who resides at 240 Spring St, Westbury. The application is in accordance with the provisions of the Zoning Resolution ZON 1.2.1, the special use being prohibited by the.

Findings: The Board concludes that the property is in substantial conformity with the Zoning Resolution ZON 1.2.1, and that the special use, if granted, would not be detrimental to the public safety.

Date: [Signature]

ORDER on Violations Requested
The Board of Zoning Appeals hereby requests an appeal to consider the proposal for a special exception which has been made by the owner of the property, Mr. Smith, who resides at 240 Spring St, Westbury. The application is in accordance with the provisions of the Zoning Resolution ZON 1.2.1, the special use being prohibited by the.

APPEAL of SPECIAL EXCEPTION REQUEST
The Board of Zoning Appeals hereby requests an appeal to consider the above request for a special exception which has been made by the owner of the property, Mr. Smith, who resides at 240 Spring St, Westbury. The application is in accordance with the provisions of the Zoning Resolution ZON 1.2.1, the special use being prohibited by the.

Findings: The Board concludes that the property is in substantial conformity with the Zoning Resolution ZON 1.2.1, and that the special use, if granted, would not be detrimental to the public safety.

Date: [Signature]

APPEAL of SPECIAL EXCEPTION REQUEST
The Board of Zoning Appeals hereby requests an appeal to consider the above request for a special exception which has been made by the owner of the property, Mr. Smith, who resides at 240 Spring St, Westbury. The application is in accordance with the provisions of the Zoning Resolution ZON 1.2.1, the special use being prohibited by the.

Findings: The Board concludes that the property is in substantial conformity with the Zoning Resolution ZON 1.2.1, and that the special use, if granted, would not be detrimental to the public safety.

Date: [Signature]
PROPERTY LOCATION, THE NUMBER(S) AND DESCRIPTION OF REQUEST(S):
SHERBROOKE ST. (WESTSIDE) (680-10/05/09)

Request extension of a vested right that expires on December 31, 2018, pursuant to Sec. 54-362. Vested right pertains to a special exception granted under Sec. 54-229 on December 18, 2010, for a 12-story accommodations use in a MI-2005 (Mixed Use Work Force Housing) zone district.

Decision on Special Exception Request

The Board of Zoning Appeals of Zoning held 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 makes the following findings of fact and conclusions:

Q: DENIED. The Board concludes that the standards in the Section(s) of the Zoning Ordinance listed above, which are applicable to the requested special exception(s), have not been met and therefore denies that the special exception(s) be granted.

APPROVED. The Board concludes that the standards in the Section(s) of the Zoning Ordinance listed above, which are applicable to the requested special exception(s), have been met and therefore grants that the special exception(s) be granted, subject to the following conditions, if any:

Date Issued: November 19, 2019
Chairman

Order on Variance Request

The Board of Zoning Appeals of Zoning held a public hearing to consider an appeal for a variance from the strict application of 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:

Q: 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. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prevent or unnecessarily restrict the utilization of the property and
4. 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.

THE BOARD, THEREFORE, finds that the applicant has an unnecessary hardship and grants that the variance be granted, subject to the following conditions, if any:
PROPERTY LOCATION, TAX NUMBERS AND DESCRIPTION OF REQUEST:
218 SPRING ST, WESTBROOK (603-154-5109)

Proposed second floor addition of a residential unit that excludes on December 31, 2018, pursuant to Sec. 56-2, U.S. 1979, and an application submitted under Sec. 56-2B on December 18, 2012 for a 12-month extension granted, which was extended through 

Date: November 30, 2020

Chair

Zoning Board of Appeals

The Board of Zoning Appeals hereby acted upon the request of applicant and considered an application for a partial exception, and hereby determines that the findings and recommendations of the Board are as follows:

1. The Board finds that the applicant has met the requirements for granting a variance for the property described above.

2. The Board concludes that the requirements for granting a variance have been met and, therefore, recommends the variance be granted.

3. APPROVED: The Board recommends that:

   1. The variance is necessary and consistent with the public welfare and the public interest.
   2. The variance does not generally apply to similar properties in the area.
   3. The variance is the minimum variance that would effectively promote the public welfare and prevent the unreasonably detrimental effect of the proposed addition to adjacent property or to the public good, and the department of the district will be notified of the granting of the variance.

4. The Board, upon the application of the applicant, finds that the applicant has met the requirements for granting a variance, and, therefore, recommends the variance be granted, subject to the following conditions, if any:

   [List of conditions, if any]

   [Signatures of Board members]

   Approvals and extensions valid for 120 days from the approval date, unless extended in accordance with the provisions of Sec. 56-2B. Applicants may not apply for the same request that has not been denied by the Board until a period of one year has elapsed.
245 SPRING ST, (WESTSIDE) (456-10-02/005)
Request a third one-year extension of a vested right that expires on December 31, 2026, pursuant to Sec. 54-602. Vested right pertains to a special exception granted under Sec. 54-220 on December 18, 2012 for a 125-unit accommodations use in a MU-2 (Mixed-Use 2 Work Force Housing) zone district.

Section 1: Request for Extension

The Board of Zoning Appeals hereby held a public meeting to consider the above application for a special exception which may be granted by the Board pursuant to the Zoning Ordinance for the preparing of the special exception. After consideration of the evidence and arguments submitted, the Board voted as follows:

☐ DENIED. The Board finds that the request for the requested special exception has not been met and therefore denying this particular request.

☑ APPROVED. The Board hereby grants the request in accordance with the Zoning Ordinance, which provides for the granting of a special exception, subject to the following conditions:

Date: [Date]
Chairman

Section 2: Conditions

The Board of Zoning Appeals, after careful consideration of the evidence and arguments presented, hereby adopts the following conditions as a condition of granting the special exception:

1. The premises shall be kept in a clean and sanitary condition at all times.
2. The premises shall be operated in a manner consistent with the zoning regulations.
3. The premises shall be maintained in a manner that complies with all applicable laws and regulations.
4. The premises shall be operated in a manner that is consistent with the intentions of the zoning regulations.

The Board, therefore, finds that the conditions are reasonable and necessary for the protection and preservation of the area and hereby grants the special exception subject to the following conditions:
Agenda Item #B-5

317 SAVALNNAH HIGHWAY
TMS # 421-07-00-003

Request the fourth one-year extension of a vested right that expires on December 4, 2021, pursuant to Sec. 54-962. Vested right pertains to a special exception granted under Sec. 54-220 on December 4, 2007 for a 150-unit accommodations use in a GB-A (General Business-Accommodations) zone district.
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 the 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: ____________ July 20, 2021

Property Address ____________ 317 Savannah Highway ____________ TMS # ____________ 421-07-00-003 ____________

Property Owner ____________ Overview Ventures, LLC ____________ Daytime Phone ____________ 843-722-8159 ____________

Applicant ____________ Wamble Bond Dickinson (US) LLP ____________ Daytime Phone ____________ 843-720-3640 ____________

Applicant’s Mailing Address ____________ James M. Wilson 5 Exchange Street, Charleston SC 29401 ____________

Email Address ____________ James.wilson@wbd-usa.com ____________

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

Zoning of property ____________ GB ____________ Accommodations ____________

In support of our application, please submit:
☐ Sched Plan of proposed building(s), showing the building(s) or special exception(s) being requested (3 sets)
☐ For new construction or additions within a flood zone, draw FVAC units and platform on scaled plans
☐ Scaled floor plans with rooms labeled and the total floor area for each dwelling unit needed for all details (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)
☐ WSIP (US $14,000) - This Property Reviewed by an Economic Team and a team is required to certify that, consistent with or prohibited by the proposed land use encompassed in the permit application (S.C. Code 1-29-1115 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 inspection.

Applicant ____________ Date ____________ 6/11/21

For office use only

Fee $ ____________ Time application received ____________

Received ____________
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 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 finds the following conditions:
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 § 6-29-801)

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 § 54-116, § 54-206, or sections in Article 5 (add as an attachment if necessary):

See Attached Exhibit A.

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.
EXHIBIT A

Application for Extension of Special Exception

Pursuant to Section 54-962 of the Ordinances of the City of Charleston, the Owner hereby requests a one-year extension of the previously approved Special Exception for a 150 room hotel project to be constructed at 317 Savannah Highway. A copy of the Minutes from the previously approved Special Exception granted by the BZA on December 4, 2007, along with copies of the previously approved first, second and third one-year extensions granted by the BZA on November 6, 2018, June 18, 2019, and June 2, 2020, are attached hereto and incorporated herein by reference. This is the fourth one-year extension being requested.

Pursuant to Section 54-962, the Permit Extension Joint Resolutions of 2018 and 2019 (as defined in Section 54-961) had the effect of suspending the running of the period of a vested right from January 1, 2008 until December 31, 2016. As a result, the two-year vested right term for the Special Exception for 317 Savannah Highway commenced on December 4, 2007, was suspended from January 1, 2008 until December 31, 2016, re-commenced on January 1, 2017, and extended through December 4, 2018. The first one-year extension granted by the BZA commenced on December 5, 2018 and extended through December 4, 2019. The second one-year extension granted by the BZA commenced on December 5, 2019 and extends through December 4, 2020. The third one-year extension granted by the BZA commenced on December 5, 2020 and extends through December 4, 2021. Based on the foregoing, this fourth one-year extension period should commence on December 5, 2021 and extend through December 4, 2022.
PROPERTY LOCATION, TMS NUMBER, AND DESCRIPTION OF REQUEST:

317 SAVANNAH HWY (421-07-69-903)
Request one-year extension of a vested right that expires on December 31, 2016, pursuant to Sec. 54-662. Vesting right pertains to a special exception granted until Sec. 54-662 on December 4, 2007 for 110-unit accommodations use in a GS-A (General Business/ Accommodations) zone district.

Recommendation: Application for a special exception denied.

Denial:
The Board concludes that the requirements for granting a variance have not been met. All the requirements are not met and therefore, it was the determination to the property to be granted and to the following conditions.

Date Issued: 1/1/07
Chairman

Order on Variance Request:
The Board of Zoning Appeals held a public hearing to consider an appeal for a variance from the special application of a 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.

Denial:
The Board concludes that the requirements for granting a variance have not been met and, therefore, orders that the variance be denied.

Approval:
The Board concludes that
1. All the requirements are met.
2. The requirements are not met and therefore, it was the determination to the property to be granted and to the following conditions.

