



Case # BZA-05-22-00582

Charleston County BZA Meeting of July 11, 2022

Applicant: Ross Appel of McCullough, Khan, Appel

Property Owner: Gregory F. Rayburn

Property Location: 3340 Oak Branch Road – Johns Island

TMS#: 256-00-00-012

Zoning District: Agricultural Residential (AGR) Zoning District

Request:

- Variance request to reduce:
- the required 30' rear setback by 27' to 3' and the required 15' interior side setback by 10' to 5' for an existing (18' x 20') shed;
 - the required 15' interior side setback by 11' to 4' for an existing (8' x 10') shed;
 - the required 50' front/street side setback by 28' to 22' and the required 15' interior side setback by 3' to 12' for an existing (10' x 12') shed; and
 - the required 50' front/street side setback by 35' to 15' for an existing (18' x 20') carport.

Requirement:

The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 4 Base Zoning Districts, Article 4.9 AGR, Agricultural Residential District, Sec. 4.9.3 Density/Intensity and Dimensional Standards requires a 30' rear setback, 15' interior side setbacks, and a 50' front/street side setback.



Sec. 4.8.4 Other Regulations

Development in the AG-8 District shall comply with all other applicable regulations of this Ordinance, including the standards of CHAPTER 9, *Development Standards*.

ARTICLE 4.9 AGR, AGRICULTURAL/RESIDENTIAL DISTRICT

Sec. 4.9.1 Purpose and intent

The AGR, Agricultural Residential Zoning District implements the Agricultural Residential policies of the *Comprehensive Plan*. The district is intended for application in all Settlement Areas.

Sec. 4.9.2 Use Regulations

Uses are allowed in the AGR District in accordance with the Use Regulations of CHAPTER 6, *Use Regulations*.

Sec. 4.9.3 Density/Intensity and Dimensional Standards

All Development in the AGR District shall be subject to the following Density/Intensity and Dimensional Standards:

Table 4.9.3, AGR Density/Intensity and Dimensional Standards		
	Non-Waterfront Development Standards	Waterfront Development Standards
MAXIMUM DENSITY	1 Principal Dwelling Unit per Acre	
MINIMUM LOT AREA	30,000 square feet	1 acre
MINIMUM LOT WIDTH	100 feet	125 feet
MINIMUM LOT WIDTH AVERAGE	N/A	150 feet
MINIMUM SETBACKS		
Front/Street Side	50 feet	
Interior Side	15 feet	
Rear	30 feet	
WETLAND, WATERWAY, AND OCRM CRITICAL LINE SETBACK	N/A	50 feet
WETLAND, WATERWAY, AND OCRM CRITICAL LINE BUFFER	N/A	35 feet
MAXIMUM BUILDING COVER	30% of Lot	
MAXIMUM HEIGHT	35 feet	

Effective on: 9/10/2017, as amended

Sec. 4.9.4 Other Regulations

Development in the AGR District shall comply with all other applicable regulations of this Ordinance, including the standards of CHAPTER 9, *Development Standards*.

