



## **A G E N D A**

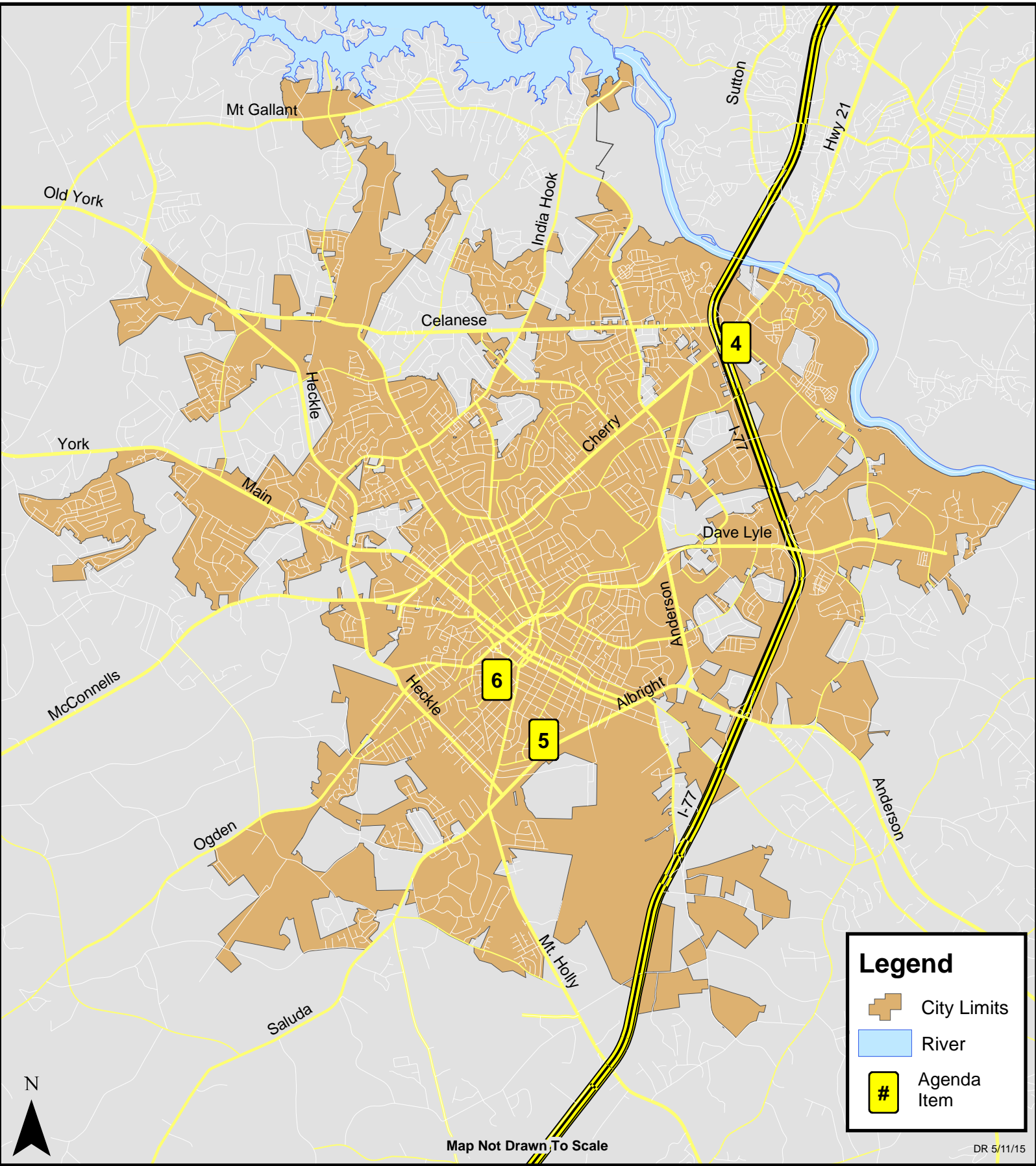
Rock Hill Zoning Board of Appeals  
June 21, 2022

1. Call to Order
2. Approval of Minutes from the May 17, 2022, meeting.
3. Approval of Orders from the May 17, 2022, meeting
4. Appeal Z-2022-25: Request by Ken Eversole for a variance from the required number of parking spaces for the property located at 951 Cel-River Road. The property is zoned Community Commercial (CC). Tax map number 662-00-00-066.
5. Appeal Z-2022-26: Request by Beatriz Dela Cruz Guerrero for a variance from the maximum accessory structure size at 750 Briarcliff Road. The property is zoned Single-Family Residential-5 (SF-5). Tax map number 625-02-01-001.
6. Appeal Z-2022-27: Request by Magloire Lubika of Green Box Market for an extension of the special exception to re-establish a non-conforming convenience store use at 455 Green Street. The property is zoned Single-Family Residential-4 (SF-4). Tax map number 600-02-03-037.
7. Other Business.
8. Adjourn.

# Zoning Board of Appeals Agenda Items



City of Rock Hill, SC  
June 21, 2022  
Zoning Board of Appeals



Map Not Drawn To Scale

DR 5/11/15

A public hearing of the Zoning Board of Appeals was held Tuesday, May 17, 2022, at 6 p.m. in Council Chambers at City Hall, 155 Johnston Street, Rock Hill, SC.

MEMBERS PRESENT: Charlotte Brown, Matt Crawford, Rodney Cullum, James Hawthorne

MEMBERS ABSENT: Stacey Reeves, Keith Sutton, Chad Williams

STAFF PRESENT: Eric Hawkins, Melody Kearse, Shana Marshburn, Bryman Suttle, Donna Welch

Legal notices of the public hearing were published in The Herald, Friday, April 29, 2022. Notice was posted on all property considered. Adjacent property owners and tenants were notified in writing.

### **1. Call to Order**

Chair Matt Crawford called the meeting to order at 6:00 p.m.

### **2. Approval of Minutes of the April 26, 2022, meeting.**

Chair Crawford made a motion to approve the minutes as submitted. Mr. James Hawthorne seconded, and the motion carried by a vote of 4-0 (Reeves, Sutton, and Williams absent).

### **3. Approval of Orders of the April 26, 2022, meeting.**

Mr. Crawford made a motion to approve the orders as submitted. Ms. Charlotte Brown seconded, and the motion carried by a vote of 4-0 (Reeves, Sutton & Williams absent).

### **4. Appeal Z-2022-21: Request by Kevin Mattingly for a variance from the maximum height of a fence in the front yard for an attached arbor located at 137 Reid St, which is zoned Single-Family Residential-5 (SF-5). Tax map number 627-16-03-008.**

Bryman Suttle, Planner, presented the staff report.

Mr. Rodney Cullum inquired if this request would be going to Historic Review. Mr. Suttle responded yes.

Chair Crawford opened the floor to the applicant.

Mr. Kevin Mattingly (applicant) and Mrs. Kimberly Mattingly, 137 Reid Street, were available for questions.

Mr. Cullum asked if the goal was to bring 137 Reid Street back to its original design. Mrs. Mattingly stated that the plan is to bring 137 Reid Street back to a vintage look and the arbor would tie in all the landscaping noteworthy to a Victorian home.

Mr. Hawthorne asked if there was strong community support. Mr. and Mrs. Mattingly both responded that there was strong community support.

Mr. Cullum made a motion to approve the variance from the maximum height of a fence in the front yard for an attached arbor. The motion was seconded by Mr. Hawthorne and was approved by a vote of 4-0 (Reeves, Sutton & Williams absent).

Mr. Hawthorn presented the findings, noting the subject property is located within the Reid Street/North Confederate Street Area Historic District and East Town area. The home was built somewhere around 1904 and is a valued piece of the historic landscape in Rock Hill. Garden arbors were more commonplace at the time of the home's construction and would be a unique addition to

the area. While there are other historic districts and National Register recognized homes in this area, there are only a limited number of them. Additionally, the architecture of this home is unique compared to other homes in the area, having received an award for their restoration efforts. Located just behind the historic White home, it was likely one of the first homes built on Reid Steet. With the current zoning restrictions, this addition would not be allowed because front fencing is limited to four feet in height. It would be unreasonable to restrict a feature of this nature that will only occupy a small portion of the total fence area and would be a positive benefit to the community by adding to the curb appeal to the home. Garden arbors of this nature are common landscape features, especially for homes developed at the turn of the prior century, and this would be an opportunity to feature a landscape design element of this type in a prominent way. One of the primary reasons for the four-foot height restriction and maximum 50% opaque requirement is to ensure line of sight is maintained. This addition would have little or no effect on this due to its location and it also being less than 50% opaque. If the variance is granted, the addition of this arbor would not result in substantial detriment to adjacent land, the public good or character of the broader historic district. Staff feels it will be a positive improvement to the neighborhood. Input from an immediate neighbor has been received expressing their strong support.

**5. Appeal Z-2022-22: Request by JM Cope, for a special exception to establish a self-storage use and a variance from the required minimum lot size at 2764 Faith Blvd, which is zoned General Commercial (GC). Tax map number 662-07-01-374.**

Melody Kearse, Zoning Coordinator, presented the staff report.

Mr. Cullum asked about parking. Ms. Kearse stated there would be one parking spot per unit.

Chair Crawford opened the floor to the applicant.

Mr. Andrew Cope, JM Cope Investments (applicant), 199 S. Cherry Road, was available for questions.

Mr. Hawthorne asked about landscaping. Mr. Cope stated that new trees would be planted.

Chair Crawford and Mr. Hawthorne asked about loading area and utilities. Mr. Cope stated all activity will occur within the building, except for a small loading and unloading area to the rear of the site near the parking. Mr. Cope also stated that utilities are subdivided and separated from daycare and main drives are in and reiterated that there would be no truck rentals.

Mr. Hawthorne made a motion to approve the special exception to establish a self-storage use and the variance request subject to the condition that there will be no truck rentals at this location. The motion was seconded by Mr. Cullum and was approved by a vote of 4-0 (Reeves, Sutton & Williams absent).

Mr. Hawthorn presented the findings, noting the site was originally developed as 4.5-acre tract and then subsequently subdivided. It shares a stormwater pond, access drive, dumpster and tree save with adjoining parcel. This self-storage use is also a climate-controlled building with only internal unit access, and it will not have any outdoor storage or truck rental associated with this use. This site does not share these conditions with other property nearby. While the industrial park to the north shares a stormwater facility, the businesses do not share drive aisles, tree save, or dumpsters. Without the variance the owner could not develop the property for the proposed use. The granting of this variance would not be detrimental to adjacent lands or the public good as the building would be similar in scale and design to the other buildings located nearby.

**6. Appeal Z-2022-23: Request by Greg Fatool for a variance from the maximum amount of window signage at 1111 N Anderson Rd, which is zoned General Commercial (GC). Tax map number 634-07-01-013.**

Shana Marshburn, Planner II, presented the staff report.

Chair Crawford opened the floor to the applicant.

Mr. Greg Fatool (applicant), 1626 Wedgefield Drive, was available for questions.

Mr. Fatool presented 61 photos of windows where the window signage ruling was not followed and feels that it is unfair that others do not have to abide by the window signage ruling. Mr. Fatool stated that he has been a resident of Rock Hill for 10 years which has been a good experience. Mr. Fatool also noted that 1111 N. Anderson Road had been an empty building for 14 years. Mr. Fatool also mentioned that he cannot paint the outside brick blue; the color that signifies the store; and to which people recognize the store by. Mr. Fatool also made mention of the murals around town and inquired how this differs from his window signage. Mr. Fatool closed with how he has called numerous contractors to do work and most contractors will not work in Rock Hill as the City makes it difficult for them. Mr. Fatool stressed that he is only trying to make Rock Hill a better place.

Mr. Hawthorne asked the applicant if you could see through the windows with the signage in place. Mr. Fatool stated that you could see through the window from the inside but could not see in from the outside.

Mr. Cullum asked if the signage is to target younger people. Mr. Fatool stated that demographics are all ages.

Mr. Cullum asked if the signage was whimsical in nature. Mr. Fatool stated that the signage is indicative of the store menu; designed specifically for signature flavors.

Mr. Hawthorne asked if there were any other options for signage. Ms. Marshburn stated that Mr. Fatool can have 43 square feet of window signage and that what they have installed on the building was close to four times that amount. Ms. Marshburn went on to add that there were multiple opportunities for signage that were available. She made the Board aware that the business was not fully utilizing the wall signage that is allowed, that the empty freestanding sign was not being used, and that there were opportunities for temporary signage, such as grand opening signage.

Mr. Hawthorn asked about the color of the building. Ms. Marshburn stated that as this location is in an overlay district, the building must be a neutral tone.

Ms. Charlotte Brown made a motion to approve the variance. The motion was seconded by Mr. Cullum and was approved by a vote of 3-1 (Reeves, Sutton & Williams absent).

Ms. Brown presented findings for approval, noting that the applicant's business presence was already being restricted due to the property being within the Design Overlay District. She specifically noted that this prohibited them from painting building the signature colors of pink and blue per Pelican's company guidelines. She went on to add that the building not being used for an extended period of time was also an extraordinary and exceptional condition, as if it were not for the larger window signage, the presence of a new business would not be noticeable.

**7. Appeal Z-2022-24: Request by Sue Fullerton with Truck of Love for a variance from the location standards for a buffer yard fence at 1568 W Main St, which is zoned Neighborhood Office (NO). Tax map number 595-02-01-001.**

Ms. Melody Kearse, Zoning Coordinator, presented the staff report.

Mr. Cullum asked why there would be no issues with the fence, as there had been issues previously with an adjacent neighbor. Ms. Kearse stated that the adjacent home is now owner-occupied as it had not been previously.

Chair Crawford opened the floor to the applicant.

Ms. Sue Fullerton (applicant), 1455 George Dunn Road, was available for questions.

Ms. Fullerton stated without the variance, the applicant and residents will not be able to enjoy full use of the property and would compromise the safety of the site. Transients have used remote areas of the site previously as a camp site and enclosing the property on the property lines would prevent this type of behavior. Additionally, enclosing all the buildings would also help deter theft of property.

Mr. Cullum asked how many women would reside at this location. Ms. Fullerton stated that there would be 15 single women (no children).

Mr. Hawthorne stated that the fence would be good for security.

Mr. Cullum asked why the fence height was an issue. Ms. Kearse stated that commercial fencing can be higher.

Mr. Cullum made a motion to approve the variance. The motion was seconded by Ms. Brown and was approved by a vote of 4-0 (Reeves, Sutton & Williams absent).

Mr. Cullum presented the findings, noting that the layout of the site is existing, all three buildings on the property will be utilized as part of the group home use, and some of the buildings do not meet the current setbacks. The applicant's reasoning for wanting the fence on the outside of the buffer (property line) is to secure the site for her residents, for their safety, the safety of the property and to provide adequate space for outdoor activities for the 15 residents. The home will act more as a residential use than a business, and with three buildings all being utilized. The applicant is seeking to do what any residential user would wish to do, which is to secure their property. The adjacent homes are too small to accommodate a shelter, are not zoned to permit a shelter, are not subject to the increased buffer yard standards, and fences at homes may be located along the property line. Without the variance, the applicant and residents will not be able to enjoy full use of the property and would compromise the safety of the site. Transients have used remote areas of the site previously as a camp site and enclosing the property on the property lines would prevent this type of behavior. Additionally, enclosing all the buildings would also help deter theft of property. The home at 1572 W. Main Street is owner-occupied, and he has written a letter indicating that they do not object to the placement of the fence. The property to the rear is vacant, and likely to develop as residential at some point in time in the future but would not be impacted by the placement of the buffer fence as there is an existing fence on part of that property.

## **8. Other Business.**

Ms. Kearse informed the Board that she will keep them updated of any upcoming continuing education opportunities.

Ms. Kearse introduced new staff member Donna Welch to the Board.

## **9. Adjourn.**

There being no further business, Chair Crawford made a motion to adjourn. The motion was seconded by Mr. Hawthorne and was approved by a vote of 4-0 (Reeves, Sutton & Williams absent). The meeting adjourned at 7:24 p.m.



## Zoning Board of Appeals Order

Z-2022-21

The Zoning Board of Appeals held a public hearing on Tuesday, May 17, 2022, to consider a **request by Kevin Mattingly for a variance from the maximum height of a fence in the front yard for an attached arbor located at 137 Reid St, which is zoned Single-Family Residential-5 (SF-5). Tax map number 627-16-03-008.**

Board members in attendance included: Charlotte Brown, Matt Crawford, Rodney Cullum, James Hawthorne (Keith Sutton, Chad Williams and Stacey Reeves absent).

After consideration of the evidence and arguments presented, the Board voted to grant the request based on the following findings of fact:

1. The site may be identified as 137 Reid Street.
2. The property owner is Kevin Mattingly.
3. This property is zoned Single Family Residential-5 (SF-5).
4. The request was for a variance from the maximum height of a fence in the front yard for an attached arbor.
5. The request was advertised to the public according to state law and the City of Rock Hill Zoning Ordinance. The following public notification actions were taken:
  - April 29: Public Hearing notification postcards sent to property owners and tenants within 300 feet of the subject property.
  - April 29: Public Hearing notification signs posted on subject property.
  - April 29: Zoning Board of Appeals public hearing advertisement published in *The Herald*.
  - Information about the application was posted on the City's website.
6. During the public hearing, the following comments were heard by the Board:

Staff member Melody Kearse presented the staff report.

Bryman Suttle, Planner, presented the staff report.

Mr. Rodney Cullum inquired if this request would be going to Historic Review. Mr. Suttle responded yes.

Chair Crawford opened the floor to the applicant.

Mr. Kevin Mattingly (applicant) and Mrs. Kimberly Mattingly, 137 Reid Street, were available for questions.

Mr. Cullum asked if the goal was to bring 137 Reid Street back to its original design. Mrs. Mattingly stated that the plan is to bring 137 Reid Street back to a vintage look and the arbor



would tie in all the landscaping noteworthy to a Victorian home.

Mr. Hawthorne asked if there was strong community support. Mr. and Mrs. Mattingly both responded that there was strong community support.

Mr. Cullum made a motion to approve the variance from the maximum height of a fence in the front yard for an attached arbor. The motion was seconded by Mr. Hawthorne and was approved by a vote of 4-0 (Reeves, Sutton & Williams absent).

Mr. Hawthorn presented the findings, noting the subject property is located within the Reid Street/ North Confederate Street Area Historic District and East Town area. The home was built somewhere around 1904 and is a valued piece of the historic landscape In Rock Hill. Garden arbors were more commonplace at the time of the home’s construction and would be a unique addition to the area. While there are other historic districts and National Register recognized homes in this area, there are only a limited number of them. Additionally, the architecture of this home is unique compared to other homes in the area, having received an award for their restoration efforts. Located just behind the historic White home, it was likely one of the first homes built on Reid Steet. With the current zoning restrictions, this addition would not be allowed because front fencing is limited to four feet in height. It would be unreasonable to restrict a feature of this nature that will only occupy a small portion of the total fence area and would be a positive benefit to the community by adding to the curb appeal to the home. Garden arbors of this nature are common landscape features, especially for homes developed at the turn of the prior century, and this would be an opportunity to feature a landscape design element of this type in a prominent way. One of the primary reasons for the four-foot height restriction and maximum 50% opaque requirement is to ensure line of sight is maintained. This addition would have little or no effect on this due to its location and it also being less than 50% opaque. If the variance is granted, the addition of this arbor would not result in substantial detriment to adjacent land, the public good or character of the broader historic district. Staff feels it will be a positive improvement to the neighborhood. Input from an immediate neighbor has been received expressing their strong support.

**THE BOARD, THEREFORE, ORDERS:**

**The request by Kevin Mattingly for a variance from the maximum height of a fence in the front yard for an attached arbor located at 137 Reid St is APPROVED.**

Section 2.12.1 (C) of the Zoning Ordinance states:

Any person having a substantial interest affected by a decision of the Zoning Board of Appeals may appeal the decision to the Circuit Court in and for York County by filing with the Clerk of the Court a petition setting for plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within 30 days after the decision of the Zoning Board of Appeals is mailed. For the purposes of this subsection, “person” includes persons jointly or severally aggrieved by the decision of the Zoning Board of Appeals.



AND IT IS SO ORDERED.