The Board, therefore, finds that the applicant has an unnecessary hardship and orders that the variance be granted, subject to the following conditions.
Property Location, Number, and Description of Requested

117 Savannah Hwy (432-0790-000)

Request a third one-year extension of a vested right that expires on December 8, 2020, pursuant to Sec. 54-31 and a special exception granted under Sec. 54-39 on December 8, 2007 for a Zoning Variance for a General Business Accommodations zone district.

Amended Zoning Variance Request

The Board of Zoning Appeals hereby issues a public hearing to consider the above request.

1. DENIED. The Board finds that the request is for an extension of the Zoning Variance for a General Business Accommodations zone district. The requested extension has not been met and therefore is not in the public interest.

2. PROPOSED. The Board recommends that the request be granted in accordance with the following findings:

- The extension is necessary to ensure the continued use of the property as a General Business Accommodations zone district.

3. APPEAL. The Hearing Officer will consider the following findings of fact and conclusions:

- The extension is necessary to ensure the continued use of the property as a General Business Accommodations zone district.

4. APPROVED. The Board finds that the requirements for granting a variance have not been met and therefore denies the request.

5. DENIED. The Board finds that the requirements for granting a variance have not been met and therefore denies the request.

Office on Variance Request:

[Signature]

[Signature]

[Date]

[Date]
Application for Variance (Special Exception) or Resubdivision to the Board of Zoning Adjustment - Form 1

City of Charleston

Introductions: Applicants must complete and submit this form along with the required information and pay to the zoning division office at 15 Calhoun Street. Applications are due by 12 noon on the deadline date. A sign will be posted at the property, and a public hearing will be conducted by the Board of Zoning Adjustment before the Board meets by August. Such a public hearing of the Board is limited to 30 new applications. Additional applications may be submitted prior to the deadline, but based on the agenda of the next scheduled meeting. There is a five-year deadline period following the date of Board action. No permit may be issued until this appeal period has expired. An appeal to the Board stays all further action on the application.

THE APPLICANT MUST APPEAR:
1. If a variance or special exception is denied, as indicated in the second paragraph of the application.
2. If the Board of Zoning Adjustment is adverse to the decision of the Board or action of the meeting, as stated on the application.

MEETING DATE REQUESTED: November 29, 2007

Property Address: 317 Savannah Ave., Charleston, SC 29401

Property Owner: Bennett Hufnall

Appliances: BIA, Inc. (David Dziewulske)

Applicant Meeting Address: 29 Leesbrook Drive, Bluffton, SC 29910

Email Address: BIA@charleston.com

Relationship of applicants to owner, partner, or representative, if any, are here represented.

Banking of property: BIA

Information required with applications (check information submitted):

1. A scaled plat of property, including a description of the property being requested (3) and
2. A scaled plat of property, including a description of the property being requested (3)
3. An aerial photograph showing the property being requested (3)
4. A scaled plat of property, including a description of the property being requested (3)
5. A scaled plat of property, including a description of the property being requested (3)

Optional information which will be helpful to the Board:

1. Description

If necessary, this information will be made available to the public.

I certify that the information on this application and any attachments is correct, that the proposed improvements comply with zoning and neighborhood agreements, 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 notice of the meeting before the Board, and inspected

Applicant: BIA, Inc.

Date: November 29, 2007

For information contact:

Department of Planning, Preservation & Economic Initiatives
23 Calhoun Street, 3rd Floor
Charleston, South Carolina 29401

Phone (843) 302-4275
Fax: (843) 302-4272
Email: PECI@charleston.gov
Agenda Item #B-6

235 EAST BAY STREET, 36 NORTH MARKET STREET AND 5 GUIGNARD STREET
TMS # 458-05-03-041,138 AND 036

Request the third one-year extension of a vested right that expires on July 18, 2021, pursuant to Sec. 54-962. Vested right pertains to a special exception granted under Sec. 54-220 on July 18, 2017 with conditions for a 50-unit accommodations use in a GB-A (General Business-Accommodations) zone district.
Application for Variance, Special Exception, Reconsideration or Extension - Page 1 of 2
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: ______ July 20, 2021 ______
Property Address ________ 235 E. Bay, 36 N. Market Street, 5 Goughard Street _______ TMS #: 458-05-03-041, -138, -636 ______
Property Owner ________ Pierce Development, LLC ___________ Daytime Phone ________ 843-672-1111 ____________
Applicant ________ Womble Bond Dickinson (US) LLP ___________ Daytime Phone ________ 643-720-4460 ______
Applicant’s Mailing Address ________ James M. Wilson 5 Exchange Street, Charleston SC 29401 ______
_________________________________________________________ E-Mail Address ________ james.wilson@wbd.us.com ______
_________________________________________________________ Relationship of applicant to owner (name, representative, prospective buyer, etc.) ________ Attorney ________ Zoning ________
of property ________ Gill Accommodations ______

Information required with application - (check information submitted)
☐ Site plan, plot plan (including elevations, showing the variances or special exceptions) being requested (3 sets)
☐ Floor plans for new construction or additions within a fixed space, show HVAC units and all plumbing on all plans.
☐ Floor plans for new or existing buildings, and the total floor area for each dwelling unit noted are required for all density zoning and building additions, unless exempted by the Zoning staff (3 sets)
☐ Plans of documents necessary to show compliance with special exception requirements (2 sets)
☐ Check credit card or cash (in checks payable to the City of Charleston)
☐ Yes or No - Is this Property listed by any recorded covenant or other agreement (3 sets)
☐ Does the proposed land use in this permit application? § 6-29-1145 of the South Carolina Code of Laws

Optional but very useful Information:
☐ Photographs
☐ Letters of support from neighbors or organizations directly affected by your request

I certify that the information on the 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 meeting.

Applicant ___________________________ Date: ______/11/21 ______
For official use only
Date application received ______
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 (use as an attachment if necessary):

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;
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 § 6-21-800)

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):

See Attached Exhibit A

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.
EXHIBIT A

Application for Extension of Special Exception

Pursuant to Section 54-962 of the Ordinances of the City of Charleston, the Owner hereby requests a one-year extension of the previously approved Special Exception for a 50 room hotel and related facilities to be constructed at 235 East Bay Street, 36 N. Market Street and 5 Guignard Street. A copy of the Minutes from the previously approved Special Exception granted by the BZA on July 18, 2017, along with copies of the previously approved first and second one-year extensions granted by the BZA on January 15, 2019, and July 21, 2020, are attached hereto and incorporated herein by reference. This is the third one-year extension being requested.

The two-year vested right term for the Special Exception for 235 East Bay Street, 36 N. Market Street and 5 Guignard Street commenced upon approval by the BZA on July 18, 2017 and extended through July 18, 2019. The first one-year extension period granted by the BZA commenced on July 19, 2019 and extended through July 18, 2020. The second one-year extension period granted by the BZA commenced on July 19, 2020 and extends through July 18, 2021. This third one-year extension period should commence on July 19, 2021 and extend through July 18, 2022.
The Board of Zoning Appeals held a public hearing to consider the following request for a special exception, which was submitted by the Board pursuant to the Zoning Ordinance for the property described below. After consideration of the evidence and arguments presented, the Board makes the following findings of fact and conclusions:

1. DENIED: The Board concludes that the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions, have not been met and therefore denies the special exception.

2. APPROVED: The Board concludes that the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions, have been met and therefore approves the special exception.

Ordered on variance request:

The Board of Zoning Appeals hereby refers the following variance request to the Board for decision on the basis of the evidence and arguments presented.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted does not meet the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted meets the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted does not meet the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

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Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted does not meet the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

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Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted does not meet the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted meets the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted does not meet the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted meets the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted does not meet the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted meets the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

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Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted meets the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted does not meet the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted meets the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted does not meet the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted meets the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted does not meet the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted meets the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted does not meet the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted meets the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted does not meet the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.

Ordered on variance request:

The Board of Zoning Appeals hereby finds that the evidence submitted meets the standards set forth in the Section(s) of the Zoning Ordinance, which are applicable to the requested special exceptions.
Agenda Item #B-7

16 BROUGHTON ROAD
(CRESCENT)
TMS # 421-14-00-046

Request variance from sec. 54-301 to allow an addition (garden room) to an existing garage with a 5.4-ft. east side setback and a 6.4-ft. rear setback (9-ft. and 25-ft. required).

Request special exception under Sec. 54-110 to allow an existing hvac platform expansion that extends a non-conforming 3.2-ft. rear setback (25-ft. required).

Zoned SR-8
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: ____________
July 20, 2021

Property Address ____________
16 Boscough Road
TMS # ____________
42114-00-046

Property Owner ____________
H. N., Riter III and Ann K. Riter
Daytime Phone ____________

Applicant ____________
Sebastian von Marshall Architect, LLC
Daytime Phone ____________
843-790-4824

Applicant's Mailing Address ____________
5 Lawson Street, Charleston, SC 29401

E-mail Address sebastian.von.marshall@gmail.com

Relationship of applicant to owner (same, representative, prospective buyer, other) ____________
Design Professional

Zoning of property ____________
SR-8

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 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 check payable to the City of Charleston)
✓ YES or NO – Is the Property restricted by any recorded covenant that is contrary to 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 ____________
Sebastian von Marshall
6/31/2021

For office use only
Date application received ____________
Time application received ____________
Staffperson ____________
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):

The applicant is requesting a variance pursuant to section 54-301, for an addition to an existing Accessory structure with a rear yard setback of 6.5' (25' required). 1. The existing accessory structure was granted an exception pursuant to §54-506 in 2006, locating it within the 25' rear yard setback. 2. It appears to the applicant that other accessory... structures nearby exceed the 600sf limit for the exception in §54-506 making them existing non-conforming. 3. As a result, this accessory structure can not be enlarged without a variance. 4. The accessory structure is located in the rear of the property with limited visibility from the public ROW. The owner is reaching out to adjacent neighbors for support of the proposed addition. Furthermore, there is precedent for Accessory Structures larger than 600sf located in the safe and rear yard setback in this neighborhood as mentioned in item 2, above.

**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 affecting 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):

- Request for a Special Exception pursuant to Section 54-110, extending an existing non-conforming rear yard setback (25' required, 6.5' existing) of an existing non-conforming garage mechanical stand.
- The proposed extension would follow the existing 6.5' existing setback. The proposal would locate additional equipment in line with the existing units.

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.
Agenda Item #B-8

1708 BATTERY ISLAND DRIVE
(BATTERY ISLAND)
TMS # 334-05-00-023

Request variance from Sec. 54-824 to allow a subdivision to create four lots and to allow, Lot 2, Lot 3 and residual tract to not have frontage on a public-right-of-way.