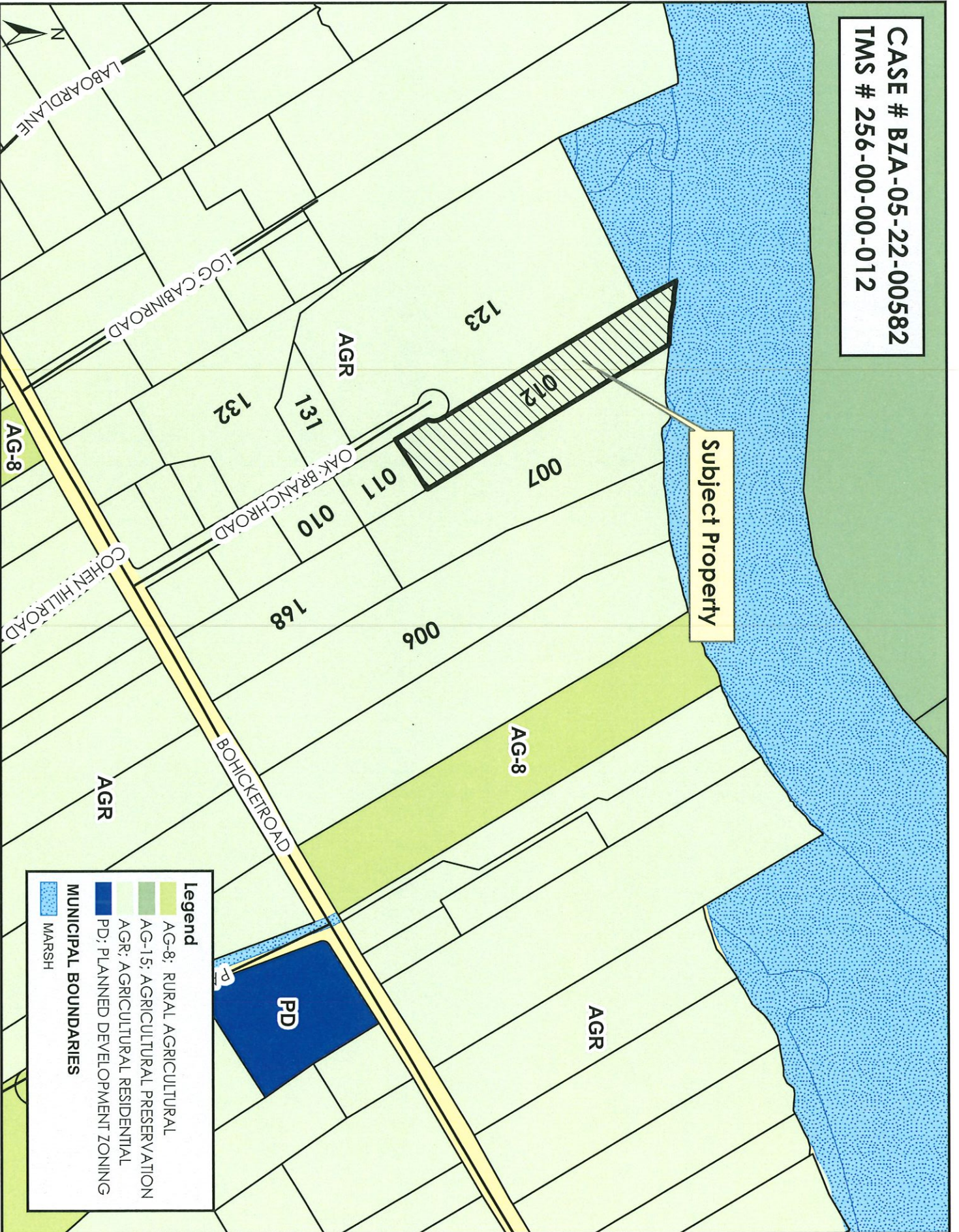
Sec. 4.9.5 Settlement Areas

Settlement Areas include small older Crossroads communities, Family lands, typical suburban-style Subdivisions, Frontage Lots along local roads, waterfront Developments, and vacant land that has been subdivided for residential Use but not yet built upon. The criteria for additional Parcels to qualify for inclusion into a "Settlement Area" are as follows:

- Parcel size of 30 acres or less (including highland areas and Freshwater Wetlands) on Parcels existing prior to April 21, 1999; and
- Parcel must be located in an AG-8, AG-10, or RM Zoning Districts or adjacent to lands currently zoned AGR; and

CASE # BZA-05-22-00582
TMS # 256-00-00-012

Subject Property



Legend

- AG-8: RURAL AGRICULTURAL
- AG-15: AGRICULTURAL PRESERVATION
- AGR: AGRICULTURAL RESIDENTIAL
- PD: PLANNED DEVELOPMENT ZONING