\_\_\_\_\_  
Matt Crawford, Chairman

Date the Order Was Approved by the Board: \_\_\_\_\_

Date the Decision of the Board Was Mailed to the Applicant: \_\_\_\_\_



## Zoning Board of Appeals Order

Z-2022-22

The Zoning Board of Appeals held a public hearing on Tuesday, May 17, 2022, to consider a **request by JM Cope, for a special exception to establish a self-storage use and a variance from the required minimum lot size at 2764 Faith Blvd, which is zoned General Commercial (GC). Tax map number 662-07-01-374.**

Board members in attendance included: Charlotte Brown, Matt Crawford, Rodney Cullum, James Hawthorne (Keith Sutton, Chad Williams and Stacey Reeves absent).

After consideration of the evidence and arguments presented, the Board voted to grant the request based on the following findings of fact:

1. The site may be identified as 2764 Faith Blvd.
2. The property owner is JM Cope.
3. This property is zoned General Commercial (GC).
4. The request was for a special exception to establish a self-storage use and a variance from the required minimum lot size
5. The request was advertised to the public according to state law and the City of Rock Hill Zoning Ordinance. The following public notification actions were taken:
  - April 29: Public Hearing notification postcards sent to property owners and tenants within 300 feet of the subject property.
  - April 29: Public Hearing notification signs posted on subject property.
  - April 29: Zoning Board of Appeals public hearing advertisement published in *The Herald*.
  - Information about the application was posted on the City's website.
6. During the public hearing, the following comments were heard by the Board:

Staff member Melody Kearse presented the staff report.

Melody Kearse, Zoning Coordinator, presented the staff report.

Mr. Cullum asked about parking. Ms. Kearse stated there would be one parking spot per unit.

Chair Crawford opened the floor to the applicant.

Mr. Andrew Cope, JM Cope Investments (applicant), 199 S. Cherry Road, was available for questions.

Mr. Hawthorne asked about landscaping. Mr. Cope stated that new trees would be planted.

Chair Crawford and Mr. Hawthorne asked about loading area and utilities. Mr. Cope stated

all activity will occur within the building, except for a small loading and unloading area to the rear of the site near the parking. Mr. Cope also stated that utilities are subdivided and separated from daycare and main drives are in and reiterated that there would be no truck rentals.

Mr. Hawthorne made a motion to approve the special exception to establish a self-storage use and the variance request subject to the condition that there will be no truck rentals at this location. The motion was seconded by Mr. Cullum and was approved by a vote of 4-0 (Reeves, Sutton & Williams absent).

Mr. Hawthorn presented the findings, noting the site was originally developed as 4.5-acre tract and then subsequently subdivided. It shares a stormwater pond, access drive, dumpster and tree save with adjoining parcel. This self-storage use is also a climate-controlled building with only internal unit access, and it will not have any outdoor storage or truck rental associated with this use. This site does not share these conditions with other property nearby. While the industrial park to the north shares a stormwater facility, the businesses do not share drive aisles, tree save, or dumpsters. Without the variance the owner could not develop the property for the proposed use. The granting of this variance would not be detrimental to adjacent lands or the public good as the building would be similar in scale and design to the other buildings located nearby.

**THE BOARD, THEREFORE, ORDERS:**

**The request by JM Cope, for a special exception to establish a self-storage use and a variance from the required minimum lot size at 2764 Faith Blvd is APPROVED with Conditions.**

**Conditions:**

**1. There will be truck rentals at this location**

Section 2.12.1 (C) of the Zoning Ordinance states:

Any person having a substantial interest affected by a decision of the Zoning Board of Appeals may appeal the decision to the Circuit Court in and for York County by filing with the Clerk of the Court a petition setting for plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within 30 days after the decision of the Zoning Board of Appeals is mailed. For the purposes of this subsection, "person" includes persons jointly or severally aggrieved by the decision of the Zoning Board of Appeals.

AND IT IS SO ORDERED.

\_\_\_\_\_  
Matt Crawford, Chairman

Date the Order Was Approved by the Board: \_\_\_\_\_

Date the Decision of the Board Was Mailed to the Applicant: \_\_\_\_\_



## Zoning Board of Appeals Order

Z-2022-23

The Zoning Board of Appeals held a public hearing on Tuesday, May 17, 2022, to consider a **request by Greg Fatool for a variance from the maximum amount of window signage at 1111 N Anderson Rd, which is zoned General Commercial (GC). Tax map number 634-07-01-013.**

Board members in attendance included: Charlotte Brown, Matt Crawford, Rodney Cullum, James Hawthorne (Keith Sutton, Chad Williams and Stacey Reeves absent).

After consideration of the evidence and arguments presented, the Board voted to grant the request based on the following findings of fact:

1. The site may be identified as 1111 Anderson Rd.
2. The property owner is GT LDS LLC.
3. This property is zoned General Commercial (GC).
4. The request was for a variance from the maximum amount of window signage.
5. The request was advertised to the public according to state law and the City of Rock Hill Zoning Ordinance. The following public notification actions were taken:
  - April 29: Public Hearing notification postcards sent to property owners and tenants within 300 feet of the subject property.
  - April 29: Public Hearing notification signs posted on subject property.
  - April 29: Zoning Board of Appeals public hearing advertisement published in *The Herald*.
  - Information about the application was posted on the City's website.
6. During the public hearing, the following comments were heard by the Board:

Staff member Melody Kearse presented the staff report.

Shana Marshburn, Planner II, presented the staff report.

Chair Crawford opened the floor to the applicant.

Mr. Greg Fatool (applicant), 1626 Wedgefield Drive, was available for questions.

Mr. Fatool presented 61 photos of windows where the window signage ruling was not followed and feels that it is unfair that others do not have to abide by the window signage ruling. Mr. Fatool stated that he has been a resident of Rock Hill for 10 years which has been a good experience. Mr. Fatool also noted that 1111 N. Anderson Road had been an empty building for 14 years. Mr. Fatool also mentioned that he cannot paint the outside brick blue; the color that signifies the store; and to which people recognize the store by. Mr. Fatool also made mention of the murals around town and inquired how this differs from his window

signage. Mr. Fatool closed with how he has called numerous contractors to do work and most contractors will not work in Rock Hill as the City makes it difficult for them. Mr. Fatool stressed that he is only trying to make Rock Hill a better place.

Mr. Hawthorne asked the applicant if you could see through the windows with the signage in place. Mr. Fatool stated that you could see through the window from the inside but could not see in from the outside.

Mr. Cullum asked if the signage is to target younger people. Mr. Fatool stated that demographics are all ages.

Mr. Cullum asked if the signage was whimsical in nature. Mr. Fatool stated that the signage is indicative of the store menu; designed specifically for signature flavors.

Mr. Hawthorne asked if there were any other options for signage. Ms. Marshburn stated that Mr. Fatool can have 43 square feet of window signage and that what they have installed on the building was close to four times that amount. Ms. Marshburn went on to add that there were multiple opportunities for signage that were available. She made the Board aware that the business was not fully utilizing the wall signage that is allowed, that the empty freestanding sign was not being used, and that there were opportunities for temporary signage, such as grand opening signage.

Mr. Hawthorn asked about the color of the building. Ms. Marshburn stated that as this location is in an overlay district, the building must be a neutral tone.

Ms. Charlotte Brown made a motion to approve the variance. The motion was seconded by Mr. Cullum and was approved by a vote of 3-1 (Reeves, Sutton & Williams absent).

Ms. Brown presented findings for approval, noting that the applicant's business presence was already being restricted due to the property being within the Design Overlay District. She specifically noted that this prohibited them from painting building the signature colors of pink and blue per Pelican's company guidelines. She went on to add that the building not being used for an extended period of time was also an extraordinary and exceptional condition, as if it were not for the larger window signage, the presence of a new business would not be noticeable.

**THE BOARD, THEREFORE, ORDERS:**

**The request by Greg Fatool for a variance from the maximum amount of window signage at 1111 N Anderson Rd is APPROVED**

Section 2.12.1 (C) of the Zoning Ordinance states:

Any person having a substantial interest affected by a decision of the Zoning Board of Appeals may appeal the decision to the Circuit Court in and for York County by filing with the Clerk of the Court a petition setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within 30 days after the decision of the Zoning Board of Appeals is mailed. For the purposes of this subsection, "person" includes persons jointly or severally aggrieved by the decision of the Zoning Board of Appeals.

AND IT IS SO ORDERED.

\_\_\_\_\_  
Matt Crawford, Chairman

Date the Order Was Approved by the Board: \_\_\_\_\_

Date the Decision of the Board Was Mailed to the Applicant: \_\_\_\_\_



## Zoning Board of Appeals Order

Z-2022-24

The Zoning Board of Appeals held a public hearing on Tuesday, May 17, 2022, to consider a **request by Sue Fullerton with Truck of Love for a variance from the location standards for a buffer yard fence at 1568 W Main St, which is zoned Neighborhood Office (NO). Tax map number 595-02-01-001.**

Board members in attendance included: Charlotte Brown, Matt Crawford, Rodney Cullum, James Hawthorne (Keith Sutton, Chad Williams and Stacey Reeves absent).

After consideration of the evidence and arguments presented, the Board voted to grant the request based on the following findings of fact:

1. The site may be identified as 1568 W. Main St.
2. The property owner is Truck of Love, Inc.
3. This property is zoned Neighborhood Office (NO).
4. The request was for a variance from the location standards for a buffer yard fence.
5. The request was advertised to the public according to state law and the City of Rock Hill Zoning Ordinance. The following public notification actions were taken:
  - April 29: Public Hearing notification postcards sent to property owners and tenants within 300 feet of the subject property.
  - April 29: Public Hearing notification signs posted on subject property.
  - April 29: Zoning Board of Appeals public hearing advertisement published in *The Herald*.
  - Information about the application was posted on the City's website.
6. During the public hearing, the following comments were heard by the Board:

Staff member Melody Kears presented the staff report.

Ms. Melody Kears, Zoning Coordinator, presented the staff report.

Mr. Cullum asked why there would be no issues with the fence, as there had been issues previously with an adjacent neighbor. Ms. Kears stated that the adjacent home is now owner-occupied as it had not been previously.

Chair Crawford opened the floor to the applicant.

Ms. Sue Fullerton (applicant), 1455 George Dunn Road, was available for questions.

Ms. Fullerton stated without the variance, the applicant and residents will not be able to enjoy full use of the property and would compromise the safety of the site. Transients have used remote areas of the site previously as a camp site and enclosing the property on the property



lines would prevent this type of behavior. Additionally, enclosing all the buildings would also help deter theft of property.

Mr. Cullum asked how many women would reside at this location. Ms. Fullerton stated that there would be 15 single women (no children).

Mr. Hawthorne stated that the fence would be good for security.

Mr. Cullum asked why the fence height was an issue. Ms. Kearsse stated that commercial fencing can be higher.

Mr. Cullum made a motion to approve the variance. The motion was seconded by Ms. Brown and was approved by a vote of 4-0 (Reeves, Sutton & Williams absent).

Mr. Cullum presented the findings, noting that the layout of the site is existing, all three buildings on the property will be utilized as part of the group home use, and some of the buildings do not meet the current setbacks. The applicant's reasoning for wanting the fence on the outside of the buffer (property line) is to secure the site for her residents, for their safety, the safety of the property and to provide adequate space for outdoor activities for the 15 residents. The home will act more as a residential use than a business, and with three buildings all being utilized. The applicant is seeking to do what any residential user would wish to do, which is to secure their property. The adjacent homes are too small to accommodate a shelter, are not zoned to permit a shelter, are not subject to the increased buffer yard standards, and fences at homes may be located along the property line. Without the variance, the applicant and residents will not be able to enjoy full use of the property and would compromise the safety of the site. Transients have used remote areas of the site previously as a camp site and enclosing the property on the property lines would prevent this type of behavior. Additionally, enclosing all the buildings would also help deter theft of property. The home at 1572 W. Main Street is owner-occupied, and he has written a letter indicating that they do not object to the placement of the fence. The property to the rear is vacant, and likely to develop as residential at some point in time in the future but would not be impacted by the placement of the buffer fence as there is an existing fence on part of that property.

**THE BOARD, THEREFORE, ORDERS:**

**The request by Sue Fullerton with Truck of Love for a variance from the location standards for a buffer yard fence at 1568 W Main St is APPROVED**

Section 2.12.1 (C) of the Zoning Ordinance states:

Any person having a substantial interest affected by a decision of the Zoning Board of Appeals may appeal the decision to the Circuit Court in and for York County by filing with the Clerk of the Court a petition setting forth plainly, fully, and distinctly why the decision is contrary to law. The appeal must be filed within 30 days after the decision of the Zoning Board of Appeals is mailed. For the purposes of this subsection, "person" includes persons jointly or severally aggrieved by the decision of the Zoning Board of Appeals.

AND IT IS SO ORDERED.

\_\_\_\_\_  
Matt Crawford, Chairman

Date the Order Was Approved by the Board: \_\_\_\_\_

Date the Decision of the Board Was Mailed to the Applicant: \_\_\_\_\_



**Z-2022-25**

**Request:** Variance from the number of parking spaces for an indoor recreation use

**Address:** 951 Cel-River Road

**Zoning District:** Community Commercial (CC)

**Applicant:** Ken Eversole with Next Level Gymnastics





**Requests:** Variance from the minimum required number of parking spaces to establish an Indoor Recreation Use, greater than 3,000 square feet

**Address:** 951 Cel-River Road

**Tax Map No.:** 662-00-00-066

**Zoning District:** Community Commercial (CC)

**Applicant:** Ken Eversole (Next Level Gymnastics)  
732 Mt. Gallant Rd.  
Rock Hill, SC 29730

**Property Owner:** Tinsley Properties, LLC  
608 Mountain Blvd.  
Lake Lure, NC 28746

---

## **Background**

Next Level Gymnastics currently operates from its location at 732 Mt. Gallant Road. It would like to relocate to the subject location which currently houses a retail consignment store. Due to the size of the building at the subject location, the Zoning Ordinance considers the use as an Indoor Recreation, greater than 3,000 square feet. However, the parking standards set forth within the Zoning Ordinance does not assign a direct number of minimum required parking spaces for this use. It instead, considers it a use with *Variable Demand Parking Characteristics*.

### **Chapter 8, Section 8.6.6(B)(2) Uses with Variable Parking Demand Characteristics**

Uses with Variable Parking Demand Characteristics: Certain uses have widely varying parking and loading demand characteristics, making it difficult to establish a single off-street parking or loading requirement. In these cases, the Planning & Development Director will examine the specific activity and programming of the space. An off-street loading and parking standard will be assigned to the proposed use based upon the gathering of this information and any information required to be provided by the applicant. Such information must include estimates of parking demand based on recommendations of the Institute of Traffic Engineers (ITE), or other acceptable estimates as approved by the Planning & Development Director, and should include other reliable data collected from uses or combinations of uses that are the same as or comparable with the proposed use. Comparability will be determined by density, scale, bulk, area, type of activity, and location. The information that is provided must document the source of data used to develop the recommendations.



Based on the information that staff obtained from the applicant regarding things such as the ages of attendees, class start and end times, and average class size, staff was able to determine that a minimum of 40 parking spaces should be required of the use. The site currently has only 18 spaces, whereas staff has identified that only 13 spaces can feasibly be added for a total of 31 spaces. Therefore, a variance of 9 parking spaces is needed.

---

### **Site Description**

The property is located on the northeast side of the City and fronts on Cel-River Road, just east of Cherry Road. Surrounding uses include hotels, an animal hospital, retail, auto service, an industrial.

---

### **Description of Intent for the Community Commercial Zoning District**

The CC district is established and intended to provide lands for business uses that provide goods and services to residents of the entire community, including shopping centers and large retail establishments. These commercial uses should provide appropriate appearance, parking, traffic movement, and landscaping elements, and protect abutting residential areas from adverse impacts. The CC district should typically be located along major arterials, at the intersection of arterials, and along growth corridors as identified in the Comprehensive Plan, but should not create or promote strip commercial development.

---

### **Analysis of Requests for Variance**

#### **Required Findings of Fact**

Staff will base its recommendation on an analysis of the below findings. The Zoning Board of Appeals may approve a variance only upon finding that the applicant has demonstrated that **all four** of the below findings are met.

The required findings are shown below in italics, followed by staff's assessment of each finding in non-italicized font.

#### **1. *Extraordinary and Exceptional Conditions***

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

The site has an existing 12,500-square-foot building that along with the existing parking, covers the majority of the site. Given the layout of the building on the site, particularly the limited ability to add parking along the Cel-River Road frontage, the property has limited options for additional parking spaces. The side of the building facing the animal hospital does not have enough room to accommodate parking along with an associated drive aisle; the side parallel to the drive aisle leading from Cel-River Road has limited area to add parallel parking; and there is limited space to add parking to the existing parking lot.

## **2. Unique Conditions**

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

Unlike the subject site, other uses in the area are in newly developed buildings. This provided them the opportunity to pre-determine the size of the building based on the amount of parking that would be required. Examples include the 7- Eleven and Circle-K gas stations, River's Edge Animal Hospital, and Comfort Inn, all of which have developed within the past 5 years.

## **3. Strict Application Deprives Use**

*Because of the conditions, the application of this Ordinance to the land would effectively prohibit or unreasonably restrict the utilization of the land.*

If the variance is not granted, the applicant would not be able to expand the parking area and provide a viable use for the size of the building. Many of the allowed uses in the Community Commercial zoning district would require additional parking due to the size of the existing building. For example, by today's parking standards, the existing use of a retail consignment shop would require 38 parking spaces (based on 75% of the building's square footage dedicated to retail and 25% dedicated to storage of retail inventory).

## **4. Not Detrimental**

*The authorization of the Variance Permit will not result in substantial detriment to adjacent land, or to the public good, and the character of the district will not be harmed by the granting of the variance.*

The proposed use of an Indoor Recreation facility is compatible with both the surrounding commercial uses and industrial uses. In addition, staff has not heard from the adjacent businesses regarding the request.

## **Not Grounds for Variance**

Variance requests cannot be based on the ability of the land to be used more profitably if the requests are granted. If the variance is not granted, a similar commercial use could be developed on the property.

---

## **Public Input**

Staff has taken the following actions to notify the public about this public hearing:

- June 3: Sent public hearing notification postcards to property owners and tenants within 300 feet of the subject property.
- June 3: Posted public hearing signs on subject property.
- June 3: Advertised the Zoning Board of Appeals public hearing in *The Herald*.

Staff has not heard of any feedback from the public about the request.

---



### **Staff Recommendation**

Staff was able to make the required findings and recommends approval of the variance request.