Request variance from Sec. 54-301 to allow Lot 1 having a 10.9-ft. rear setback and a 12.49-ft. west side setback (25-ft. and 15-ft. required).

Request variance from Sec. 54-301 to allow Lot 2 with a 10.9-ft. front setback, a 58.07 total front and rear setback (50-ft. and 75-ft. required.

Zoned RR-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 decision of a zoning official (attach Appeal form).
☐ Extension of an expired Variance and/or Special Exception approval.

MEETING DATE REQUESTED: July 25, 2023

Property Address: 201 Larkspur Dr., Charleston, SC 29407

Property Owner: [Name]

Applicant: [Name]

Applicant’s Mailing Address: [Address]

E-mail Address: [Email]

Relationship of applicant to owner (same, representative, prospective buyer, other) [Representative]

Zoning of property: [Zoning]

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 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)
☐ Plats 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 the Property restricted by any recorded covenants that is contrary to, conflicts with or prohibits the proposed land use contained in this permit application? § 6-20-1145 of the South Carolina Code of Laws

Optional but very helpful information:

☐ Photographs
☐ Letters or opinions 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]

Fee: $ [Fee]

Time application received: [Time]
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):

Section 54-202 – Variances to allow reduction of various required setbacks for lots 1 and 2 (please refer to variance letter enclosed)

Section 54-204 – Variances from required height of way frontage for lots 2 and 3 (please refer to variance letter enclosed)

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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 §§ 6-29-801)

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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):

No special exceptions are requested within this application.

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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 D 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

5/19
June 8, 2021

City of Charleston Board of Zoning Appeals
Lee Batchelder – Zoning Administrator
Planning, Preservation, and Sustainability
2 George St.
Charleston, SC 29401

On behalf of our client, we are requesting variances in order to subdivide a single parcel into three single-family lots and one residual parcel. Lot 1 will retain frontage onto Battery Island Dr. Lots 2, 3 and the residual parcel will be accessible by the proposed ingress/egress easement. See attached Variance Exhibit.

The following are the code requirements for which we are requesting the variances from:

- Section 54-301 – Height, area, and setback regulations to reduce the rear property line setbacks for lot 1
- Section 54-301 – Height, area, and setback regulations to reduce the front property line, and to reduce the combined front and rear setback for lot 2
- Section 54-834 – Design standards for new lots to omit the required right-of-way frontage for lots 2 and 3.

The following is the variance test to support our request.

A variance may be granted in an individual case of unnecessary hardship if the Board makes and explains in writing the following findings:

a. there are extraordinary and exceptional conditions pertaining to the particular piece of property;
This site currently consists of three single-family houses occupied by three separate families. The previous owner's children built their houses on the property approximately 1,600' long with 157.17' frontage onto the Battery Island Dr. Due to the shape of the property, new houses were built one behind the other and currently share an access. The property was left to the children after the owners passing and is currently jointly owned. This variance request is to provide conditions where the property can be subdivided allowing each separate family their own piece of the property, that can be further passed on to their own children.

b. these conditions do not generally apply to other property in the vicinity;
The conditions described do not generally exist on adjacent properties.
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

Due to the proximity of the houses to the existing property lines and to each other, the subdivision of the property within the zoning code restrictions and requirements is impossible. This prevents the existing owners from being able to own an individual piece of inheritable land. There is no space at the right of way frontage to provide required frontage to each lot, therefore it is requested that the frontage requirement be omitted and the access to lots 2, 3 and residual lots be provided through a proposed easement. There is also not enough space between the houses to provide required setbacks for each lot, therefore it is requested that some setbacks be reduced. See the Variance Exhibit for more detail.

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 granting of the proposed variances will allow this property to be subdivided and provide each household with an individual inheritable lot. Allowing the subdivision, reducing the setbacks and omitting frontage on a right of way will not harm the character of the neighborhood, it will not be detrimental to adjacent properties or to the public goods. All the properties are existing on the land. The purpose of the subdivision is solely to provide separate lots to each family, which can be passed on to their children.

Please feel free to reach out if you have any questions or need any additional information regarding this submittal.

Katarzyna Stafford

Katarzyna Stafford
Landscape Designer
June 13, 2021

City Of Charleston
Board of Zoning Appeals

Re: 1710 Battery Island Drive, Charleston, SC 29412

To Whom It May Concern:

We are writing this letter in support of the application for a variance to subdivide the real property located at 1710 Battery Island on James Island. The property has been in the Backman family for many decades, and the three homes built thereon were constructed over fifty years ago. House #1 was built sometime around 1942, House #2 was built around 1950, and House #3 was built around 1971. It is time to subdivide the property so that each homeowner can be individually responsible for the upkeep and property taxes for their respective parcel. Subdividing the property will allow us to better pass the property on to the next generation and eliminate the headaches of shared taxes and maintenance costs. The property cannot continue to exist in its current state under one tax map number, and each of us want the freedom to continue the family legacy in our way by separating the property.

Respectfully,

Yolanda B. Small, on behalf of:

Yolanda B. Small
Tara D. Backman
Elizabeth R. Richardson
William Goss,
Owners of 1710 Battery Island Drive
TMS No. 334-05-06-023
Agenda Item #B-9

12 KING STREET
(CHARLESTOWNE)
TMS # 457-16-02-065

Request special exception under Sec. 54-110 to allow a 1-story porch addition that extends a non-conforming 1.5-ft. north side setback (3-ft. required).

Request variance from Sec. 54-301 to allow a 1-story porch addition/stair/landing having a 56% lot occupancy (35% limitation; existing lot occupancy 51.4%).

Zoned SR-4
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 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:
Property Address: 12 King Street, Charleston SC 29401
TMS #: 457-16-02-085

Property Owner: Gordon and Bonnie Gear
Daytime Phone: 843-814-2149

Applicant: David Richards, Architect
Daytime Phone: 843-708-0083

Applicant’s Mailing Address: 158 Broad Street, Charleston SC 29401
E-mail Address: davidrichardsarchitect@comcast.net

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

Zoning of property: SR-4

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 are required for all density variances and building additions, unless exempted by the Zoning officer (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 and use encompassed in this permit? If YES - show the covenant.

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: 6/9/2021

For office use only
Data application received ____________________ Staff person ____________________ 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 Attachment

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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 § 6-29A(9))

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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 Attachment

---

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.
Lee C. Batchelder  
Zoning, Administrator  
City of Charleston - Department of Planning and Zoning  
2 George Street, Charleston, SC 29401

June 9, 2021

Re: 12 King Street, Charleston, SC  
Application for Zoning Variance and Special Exception

ATTACHMENT TO VARIANCE AND SPECIAL EXCEPTION REQUEST

Please review below the Variance. The response we need for an increase in the lot coverage from 51.4% to 56% and a Special Exception for the North side setback infringement.

Percentage of Lot Coverage  - This is a Variance request

PER CHARLESTON COUNTY ORDINANCE, ARTICLE 3 - SITE REGULATIONS
PART I - SECTION 54-303.  
ALLOWABLE LOT COVERAGE: 35%

CURRENT SITE SQUARE FOOTAGE;  
TOTAL SQ. FOOTAGE 8,998 SQ. FT (APPROX.)

EXISTING BUILDING FOOTPRINT: 1,450 SQ. FT (APPROX.)

PROPOSED BUILDING FOOTPRINT: 1,500 SQ. FT. (APPROX.)

Our response to the required Variance Test: [https://www.charleston-

The property is a uniquely historic Charleston property located on a corner lot on the Southeast Corner of King and Lambsall Street. Like most historic properties in the historic district and more specifically "south of Broad" the house currently exceed the allowable lot coverage stipulated in the current City of Charleston Zoning Ordinance. Similar to most of these historic homes, when this house was constructed, there were no Zoning Ordinances in place to govern the house footprint relative to the property size. The homes were generally built to accommodate the original utilitarian
needs, design preferences as well as the budget of the Owner with little regard to the percentage of
lot coverage.

The current Zoning Ordinance that now governs the allowable lot coverage percentage was written
over in recent years. I believe the current zoning ordinance was an attempt to control the over-
development related to new construction of the both the City of Charleston both on and off the
Peninsula. For existing historic homes (generally on the Peninsula of Charleston), the intent of the
Zoning Ordinance is two-fold. First the Zoning Ordinance governs the expansion of homes in order to
protect the delicate architectural character of the neighborhoods within the historic district. It also
correctly is an effort to protect the rights of the neighbors that surround the home of the Owner that
is requesting and alteration to his or her home.

The property located at 12 King meets the Variance Test as set forth by the City of Charleston as it is
a unique and addresses the intent of the Zoning Ordinance for the following reasons:

In respect to the protection of the delicate architectural character of the neighborhood, this proposed
alteration not only protects the character of the neighborhood it improves it. This historic home
once had a porch on the front (West side) of the house which faces King Street. Our ambition with
this proposal is to restore the home to some semblance of its former character and essence. The
Board of Architectural staff has taken and initial look at the proposal and although they cannot make
a formal recommendation until it has received RCAL approval they are in support retaining a porch to
the West elevation. A review of the drawings shows the vast improvement to the appearance of the
East Elevation from its current out of character configuration.

The second aspect mentioned above which is the protection of the rights of adjacent property owners is
captured in Items a, b, c, & d of the Variance Test. That Variance test in general terms requires that
the property meet the following stipulations.

da. there are extraordinary and exceptional conditions pertaining to the particular
   piece of property. Applicants Response: As stated above 12 King Street is a corner lot
   located on the Southeast corner of King and Lamboll Street. Additionally, the main
   body of house of 12 King Street is set back approx. 17’ from the West property line.
   Most of the homes on both sides of King Street front their King Street facing property
   boundary. The proposed porch addition is specified to 11’ in depth which will still
   allow that there is approx. 6’ of distance from the face of the porch to the West side
   property line.

b. these conditions do not generally apply to other property in the vicinity. Applicants
   Response: As stated above the unique aspects of 12 King Street are that it is located
   on the South west side of a corner lot and is currently recessed from the King Street
   facing property boundary.