MUNICIPAL BOUNDARIES

- MARSH





Case # BZA-05-22-00582

BZA Meeting of July 11, 2022

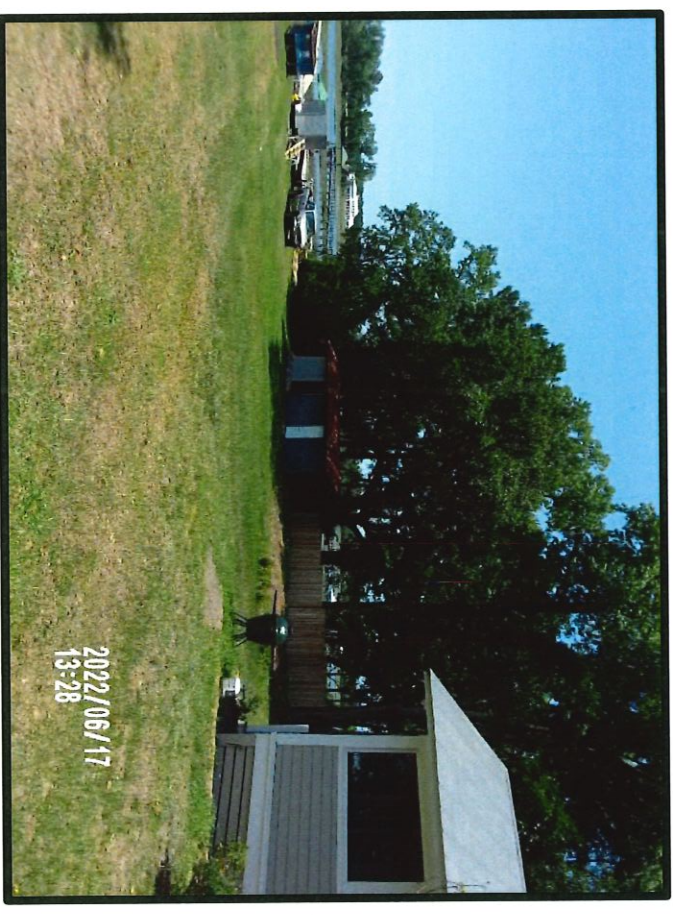
Subject Property: 3340 Oak Branch Road – Johns Island

Proposal: Variance request to reduce the required interior side, rear, and front/street side setbacks for existing accessory structures (sheds and a carport).