---

### **Attachments**

- Application and supporting materials
- Zoning map

---

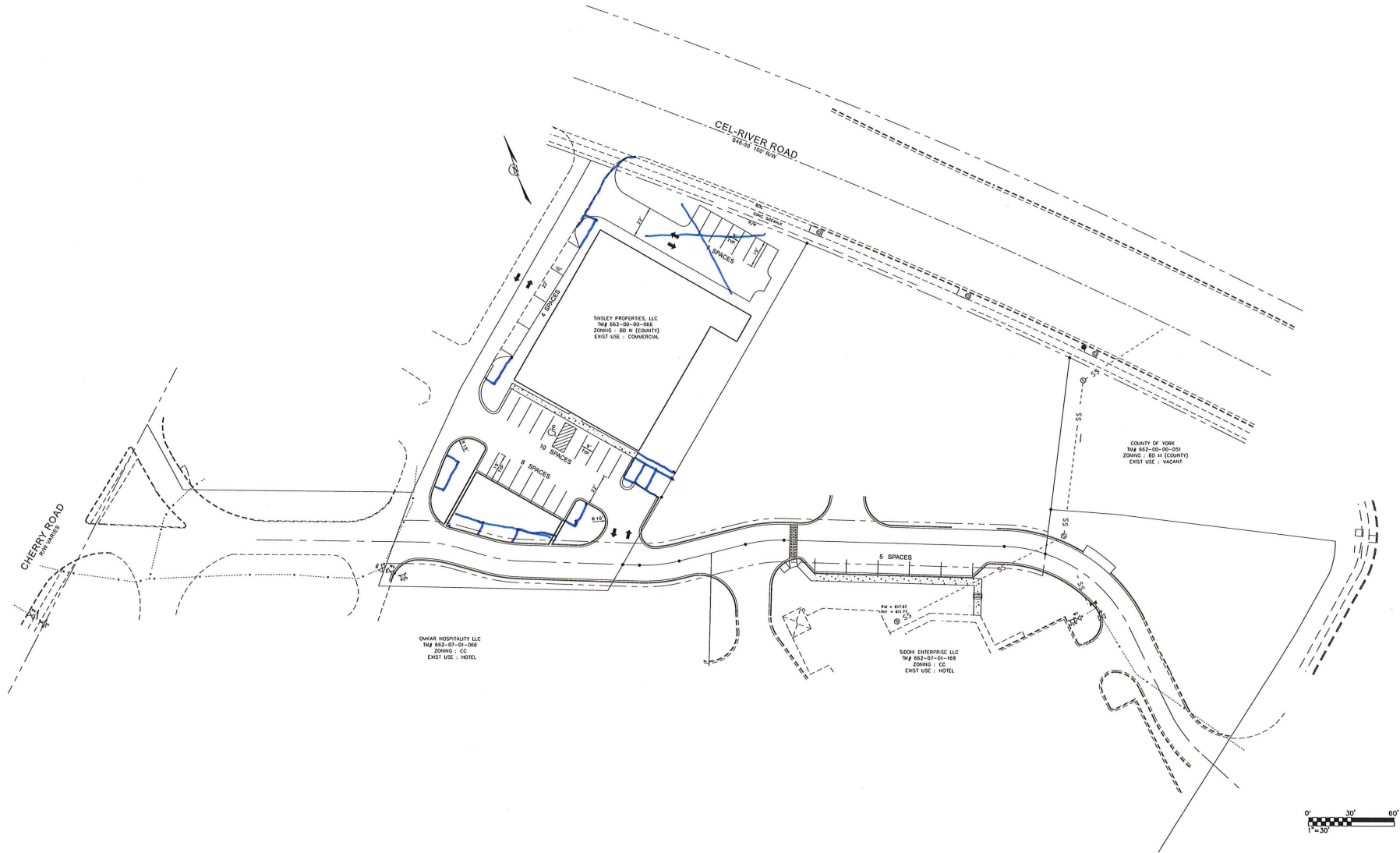
### **Staff Contact:**

Shana Marshburn, Planner II

803.326.2456

[shana.marshburn@cityofrockhill.com](mailto:shana.marshburn@cityofrockhill.com)

Staff's sketch



## VARIANCE APPLICATION

Plan Tracking # \_\_\_\_\_ Date Received: \_\_\_\_\_ Case # Z- \_\_\_\_\_

Please use additional paper if necessary, for example to list additional applicants or properties, or to elaborate on your responses to the questions about the request. You may handwrite your responses or type them. You may scan your responses and submit them by email (see the above fact sheet), since we can accept scanned copies of signatures in most cases.

### PROPERTY INFORMATION

Street address of subject property: 951 Col River Rd., Rock Hill, SC 29730

Tax parcel number of subject property: \_\_\_\_\_

#### Property restrictions

Do any recorded deed restrictions or restrictive covenants apply to this property that would prohibit, conflict with, or be contrary to the activity you are requesting? For example, does your homeowners association or property owners association prohibit the activity or need to approve it first? Yes  No

If yes, please describe the requirements: \_\_\_\_\_

### APPLICANT/PROPERTY OWNER INFORMATION

| Applicant's name      | Mailing address               | Phone number | Email address                        |
|-----------------------|-------------------------------|--------------|--------------------------------------|
| Next Level Gymnastics | 732 Mt. Gehant<br>Rd SC 29730 | 803-327-3917 | nextlevelgymnastics<br>academy@gmail |

Are you the owner of the subject property?  Yes  No

If you are not the owner of the subject property, what is your relationship to it (e.g., have it under contract to purchase, tenant, contractor, real estate agent) lease

I certify that I have completely read this application and instructions, that I understand all it includes, and that the information in the application and the attached forms is correct.

Signature:  Date: \_\_\_\_\_

If you are not the owner of the subject property, the property owner must complete this box.

Name of property owner: Drew Tensly

If property owner is an organization/corporation, name of person authorized to represent its property interests:

I certify that the person listed in the person listed above has my permission to represent this property in this application.

Signature:  Date: 4/23/22

Preferred phone number: 803-327-3547 Email address: \_\_\_\_\_

Mailing address: \_\_\_\_\_

## INFORMATION ABOUT REQUEST

General description of your request

Parking Variance Request

We need additional parking to accommodate the nature of our business. We can not operate the way the property is

### Findings of fact

Under state law, in order to grant a variance, the Zoning Board of Appeals must find that all four of the following statements are true about your request. Please explain why you believe your request is true regarding these four statements.

1. Your land has extraordinary and exceptional conditions that pertain to it.

There is plenty of room on the property to allow additional parking

2. Other property in the vicinity of your land does not generally have those same extraordinary and exceptional conditions.

I do not know the details of the other people property. The nature of our business - we need more parking. Our parking additions will not infringe on anyone

3. If the City applied its regular zoning requirements to your property, your use of the land would be unreasonably restricted or effectively prohibited.

We can not operate the way  
the property is currently designed

4. If the Zoning Board of Appeals grants the variance request, it will not harm adjacent land or the public good.

It will not harm any  
Property adjacent

**Exhibits**

Please list any documents that you are submitting in support of this application. The ones listed below are suggested, but you may provide others that you believe would be helpful, and in some cases, staff or the Zoning Board of Appeals may request other exhibits as well.

- Site plan
- Photos of the area of the property that is the subject of the request

---

---

---

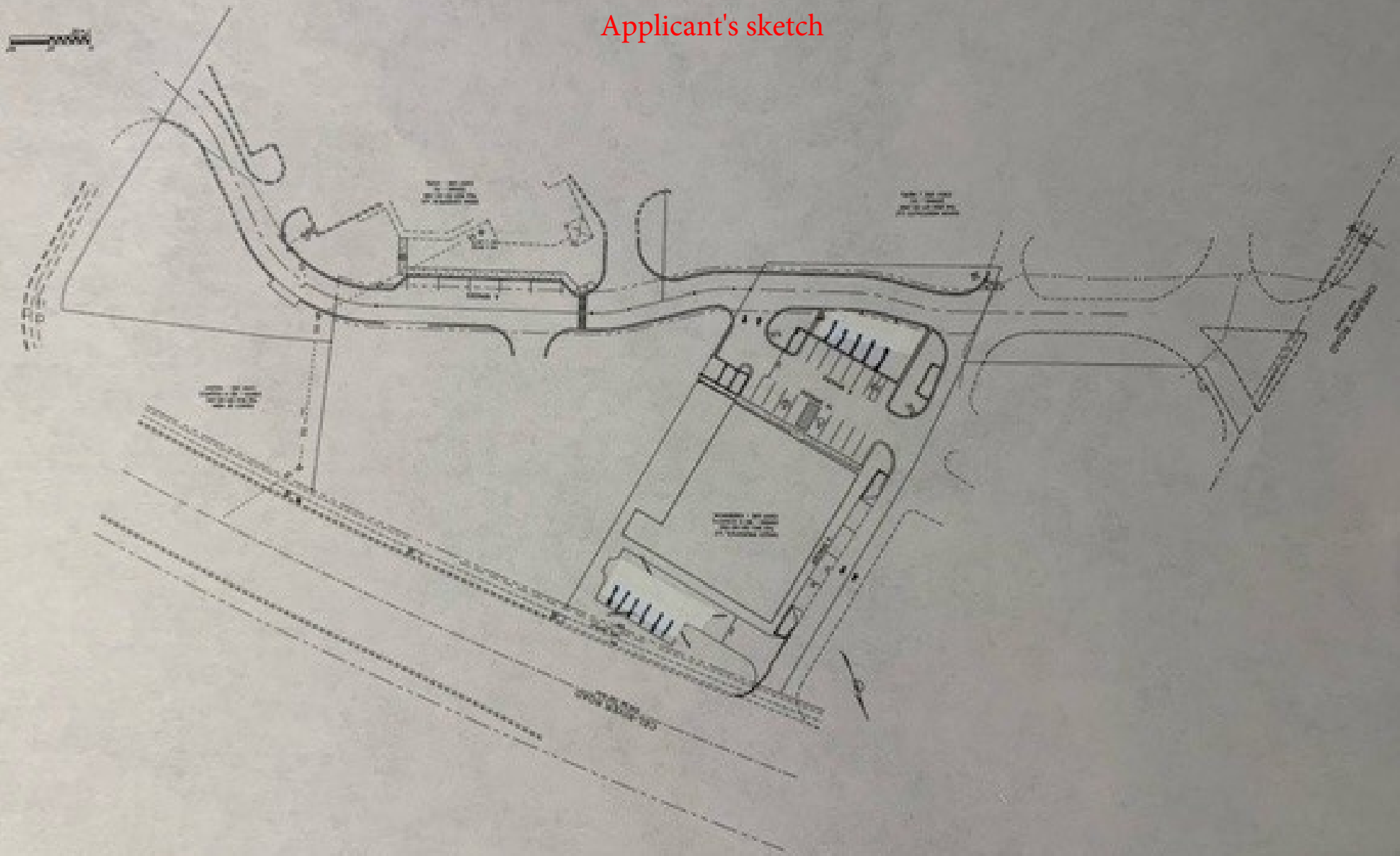
---

---


---

---








Applicant's sketch



## Z-2022-25

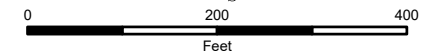
 Subject Property

### Zoning Districts

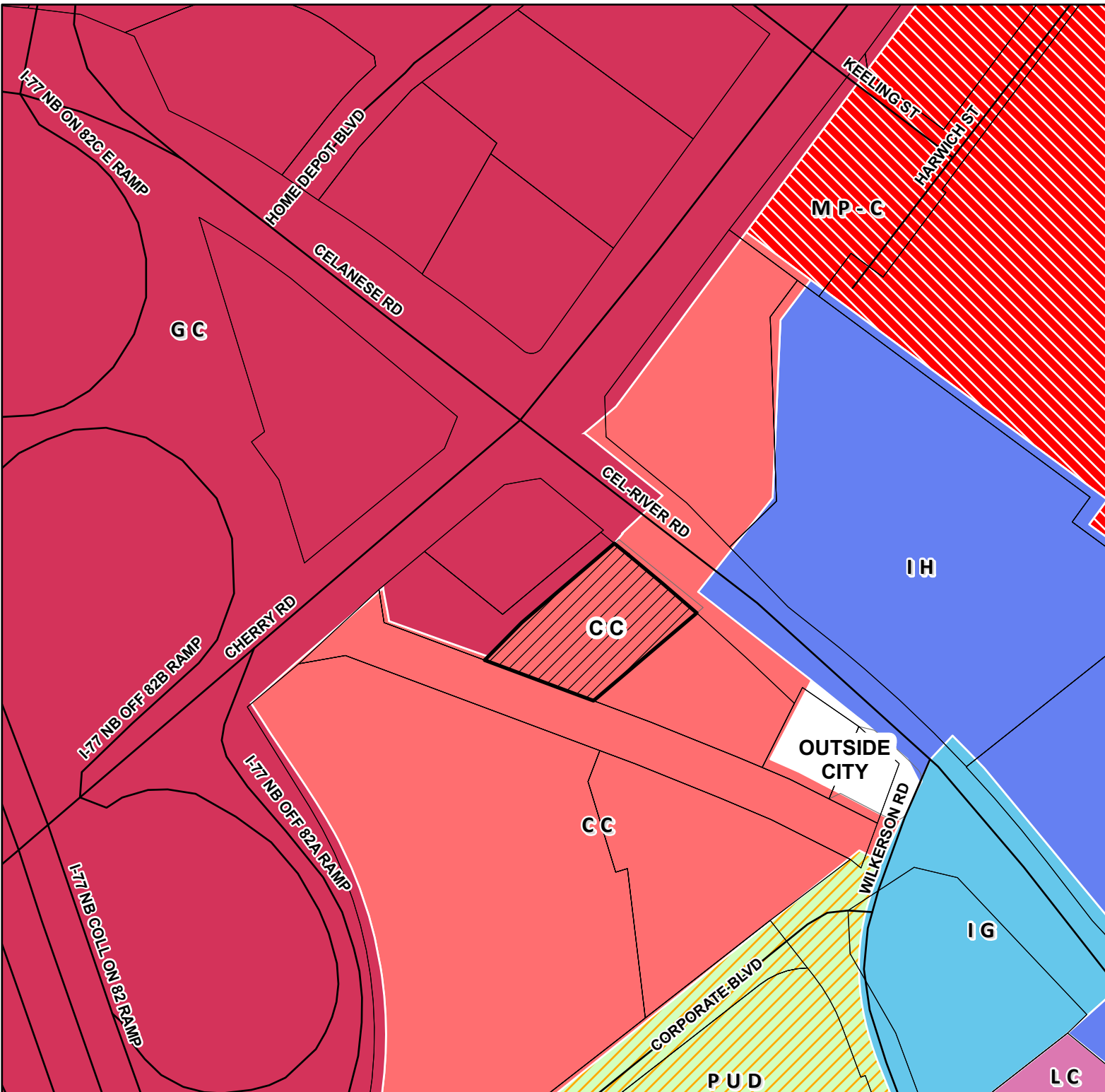
-  Community Commercial (CC)
-  General Commercial (GC)
-  Industry General (IG)
-  Industry Heavy (IH)
-  Limited Commercial (LC)
-  Master Planned Commercial (MP-C)
-  Planned Unit Development (PUD)

## Zoning Data

Current Zoning  
**CC**



Planning & Development  
Department  
City of Rock Hill  
06/21/2022







**Z-2022-26**

**Request:** Variance from the maximum accessory structure size  
**Address:** 750 Briarcliff Road  
**Zoning District:** Single-Family Residential-5 (SF-5)  
**Applicant:** Beatriz Dela Cruz Guerrero





---

**Request:** Variance from the maximum residential accessory structure size requirements.

**Address:** 750 Briarcliff Road

**Tax Map Number:** 625-02-01-001

**Zoning District:** Single Family-5 (SF-5)

**Applicant/Owner:** Beatriz Dela Cruz Guerrero  
750 Briarcliff Road  
Rock Hill, SC 29732

---

### **Background**

Beatriz Dela Cruz Guerrero is requesting a variance from the maximum residential accessory structure size to allow approximately 400-square-feet more area for accessory structures than what is permitted in order to keep a 24' x 31' (744-square-foot) 16-foot-high covered patio which has already been constructed without a permit. For detached residential accessory structures, the Zoning Ordinance allows up to 30% of the home's heated floor area, or 600-square-feet whichever is greater, to be allotted towards a detached accessory structure and it was determined that the maximum square footage for accessory structures on this lot is 600-square-feet. Since there is an existing 264-square-foot accessory structure on the lot, the proposed 744-square-foot structure would exceed this amount by 408-square-feet, as there was only 336-square-feet remaining in accessory structures that could be placed on the lot.

---

### **Site Description**

The property is located at 750 Briarcliff Road (Tax map number 625-02-01-001) between Jones Avenue to the north and Albright Road to the south in the southeast area of the City. It lies on the eastern portion of the residential wedge developed between two commercial corridors Saluda and Albright Roads. It is immediately surrounded by other single-family homes also zoned SF-5 with some commercial uses nearby to its east along Albright Road.

---

### **Description of Intent for the Single Family Detached Zoning Districts**

These residential districts are established to primarily provide for single-family detached residential development. A few complementary uses customarily found in residential zoning districts, such as religious institutions, may also be allowed.

The primary difference between these districts is the minimum lot size for development and other dimensional standards that are listed in full in *Chapter 6: Community Design Standards*. The minimum lot size in the SF-5 district is 7,500 square feet.



## **Analysis of Requests for Variance**

### **Required Findings of Fact**

Staff will base its recommendation on an analysis of the below findings. The Zoning Board of Appeals may approve a variance only upon finding that the applicant has demonstrated that **all four** of the below findings are met.

The required findings are shown below in italics, followed by staff's assessment of each finding in non-italicized font.

#### **1. *Extraordinary and Exceptional Conditions***

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

The subject property is similar in lot size, house size and available yard area to potentially make use of accessory structures as other lots in the area. Additionally, the land conditions in the neighborhood area are generally flat with favorable conditions for construction of structures of this sort. Hence, this particular piece of land exhibits negligible extraordinary or exceptional conditions as compared to other properties in the area.

#### **2. *Unique Conditions***

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

There were no unique conditions involving this property or request identified by the applicant, nor apparent during analysis that would not apply to other property in the vicinity.

#### **3. *Strict Application Deprives Use***

*Because of the conditions, the application of this Ordinance to the land would effectively prohibit or unreasonably restrict the utilization of the land.*

The application of the Ordinance regulations would not prohibit the use or construction of a covered patio, rather it would require it to be smaller in size and scale to conform to the size limitations. Moreover, there were other options that could have been explored, like the removal of the existing accessory structure, to allow for construction of a larger covered patio if size was an important priority to accommodate large family gatherings.

#### **4. *Not Detrimental***

*The authorization of the Variance Permit will not result in substantial detriment to adjacent land, or to the public good, and the character of the district will not be harmed by the granting of the variance.*

If the variance is granted, the property would still be used as a residence, but the excessive accessory building size would be out of character with the neighborhood. Accessory buildings on other properties in the area comply with the permitted size.

### **Not Grounds for Variance**

Variance requests cannot be based on the ability of the land to be used more profitably if the requests are granted. In this case, the granting of the variance request would allow the property to be used for a single-family residence, which is not a use that is expected to generate profit.

---

### **Public Input**

Staff has taken the following actions to notify the public about this public hearing:

- June 3: Sent public hearing notification postcards to property owners and tenants within 300 feet of the subject property.
- June 3: Posted public hearing signs on subject property.
- June 3: Advertised the Zoning Board of Appeals public hearing in *The Herald*.

Staff has not heard of any feedback from the public about the request.

---

### **Staff Recommendation**

Staff was unable to make all of the findings in this instance and so recommends denial of this variance request.

---

### **Attachments**

- Application and supporting materials
  - Zoning map
- 

### **Staff Contact:**

Bryman Suttle, Planner I

803.329.5674

[bryman.suttle@cityofrockhill.com](mailto:bryman.suttle@cityofrockhill.com)

VARIANCE APPLICATION

Plan Tracking # \_\_\_\_\_ Date Received: \_\_\_\_\_ Case # Z- \_\_\_\_\_

Please use additional paper if necessary, for example to list additional applicants or properties, or to elaborate on your responses to the questions about the request. You may handwrite your responses or type them. You may scan your responses and submit them by email (see the above fact sheet), since we can accept scanned copies of signatures in most cases.

PROPERTY INFORMATION

Street address of subject property: 750 Briarcliff Rd, Rock Hill, SC 29730

Tax parcel number of subject property: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

Property restrictions

Do any recorded deed restrictions or restrictive covenants apply to this property that would prohibit, conflict with, or be contrary to the activity you are requesting? For example, does your homeowners association or property owners association prohibit the activity or need to approve it first? Yes \_\_\_\_\_ No

If yes, please describe the requirements: \_\_\_\_\_  
\_\_\_\_\_

APPLICANT/PROPERTY OWNER INFORMATION

| Applicant's name            | Mailing address                          | Phone number | Email address         |
|-----------------------------|--|--------------|-----------------------|
| Beatriz De la Cruz Guerrero | 750 Briarcliff Rd<br>Rock Hill, SC 29730 | 803-371-2354 | Betty_and28@yahoo.com |

Are you the owner of the subject property?  Yes  No

If you are not the owner of the subject property, what is your relationship to it (e.g., have it under contract to purchase, tenant, contractor, real estate agent) \_\_\_\_\_

I certify that I have completely read this application and instructions, that I understand all it includes, and that the information in the application and the attached forms is correct.

Signature: Beatriz De la Cruz Guerrero Date: 5/13/22

If you are not the owner of the subject property, the *property owner* must complete this box.