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 - Application Response: Renovating this home and returning it once
   existing front porch to the front that late nineteenth century home when there is no
   impact on the neighbors would be a significant and unreasonable restriction of the
   utilization of the property.

d. the authorization of a variance will not be of substantial detriment to adjacent
   property or to the public good, and the character of the district will not be harmed
   by the granting of the variance. Application Response: As stated above 12 King Street
   is a corner lot located on the Southeast corner of King and Lamboll Street. The house
on the North side of Lamboll Street is also set to the North of the property on which it sits. This provides an approximate distance of 40 from the proposed porch addition to the closest point to the home on that property. At this distance there is no blockage of the light that would ever reach that home. Because the porch is open any restriction of wind would be extremely minimal. Any impact to the property to the south of 12 King street would be exceedingly minimal if not nonexistent as well. It could be easily argued that the restoration of the home will increase the property values of all of the adjacent property owners as it improves the historic character and beauty of this area of Charleston.

**Extending a non-conforming setback on the North side of the property. This a "Special Exception Request.**

As stated above 12 King Street like most of the properties located in the historic district of Charleston was constructed before the current zoning regulations were set in place. The entire existing north elevation of the house sits outside of the North side setback imposed in the current zoning ordinances. In respect to Variance test the reason this application should be granted a "Special Exception" are the same as the reason stated above for a "Lot Coverage Variance."

The second aspect mentioned above which is the protection of the rights of adjacent property owners is captured in items b, c, d, of the Variance Test, That Variance test in general terms require that the property meet the following stipulations.

a. there are extraordinary and exceptional conditions pertaining to the particular piece of property. Applicant's Response: As stated above 12 King Street is a corner lot located on the Southeast corner of King and Lamboll Street. Additionally, the main body of house of 12 King Street is set back approx. 17 from the West property line. Most of the homes on both sides of King Street front their King Street facing property boundary. The proposed porch addition is specified to 11' in depth which will still allow that there is approx. 6' of distance from the face of the porch to the West side property line.

b. These conditions do not generally apply to other property in the vicinity. Applicant’s Response: Response: - As stated above the unique aspects of 12 King street are that it is located on the South west side of a corner lot and is cutaneously recessed from the King Street facing property boundary.

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. Applicant’s Response: Response: - Removing this home and returning a once existing front porch to the front this late nineteenth century home when there is no impact on the neighbors would be a significant and unreasonable restriction of the utilization of the property.

d. The application 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. Applicant’s Response: As stated above 12 King Street is a corner lot located on the Southeast corner of King and Lamboll Street. The house on the North side of Lamboll Street is also set to the North of the property on which it sits. This provides an approximate distance of 40 from the proposed porch addition to the closest point to the home on that property. At this distance there is no blockage of the light that would ever reach that home. Because the porch is open any restriction of
wind would be extremely minimal. Any impact to the property to the south of 12 King street would be exceedingly minimal if not nonexistent as well. It could be easily argued that the restoration of the home will increase the property values of all of the adjacent property owners as it improves the historic character and beauty of this area of Charleston.

In conclusion, due to the unique characteristics of the property the proposal to rebuild the porch of 12 King Street falls well within justifiable allowances for the approval of the above request noting request for a “Percent of Lot Coverage Variance” and the request for a “Special Exception for a North side setback” requirement.

Respectfully,

David Richards
Agenda Item #B-10

75 SOUTH BATTERY STREET
(CHARLESTOWNE)
TMS # 457-11-02-040

Request special exception under Sec. 54-110 to allow an addition (master bedroom addition) to a non-conforming building footprint that does not meet the required 9-ft. east side setback (4.8-ft. existing).

Zoned SR-2
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 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: July 20

Property Address 79 South Battery Street ______________ TMS # 987-11-02-070

Property Owner Lyle and Alison Passino ______________ Daytime Phone 843-412-9586

Applicant Victoria Guss, Beau Cheney Architects ______________ Daytime Phone 843-722-2040

Applicant’s Mailing Address 1 King Street Suite #102 ______________ E-mail Address victoria@beaucheney.com

Charleston, SC 29401

Relationship of applicant to owner (name, representative, prospective buyer, owner). Architect Firm

Zoning of property SE-2

Information required with application: (check information submitted)
- ☐ Scanned 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 platforms on scanned plans
- ☐ Scanned 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? YES or NO – § 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(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 6/15/21

For office use only
Date application received ______________ Fee $ ______________ Time application received ______________
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 § 6-29-600)

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):

We are requesting a special exception to allow a second floor bedroom addition to be constructed over an existing one story structure that has a non-conforming setback of 4'-9" to 7'-0" on the east side, (9' required).

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.
SURVEY NOTES

1. Reference Tax Map Number 457-11-02-043
2. Reference Plat Book C Page 089
3. Property Owners: Allison Brooke Lewis & Lyle Noel Possink
4. Surveyor has made no investigation or independent search for easements of record, encroachments, restrictive covenants, ownership information, or any other survey-related items that may affect the parcel.
5. No subsurface environmental conditions or utilities were examined or located by this survey.
6. Anything shown outside the defined boundary is for descriptive purposes only.
7. The lots have been checked against the Flood Insurance Rate Map (FEMA) and the base of this survey is based on the FEMA flood map and lot located in Flood Zone AE (1%)
8. ARCA: 0.957 Acre  7281 Sq.Ft.

PLAT OF
NEW GENERATOR STAND
LOT 118
75 SOUTH BATTERY
LOCATED
CITY OF CHARLESTON
CHARLESTON COUNTY, SOUTH CAROLINA

SURVEYOR'S STATEMENT
I hereby attest that to the best of my knowledge, information, and belief, the survey data herein was made in accordance with the requirements of the Minimum Standards Manual for the Preparation of Surveys by a Surveyor as specified therein.

By:
James G. Parrington, PLS. No. 1029
Date: 10/10/20

PREPARED EXCLUSIVELY FOR:
Allison Brooke Lewis & Lyle Noel Possink

LOCATIONS:
75 South Battery Street
Charleston, SC 29401
Date

Board of Zoning Appeals
City of Charleston
2 George Street
Charleston, SC 29401

Members of the Board of Zoning Appeals,

Lyle and Ali Papazian invited us to review and comment on their proposed plans for the addition to their home at 75 South Battery. After reviewing the drawings and speaking with them, we have no objections to this project and support the zoning requests, as well as the design of the renovation and hope it will be approved.

Sincerely,

Mary Alice Finning
(print name)

Mary Alice Finning
(signature)

30 Murray Boulevard / Charleston SC 29401
(address)

06-09-21
(date)
Date

Board of Zoning Appeals
City of Charleston
2 George Street
Charleston, SC 29401

Members of the Board of Zoning Appeals,

Lyne and Ali Passink invited us to review and comment on their proposed plans for the addition to their home at 75 South Battery. After reviewing the drawings and speaking with them, we have no objections to this project and support the zoning requests, as well as the design of the renovation and hope it will be approved.

Sincerely,

Lynd A. Pearson

[Signature]

111 South Battery
(address) C0834 CF, SC 29401

6/16/2021
(date)
Date 6/16/21

Board of Zoning Appeals
City of Charleston
2 George Street
Charleston, SC 29401

Members of the Board of Zoning Appeals,

Lyle and Ali Passim invited us to review and comment on their proposed plans for the addition to their home at 75 South Battery. After reviewing the drawings and speaking with them, we have no objections to this project and support the zoning requests, as well as the design of the renovation and hope it will be approved.

Sincerely,

[Signature]

(print name) [signature]

17 Canvas E. Buss
(address)

[Signature]

(print name) [signature]

6/16/21

(stake)
Agenda Item #B-11

99 SOUTH BATTERY STREET
(CHARLESTOWNE)
TMS # 457-11-02-049

Request variance from Sec. 54-301 to allow a hvac platform for a generator with a 3-ft. west side setback (9-ft. required).

Zoned SR-2
Application for Variance, Special Exception, Reconsideration, or Extension to the Board of Zoning Appeals – Zoning (RZA-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:
- Property Address: 99 South Battery St
- Property Owner: ANNIS G. McCULLOUGH
- Daytime Phone: 943-447-8757
- Applicant: ANDREW WALL
- Daytime Phone: 943-447-8757
- Applicant's Mailing Address: 4838 Jenkins Ave

NORTH CHARLESTON, SC 29405

Relationship of applicant to owner (pars, representative, prospective buyer, other REPRESENTATIVE:

Zoning of property:

Information required with application: (check information submitted)

☒ Scale 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 exempted by the Zoning staff) (3 sets)
☒ Drawings 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, if so, state by whom or for what purpose?
☒ This proposed land use encompassed in this permit application is contrary to, conflicts with or prohibits the proposed land use encompassed in this permit application? (check all that apply)
☒ § 6-29-115S 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: 6/14/21

For office use only
Date application received ____________________ Time application received __________
Signature __________________________ Fee $ __________

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

Owner would like to install a standby generator.

Unfortunately, there is not a suitable location in the back yard due to the rear set back.

It would also be very visible from Limehouse St (Photo 1), because it will need to be on a 7’ platform. Therefore, we would like you to consider letting us install within set back, on the right hand side to the rear of house as shown on site plan. As you can see from (Photo 2) it will be very difficult to see from 5 battery at due to Iron gate, side fence and tree screening, visibility will also be hampered by the fact it will be almost 75’ set back from front property line.

**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 exceptions 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.
99 S Battery St

2" x 4" cap

2" x 12" band

1" x 6"

1" x 4"

Painted to match house

7' 0"

5' 0" side

3' 0" end

3/4" = 1'
PHOTO 1  View from Limehouse st
Fw: Anita Zucker/Popowski - 995 Battery Generator

From: Andrew Wall (andrewwall74@yahoo.com)
To: andrewwall74@yahoo.com
Date: Wednesday, June 16, 2021, 6:13 PM EDT

--- Forwarded Message ---
From: "david@popowski-law.com" <david@popowski-law.com>
To: Anita Zucker <anitaz@herschel.com>
Cc: Andrew Wall <andrewwall74@yahoo.com>
Sent: Tuesday, March 16, 2021, 12:54:56 PM EDT
Subject: Zucker/Popowski - Generator - Nistad Response

See below.

--- Original Message ---
Subject: Rec: Zucker/Popowski - Generator

From: Peter Nistad <peter.nistad@nvestigators.com>
Date: Tue, March 16, 2021 1:32 pm
To: david@popowski-law.com

Looks good. I’ll get an extra long extension cord.

On Mar 15, 2021, at 2:48 PM, david@popowski-law.com wrote:

Pete and Kathy,

Per our email exchange, see attached Generator info and please call me tomorrow or letter in the week after you have reviewed this. Go to Anita and again, hope all is well. Miss seeing the two of you.

David

David Popowski
Popowski Law Firm, LLC
Street Address: Suite 110, 171 Church Street
Charleston, South Carolina 29401
Mailing Address: P.O. Box 1064
Charleston, South Carolina 29402
Telephone: 843.732.0202; Facsimile: 843.732.8309
Email: dpop@popowski-law.com
Website: http://www.popowskilawfirm.com
<s066-generator-info.pdf>
Agenda Item #B-12

91 SPRING STREET
(CANNONBOROUGH/ELLIOTBOROUGH)
TMS # 460-08-03067
Request variance from Sec. 54-301 to allow construction of a building with a 3.2-ft. west side setback (9-ft. required).
Zoned LB
Application for Variance, Special Exception, Reconsideration, or Extension  Page 1 of 2  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 officer (attach Appeal form).
☐ Extension of an unexpired Variance and/or Special Exception approval.

MEETING DATE REQUESTED: July 20, 2021

Property Address: 91 Spring Street  TMS # C 56008300

Property Owner: 91 Spring, LLC  Daytime Phone: 763.772.3852

Applicant: Eddie Bello, Bello Garris Architects  Daytime Phone: 843.640.3566

Applicant’s Mailing Address: Bello Garris Architects, 76 Spring Street Suite B, Charleston, SC 29403

Email Address: eddie@bellogarris.com

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

Zoning of property: LB

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 plan with rooms labeled and the total floor area for each dwelling unit marked 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 this Property restricted by any recorded covenant that is contrary to, conflicts with or prohibits the proposed land use encompassed in this permit application? § 6-24-143 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: Eddie Bello

Date: June 17, 2021

For office use only
Date application received
Date 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). Request is for a 6'-0" variance from the required 9'-0" side setback for a new rear structure. Per the Variance Test below:

1. The historic building is located directly adjacent to the western property line, which is uncommon in this neighborhood.

2. The majority of historic structures in this neighborhood are located at least 9'-0" from the western property line. As the historic building on the lot is located much closer, the required setback is inconsistent with this particular property.

3. Due to the site conditions, a 9'-0" setback would create an unusable area with limited access.

4. The variance will allow for a new rear structure to be built closer to the western property line and thus located in a more historically correct relationship with the historic building. Additionally, if shifted westward the new structure will be less visible from Spring Street.

Variance Test: The Board of Zoning Appeals-Zoning is authorized to approve a variance from the requirements of the Zoning Ordinance when strict application 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 5, 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.
Agenda Item #B-13

974 ASHLEY AVENUE
(WAGENER TERRACE)
TMS # 463-11-01-031

Request special exception under Sec. 54-110 to allow construction of a single-family residence that extends a non-conforming 6-ft. north side setback (9-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 unexpired Variance and/or Special Exception approval

MEETING DATE REQUESTED: July 20, 2021

Property Address: 974 Ashley Avenue
TMS #: 463-11-01-031

Property Owner: Gene Plyler
Daytime Phone: 843-367-4886

Applicant: Gene Plyler
Daytime Phone: 843-367-4886

Applicant's Mailing Address: 3116 Ascencio Pl. N Charleston SC 29405

Email Address: plylerge@yahoo.com

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

Zoning of property: SR-2

Information required with application (check information submitted)
☐ Required plans or plots, including elevations, showing the variance(s) or special exception(s) being requested (3 sets)
☐ For new construction or additions to an existing structure, show HVAC units and plumbing on scaled plots
☐ 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)
☐ Plats 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 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

Requested statement from David McLean/Ann Wagner at 978 Ashley Av

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: Gene Plyler
Date: 6-17-21

For official use only
Date application received: Time application received:
Staffperson: Fee: $ Receipt #:
For Variance requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance will benefit the property. If necessary:

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 properties 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;
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 such conditions as it may determine as to 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 § 54-1-10, § 54-2-20a, or sections in Article 3 (add an attachment if necessary):

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 5, Part II 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 George Street
Charleston, South Carolina 29401
(843) 724-7181 www.charleston-sc.gov/planning
5/19
"Attachment"
Special "Exception" Board of Zoning
Ref: 974 Ashley Ave. Charleston, SC
Gene Pylor

To further illustrate the driveway problem I've made several pictures:

Picture #1 Yellow tape shows where the right side of the New Home would be if 5 foot set-back is required. It leaves little room for a driveway and would push me over nearing the right edge of the property line.

Picture #2 Yellow tape shows where the right side of the New Home would be if a 6 foot set-back were allowed on the left side of the lot. As you see the driveway is much more usable in the picture. This leaves about 11 feet of space between the home and the right Owner’s property line.

Picture #3 This shows the current house on the property currently set 5.4 feet from the property line on the left side. (Also, see the platt pdf that shows current house location.)
Lot 68

Lot 69

Lot 70

Lot 84

Lot 81

Two story wood home to be demolished

Exist. one story chi garage

Area of disturbance:
3600 SF
.983 AC

Note:
This lot is located in flood zone AE98). Refer Map
No. 48099059 J. Dated 8/1/2004
It is the responsibility of the owner and/or builder
to verify the flood zone with the governing
municipality prior to design and construction.
Agenda Item #B-14

301 ASHLEY AVENUE
(WESTSIDE)
TMS # 460-07-02-015

Request variance (after-the-fact) from Sec. 54-301 to allow a deck/gazebo addition with a 1.5-ft. west side setback (7-ft. required.

Zoned DR-2F
Application for Variance, Special Exception, Reconsideration, or Extension  Page 1 of 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:

Property Address: 301 Ashley Avenue TMS #: 460-07-02-015

Property Owner: Stephen Gerhard Daytime Phone: 702-276-7661

Applicant: Same

Applicant's Mailing Address: 301 Ashley Ave, Charleston SC 29403

Email Address: Stephen.Gerhard@wellscove.com

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

Zoning of property: Residential

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.
☐ Scaled floor plans with rooms labeled and the total floor area for each dwelling unit noted are required for all floodplain ordinances and building additions.
☐ Flats or documents necessary to show compliance with special exception requirements (3 sets)
☐ Check, credit card or cash (make check payable to the City of Charleston)
☐ YES or □ NO - Is this property restricted by any recorded covenants 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 inspection.

Applicant: 

Date: 6/17/21

or office use only

late application received

Application Fee: $ 

Attachment: 

Receipt 

Time application received

12:00 PM
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 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 finding:

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.
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 its finding conditions regarding the location, character, or other 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).

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.
Part II: Permit
I am requesting a permit retroactively for a wooden deck structure that I built without permission in 2000. Per the updated site survey attached, the deck is approximately 43’ by 13’, and extends from the rear of my home to the southwestern corner of my lot.

Before contemplating a deck, my first task was to repair or replace a large, damaged concrete slab (5” thick, ~225 sqft), which (per pics below) was cracked by the root system of the large oak tree in my yard. Each crack elevated the slab, exposing sharp corners & edges, which were identified as a Trip Hazard on my Inspection Report January 2020. Over time, previous owners of my house continually poured a combination of asphalt (black) and bricks (red) on-top of the cracked concrete slab. Each layer put more pressure on the root system, and created an eye-sores beneath the tree.
With approvals from all utility providers, I removed all concrete/asphalt/bricks using tools rented from Sun Belt Rentals. Below is a picture of the fully cleared area.

With the ground cleared, I decided to construct an elevated surface to ensure that the roots of the Oak Tree are protected permanently from materials and foot traffic. I did not secure a permit, which was a crucial mistake, and one I'm extremely motivated to atone for now, per your decision.

Part II: Variance
I am requesting a 5' variance against the 5' setback along the western property line of my lot, which is a zero-lot-line. All other setbacks have been honored. I am requesting a Variance for 2 reasons:

1. Protecting the root system of the Oak Tree
   The deck is grounded by concrete footers. From the beginning, I ensured that each footer was set intentionally, in a location that DID NOT impact the root system of the oak tree. Per the image below, there is a large network of tree roots in the "last row", and "2nd to last row" of footers.
To protect those roots, I set my footer 1.5" further west, thus encroaching into the set-back-area by 1.5". In the picture below (last row), the GREEN marker represents 3" from property line (see roots), and the WHITE marker is 1.5" from the property line (see concrete footer).

2. Existing Encroachment from south-side neighbor (297 Ashley)
In the southwest corner of my lot, a wooden privacy fence was installed "4" inside my property line. This south-side fence shortens the width of my lot. I'm blocked from accessing that square-footage, it is only accessible from my southside neighbor at 297 Ashley. This forfeited square-footage (southern property line) impacted placement on the deck, thus I am requesting a variance for encroaching into the set-back-area to the west (western property line).

For the avoidance of doubt, I am not challenging the encroachment from 297 Ashley (South), I am strictly requesting a variance for encroaching into 3" set-back-area for 193 Fishburne. Per the neighbor acknowledgement letter also attached, the new owner of 193 Fishburne, Ryan Kaspar, is fully supportive of the encroachment, as it is not detrimental or restrictive to his home or lot.

Part III: Summary
In summary, I made two critical mistakes: 1) failing to request a permit to build the deck, and 2) failing to comply with the 3" set-back laws. I'm writing to apologize, and with full admission of guilt, request permit approval retroactively, and a variance to the set-back-rule on the western property line.

Below are photos of the deck in its current state as of 6/18/21. No construction has been done since receiving the Stop Work Order. Thank you for your consideration, please do not hesitate to contact for additional photos or information.
Dear Charleston Board of Zoning Appeals – Zoning (BZA-2),

I have been informed of and approve of the proposed plans to build a residential deck in the back yard of 301 Ashley Avenue, Charleston, SC by the owner of the adjoining property, Stephen Gerhard. I understand that the site plan includes the following:

- Structure is approximately 13’x17’ deck dimensions (~480 square feet)
- Structure is to be built in the SW corner of the lot (301 Ashley)
- Structure is to be built with a 1.5’ setback on the west side property line (193 Fishburne)
  - 1.5’ variance from the 3’ setback rule
- Structure is to honor the south-side property line setback (297 Ashley)

Sincerely,

[Signature]

Printed Name

297 Ashley Avenue

Home Address

5/25/21

Date
Dear Charleston Board of Zoning Appeals – Zoning (BZA-2),

I have been informed of and approve the proposed plans to build a residential deck in the back yard of 301 Ashley Avenue, Charleston, SC by the owner of the adjoining property, Stephen Gerhard. I understand that the site plan includes the following:

- Structure is approximately 13’x37’ deck dimensions (~480 square feet)
- Structure is to be built in the SW corner of the lot (301 Ashley)
- Structure is to be built with a 1.5’ setback on the west side property line (193 Fishburne)
  - 1.5’ variance from the 3’ setback rule
- Structure is to honor the south-side property line setback (297 Ashley)

Sincerely,

[Signature]

Printed Name

[Home Address]

Date
Agenda Item #B-15

22 SAVAGE STREET
(CHARLESTOWNE)
TMS # 457-12-03-140

Request variance from Sec. 54-301 to allow construction of a garage/storage building with a 0.8-ft. rear setback and 0.75-ft. west side setback (25-ft. and 9-ft. required).