Name of property owner: \_\_\_\_\_

If property owner is an organization/corporation, name of person authorized to represent its property interests: \_\_\_\_\_

I certify that the person listed in the person listed above has my permission to represent this property in this application.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Preferred phone number: \_\_\_\_\_ Email address: \_\_\_\_\_

Mailing address: \_\_\_\_\_

## INFORMATION ABOUT REQUEST

### General description of your request

I am requesting to keep my patio measurements the same 24x31. My property is big enough to keep it. I have a big family and we like to get together, the patio is the right size to fit my family.

### Findings of fact

Under state law, in order to grant a variance, the Zoning Board of Appeals must find that all four of the following statements are true about your request. Please explain why you believe your request is true regarding these four statements.

1. Your land has extraordinary and exceptional conditions that pertain to it.

Yes, the land is in good conditions for any building being constructed.

2. Other property in the vicinity of your land does not generally have those same extraordinary and exceptional conditions.

All the properties around the neighborhood have the same conditions regarding land measurements.



3. If the City applied its regular zoning requirements to your property, your use of the land would be unreasonably restricted or effectively prohibited.

No, this is an open patio be behind the house in the back yard. This will not affect regular zoning

4. If the Zoning Board of Appeals grants the variance request, it will not harm adjacent land or the public good.

No it would not, the patio is in our property. It will not affect our neighbors or their property.

**Exhibits**

Please list any documents that you are submitting in support of this application. The ones listed below are suggested, but you may provide others that you believe would be helpful, and in some cases, staff or the Zoning Board of Appeals may request other exhibits as well.

- Site plan
- Photos of the area of the property that is the subject of the request

---

---

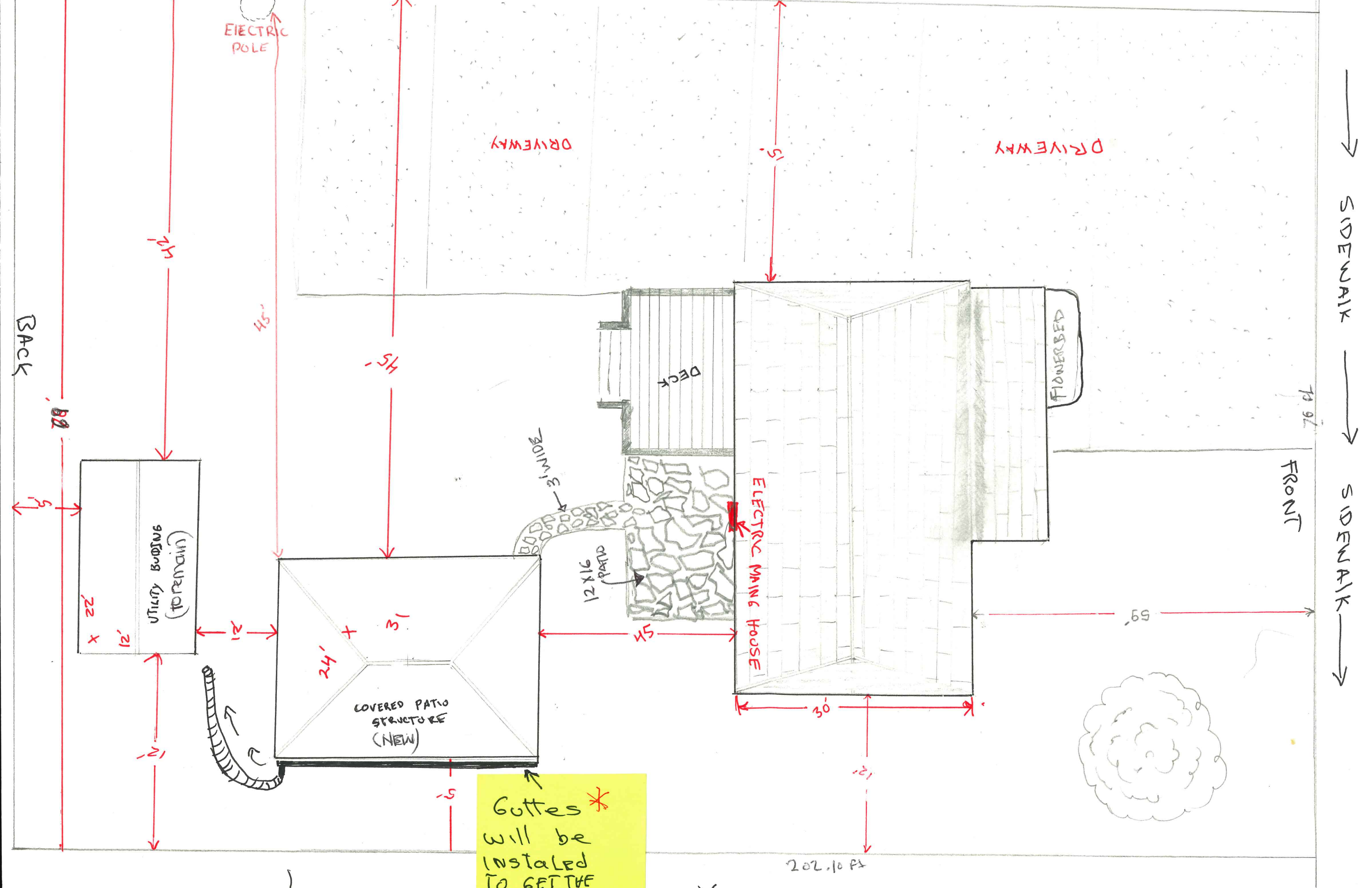
---

---

---

---

---



Gutters \* will be installed to get the water away from neighbors.

NEIGHBOR

17 FT

202.10 FT

FRONT

SIDEWALK

DRIVEWAY

DRIVEWAY

ELECTRIC POLE

FLOWER BED

DECK

ELECTRIC MAIN HOUSE

12 X 16 PATIO

30 INCHES

COVERED PATIO STRUCTURE (NEW)

UTILITY BUILDING (TO REMAIN)

BACK

Beatriz De La Cruz Guerrero  
750 Briarcliff Rd,  
Rock Hill, SC 29730.

803 3712354  
[Betty\\_and28@yahoo.com](mailto:Betty_and28@yahoo.com)

Dear Mrs. Carey,

I am attaching the extra information and of the planning with the missing things you and some of the other inspectors ask for.

I will address each of the points as outlined in my plan review comments.

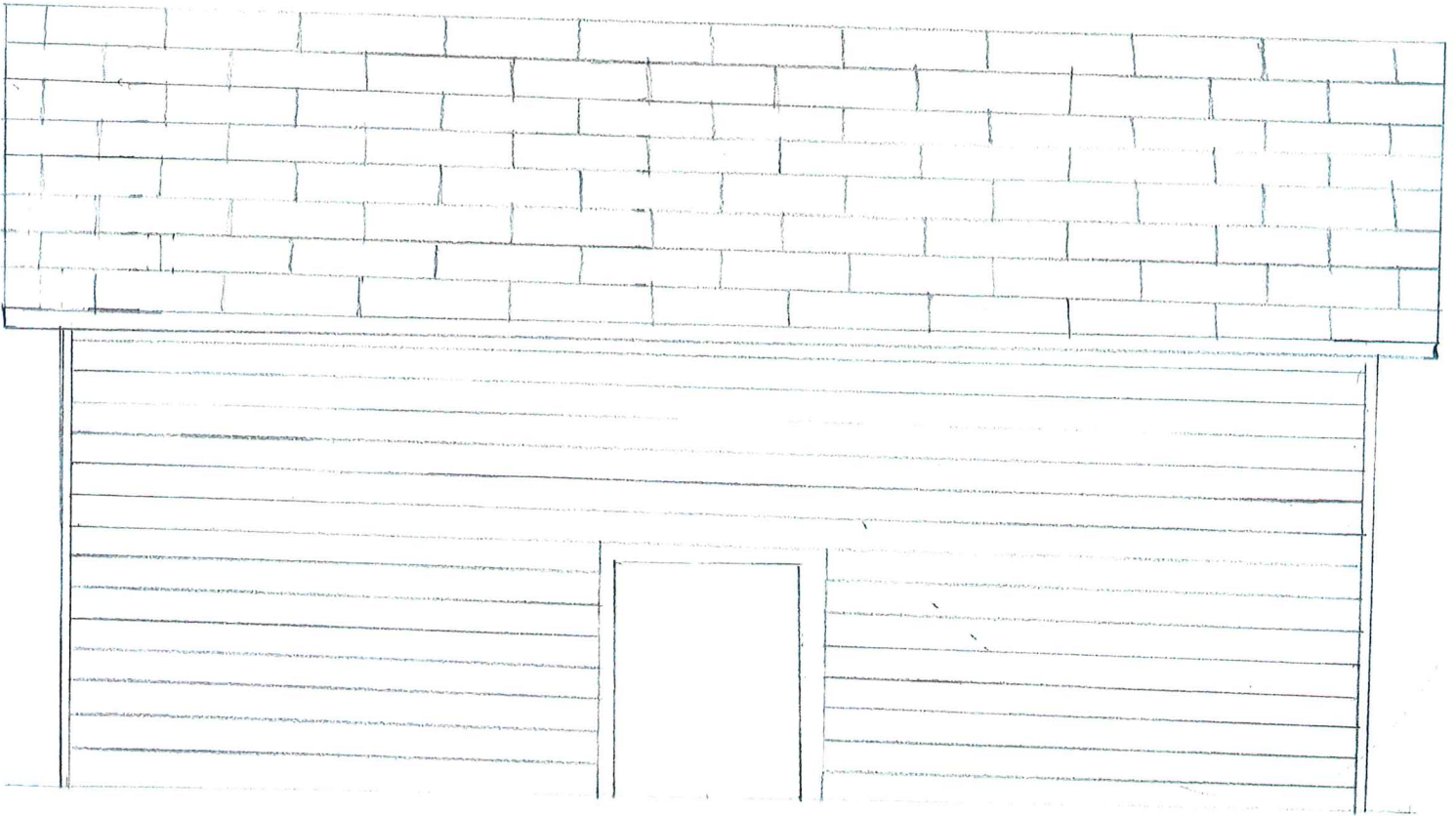
- Infrastructure- 1. Existing structures were added to the map sample along with dimensions. 2. Structures still remain in the property. 3. Gutters will be added to the neighbors side to avoid any runoff water. Rest of the construction will not affect the neighbors.
- Inspections- measurement were added in the previous paper work. All the measurements are written down. End post is 24", footer is 10". Joist spacing is 16' in between. Headers are connected notched to the post. Collar ties spacings are 16". For the connections we are using the hurricane tie.
- Zoning- structures were added in the permit and the measurements.
- Permit technician- there is no electric service added to this structure. Building permit application is submitted along with this information with an approximate cost amount of the structure.
- Utilities- electric polo and hose meter were added to the plan. Measurements are added as well. Approximate value cost is around \$20,000

Thank you for all your help, if there is anything else needed please let me know.

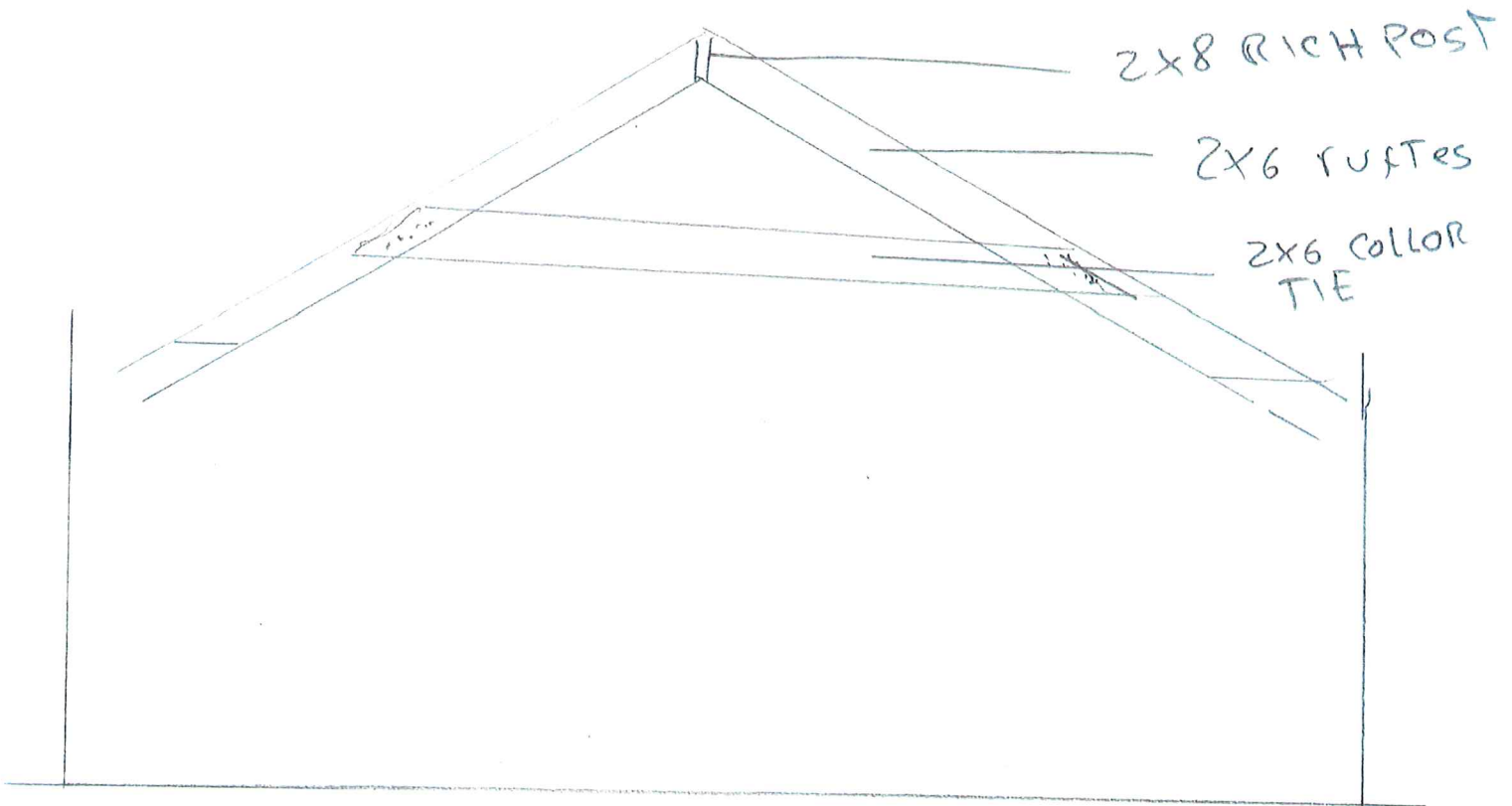
Beatriz De La Cruz

\* HEIGHT OF PORCH IS 16'

BACK \$ FRONT ELEVATION

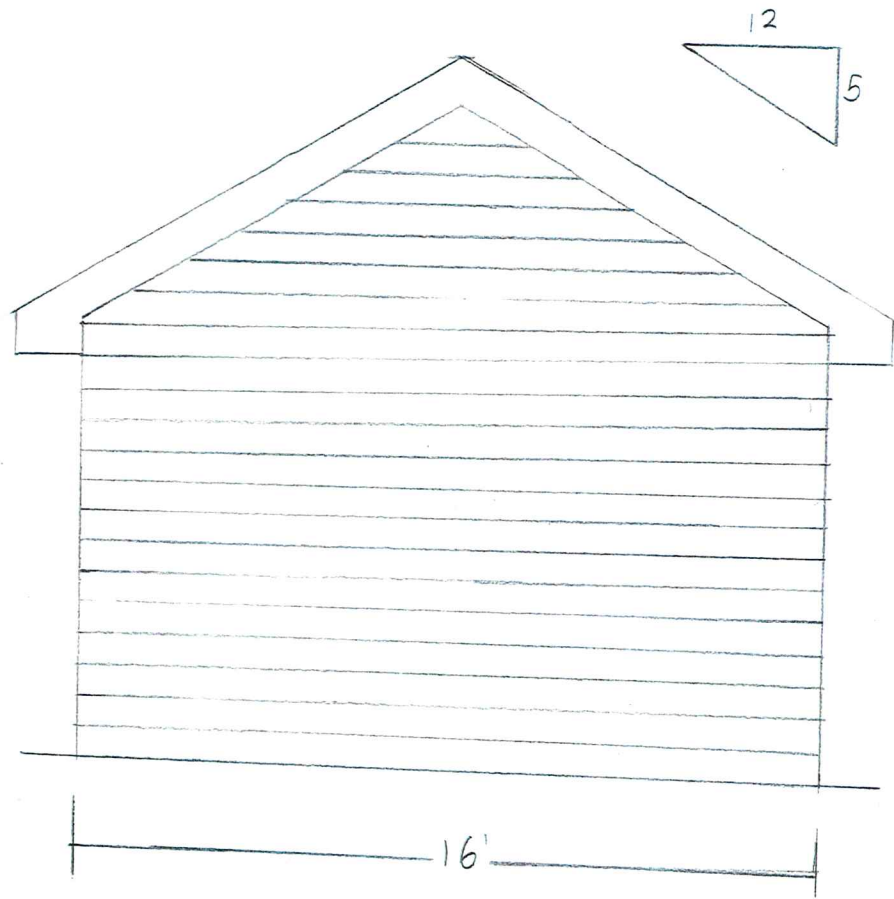


BACK ELEVATION

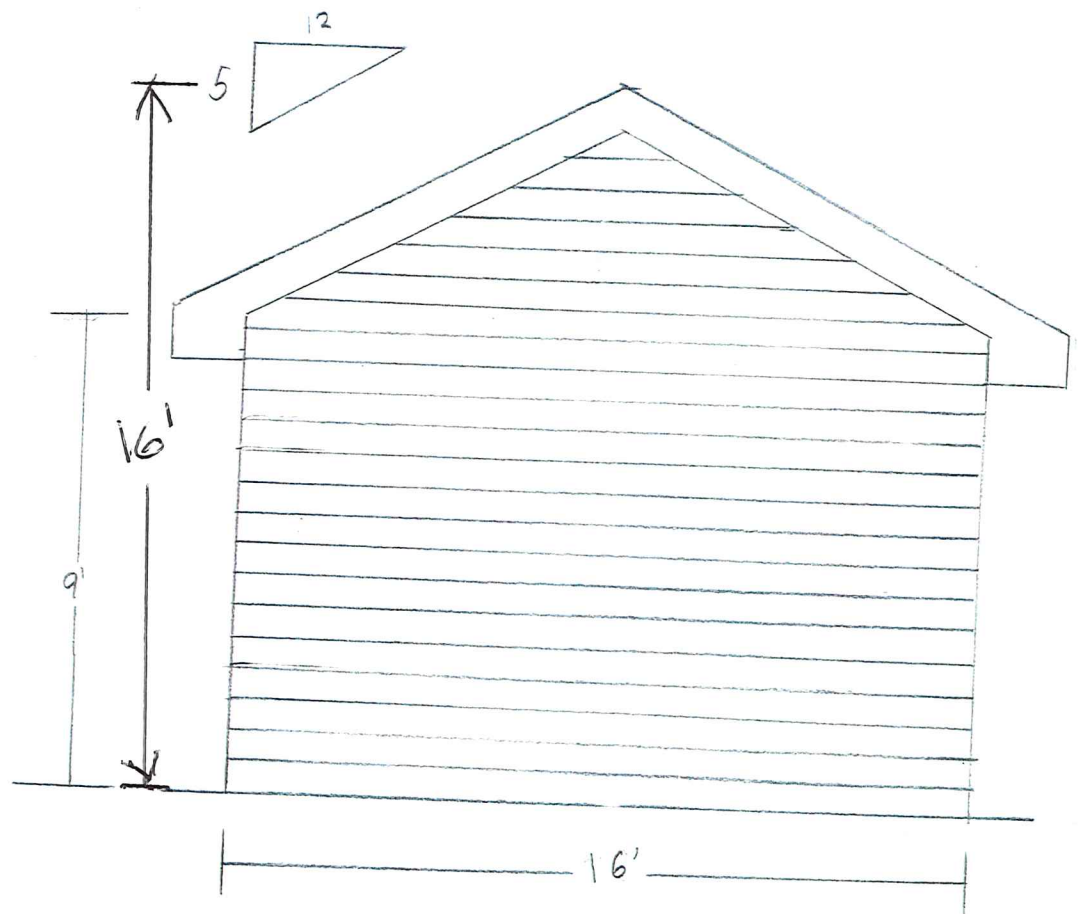




RIGHT SIDE  
ELEVATION

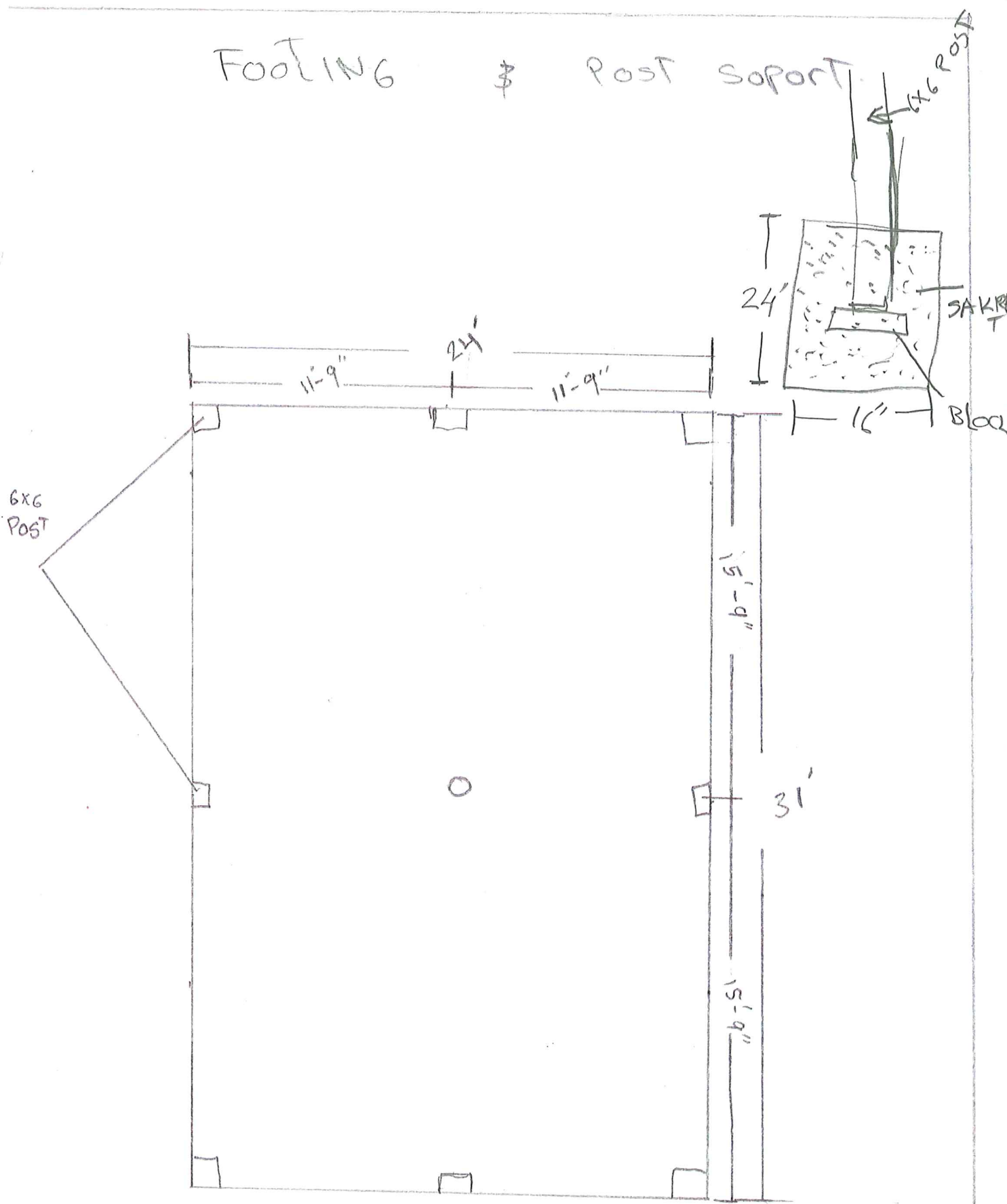


LEFT SIDE  
ELEVATION

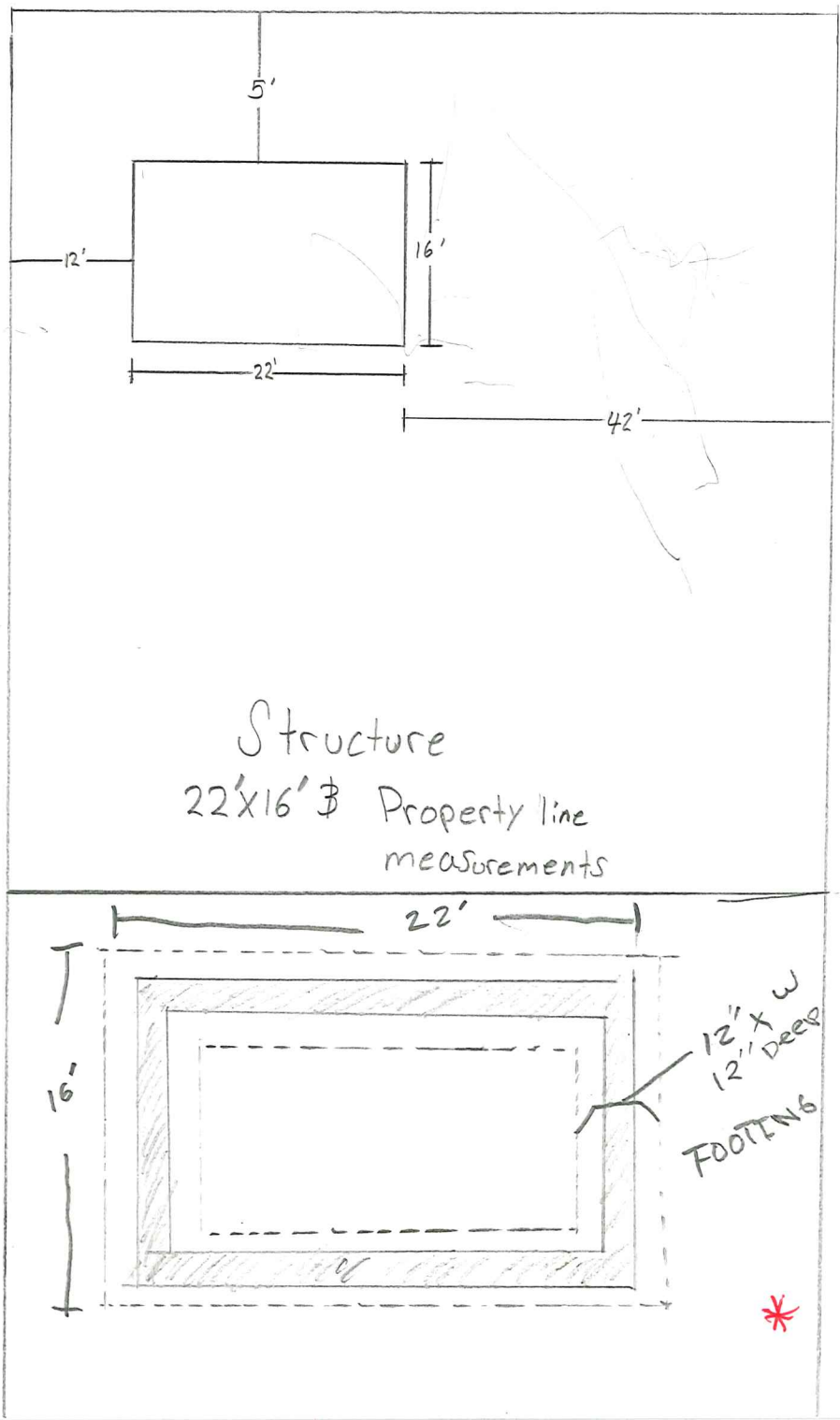
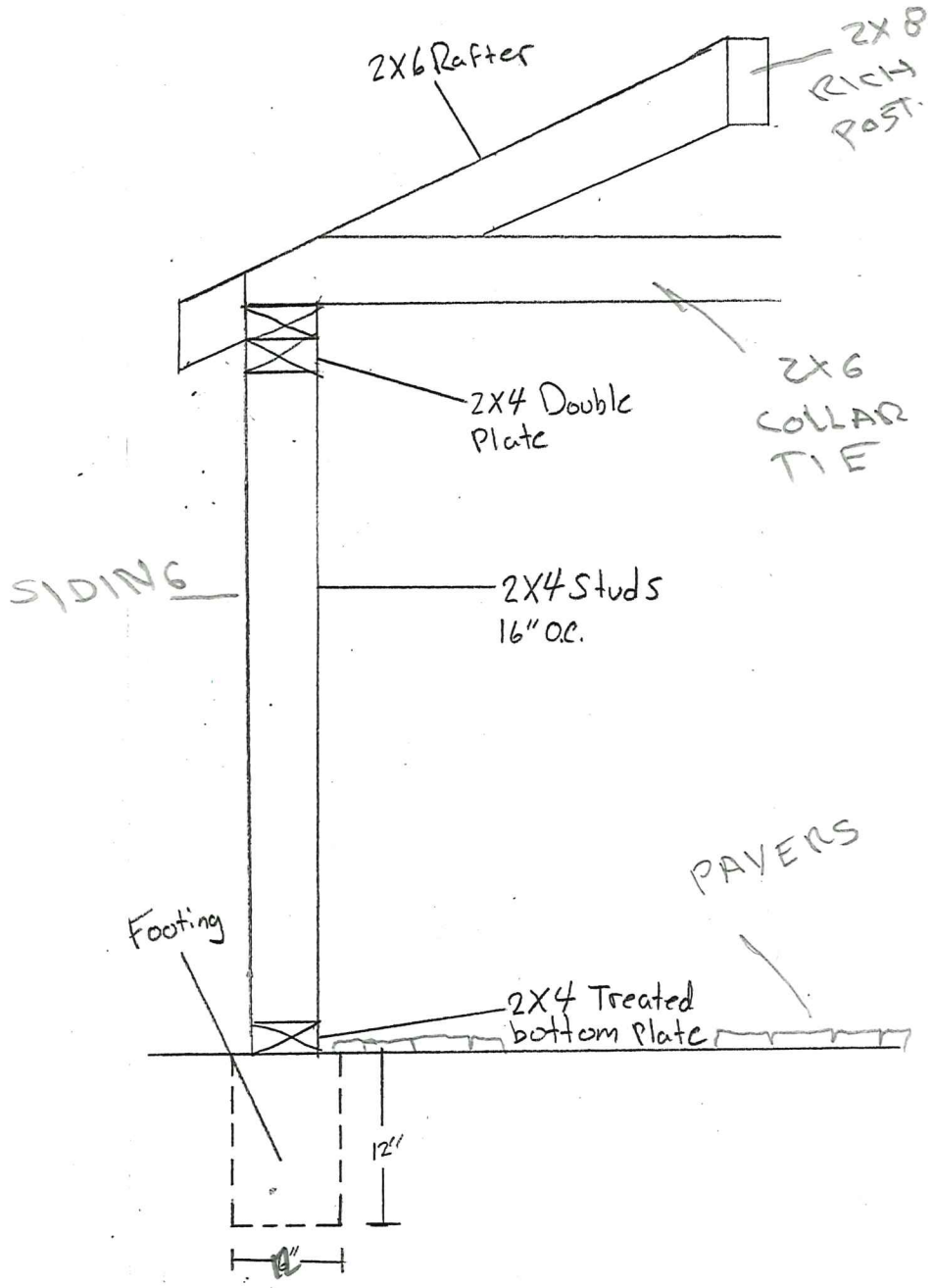


UTILITY BUILDING  
ON THE ADDRESS

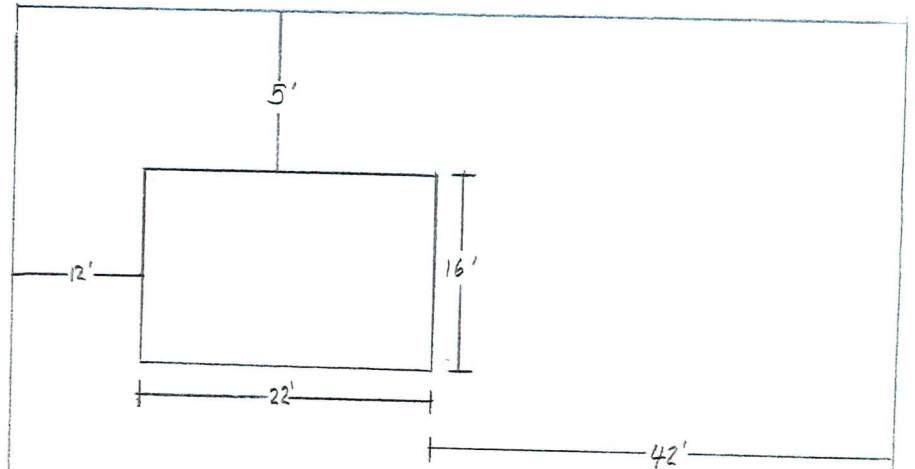
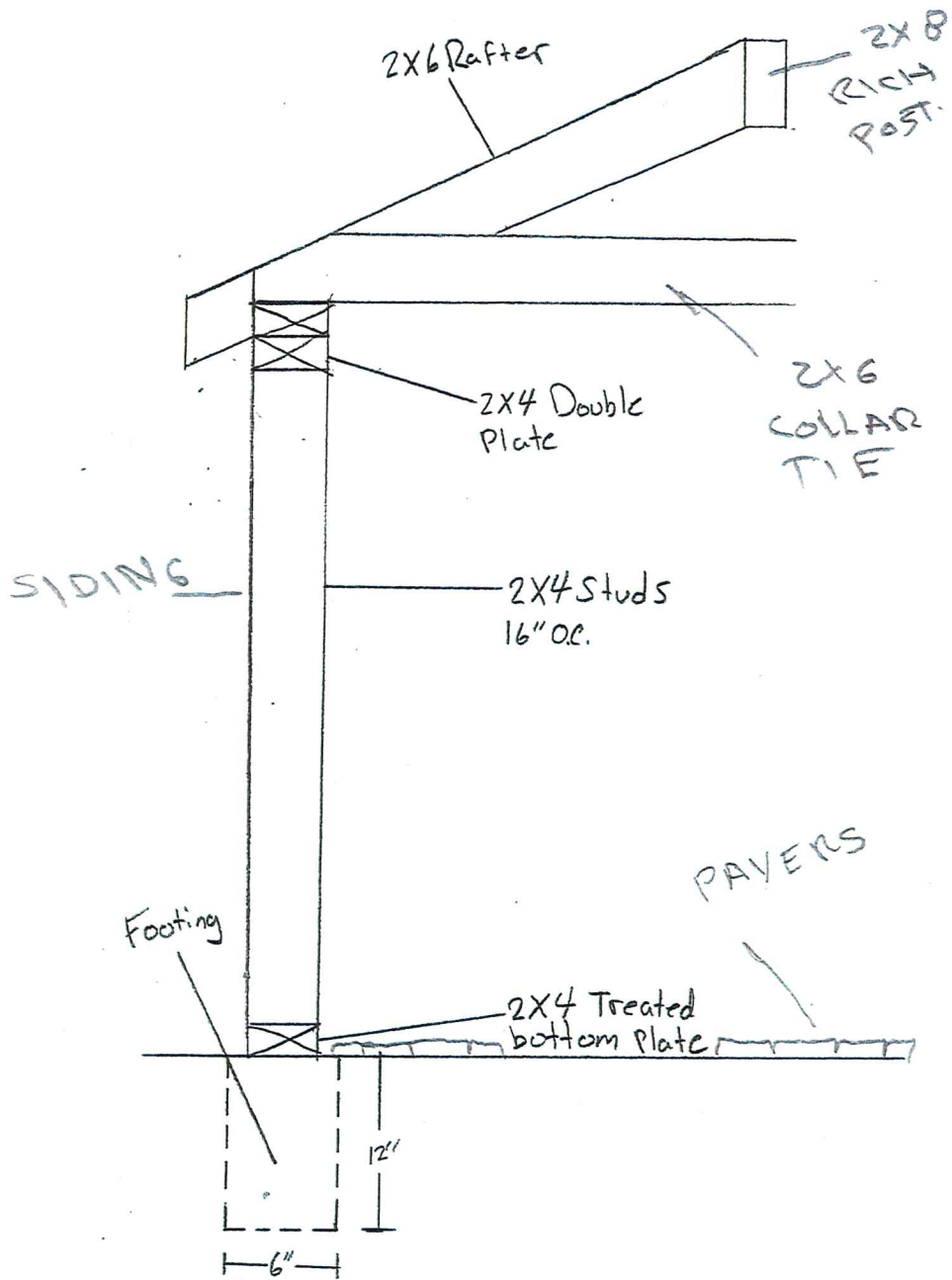
# FOOTING & POST SUPPORT