Zoned DR-1F
Application for Variance, Special Exception, Reconsideration, or Extension to the Board of Zoning Appeals – Zoning (BZA-3)

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: July 29th, 2021
Property Address: 22 SAVAGE ST 25401 TM 971-12-03-140
Property Owner: Yulet and Carol Harrington Daytime Phone: 864-444-9850
Applicant: Gueney L. Conlon Daytime Phone: 864-568-3861
Applicant’s Mailing Address: 49 Darlington Ave. 29405
Email Address: gjininger@gmail.com

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

Zoning of property: DR-1F

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 NFIP 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)
☐ 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 subject to any recorded covenant that is contrary to, conflicts with or prohibits the proposed land use encompassed in this permit application? § 6-29-1445 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 notice of the Board hearing and inspected.

Applicant: __________
Date: __________

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):

- Owners request a garage on site of former shed (approved 2015)
- Garage will encroach the rear one (1) side 2' setback.
- (additional write-up included)

**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, § 54-200, 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.
Attn: City of Charleston Zoning Board

Re: Property at:
22 Savage St
Charleston SC 29401

Homeowners: Kurt and Carol Harrington

Our client’s aspiration is to construct a garage with small storage area that may be able to accommodate a convertible car as well as storage for bikes, tools, lawn care items etc. We have advised that they build it to the standard size so that future owners of this property can access the garage with an average size vehicle. The garage would need to encroach into the rear and side 3' setback in order to be usable. However, we have placed the storage addition within the setback.

According to the Plat Map from 1967 and a site plan from 1998 there had been a garage and then a shed on the property previously. The shed had existed up until it was torn down in 2018. A rectangular concrete slab in the ground shows the footprint of the shed. Our client had no previous knowledge of the statute of limitations regarding shed removal and was unable to get garage plans prior to the Covid shutdowns. The shed was previously structurally unsound and very much in need of renovation/replacement. The proposal keeps the general shape of the shed the same and adds a small space for storage on the northwest side of the lot. The proposed additional square footage is 299 sq ft.

The hardship is that this particular piece of property is much narrower comparatively than the lots in that area. The driveway is undersized at only 8’6” wide and bound by our client and the neighbor’s houses. Therefore, if we were to impose the 3’ setback, it would make turning from the driveway into the garage impossible because of the tight angle and close quarters of the space. We are requesting a variance to be able to build within the setback on the southwest and southeast portion of the lot where the former shed once sat, though we will meet the setbacks on the other sides. (note: the neighbor’s shed is built up to the property line) We have minimized the cave to reduce water shed to neighboring properties.

Thank you for your consideration of this variance for the owners of 22 Savage St

Sincerely,

Ginny L Conlon
SAVAGE STREET 35’ R/W

LEGEND
P-M - P-M MARK FOUND
RF - RED MARK FOUND
PMF - P-MARK FOUND
PUS - PUNCH MARK SET
(O) - OWNER’s FENCE
(A) - ADJACENT OWNER’S FENCE
Photo 1:
(a) Neighbor’s House
(b) Neighbor’s Shed Wall

Photo 2:
(a) Rear neighbor’s Fence with indent

Photo 3:
(a) Indent extends into rear neighbor’s property
(b) Concrete slab (footprint of old shed)

Photo 4:
(a) Rear fence

22 Savage Street
Ginny Conlin ID

Site Photos and annotations intended to show important elements on site.
Our adjacent neighbors are located at 24 Savage St., 20 Savage St., 7 New St., and 9 New St.

I can be reached at 854 444 9850.
Kurt can be reached at 854 444 0795

This is the statement.

"I live at 26 Savage Ave and my property is adjacent to 22 Savage on the ______ side. I have reviewed the survey and the building plan that the Harringtons are proposing for 22 Savage St. I agree that this project will not negatively impact my property. I believe that this is a reasonable request.

Signed,

[Signature]

Carl Wise (26 Savage)

Sincerely,

[Signature]

Carolyn Harrington

Kurt Harrington

Enclosures:
Our adjacent neighbors are located at 24 Savage St., 20 Savage St., 7 New St., and 9 New St.

I can be reached at 854 444 9850.
Kurt can be reached at 854 444 0795

This is the statement.

"I live at ___New St. and my property is adjacent to 22 Savage on the _____ side. I have reviewed the survey and the building plan that the Harringtons are proposing for 22 Savage St. I agree that this project will not negatively impact my property. I believe that this is a reasonable request.

Signed:

Jay & Melissa Wilkinson

Sincerely,

Carolyn Harrington

Kurt Harrington

Enclosures:

1. Survey of the Harrington property at 22 Savage St., including adjacent properties
2. Building Plan for garage at 22 Savage St.
Our adjacent neighbors are located at 24 Savage St., 20 Savage St., 7 New St., and 9 New St.

I can be reached at 854 444 9850.
Kurt can be reached at 854 444 0795

This is the statement.

"I live at 9 New St. and my property is adjacent to 22 Savage on the north side.
I have reviewed the survey and the building plan that the Harringtons are proposing
for 22 Savage St. I agree that this project will not negatively impact my property. I
believe that this is a reasonable request.

Signed,

[Signature]

Sincerely,

[Signature]

Carolyn Harrington

[Signature]

Kurt Harrington

Enclosures:
1. Survey of the Harrington property at 22 Savage St. including adjacent properties
2. Building Plan for garage at 22 Savage St.
Agenda Item #B-16

550 RUTLEDGE AVENUE-WITHDRAWN
(WESTSIDE)
TMS # 460-04-03-136

Request use variance from Sec. 54-203 to allow a coffee shop on the ground floor (518sf) with days of operation Monday-Sunday and hours of operation 7am-9pm in a DR-1F (Diverse-Residential) zone district.

Request special exception under Sec. 54-511 to allow a coffee shop with 518sf of indoor patron use area without providing additional parking spaces (4 spaces required).

Zoned DR-1F
Agenda Item #B-17

19 LOGAN STREET
(CHARLESTOWNE)
TMS # 457-12-03-085

Request special exception under Sec. 54-110 to allow a horizontal expansion (kitchen expansion) and a vertical extension (bedroom/bath) that extends a non-conforming 0-ft. north side setback (3-ft. required).

Request variance from Sec. 54-301 to allow an addition with a 1-ft. rear setback (25-ft. required).

Zoned DR-1F
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: ____________________

Property Address 19 LOGAN STREET TMS # 457-12-03-085

Property Owner KARL KINER Daytime Phone ____________________

 Applicant AJ ARCHITECTS Daytime Phone 843-810-0029

Applicant’s Mailing Address 538 KING STREET, CHARLESTON SC 29403

E-mail Address ashley@ajarch.net

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 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 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

Additional 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 6.21.21

For office use only

Date 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 letter attached

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**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)

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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 letter 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.
Pennyx Askby, Senior Zoning Planner  
City of Charleston Zoning Department  
2 George Street, Suite 3100  
Charleston SC 29401  

Re: Zoning Request - 19 Logan Street  

Dear Pennyx,  

Please consider this letter an attachment to the Zoning application for 19 Logan Street. My clients have purchased this property and would like to add on to the small historic residence. They desire a bit larger kitchen and living space. The lot is zoned DR-1F and the existing structure does not meet minimum rear or n/e side-yard setbacks. So, the proposed construction will require the following Zoning approval:

SPECIAL EXCEPTION:  
*Extension of a single family residence with non-conforming n/e side-yard setback.*  
Ordinance requires a minimum n/e side-yard setback of 3'-0", and the existing structure encroaches into the setback 3'-0". The proposed addition will encroach 2'-4".

VARIANCE:  
*Extension of a single family residence with non-conforming rear setback.*  
Ordinance requires a minimum rear setback of 25'-0", and the existing structure encroaches into the rear setback 23'-11 7/8". The proposed addition will encroach an additional 17'-0 1/2" for a total of 41'-0 3/8". Denial of the variance would effectively prohibit any expansion of the house.

This proposed use, single family residence, is in keeping with the neighborhood. This lot is small and odd-shaped; the existing structure is historic and existed prior to the zoning ordinance. There are several small lots immediately adjacent to 19 Logan with the same condition, and these neighboring properties also encroach into these setbacks. We have designed the addition with consideration of the impact on the immediate neighbors. We do not believe this is an unreasonable request.

Thank you for your consideration.

	[Signature]

Karley Jennings
19 LOGAN STREET: ZONING SUBMITTAL

THIS PROPOSAL FOR A ROOF ADDITION TO THE EXISTING HOUSE AT 19 LOGAN REQUIRED TWO SPECIAL EXCEPTIONS TO EXTEND A STRUCTURE WITH NON-CORRESPONDING HEIGHT AND N/W (SOUTHWARD) EXPOSURES

Section 67-2-40 of the Zoning Ordinance of the City of Charleston, South Carolina, requires that a special exception be granted to allow non-conforming structures. The special exceptions are granted by the Planning Commission, which will consider this proposal based on the guidelines outlined in the Zoning Ordinance.

Closing Survey
19 Logan Street
Located
City of Charleston
Charleston County, South Carolina

[Diagram of the property layout is shown with various annotations and measurements.

Logan Street (S) / 19

[Signatures of surveyors and city officials are present on the document.]
Request special exception under Sec. 54-110 to allow an existing 3-dwelling unit non-conforming use to be extended by relocating one unit from the main house to the carriage house at the back of the property.

Zoned STR
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.
☐ Recommendation 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: JULY 20, 2021

Property Address 109 RUTLEDGE AVENUE TMS # 457-03-01-103

Property Owner 109 RUTLEDGE AVENUE LLC Daytime Phone

Applicant A J ARCHITECTS Daytime Phone 843-810-0029

Applicant’s Mailing Address 538 KING ST, CHARLESTON SC 29403

Email Address ashley@ajarch.net

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

Zoning of property STR

Information required with application: (check information submitted)
☐ Scale plan(s) 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 plenum on scaled 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)
☐ 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 contemplated in this permit application? § 6-29-145 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 06.21.21

For office use only
Date application received __________________ Time application received __________________
Staff Person __________________ Fee $ __________________ 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):

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):

See letter 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.