# Wall System



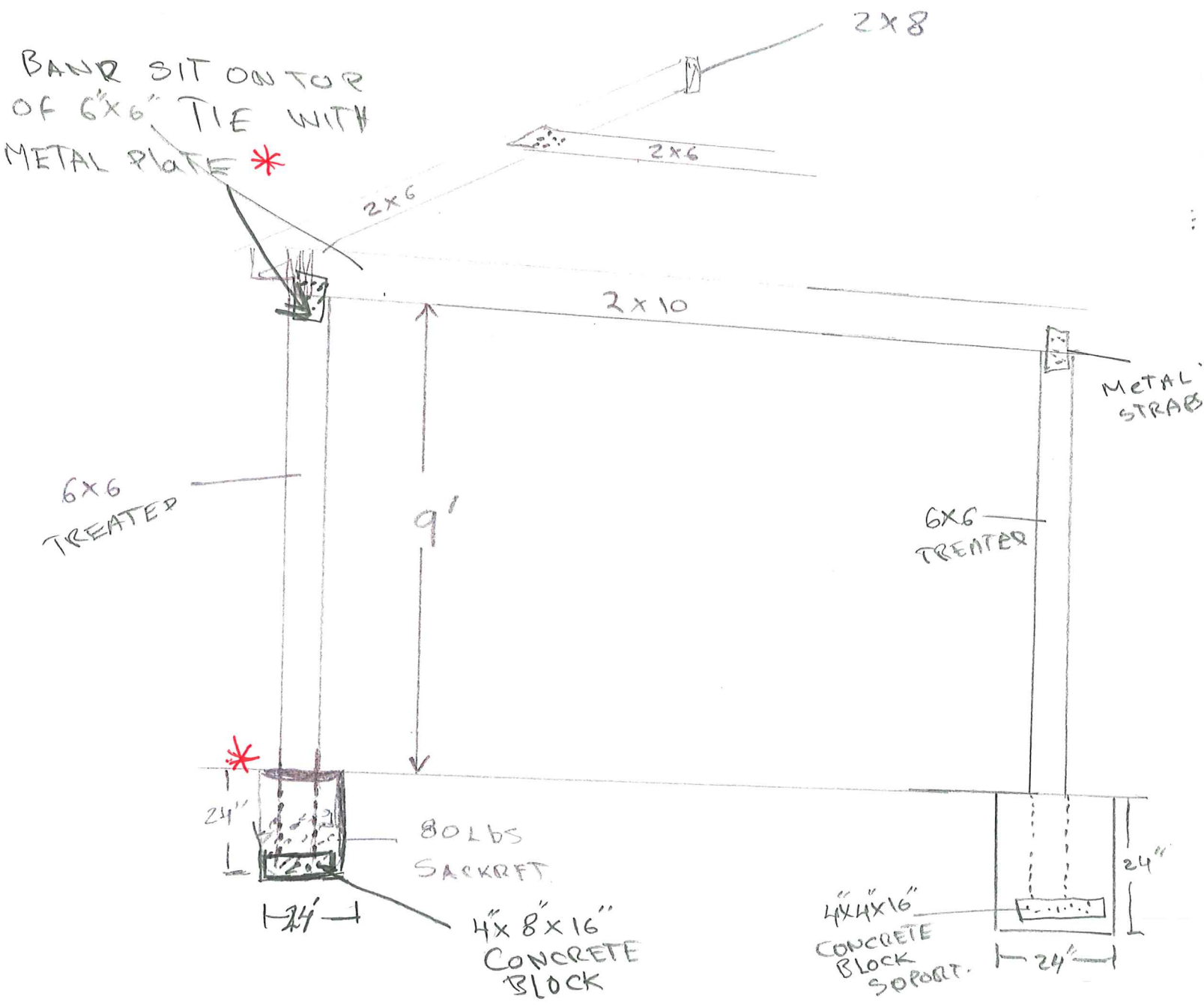
# Wall System



Structure  
22'x16' § Property line  
measurements

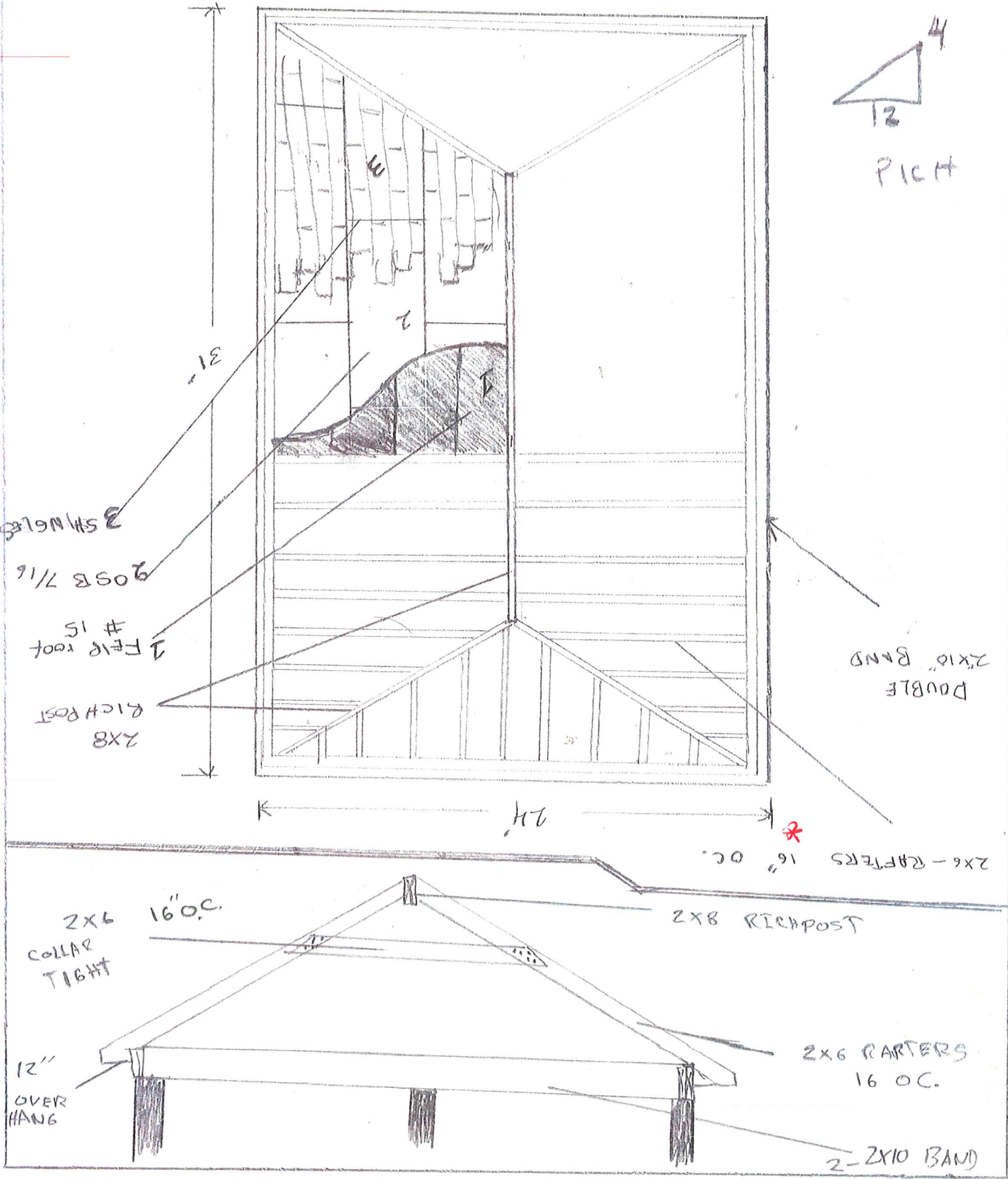


BAND SIT ON TOP OF 6x6 TIE WITH METAL PLATE \*








Footing support \*

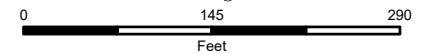
# ROOF SYSTEM



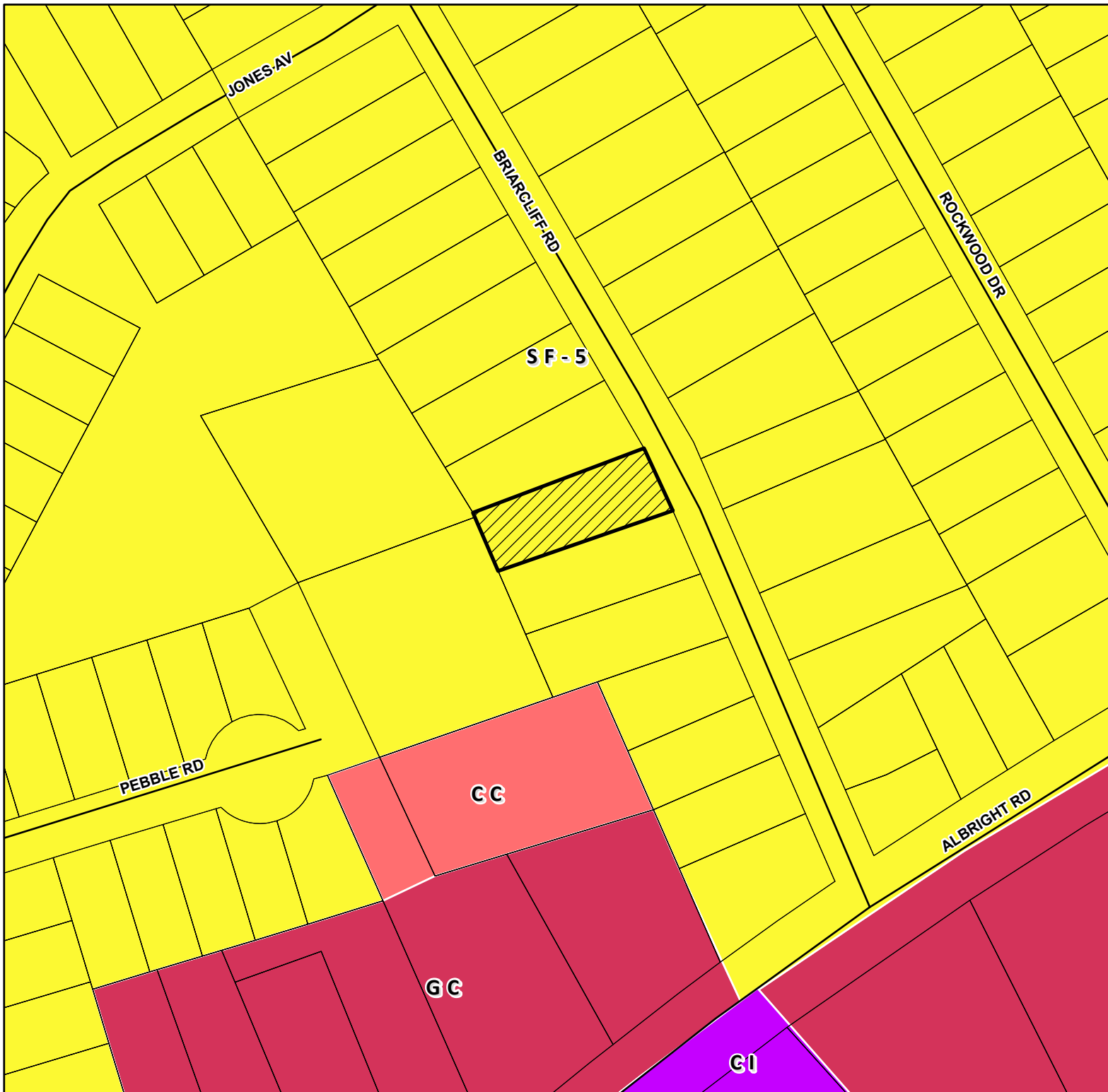
## Z-2022-26

-  Subject Property
- Zoning Districts**
-  Commercial Industrial
-  Community Commercial (CC)
-  General Commercial (GC)
-  Single-Family 5 (SF-5)

## Zoning Data Current Zoning SF-5



Planning & Development  
Department  
City of Rock Hill  
06/21/2022







**Z-2022-27**

**Request:** Extension of the special exception to re-establish a non-conforming convenience store use

**Address:** 455 Green Street

**Zoning District:** Single-Family Residential-4 (SF-4)

**Applicant:** Maqloire Lubika of Green Box Market





---

|                         |  |
|-------------------------|--|
| <b>Request:</b>         | An extension of the special exception to re-establish a non-conforming convenience store use |
| <b>Address:</b>         | 455 Green St.  |
| <b>Tax Map No.:</b>     | 600-02-03-037  |
| <b>Zoning District:</b> | Single Family-4 (SF-4)   |
| <b>Applicant:</b>       | Magloire Lubika<br>6304 Trevor Simpson Dr.<br>Indian Trail, NC 28079                         |
| <b>Property Owner:</b>  | The Box Companies LLC (Magliore Lubika)<br>702 Ogden Rd<br>Rock Hill, SC 29730               |

---

## Background

In December 2019, the Zoning Board of Appeals heard a request from the applicant, Magloire Lubika, to re-establish a small convenience store at 455 Green St. The ZBA approved the request with a one-year trial period.

After failing to re-open the store within the one-year timeframe, the applicant requested that the Board grant an extension during its December 2020 meeting. At that time, the applicant cited COVID-19 and the inability to obtain financing as its reasoning for not being able to open the store within the specified timeframe. The Board voted to grant the extension for a period of 18 months. After still being unable to open the store for reasons related to financing, the applicant is requesting that the Board grant another extension, whereas the applicant would hope to have the store open within one year, with the trial period beginning when the store opens.

The staff report and minutes from both the December 2019 and 2020 requests are attached. New relevant information includes the following:

- The subject property has had two calls for police service since the December 2020 hearing. One was in November of 2021 to report a motor vehicle collision without any injuries involved. The other was in February of 2021 and involved the caller being upset about early morning construction noise in the area.
- The subject property has not been the subject of any code enforcement complaints since December 2020.

The applicant's family also owns a convenience store on Ogden Road that was the subject of conversation during the public hearing about the request to re-open the convenience store on Green Street and continued to be the subject of conversation during the first request for extension:

- Since December 2020, there have been twenty police calls involving the Ogden Road location. Most of the calls appear to have been made by the business

owners themselves or callers who were near the location of the store when reporting a crime, while others were initiated by an officer. Calls were related to motor vehicle collisions (5), larceny/shoplifting (1), moving violations (4), theft (1), disorderly conduct/suspicious persons (3), drug possession (1), and miscellaneous (5).

- The Ogden Road property has not been the subject of any code enforcement complaints since December 2020.

---

### **Public Input**

Staff has taken the following actions to notify the public about this public hearing:

- June 3: Sent public hearing notification postcards to property owners and tenants within 300 feet of the subject property.
- June 3: Posted public hearing signs on subject property.
- June 3: Advertised the Zoning Board of Appeals public hearing in *The Herald*.

Staff received feedback from Lonnie Sims of 467 Green Street, who has concerns about granting the applicant another extension.

Staff recently helped to fulfill a Freedom of Information Act (FOIA) request from Lonnie Sims for all documents pertaining to this current request and all previous requests to re-establish the convenience store.

---

### **Staff Recommendation**

While staff understands that because the building was built for commercial use and converting it to a residential structure would be costly, it also believes that barring the COVID-19 situation, sufficient time has passed in order to get the store in operable condition.

The applicant has suggested that it needs approximately one-year to get the store up and running, at which time it would then begin the trial operation period. Because of the applicant's inability to open the store in the approximately 30-month timeframe since the very first approval along with the constant concerns from a nearby property owner, staff will leave it up to the Board's discretion if it sees fit to grant another extension.

---

### **Attachments**

- Application and supporting materials for current request
- Staff report and minutes from the December 2019 hearing
- Staff report and minutes from the December 2020 hearing
- Zoning map

---

### **Staff Contact:**

Shana Marshburn, Planner II

803.326.2456

[shana.marshburn@cityofrockhill.com](mailto:shana.marshburn@cityofrockhill.com)



## SPECIAL EXCEPTION APPLICATION FOR RE-ESTABLISHING A NON-CONFORMING USE IN A RESIDENTIAL ZONING DISTRICT

Plan Tracking # \_\_\_\_\_ Date Received: \_\_\_\_\_ Case # Z- \_\_\_\_\_

Please use additional paper if necessary, for example to list additional applicants or properties, or to elaborate on your responses to the questions about the request. You may handwrite your responses or type them. You may scan your responses and submit them by email (see the above fact sheet), since we can accept scanned copies of signatures in most cases.

### PROPERTY INFORMATION

Street address of subject property: 455 Green St, Rock Hill, SC 29730

Tax parcel number of subject property: 6 0 0 - 0 2 - 0 3 - 0 3 7

#### Property restrictions

Do any recorded deed restrictions or restrictive covenants apply to this property that would prohibit, conflict with, or be contrary to the activity you are requesting? For example, does your homeowners association or property owners association prohibit the activity or need to approve it first? Yes \_\_\_\_\_ No x

If yes, please describe the requirements: \_\_\_\_\_  
\_\_\_\_\_

### APPLICANT/PROPERTY OWNER INFORMATION

| Applicant's name | Mailing address                                   | Phone number   | Email address                 |
|------------------|---|----------------|-------------------------------|
| Magloire Lubika  | 6304 Trevor Simpson Dr,<br>Indian Trail, NC 28079 | (704) 618-6521 | Magloire@surefiremarketco.com |

Are you the owner of the subject property?  Yes  No

If you are not the owner of the subject property, what is your relationship to it (e.g., have it under contract to purchase, tenant, contractor, real estate agent) \_\_\_\_\_

I certify that I have completely read this application and instructions, that I understand all it includes, and that the information in the application and the attached forms is correct.

Signature: Magloire Lubika Date: 05/23/2022

**If you are not the owner of the subject property, the *property owner* must complete this box.**

|  |
|--|
| <p><b>Name of property owner:</b> <u>The Box Companies, LLC</u></p> <p>If property owner is an organization/corporation, name of person authorized to represent its property interests:<br/><u>Magloire Lubika</u></p> <p><b>I certify that the person listed in the person listed above has my permission to represent this property in this application.</b></p> <p>Signature: <u>Magloire Lubika</u> Date: <u>05/23/2022</u></p> <p>Preferred phone number: <u>704-618-6521</u> Email address: <u>magloire@surefiremarketco.com</u></p> <p>Mailing address: <u>6304 Trevor Simpson dr, Indian Trail, Nc 28079</u></p> |
|--|



## INFORMATION ABOUT REQUEST

### What is the type of use for which you are requesting a special exception?

Special exception to re-establish a convenience store.

---

### Special exception standards

Please explain to the Board why you believe your request meets these standards. These are the standards the Board will consider when deciding whether to approve your request, although it may find that not all are applicable to your request.

1. Is the proposed use allowed by right, conditional use or special exception in the Neighborhood Office (NO) or Neighborhood Commercial (NC) zoning district? If so, please demonstrate how you plan to meet the use-specific standards for the use:

Yes, the proposed use is allowed by conditional use of neighborhood commercial.

---

---

---

---

---

---

2. Is the existing structure specialized to a non-conforming use, such that conversion to a conforming use would not be economically feasible?

Yes, the existing structure was built for commercial use, it will not be easily converted.

---

---

---

---

---

---

3. Would the non-conforming use be functionally expanded in any way?

No.

---

---

---

---

---

---

4. Is there a demonstrated history of compatibility with the surrounding neighborhood including, but not limited to, a lack of documented complaints, calls for police service, or other operational concerns such as traffic, parking or other similar impacts?

Within the past 10 years, there has been 60 police calls pertaining to the 455 Green st property.  
A significant amount of the calls were related to suspicious persons, trespassing, alarms going off  
(not break-ins) accidental calls, and property checks.

After review of the 2013 zoning appeal, and having several conversations with members of the community.  
We've been able to address any issues that may still linger over the past six years and work towards  
satisfying those request. Such as a ramp for accessibility for senior citizens and other concers.

5. If the Board so chooses, re-establishment may be permitted for a possible trial period to determine if impacts are mitigated to the maximum extent possible; is the applicant agreeable to such trial period?

Yes, a trail peroid after the offical opeing of the store.

**Exhibits**

Please list any documents that you are submitting in support of this application. The ones listed below are suggested, but you may provide others that you believe would be helpful, and in some cases, staff or the Zoning Board of Appeals may request other exhibits as well.

- Site plan
- Photos of property that is the subject of the request

---

---

---

---

---

---

**Calls for Police at 702 Ogden Rd. (December 7, 2020-June 10, 2022)**

| CFS #      | Code : Description                   | Street       | CFS Date   | CFS Time | Case Number | How Reported      | Brief Notes   |
|------------|--------------------------------------|--------------|------------|----------|-------------|-------------------|---|
| 2022034618 | FOLL : Follow-Up                     | 702 OGDEN RD | 6/9/2022   | 12:20    |             | Phone             | hit and run   |
| 2022034203 | FOLL : Follow-Up                     | 702 OGDEN RD | 6/7/2022   | 13:56    |             | Phone             | hit and run   |
| 2022034158 | FOLL : Follow-Up                     | 702 OGDEN RD | 6/7/2022   | 10:08    |             | Phone             | hit and run   |
| 2022034015 | FOLL : Follow-Up                     | 702 OGDEN RD | 6/6/2022   | 18:09    |             | Phone             | hit and run   |
| 2022033989 | MVC : Motor Vehicle Collision        | 702 OGDEN RD | 6/6/2022   | 15:46    | P2206060174 | 911               | hit and run report taken                                      |
| 2022019772 | WELF : Welfare Check                 | 702 OGDEN RD | 4/2/2022   | 19:05    |             | 911               | drunk male falling in the road                                |
| 2022010307 | TRAF : Traffic Stop                  | 702 OGDEN RD | 2/18/2022  | 23:15    |             | Officer Initiated | traffic warning   |
| 2021081783 | DOC : Disorderly Conduct             | 702 OGDEN RD | 12/26/2021 | 16:59    |             | 911               | people fighting in front of yellow house                      |
| 2021075537 | ANIM : Animal Complaint              | 702 OGDEN RD | 11/28/2021 | 16:21    |             | Phone             | 2 dogs at another location being neglected                    |
| 2021073891 | SHOP : Shoplifting                   | 702 OGDEN RD | 11/20/2021 | 14:30    | P2111200648 | 911               | juvenile stole items  |
| 2021071970 | HANG : 911 Hangup                    | 702 OGDEN RD | 11/11/2021 | 12:47    |             | 911               | females yelling   |
| 2021069528 | LARC : Larceny                       | 702 OGDEN RD | 10/31/2021 | 20:09    |             | Phone             | "Jerome" stole callers money                                  |
| 2021060954 | SHOP : Shoplifting                   | 702 OGDEN RD | 9/22/2021  | 15:33    |             | 911               | clerk cancelled report  |
| 2021060141 | MANG : Man With A Gun                | 702 OGDEN RD | 9/18/2021  | 13:53    | P2109180619 | 911               | suspect arrested  |
| 2021025999 | TRAF : Traffic Stop                  | 702 OGDEN RD | 4/22/2021  | 11:16    |             | Officer Initiated | traffic warning   |
| 2021016852 | TRAF : Traffic Stop                  | 702 OGDEN RD | 3/14/2021  | 15:28    |             | Officer Initiated | traffic warning   |
| 2021016430 | TRAF : Traffic Stop                  | 702 OGDEN RD | 3/12/2021  | 17:17    | P2103120372 | Officer Initiated | marijuana possession  |
| 2021008324 | HARS : Harassment                    | 702 OGDEN RD | 2/6/2021   | 22:36    |             | 911               | vehicle following caller                                      |
| 2021001334 | INVEST : Miscellaneous Investigation | 702 OGDEN RD | 1/6/2021   | 20:54    | P2101060164 | Officer Initiated | driving under suspension                                      |
| 2020077118 | HARS : Harassment                    | 702 OGDEN RD | 12/7/2020  | 10:39    |             | Phone             | threats via text- caller then met with officer on Virginia St |



**Z-2019-30**

**Request:** Special exception to re-establish a non-conforming convenience store use in a residential zoning district.

**Address:** 455 Green St.

**Zoning District:** Single-Family Residential-4 (SF-4)

**Owner:** Mayimona Makumzungani  
Jean Claude Lutuangu Lubika  
6304 Trevor Simpson Dr.  
Indian Trail, SC 28079

**Applicant:** Magloire Lubika  
6304 Trevor Simpson Dr.  
Indian Trail, SC 28079





---

**Request:** Special Exception to re-establish a nonconforming convenience store use in a residential zoning district.

**Address:** 455 Green St.

**Tax Map No.:** 600-02-03-037

**Zoning District:** Single Family-4 (SF-4)

**Applicant:** Magloire Lubika  
6304 Trevor Simpson Dr.  
Indian Trail, SC 28079

**Property Owner:** Mayimona Makumzungani  
Jean Claude Lutuangu Lubika  
6304 Trevor Simpson Dr.  
Indian Trail, SC 28079

---

## **Background**

Magloire Lubika would like to re-open a small neighborhood convenience store at 455 Green St. A neighborhood convenience store was first established in that location in 1951. George Franklin purchased the business in 1971, and it remained operational until 2012.

The property is zoned Single Family-4, which does not allow indoor retail sales, such as convenience stores. However, the Zoning Ordinance has a provision that allows businesses to re-establish in residential districts through a special exception process if certain criteria can be met. Mr. Lubika is requesting a special exception to re-establish the store under this provision. His family owns a similar neighborhood convenience store, Mama Yala Mini Mart, located at 702 Ogden Rd., about one mile away.

### ***Zoning Ordinance Chapter 10, Section 10.4.6 (B)(3)***

A nonconforming use in an established residential district may be permitted to be reestablished by a special exception under the following criteria. The ordinary standards for special exception uses in *Chapter 2: Administration* do not apply.

- The proposed use is permitted by right, conditional use, or special exception in the Neighborhood Office (NO) or Neighborhood Commercial (NC) zoning district and the proposed use is no more intense than the historical use of the property.

- The existing structure is specialized to nonconforming use such that conversion to the conforming use would not be economically feasible. Historical nonconforming uses in converted residential structures would generally not be seen as meeting this standard.
- No functional expansion of the use is permitted. Modifications for code compliance and aesthetic enhancement are permitted.
- There is a demonstrated history of compatibility with the surrounding neighborhood including, but not limited to, a lack of documented complaints, calls for police service, or other operational concerns such as traffic, parking, or other similar impacts.
- Reestablishment of use may be permitted for a trial period to determine if impacts are mitigated to the extent anticipated.

In 2013, another person tried to re-establish the store on Green Street under the same provision; however, the Zoning Board of Appeals did not approve the request. The staff report and minutes from two separate meetings where the request was considered are attached. Some neighbors expressed concerns involving trash, a decrease in property values, increases in vehicular traffic, and alcohol sales. Others spoke in favor of the re-establishment of the store, noting that it could be accessed by foot, and that the neighborhood needed a store on this side of Saluda Street.

---

### Site Description

The property is located on Green Street near the intersection of State Street and Moore Street in the southwest area of the City. It is mainly surrounded by single-family homes that are also zoned SF-4. Some multi-family residences also exist in the vicinity. The property is across from Moore Street Park and other property owned by the City of Rock Hill.

---

### Description of Intent for Single-Family Detached Zoning Districts

These residential districts are established to primarily provide for single-family detached residential development. A few complementary uses customarily found in residential zoning districts, such as religious institutions, may also be allowed.

The primary difference between these districts is the minimum lot size for development and other dimensional standards that are listed in full in *Chapter 6: Community Design Standards*. The following chart summarizes the differences in lot sizes for single-family residential development.

| Zoning District | Minimum Lot Size for Single-Family Residential Development |
|-----------------|--|
| SF-2            | 20,000 square feet   |
| SF-3            | 14,000 square feet   |



|      |                   |
|------|-------------------|
| SF-4 | 9,000 square feet |
| SF-5 | 7,500 square feet |

**Analysis of Request for Special Exception**

Staff will base its recommendation on an analysis of the below standards, and the Zoning Board of Appeals may approve a special exception use only upon a finding that the applicant has demonstrated that the following standards are met.

The applicable are shown below in italics, followed by staff’s assessment of each standard in non-italicized font.

- (a) *The proposed use is permitted by right, conditional use, or special exception in the Neighborhood Office (NO) or Neighborhood Commercial (NC) zoning district, and the proposed use is no more intense than the historical use of the property.*

Convenience stores without gasoline sales are considered an indoor retail use. That use type is currently permitted by special exception in the Neighborhood Office zoning district and by conditional use in the Neighborhood Commercial zoning district.

| RESIDENTIAL |      |      |      |      |     |       |    | BUSINESS |    |    |    |    |    |    |      |     |    |    |    |
|-------------|------|------|------|------|-----|-------|----|----------|----|----|----|----|----|----|------|-----|----|----|----|
| SF-3        | SF-4 | SF-5 | SF-8 | SF-A | MFR | MF-15 | MX | NO       | NC | OI | LC | GC | CC | CI | DTWN | MUC | IB | IG | IH |
|             |      |      |      |      |     |       | c  | s        | c  | s  | c  | c  | c  | c  | c    | c   | c  | s  | s  |

The proposed use is the same as has been on the property historically. The building was used as a convenience store for many years, up until a few years ago.

- (b) *The existing structure is specialized to nonconforming use such that conversion to the conforming use would not be economically feasible. Historical nonconforming uses in converted residential structures would generally not be seen as meeting this standard.*

The building was designed for commercial use. Converting it to a residential use would be costly.

- (c) *No functional expansion of the use is permitted. Modifications for code compliance and aesthetic enhance are permitted.*

The applicant is not proposing to expand the use. Some specific modifications to the building and site would be required to meet current building and fire codes. These are detailed in the attached feasibility study.



*(d) There is demonstrated history of compatibility with the surrounding neighborhood including, but not limited to, a lack of demonstrated complaints, calls for police service, or other operational concerns such as traffic, parking, or other similar impacts.*

Complaints/code enforcement cases:

The applicant's family purchased the subject property in November 2018. Since then, it has not had any code enforcement violations.

Moreover, the convenience store owned by the applicant's family on Ogden Road has been the subject of only one code enforcement case since he purchased the property in April 2015. It involved a nonconforming sign structure that was no longer being used; the applicant's family removed the sign structure immediately upon learning that he needed to do so. The City does not have any records of other complaints on that property.

For historical context on the subject property, the City's complaint tracking system shows four code enforcement cases in recent years prior to the applicant's ownership of it—two for overgrown grass and two for minor property maintenance code violations involving the structure itself. All were either abated by the property owner at the time or were dismissed in court.

Calls for police service:

Since the applicant's family purchased the subject property, it has had one call for police service. The nature of the call was for suspicious activity. A locksmith had been on the scene and noticed damage to a door. It was later determined that the damage to the door was actually caused by the owner.

Similarly, calls for service related to the convenience store owned by the applicant's family at 702 Ogden Rd. have been low. Seventeen calls have been generated from the property since the family purchased it in April 2015. Most if not all of these calls appear to have been made by the business owners themselves, and were mostly related to motor vehicle collisions (6), larceny/shoplifting (3), and disorderly conduct/suspicious persons (3).

Based on concerns heard during the previous request to re-establish a convenience store at this location, staff is also providing the following historical context for the subject property, prior to the applicant's ownership of it. In the four years preceding the former store's closing and an additional year afterward (March 2008 through March 2013), the records show 60 calls for service. These calls were primarily related to drug/alcohol/disorderly conduct/public display of intoxication (11), suspicious persons (7), larceny (5), and assaults or persons with guns (5).

Traffic:

Since it is designed as a neighborhood store, the proposed use is unlikely to generate substantial traffic counts. Some patrons would be expected to walk from their homes nearby.

Parking:

The property has sufficient room for one handicapped parking space (which would need to be improved from its current condition) but no other parking. If this use were being established new, five parking spaces would be required (one space per 250 square feet of building area, with a 20% discount for being located in the Old Town area; the building is approximately 1,500 square feet). Because the request is not for a new building but rather to reestablish a nonconforming use, the Zoning Board needs to evaluate whether the amount of existing on-site parking is sufficient to serve the business. (Note: The feasibility study states that a variance would be required, but this special exception process to re-establish a nonconforming use is designed to consider that aspect of the proposal instead.)

Because the property can only accommodate one parking space on site, which must be reserved as a handicapped space, one part of the parking analysis must be whether Green Street can accommodate on-street parking for the use. Green Street is classified as a major collector but functions more as a residential collector. Its travel lanes vary between 28 to 30 feet wide in this area, which is considered sufficient to accommodate on-street parking on one side of the street. (Two 10-foot travel lanes and one 8.5-foot parking lane are considered adequate.) The City's Transportation Manager does not recommend the formalization of these on-street parking spaces through striping because doing so would change the location of the centerline and would effectively prohibit parking on the opposite side of the street. Instead, he recommends that patrons be allowed to park on the street in an informal way, which is how the street functions today. Because the nature of a convenience store involves brief stops, it is not expected that patrons would be parked on the street for extended periods of time.

Sanitation

One of the concerns raised during the last request to re-open a convenience store in this area related to potential litter on the site. In order to address this concern, the applicant will need to develop a plan to handle waste, as the property does not appear have enough room to accommodate a dumpster of any size.

- (e) *Reestablishment of the use may be permitted for a trial period to determine if impacts are mitigated to the extent anticipated.*

The Board is allowed to require a trial period for the re-establishment of the use if it sees a need for one. The applicant has concerns about a trial period due to the cost of the work that would be required to bring the building up to code, but may be willing to discuss this concept with the Board more.

---

## **Public Input**

Staff has taken the following actions to notify the public about this public hearing:

- November 22: Sent public hearing notification postcards to property owners and tenants within 300 feet of the subject property.
- November 22: Posted public hearing signs on subject property.
- November 23: Advertised the Zoning Board of Appeals public hearing in *The Herald*.

Staff received feedback from Lonnie Sims, who owns and lives in 467 Green Street near this parcel. He initially indicated concerns about the use, but later stated that he may be able to support the reopening of the store if it were to offer items not readily available in the area, such as fresh foods, and did not sell items such as alcohol and cigarettes.

---

## **Staff Recommendation**

Because the building was built for commercial use and converting it to a residential structure would be costly, staff can support the proposed use, provided that any concerns voiced during the public hearing by nearby property owners, residents, or the business community are addressed. The applicant's family has been able to manage a similar store in a way that has not had a negative impact on the community in terms of crime or property management.

---

## **Attachments**

- Application and supporting materials
- Police call records
- Feasibility study
- Staff reports, minutes and order from April and May 2013 hearings
- Zoning map

---

**Staff Contact:**

Shana Marshburn, Planner I  
803.326.2456  
[shana.marshburn@cityofrockhill.com](mailto:shana.marshburn@cityofrockhill.com)

# Zoning Board of Appeals

City of Rock Hill, South Carolina

December 10, 2019

A public hearing of the Zoning Board of Appeals was held on Tuesday, December 10, 2019, at 6 p.m. in Council Chambers at City Hall, 155 Johnston Street, Rock Hill, South Carolina.

**MEMBERS PRESENT:** Matt Crawford, Keith Sutton, Michael Smith, Rodney Cullum

**MEMBERS ABSENT:** Stacy Reeves, Randy Sturgis

**STAFF PRESENT:** Melody Kearse, Shana Marshburn, Leah Youngblood, Janice Miller

Legal notice of the public hearing was published in *The Herald*, Saturday, November 30, 2019. Notice was posted on all property considered. Adjacent property owners and tenants were notified in writing.

## 1. Call to Order

Chair Matt Crawford called the meeting to order at 6:00 p.m.

## 2. Approval of minutes of the November 19, 2019, meeting.

Mr. Smith presented the motion to approve the minutes as submitted. Mr. Sutton seconded, and the motion carried unanimously by a vote of 4-0 (Reeves and Sturgis absent).

## 3. Approval of Orders from November 19, 2019, meeting.

Mr. Sutton made a motion to approve the orders as distributed. Mr. Smith seconded the motion, and the minutes were approved unanimously by a vote of 4-0 (Reeves and Sturgis absent).

## 4. Appeal Z-2019-28: Request by Mike and Yolanda Licea, Milk & Sugar Spa and Salon, for a variance from the side-yard setback standards for an addition to an existing building at 1156 Ebenezer Road. The property is zoned Office and Institutional (OI). Tax map number 596-05-01-041.

Staff member Melody Kearse presented the staff report.

Mr. Sutton asked whether any plans had been submitted by Oakland Baptist for the parking area. Ms. Kearse stated that there had been none submitted at this time.

Michael and Yolanda Licea, 808 Creek Bluff Road, applicants, provided background on their company and information regarding the addition, including a picture of the existing deck. The applicant specifically stated that the deck was an eyesore that they wished to replace with interior space that would create a more comfortable environment and enhance their customers' experience. They noted that they had gone above and beyond the City's requests to mitigate the stormwater runoff since opening in September of 2018. They have also worked with their architect to change the pitch of the roof for the addition to direct the water to the front yard. The new roof would not be a shed roof and would be a continuation of the existing roofline.

Mr. Crawford asked how long the business has been at this location. Mrs. Licea stated that they had been at this location for one year in October and at another location down the street for five years prior.

Mr. Crawford asked about the number of customers served per day. Mrs. Licea stated that they have nine on staff and they are booked three weeks out. She stated that they had served close

Kearse stated no.

The applicant, Mr. Jim Gordon, 980 Myrtle Drive, stated that he was willing to add landscaping to enhance the West Main Street area.

With no other speakers, Mr. Crawford closed the floor and took the matter before the Board for discussion.

There were no further questions or comments.

Mr. Smith presented the motion to approve the special exception as requested with the condition that landscaping be added along West Main Street façade as suggested by staff. Mr. Sutton seconded, and the motion carried unanimously by a vote of 4-0 (Reeves and Sturgis absent).

Mr. Smith presented the findings, specifically noting that the use-specific standards had been met, the use was appropriate for the location, the site was developed previously, and that the use would not injure neighbors.

**6. Appeal Z-2019-30: Request by Magloire Lubika for a special exception to re-establish a non-conforming convenience store use at 455 Green Street. The property is zoned Single-Family Residential-4 (SF-4). Tax map number 600-02-03-037.**

Staff member Shana Marshburn presented the staff report.

Mr. Sutton asked for confirmation that the feasibility study had been done in October. Ms. Marshburn stated that this was correct.

Ms. Marshburn presented the Board the list of phone calls received from those in support of the use.

Mr. Crawford asked staff to explain the trial period concept. Ms. Marshburn explained that at the end of a trial time period established by the Board, the applicant would return in order to address any concerns or complaints, and then at the time the request will be re-evaluated by the Board. Mr. Sutton observed that this would be a conditional approval but that the applicant would still have to spend money on repairs to bring the structure up to code. Mr. Crawford stated that this was correct.

The applicant, Mr. Magloire Lubika, 6304 Trevor Simpson Dr, Indian Trail NC, provided his family's history with their businesses and an overview of his goals for reopening the store as the Green Box Market. He explained that it would be a convenience store, kitchen and market. It would offer meals, individually or for groups, and select produce. Their goal is to be socially responsible in the neighborhood, hosting annual back-to-school drives, scholarships, and community events, such as basketball tournaments.

Mr. Smith asked whether they had a liquor license. Mr. Lubika stated that they had not applied for one yet.

Mr. Smith asked whether there was a liquor license at the family's other location. Mr. Lubika stated that there was.

Mr. Smith asked the hours of operation. Mr. Lubika stated that 8 a.m. to 10 or 11 p.m.

Mr. Sutton asked the amount of money necessary to bring the building up to code. Mr. Lubika stated that they had consulted with a local contractor who estimated their cost to be approximately \$50,000, but that this also included the construction of a ramp for ADA entry and the paving of the ADA parking space.

Mr. Crawford asked whether he had any objections to the trial period. Mr. Lubika stated that he

liked the idea but could not afford to operate under the limited six-month time frame as he needed three months to upfit the building and with only three months to turn a profit, he did not see this as enough time.

Ms. Marshburn stated that the six-month time period did not have to begin that day, that the Board could clarify when the time frame would begin.

Mr. Smith asked when the store could open. Mr. Lubika stated that it could open in approximately five to eight months.

Mr. Smith asked whether he would be open to the six-month trial upon completion of the repairs. Mr. Lubika stated that he was.

Mr. Lawrence Sanders, 604 ½ Saluda Street, spoke in favor of the request, specifically noting the need for a business such as this in the area and the positive impact it would have. He asked the Board to give them the chance to help the community out.

Mr. Joe Adams, 721 Ogden Road, spoke in opposition to the request, noting the issues he had experienced with the family's other store at 702 Ogden Road, such as the condition of the parking lot. He also stated that there are plenty of other stores in the area with alcohol sales and that he did not want to see another one open. Mr. Adams added that he had looked up "green box" on the internet and that it was seen as an illegal trade outlet, and he wanted to know why that wasn't brought up by the City. He stated that he was disappointed that this information was not given to the Board.

Mr. Derrick Lindsay, 1223 Autumn Breeze Court, spoke in favor of the request, stating that he had grown up on Green Street and knew the former George Franklin store very well. He stated that he agreed with a trial period and suggested a one-year time frame, adding that he would like to see the scholarship program Mr. Lubika spoke of along with the addition of cameras and other security measures on the premises in order to deter drugs and prostitution.

Mr. Antonio Mickel, 1034 Flint Hill Street, expressed concerns about the application, stating that the community did not need another convenience store in the area providing alcohol, and the real need was for fresh foods, fruits and vegetables to serve the community. He quoted some statistics about poverty in the community. He stated that he also would be in favor of the trial period if what was presented today by the applicant about his vision for the store was true.

Mr. Lonnie Sims, 467 Green Street, spoke in opposition to the request, stating that once the store had closed, the neighborhood residents had worked to get rid of the drugs, alcohol abusers, and prostitutes in the area. He stated that Saluda Street has other stores providing similar goods to what the applicant was proposing to sell, and that the neighbors did not want this store to reopen. He said that the neighborhood has worked too long and too hard to clean up the community, and that the store will become an issue like it was before.

Ms. Mary Brown, 462 Green Street, spoke in opposition to the request, stating that she and the other residents had worked hard with the City and the Police Department to clean up the community, and she had concerns about her personal safety, especially if the store were to remain open until 11 p.m. She stated that there would not be enough foot traffic to support the store with all the other stores that were nearby already. She noted traffic concerns in that she would be unable to back out of her driveway if there were cars parked in front of the store, especially as the store did not have the area for a parking lot.

Mr. Crawford allowed Mr. Lubika time for rebuttal. Mr. Lubika stated that he appreciated the concerns of the neighbors. He stated that he had been working at the store for the past three months and had seen police patrols every day. He added that he wanted to alleviate the issues

of the food desert in the area by providing grocery sales to the immediate area. He added that he wanted the store to be a positive influence on the neighborhood and to be an inspiration to the young folks in the community.

Mr. Crawford asked about security measures. Mr. Lubika stated that they would have cameras but noted that, at the other location, they had not had major trouble as they had a good relationship with their customers who tended to look after them.

Mr. Crawford asked for clarification on the hours of operation. Mr. Lubika stated that he would like to be open from 8 a.m. to 11 p.m. He also spoke in response to the trash in the neighborhood.

Mr. Cullum, referring to Mr. Adams' comment, asked where the name "Green Box Market" had come from. Mr. Lubika stated that it was part of an overall business plan he had developed, The Box Company.