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

TO: BOARD OF ZONING APPEALS-ZONING;
LEE BATECHERD, ZONING ADMINISTRATOR
CITY OF CHARLESTON

FROM: CAPERS G. BARR, III
ATTORNEY FOR 109 RUTLEDGE AVENUE, LLC

DATE: JUNE 21, 2021

SUBJECT: 109 RUTLEDGE AVENUE, APPLICATION TO EXTEND
A NON-CONFORMING USE PURSUANT TO
ORDINANCE SECTION 54-110.f.

This memorandum supplements the Application by 109 Rutledge Avenue, LLC to extend the non-conforming use of the property at 109 Rutledge Avenue (the "Property") as described herein, and as shown on the architectural drawings of the property prepared by Ashley Jennings, Registered Architect, which are attached to the Application.

Introduction and History.

The main house at 109 Rutledge Avenue consists of a three-story masonry residence containing three independent residential apartments, one apartment on each floor.

The dependency or "carriage house" on the property consists of an enclosed frame garage connected to a two-story frame building that contains remnants of a former apartment use. The last residential use of the carriage house is unknown.

The main house and the carriage house are subject to the terms and conditions of a deed of conservation easement between Alan M. Tanenbaum, Grantor, and Historic Charleston Foundation, Grantee, made December 16, 1999 and recorded in the Office of the Charleston County Register of Deeds on December 21, 1999 in Book 3339, Page 327.

The three apartments in the main house are "non-conforming uses" as that term is defined in the City of Charleston Code of Ordinances. By this Application, the owner seeks to continue the use of the Property for three apartments, and to realign the three-apartment use as follows:

1. The first floor of the main house will continue to contain one apartment. (For discussion in this Memorandum referred to as Apartment "A").
2. The second and third floors of the main house, presently containing one apartment unit each (hereinafter referred to, respectively, as Apartments "B" and "C") will be consolidated to contain and comprise a second apartment unit.

3. The carriage house will contain and comprise a third apartment unit.

The total number of bedrooms in the main house at present is seven. The total proposed number of bedrooms in the main house will be five as designated in the plans; and one bedroom will be designated in the carriage house.

The proposed renovation of the main house will remove 792 ft. of enclosed space, including 250 sq. ft. of unheated space presently containing stairs (see Sheet A3.1) and 532 ft. of heated space (see Sheets A3.2 and A3.3). The proposed renovation of the carriage house will contain 845 sq. ft. of heated space.

Parking Requirements.

The City Ordinances require five off street parking spaces for three apartment units, all of which will be provided on-site, in the area to the rear of the main house. The parking area will also be screened to the north and to the south by either a vegetative buffer and/or fencing or walls.

The Relief Sought.

The Applicant seeks approval by the Board of Zoning Appeals – Zoning to extend the non-conforming use as proposed by this narrative and as shown on the attached drawings. City Ordinance Section 54-110.f. provides for the criteria, as follows:

The non-conforming use of a building or structure cannot be physically extended to provide more area for the non-conforming use, and the number of bedrooms in a non-conforming two-family dwelling or multi-family dwelling use cannot be increased, unless the Board of Zoning Appeals – Zoning, after a duly advertised public hearing, finds that the extension or increase of the non-conforming use is: (1) limited to extending or increasing the non-conforming use then in existence; and (2) would not result in an unreasonable intensification of the non-conforming use. In considering the reasonableness of the intensification of the extension or increase, the Board shall consider the effect of the extension or increase on properties in the vicinity to include traffic impacts; vehicular and pedestrian safety; parking impacts; potential impacts of noise, lighting, fumes or obstruction of air flow or light on adjoining property; impacts on the aesthetic character of the environs, to include the possible need for screening. If an extension or increase is permitted, the Board may impose reasonable and appropriate conditions and safeguards for the protection of the public interest and neighboring.
properties, including but not limited to limitations on the days and hours during which
the proposed use may be operated, and shall require, for properties located in the Old
and Historic Districts, that exterior alterations be approved by the Board of
Architectural Review; regardless of whether said alterations are visible from a public
street or thoroughfare.

Discussion.
The Application meets the criteria of 54-110.7 and should be approved, because:

1. The proposed use is limited to extending or increasing the non-conforming use
now in existence. There are three apartment units at present. The proposed use will
retain three apartment units. The net change will be to increase the floor space area of
Apartment “B” from one floor of the main house to two floors, and to relocate Apartment
“C” from the third floor of the main house to the carriage house. However, the
application proposes only to extend the use now in existence.

2. The proposed use will not result in an unreasonable intensification of the present
non-conforming use and its effect on the properties in the vicinity, taking into
consideration:

a. Traffic Impacts. The number of vehicles accessing the Property should
not change because the number of apartment units remains the same. Moreover, the total
number of designated bedrooms is one fewer than presently.

b. Vehicular and pedestrian safety will not be adversely effected for the same
reasons as stated in “a” above; the number of vehicles accessing the property should not
change from present use. Total occupancy of the Property is not increased by this
proposal.

c. Parking Impacts. This will be improved. By eliminating the existing
stairsways and entry rooms at the rear of the main house (see and compare Architectural
Sheets A2.1, A2.2, A3.1, A3.2, A3.3, A4.3, A4.4, and A4.6) sufficient space is created to
the rear of the main house to create five off-street parking spaces. The Code requires 1.5
spaces per apartment unit. Three apartment units x 1.5 spaces each = 4.5 = 5 spaces.

d. Impacts on noise, lighting, fumes, or obstruction of air flow or light on
adjoining property will be no greater than the existing three apartment use. By
eliminating the stairway “appendages” at the rear of the main house, that area will be
more open to light and air than presently. (See the Architectural sheets to which reference
is made in “c” above and “e”, below.)
e. **Impacts on the aesthetic character of the environs** will be dramatically improved. The existing appendages to the rear of the main house, presently containing stairways and entry rooms, will be eliminated. (See Sheets A4.1, A4.2, A4.3.) The seriously dilapidated and deteriorating carriage house will be totally renovated. In the rear of the third floor piazza, an enclosed room will be eliminated, opening the third floor piazzas to light and air. (See Sheets A3.3, A4.1.) The piazzas at each level, first, second and third floors, will be extended to the south, so as to align with the southern edge of the present bay area, and to create a continuous site line along the driveway and southern edge of the main house. In addition to interior renovations, outside surfaces will be freshly painted. Landscaping will be installed.

The Property is presently on Historic Charleston Foundation's list of non-compliant properties. It is an eyesore and arguably a blight on the neighborhood. Its renovation as proposed will bring it into par with the very well maintained neighboring structures, and will substantially improve the aesthetic character of the environs.
109 RUTLEDGE AVENUE: ZONING SUBMITTAL

The proposal for a renovation and restoration of the existing historic house and carriage house at 109 Rutledge Avenue involves the relocation of one non-conforming residential unit to the carriage house. Zoning ordinance does not allow 3 units on property. Issued DDR, and this is an existing non-conforming use.

SURVYORS
- Hickeron Surveyors 

SURVEYOR'S STATEMENT
- By Hickeron Surveyors

BOUNDARY SURVEY
109 RUTLEDGE AVENUE
LOVAYE
CITY OF CHARLESTON
CHARLESTON COUNTY, SOUTH CAROLINA
Agenda Item #B-19

477 LESESNE STREET
(DANIEL ISLAND)
TMS # 272-05-00-005

Request variance from Sec. 54-263 (Daniel Island Master Plan) zoning regulations to allow a garage to meet the frontage requirements on a lot that is 71-ft. wide (80-ft. required per Sec. 4.1(8)).

Zoned DI-R
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: July 20th, 2021

Property Address: 977 Learce Street
TMS # 272-05-00-0065

Property Owner: Scott Schuler & Cindy Hubbard
Daytime Phone: 843-270-8294

Applicant: Robert Crawford
Daytime Phone: 843-584-9852

Applicant’s Mailing Address: 220 Coleman Blvd, Mt Pleasant, SC 29464
Email Address: Deb@RenaissanceSouth.com

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

Zoning of property: D-1-R

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 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, certified card or cash (make checks payable to the City of Charleston)
- YES or NO – is this Property restricted by any recorded covenant that is not currently in conflict with or prohibit the proposed land use (incompliant in this permit application)? § 6-29-1.145 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: 5/15/21

For office use only
Date application received:
Staff Name:
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):

- Front auto court for a lot ~70' in width in order to save a mature live oak tree. This variance has been approved by the Daniel Island Architectural Review Board.

**Variance Test:** The Board of Zoning Appeals/Board of 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 § 51-110, § 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.
From: Rob Crawford rob@renessaincesouth.com
Subject: Re: 477 Lawrence
Date: March 31, 2021 at 4:18 PM
To: Mary Stuart Sulton mary@sulton@dccommunity.org
CC: Carson Jackson carson@dccommunity.org

Get it. Thank you, Mary Stuart.

On Mar 30, 2021, at 4:48 PM, Mary Stuart Sulton <mary@sulton@dccommunity.org> wrote:

Rob,

The ARB is supporting the variance for the auto court design in order to save the 20th Century tree. Our final review letter is approving the plan with the auto court design.

The park bosque guidelines are to help visually reduce the height of the home. Please see the attached.

On Tue, Mar 30, 2021 at 11:56 AM Rob Crawford rob@renessaincesouth.com wrote:

Hi again. Sorry to be filling up your inbox today.

Had a question for you on the conditional approval for 477 Lawrence Street (final design review notes attached below for convenience).

Number 11 states "The ARB recommends the park bosque guidelines to be applied to the design of the home." It's been a couple years now, but if you will remember we had a sit down meeting with BI Marziali to discuss the parapet wall situation with this particular lot and all agreed that the auto court scenario was the best one for the lot. This was to be a variance because the lot is "P". I also confirmed with Joe Schaeffer that he would not have an issue with this. Is this still the case? I will need to go through the variance process with the City and will need to submit a letter documenting the ARB approval with my application.

Can you all help here?

Thanks!
Rob
Agenda Item #B-20

82 1/2 SPRING STREET
(CANNONBOROUGH/ELLIOTBOROUGH)
TMS # 460-08-03-177

Request variance from Sec. 54-301 to allow the reestablishment of a duplex use with 1,363sf of lot area per dwelling unit (3,000sf required).