Mr. Crawford asked whether this was a business practice. Mr. Lubika stated that it was not, that it was just a name.

With no other speakers, Mr. Crawford closed the floor and took the matter before the Board for discussion.

Discussion focused on conditions for approval, the amount of time for the trial period, and security. Mr. Cullum observed that the majority of those in attendance were the ones who would be most affected by the reopening of the store because they live the closest to it. He noted that while there were a lot of people who called in, the ones that showed up tonight are in opposition to its reopening, and that he has concerns about that. Mr. Smith stated that the applicant would want to start out on the right foot, and if they do not do the right thing, then when they come back after a trial period, the Board could stop the use from continuing. There was further discussion on this issue.

Mr. Smith presented the motion to approve the special exception as presented with the condition that the applicant has a one-year trial period starting that evening. Mr. Sutton seconded, and the motion carried by a vote of 3-1, with Mr. Cullum voting in opposition (Reeves and Sturgis absent).

Mr. Smith presented the findings, specifically noting that the use existing previously, the site was developed as a store, conversion to residential use would be cost-prohibitive, and the applicant was agreeable to the trial period.

Mr. Crawford called for a recess at 7:41 p.m.

Mr. Sutton called for a motion to reconvene at 7:46 p.m. Mr. Smith seconded, and the motion to reconvene carried unanimously by a vote of 4-0 (Reeves and Sturgis absent).

**7. Appeal Z-2019-31: Request by Mac Alavi, NFF Outlet LLC, for a special exception to establish a commercial truck rental use at 1460 East Main Street. The property is zoned General Commercial (GC). Tax map number 628-09-05-007.**

Ms. Kears presented the staff report.

Mr. Crawford asked whether this would be an accessory use to the furniture store. Ms. Kears stated that it would.

Mr. Crawford noted that the reason for the application was because the business had more than 10 rental trucks. Ms. Kears stated that this was correct, that the store would still operate as a furniture store with full service U-Haul truck rentals as an additional use.



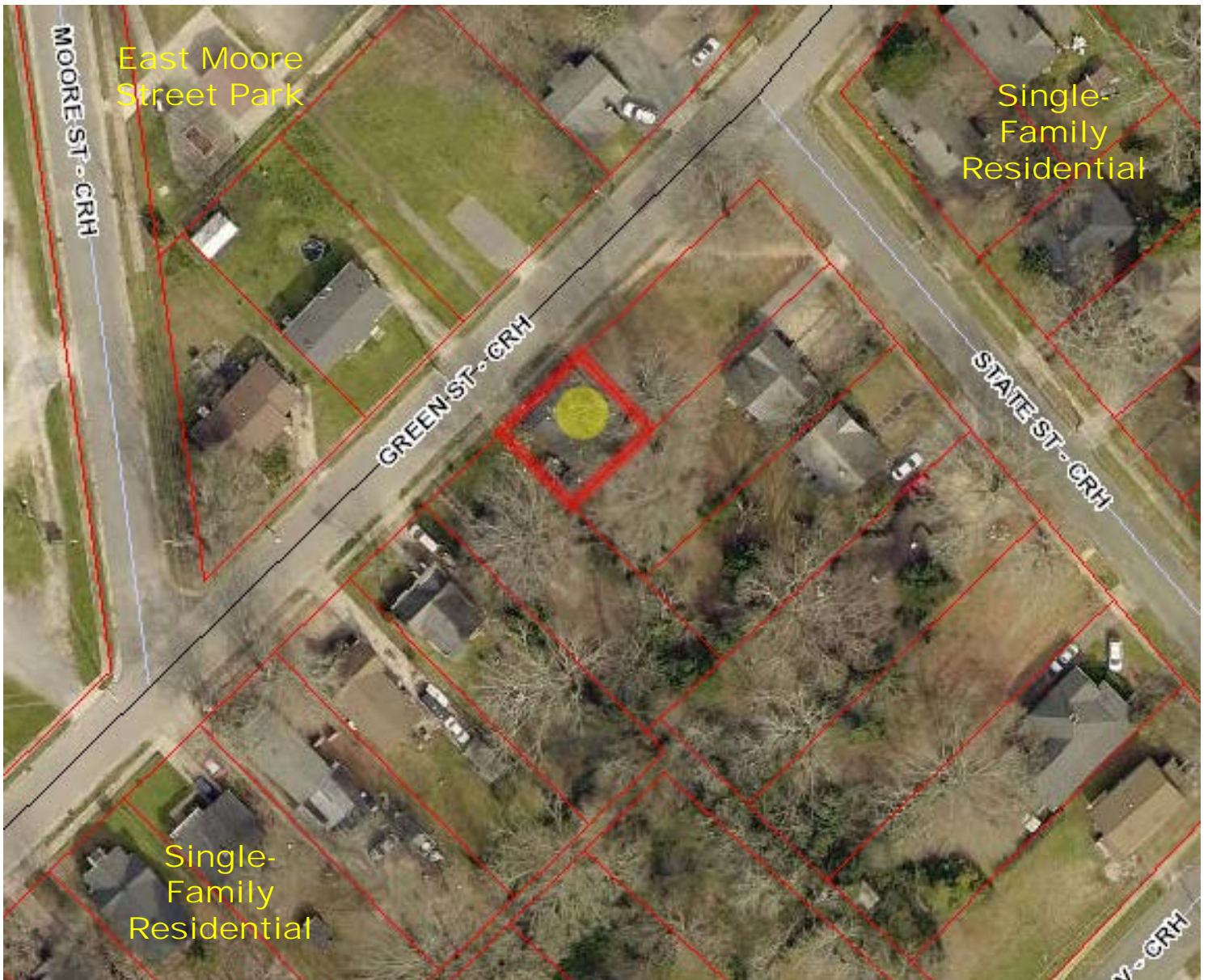
**Z-2020-31**

**Requests:** Modification to an existing special exception to extend the trial period for the re-establishment of a non-conforming convenience store use

**Address:** 455 Green Street

**Zoning District:** Single-Family Residential-4 (SF-4)

**Applicant:** Maqloire Lubika of Green Box Market





---

**Request:** Modification of an existing special exception to extend the trial period for the re-establishment of a non-conforming convenience store use.

**Address:** 455 Green St.

**Tax Map No.:** 600-02-03-037

**Zoning District:** Single Family-4 (SF-4)

**Applicant:** Magloire Lubika  
6304 Trevor Simpson Dr.  
Indian Trail, SC 28079

**Property Owner:** Mayimona Makumzungani  
Jean Claude Lutuangu Lubika  
6304 Trevor Simpson Dr.  
Indian Trail, SC 28079

---

## **Background**

In December 2019, the Zoning Board of Appeals heard a request from the applicant, Magloire Lubika, to re-establish a small convenience store at 455 Green St. The ZBA approved the request with a one-year trial period.

Due to the recent COVID-19 pandemic, however, the applicant has been unable to open the store yet. For this reason, he is asking that the trial period be extended by a period of 18 months.

The staff report and minutes from the December 2019 request are attached. New relevant information includes the following:

- The subject property has had one call for police service since the December 2019 hearing, which involved a welfare check for a possible unconscious person lying on the ground just outside of the building.
- The subject property has had a code enforcement complaint for trash which has been resolved. The complainant has asked that his email be made part of the record of this staff report.
- The applicant's family also owns a convenience store on Ogden Road that was the subject of conversation during the public hearing about the request to re-open the convenience store on Green Street.

- Since December 2019, there have been four police calls involving the Ogden Road location. In one of those instances, police were called to the scene to find that a person had been shot following an argument that began in the parking lot. The other three calls included two motor vehicle collisions and one harassment call. (An assault also occurred at a nearby location, and was called in from the store, so that shows up in the record as well but staff does not consider it relevant to the Board's consideration of this request.)
  - Following the December 2019 hearing, staff received a complaint involving the parking lot of the Ogden Road location being in severe disrepair. The parking lot has since been repaired.
- 

### **Public Input**

Staff has taken the following actions to notify the public about this public hearing:

- November 20: Sent public hearing notification postcards to property owners and tenants within 300 feet of the subject property.
- November 20: Posted public hearing signs on subject property.
- November 27: Advertised the Zoning Board of Appeals public hearing in *The Herald*.

Staff received feedback from Lawrence Sanders of 604 ½ Saluda St., who supports the extension of the trial period.

Staff also received a request from Lonnie Sims for all documents pertaining to this current request and all previous requests to re-establish the convenience store.

---

### **Staff Recommendation**

Because the building was built for commercial use and converting it to a residential structure would be costly, staff can support the proposed use, provided that any concerns voiced during the public hearing by nearby property owners, residents, or the business community are addressed. While staff does view the shooting that occurred at the applicant's other location since this request last came before the ZBA as very serious, there does not appear to be a pattern of violent crime that occurs there due to mismanagement of the store.

The applicant has requested that the trial period be extended by a period of 18 months, so that is up to the Board's discretion if it sees fit to grant the extension.

---

### **Attachments**

- Staff report and minutes from the December 2019 hearing
- Police records from 455 Green St. and 702 Odgen Rd. since December 2019
- Email: trash complaint
- Application and supporting materials

- Zoning map

---

**Staff Contact:**

Shana Marshburn, Planner I

803.326.2456

[shana.marshburn@cityofrockhill.com](mailto:shana.marshburn@cityofrockhill.com)

# Zoning Board of Appeals

City of Rock Hill, South Carolina

December 15, 2020

A public hearing of the Zoning Board of Appeals was held Tuesday, December 15, 2020, at 6 p.m. in City Council Chambers at City Hall, 155 Johnston Street, Rock Hill SC.

**MEMBERS PRESENT:** Matt Crawford, Keith Sutton, Michael Smith, Stacey Reeves, Randy Sturgis, Chad Williams

**MEMBERS ABSENT:** Rodney Cullum

**STAFF PRESENT:** Dennis Fields, Shana Marshburn, Melody Kearse, Janice E Miller, Leah Youngblood

Legal notice of the public hearing was published in *The Herald*, Friday, November 27, 2020. Notice was posted on all property considered. Adjacent property owners and tenants were notified in writing.

## 1. Call to Order

Chair Matt Crawford called the meeting to order at 6:00 p.m.

## 2. Approval of Minutes of the November 17, 2020, meeting.

Vice Chair Keith Sutton presented the motion to approve the minutes as presented. Mr. Michael Smith seconded, and the motion carried unanimously by a vote of 6-0 (Cullum absent).

## 3. Approval of Orders of the November 17, 2020, meeting.

Mr. Smith presented the motion to approve the orders as presented. Mr. Randy Sturgis seconded, and the motion carried unanimously by a vote of 6-0 (Cullum absent).

## 4. Appeal Z-2020-28: Request by Charlie Robinson with VFW Post No. 3746 for a special exception for an event venue use and a request to reduce the required separation from a residential use at 1404 Crawford Road, which is zoned Office and Institutional (OI). Tax map number 599-02-01-002.

Staff member Melody Kearse presented the staff report.

Vice Chair Sutton observed that the special exception and variance were tied together, that if the variance was not approved the special exception could not be approved. Ms. Kearse stated this was correct.

The applicant, Charlie Robinson, 2085 Cavendale Drive, provided a brief history of VFW Post No. 3746.

Mr. Melvin Poole, Senior Vice Commander, VFW Post No. 3746, 1634 Crestdale Road, detailed future plans for the Post to provide for the community in addition to the facility being used for social events, including veterans' support services, youth programs, neighborhood meetings, and community outreach.

Chair Crawford asked if the applicants were agreeable to the conditions recommended by staff. Mr. Robinson stated they were.

Mr. Lawrence Sanders, 604 ½ Saluda Street, spoke in support of the application.

Chair Crawford closed the floor for Board discussion.



Mr. Sturgis presented the motion to approve the special exception with the conditions outlined by staff:

- A member of Post No. 3746 must attend every event that is not hosted by the Post itself.
- All events must end no later than midnight, and the facility must be vacated completely by 1 a.m.
- Event rentals are not allowed to hold activities outside. Only events held by the Post itself can take place outdoors.
- The primary use of the site must be by a nationally recognized fraternal organization in order for the rental use to be allowed.
- The approval is for this application only. Any similar application for this property in the future that is not for the VFW must be re-evaluated through a new special exception process before the Zoning Board of Appeals and otherwise must be based on whatever standards are in place in the Zoning Ordinance at that time.

Mr. Smith seconded, and the motion carried unanimously by a vote of 6-0 (Cullum absent).

Mr. Sturgis presented the findings, specifically noting the impact plan submitted and conditions for approval alleviated concerns over the diminished separation between uses. He added that the use would comply with the use specific standards as outlined, the use would not be a bar or nightclub, a Post member would be in attendance at all events, the roads were able to handle the use, and the use would not injure neighboring lands. He also extended his thanks to all the Post members for their military service.

**5. Appeal Z-2020-31: Request by Magloire Lubika of Green Box Market for a modification to an existing special exception to extend the trial period for the reestablishment of a non-conforming convenience store use at 455 Green Street, which is zoned Single-Family Residential-4 (SF-4). Tax map number 600-02-03-037.**

Staff member Shana Marshburn presented the staff report.

Vice Chair Sutton asked for clarification as to whether the extension was to begin from the current meeting date or the initial date of approval in December 2019, or if it would end in June 2021 or June 2022. Ms. Marshburn stated her understanding was the request was for 18 months from the current meeting date but the date for the extension was at the Board's discretion.

Vice Chair Sutton asked if staff had any issues with either date being decided. Ms. Marshburn stated they did not.

Chair Crawford observed that the police calls for this location occurred when the store was not open. Ms. Marshburn stated that this was correct.

The applicant, Magloire Lubika, 6304 Trevor Simpson Drive, Indian Trail NC, stated the request for a time extension was due to issues obtaining funding from banks due to the pandemic. He noted that he has been able to secure funding and will begin construction as soon as possible. He also shared a text from Rich Bridwell, Bridwell Homes, the builder of the new residence built on the adjacent property in support for the request.

Chair Crawford asked when they were proposed to open. Mr. Lubika stated the plan was to open in the summer of 2021 and provided a timeline for the project.

Chair Crawford asked if one year would be enough time to be in operation. Mr. Lubika stated

it would.

Chair Crawford asked if the Board could tie the one year to opening in case of a delay in construction. Ms. Kearse stated the time frame could be tied into the Certificate of Occupancy. Chair Crawford asked Mr. Lubika if this was agreeable. Mr. Lubika stated it was.

Mr. Lawrence Sanders, 604 ½ Saluda Street, spoke in support of the request, noting the store would be good for the community overall and would have positive economic impact on the area.

Mr. Lonnie Sims, 467 Green Street, spoke in opposition to the request, specifically noting that the neighborhood had worked hard to improve the neighborhood. He added there had been a significant amount of trash that had not been picked up over a six-month timeframe and that the only way the store could make money was through the sale of alcohol. He stated he had difficulty backing out of his driveway and that traffic was a constant issue as the road did not have enough room to accommodate two cars. Referring to Mr. Lubika's business plan, he stated the income of the area was not the reported \$55-75,000 per year. He added that he had offered to support Mr. Lubika's request if he would sign an agreement that they would not sell alcohol for 25 years, but that Mr. Lubika would not sign.

Ms. Mary Ann Brown, 462 Green Street, spoke in opposition to the request, stating there was not enough road space to accommodate too much traffic and that while the speed limit was 35 mph, many cars drove faster. She added there was concern over the store being open until 11 p.m., adding that many residents will continue to go to the Dollar General and Food Lion on a regular basis. She stated she had seen other projects being constructed in spite of the pandemic. She reiterated her concern for safety and trespassers as a single woman and mother living directly in front of the store.

Chair Crawford allowed Mr. Lubika rebuttal time. Mr. Lubika stated that the store would close at 9 p.m. instead of 11. He referred to Mr. Sims' comments on the trash, stating that he had not had a crew on site so the trash on site was not possible. He added that the City would have notified him if the trash were an issue. He noted that he was an investor with a vision as to how the neighborhood could be improved and become a pocket neighborhood with local services available to the residents.

Chair Crawford asked the proposed hours of operation. Mr. Lubika stated 8 a.m. to 9 p.m.

Chair Crawford asked for clarification on the bank not providing funding because of COVID-19. Mr. Lubika replied that the bank stopped the process due to the pandemic.

Chair Crawford closed the floor for Board discussion.

Mr. Williams presented the motion to approve the extension of the time period as presented by staff. Mr. Sturgis seconded. Discussion centered around when the 18-month time period would begin. Mr. Williams stated that the 18-month period would start upon approval. Mrs. Reeves asked if the hours of operation should be made part of the motion. Chair Crawford stated the motion was only for the time extension. Planning & Development Manager Leah Youngblood stated the hours were not made part of the conditions.

Mr. Williams presented the motion to modify the motion to include the hours of operation as 8 a.m. to 9 p.m. Mr. Sturgis seconded the motion to modify the original motion, and the motion carried unanimously by a vote of 6-0 (Cullum absent).

Chair Crawford called for a vote on the motion to approve the extension of the time period as presented by staff and for the hours of operation to be 8 a.m. to 9 p.m. The motion carried

unanimously by a vote of 6-0 (Cullum absent).

**6. Appeal Z-2020-32: Request by Jade Washington for a special exception to establish a non-conforming personal services establishment, type A (spa) use at 324 Pursley Street, which is zoned Single-Family Residential-5 (SF-5). Tax map number 598-02-03-015.**

Staff member Melody Kearse presented the staff report.

Vice Chair Sutton asked for definitions of personal services and if the applicant would have to return if she wanted to begin cutting hair. Ms. Kearse provided the definitions and stated she would not have to come back for additional approval as this was under the same use category.

The applicant, Jade Washington, 301 Center Street #7, was available to answer questions. She stated her intent was to serve the Boyd Hill community.

Vice Chair Sutton asked if this was her first business. Ms. Washington stated it was.

Mr. Daryal Mayfield, 1166 Stanley Drive, building owner, spoke in support of the request, specifically noting that this had been built originally as a barbershop for the Boyd Hill community and had become an informal social center for the area. He stated the intention was to allow young entrepreneurs a space to start.

Ms. Timolin McKeever, 3009 Rocket Road, spoke in support of the request, noting that as Ms. Washington's aunt the family was in total support of the business.

Mr. Dwight Walter, 328 Pursley Street, spoke in support of the request and stated he would be the caretaker of the property.

Ms. Floree Hooper, 1108 Constitution Boulevard, asked for clarification on the zoning requirements and if the special exception would apply to any business that opened at that location. Chair Crawford explained that the use could be limited to that application. Ms. Hooper stated her concern that other properties in along Pursley Street would try to evict tenants and open businesses. Chair Crawford stated this use could only be applied to buildings that were constructed as commercial, not residential, adding that if the zoning were to change, it would have to be decided by the Planning Commission and City Council.

Ms. Hooper asked if this closed, would the next person have to come back. Chair Crawford stated if the use was significantly different or if there was a long vacancy, it would have to come back.

Chair Crawford closed the floor for Board discussion.

Chair Crawford commented that the use proposed was the same as the previous use.


Vice Chair Sutton presented the motion to approve the special exception as presented. Mr. Williams seconded, and the motion carried unanimously by a vote of 6-0 (Cullum absent).

Vice Chair Sutton presented the findings, specifically noting the use was compatible with the area, the building had previously been used as a barbershop, there was adequate parking to serve the site, the hours of operation would conform to Neighborhood Commercial (NC) zoning, and there would be no harm to the adjacent properties.




**7. Appeal Z-2020-33: Request by Jeff Miller on behalf of the Ballet of York County for a special exception to establish an indoor recreational use greater than 3000 square feet and for a variance from the side buffer yard requirements at 420 Dave Lyle Boulevard, which is zoned Neighborhood Office (NO). Tax map number 627-11-01-028.**



## Z-2022-27

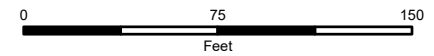
 Subject Property

### Zoning Districts

-  Multi-Family 15 (MF-15)
-  Single-Family 4 (SF-4)
-  Single-Family 5 (SF-5)

## Zoning Data

Current Zoning  
**SF-4**



Planning & Development  
Department  
City of Rock Hill  
06/21/2022