Zoned LB
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: July 30, 2021

Property Address: 82 Yz. Spring Street
TMS #: 460-08-03-007

Property Owner: Juliet T. Seabrook
Daytime Phone: 843-577-2674

Applicant: Same
Daytime Phone: 

Applicant’s Mailing Address: 82 Yz. Spring St, Charleston, SC 29403
Email Address: Seabrookj@gmail.com

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

Zoning of property: LB - Limited Business

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)
☐ 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 payment for $350.00 made 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? Yes
Section 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: 6/10/2021

For office use only

Date application received:

Fee paid:

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):

\[ Scan Attached \]

**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 (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.
This application is a request for a variance to reestablish two dwelling units on a lot that does not need the minimum lot size for a duplex.

The property at 82½ Spring Street has a long history of being used as a residence. Since the early 1900's this address was noted in The Green Book travel guide as Mrs. Mayes Tourist Home. (See attachment) This property provided a safe respite for African American travelers as they passed through Charleston. When purchased by the owner in 1984, this property was a residential duplex. She continued to rent both units as residences until the downstairs unit became the location of her real estate firm. The upstairs unit continued to be used as a residence.

This building was not designed for commercial use. As the interior drawings reveal the first floor, which is currently used as a real estate office, continues to be in the same configuration as it was when constructed in 1885. The same applies to the second floor. None of the interior walls have been removed or altered. The original bedrooms, bathrooms, living rooms and kitchen areas are intact. To be forced to convert this property into a single-family dwelling unit would require extensive alterations to its interior.

The immediate neighborhood consists of many duplexes that sit on lots of similar or smaller size and none of them have been burdened with the requirement of having to convert to single family residences. The character of the surrounding properties are mainly residential. This property has a residential elevation and no commercial appearance. I am simply requesting the ability to restore the property to its original use when purchased in 1984 and as revealed in the extensive history of its use. The form, function and design, of this building is as residences to house individuals.

There would be absolutely no detrimental effect on any of the adjacent properties by allowing the conversion of this property back to its original intended use. The property owners at 2 Ashe Street have agreed that they have no objection to my request. (See attached letter) The other adjacent property at 82 Spring Street is a duplex currently being used as a short-term rental. My neighbors at 91 Spring Street also agree that the reversion back to residential use would not be harmful. (See attached letter)

The extraordinary and exceptional condition that pertains to this particular piece of property is its historical background. There were very few properties in Charleston listed in The Green Book. 82½ Spring Street played an important role in the history of segregated Charleston. There aren't any other properties on Spring Street or in the neighborhood that share this significant history and therefore this extraordinary condition does not apply to other properties in the vicinity; preserving the original use is important. The ordinance as currently written, should the variance not be granted, would necessitate that the current duplex be transformed into a single-family home in order to use the property for residential purposes. Conversion to a single-family residence would restrict my utilization of the property and alter its character. There are many duplexes in the blocks surrounding this property and none of them have been required to be converted to single family use as a condition precedent to being used as a residence. Moreover, this property has a long history of being two residential units. The granting of the variance would not be of any detriment to adjacent properties or the public good, nor would the character of the neighborhood be harmed by converting this property back to its historical use.

The requirement that this property, which is not a corner store, was constructed with two front facing entrances and has historically been used as a residence, be converted to a single-family residence would pose a significant hardship and more than meets the variance test as required under the regulations.
Mrs. Mayes Tourist Home
82 1/2 Spring Street
Charleston, South Carolina

Four years after Victor H. Greene began publishing his travel guide for African-American travelers, "Mrs. Mayes Tourist Home" appeared as one of three places in Charleston that welcomed African-American travelers and visitors. Mrs. Mayes' Tourist Home was located at 82 1/2 Spring Street, right in the heart of Charleston's historic African-American community. Just as in other parts of the country, thanks to ongoing residential segregation, African Americans in Charleston had developed and built their own community of homes, stores, churches, restaurants, businesses, hotels, tourist homes, and schools. While African American communities such as Charleston's functioned to provide African Americans a modicum of decent housing and strong neighborhoods, once they traveled outside of these communities and neighborhoods they faced a virulent racism that limited their access to hotels and restaurants. African American travelers literally placed lives in jeopardy when they left their own communities and neighborhoods—especially when they traveled out of state and long distances.

Enter Victor Greene, who started publishing his Green Book in 1956. The Negro Traveler's Green Book was not only called the "Bible for Negro Travelers," but was also a lifesaver. Indeed, the cover of the first edition stated quite emphatically the purpose of the Green Book: "Assured Protection for the Negro Traveler." In today's United States it seems antiquated and parochial for whites to resent African Americans driving through their neighborhoods and communities. Never mind the obvious racism that such resentment and hatred manifested. Yet, there were "sundown towns" and white communities and locales with police officers and highway patrolmen who enforced such racist policies with impunity. Victor Green's Green Book helped African American travelers steer clear and stay away from such places and find hotels, restaurants and places to stay that welcomed them and accommodated their needs while they were traveling. Mrs. Mayes' Tourist Home was such a place. Mrs. Mayes' tourist home continued to be listed in the Green Book even after her death in 1944. Her son, Preston Robinson, continued to operate the boarding house for several decades after her death.

Terry Seabrook purchased this property in 1984. It was a residential duplex at that time and the downstairs unit was converted to house her real estate business in 1986.

1 The Negro Motorist Green-Book 1940 Edition (New York City: Victor H. Green Publisher, 1940), 43.
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NEW YORK, N. Y.
ESTABLISHED 1936

THE Negro Motorist GREEN BOOK

INTRODUCTION

With the introduction of this travel guide in 1936, it has been our idea to give the Negro traveler information that will keep him from running into difficulties, embarrassments and to make his trips more enjoyable.

The Jewish press has long published information about places that are restricted and there are numerous publications that give the gentle whites all kinds of information. But during these long years of discrimination, before 1936 other guides have been published for the Negro, some are still published, but the majority have gone out of business for various reasons.

In 1936 the Green Book was only a local publication for Metropolitan New York, the response for copies was so great it was turned into a national issue in 1937 to cover the United States. This guide while lacking in many respects was accepted by thousands of travelers. Through the courtesy of the United States Travel Bureau of which Mr. Chas. A. R. McDowell was the collaborator on Negro Affairs, more valuable information was secured. With the two working together, this guide contained the best ideas for the Negro traveler. Year after year it grew until 1947 "PM" one of New York's great-white newspapers found out about it. Wrote an article about the guide and praised it highly. At the present time the guide contains 80 pages and lists numerous business places, including whites which cater to the Negro trade.

There are thousands of first class business places that we don't know about and can't list, which would be glad to serve the traveler, but it is hard to secure listings of these places since we can't secure enough agents to send us the information. Each year before we go to press the new information is included in the new edition.

When you are traveling please mention the Green Book in order that they might know how you found their place of business, as they can see that you are strangers. If they haven't heard about this guide, ask them to get in touch with us so that we might list their place.

If this guide has proved useful to you on your trips, let us know. If not, tell us also as we appreciate your criticisms and ideas in the improvement of this guide from which you benefit.

There will be a day sometime in the near future when this guide will not have to be published. That is when we as a race will have equal opportunities and privileges in the United States. It will be a great day for us to suspend this publication for then we can go wherever we please, and without embarrassment. But until that time comes we shall continue to publish this information for your convenience each year.
PITTSBURG (cont.)
TOURIST HOMES
Glidden House—1604 Cliff St. 
E. Williams—1317 Howard St. 
Mrs. Willian—5118 Claybourne St.

RESTAURANTS
Stein's—4416 Carson Ave. 
Dearing's—2524 Wylie Ave.

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Mrs. J. Taylor—1415 Penn Ave.

SHARON HILL
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Dixie Cle—Hock Rd.—Howard St.

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BARRIER SHOPS
Yamery—E. Brook St.

NIGHT CLUBS
Thomas Grill—N. Lincoln St.

WAYNE
NIGHT CLUBS
Plantation—Gull Rd. & Henry Ave.

WILLIAMSPORT
TOURIST HOMES
Mrs. Edward Randall—691 Maple St.

WILKES BARRE
HOTELS
Shaw—15 So. State St.

YORK
TOURIST HOMES
Mrs. I. Grayson—32 W. Princess St.

RHODE ISLAND
NEWPORT
TOURIST HOMES
Mrs. F. Jackson—22 Hall Ave. 
Mrs. L. Jesen—35 Bath Road

PROVIDENCE
HOTELS
Biltmore

TOURIST HOMES
Mrs. M. A. Greene—15 Meeting St. 
Diehl's—62-24 N. Main St. 

TAVERNS
Daigle—1019 Westminster St.

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C. F. Holland—1118 Richland Ave.

DRUG STORES
Dr. C. C. Johnson—1412 Park Ave.

ATLANTIC BEACH
HOTELS
Theater

BEAUFORD
SERVICE STATIONS
Peoples—D. Brodn. Prop.

CHARLESTON
TOURIST HOMES
Mrs. Gladens—15 Nassau St. 
Mrs. May—2926 Spring St. 
L. Harleston—250 Ashley Ave. 
A. Sergeant—99 Cumine St. 
Waverly—2115 Gervais St.

TAVERNS
Harleston's—250 Ashley Ave.

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BEAUTY PARLORS
Workman—1825 Taylor St.

COLUMBIA
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Y. W. C. A.—1429 Park St. 
Community Center—811 Hampton St. 
Nyloe—918 Senate St.

TOURIST HOMES
Mrs. S. R. Smith—920 Pine St. 
College Inn—1099 Harden St. 
Mrs. H. Cornell—1713 Waverly 
Mrs. W. D. Chalone—1901 Pine St. 
Reynolds—2317 Gervais St. 
Mrs. J. P. Wakefield—1213 Heath

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82 ½ Spring Street
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June 17, 2021

To Whom It May Concern:

We are the owners of 2 Ashe Street and have spoken to our neighbor, Terry Seabrook, who owns the adjacent property at 82 ½ Spring Street. She informed us of her desire to return the property to its original use as a duplex housing two residential units.

We are in favor of this request and have discovered that it is in line with the historical nature of the building.

Thank you very much for your consideration.

Sincerely,

John Steiner

Susan Steiner
Julia Ellen Davis
4th Spring Street
Charleston, SC 29403

To Whom It May Concern:

This letter is in support of Terry Seabrook's efforts to return the use of her property at 82 1/2 Spring Street to a residential use. Our family has a long history of presence on Spring Street. My uncle Herbert DeCosta, Jr. had his construction company located at 93 Spring Street.

Terry's desire to return her property to a residential use is in character with the neighborhood and would not adversely affect the community. I wholeheartedly support her efforts.

Sincerely,

[Signature]

Julia Ellen Davis