2022/06/17
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Subject Property



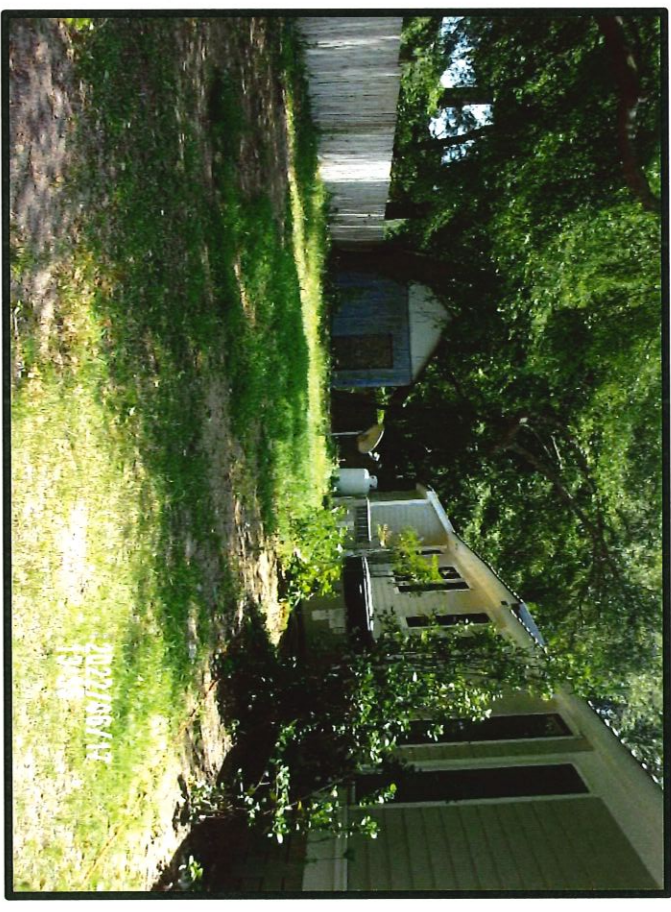
Subject Property - Carport



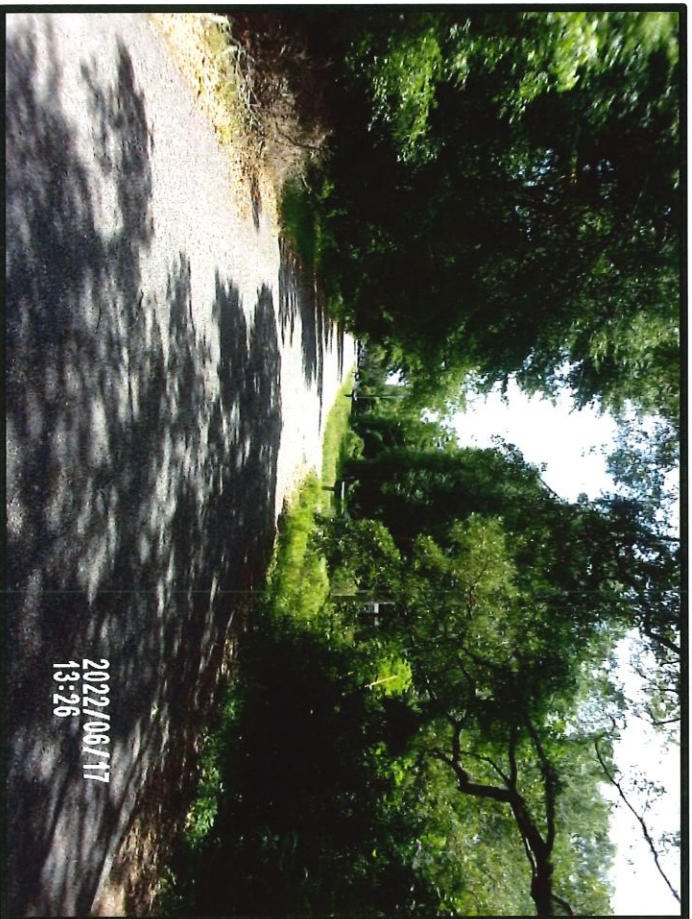
Subject Property - Shed A and B



Subject Property Shed C



Oak Branch Road



Staff Review:

The applicant, Ross Appel, Esq. of McCullough, Khan, Appel, on behalf of the property owner, Gregory F. Rayburn, is requesting a variance to reduce the required interior side, rear, and front/street setbacks at 3340 Oak Branch Road (TMS # 256-00-00-012) on Johns Island in Charleston County.

More specifically the applicant is requesting a Variance to reduce:

- the required 30' rear setback by 27' to 3' and the required 15' interior side setback by 10' to 5' for an existing (18' x 20') shed;
- the required 15' interior side setback by 11' to 4' for an existing (8' x 10') shed;
- the required 50' front/street side setback by 28' to 22' and the required 15' interior side setback by 3' to 12' for an existing (10' x 12') shed; and
- the required 50' front/street side setback by 35' to 15' for an existing (18' x 20') carport.

The subject property contains a single-family home, an unpermitted carport, and four accessory structures, three of which have been installed without permits. The subject property and surrounding properties are located in the Agricultural Residential (AGR) Zoning District.

The applicant's letter of intent explains, "Mr. Rayburn purchased the subject property on October 5, 2021. At the time of purchase, there were three shed structures and one carport located in the setbacks depicted in the attached as-built site plan. Charleston County has advised these structures were never permitted. This was not disclosed to Mr. Rayburn by the seller. We are attempting to permit these structures after the fact to avoid the unnecessary hardship associated with demolishing these structures."

Applicable ZLDR requirement:

The Charleston County Zoning and Land Development Regulations Ordinance (ZLDR), Chapter 4 Base Zoning Districts, Article 4.9 AGR, Agricultural Residential District, Sec. 4.9.3 Density/Intensity and Dimensional Standards requires a 30' rear setback, 15' interior side setbacks, and a 50' front/street side setback.

Staff conducted a site visit of the subject property on June 17, 2022.

Planning Director Review and Report regarding Approval Criteria of §3.10.6:

§3.10.6(1): *There are extraordinary and exceptional conditions pertaining to the particular piece of property;*

Response: **There may be extraordinary and exceptional conditions pertaining to the subject property because it is relatively narrow when compared to other adjacent lots. The applicant's letter of intent states, "The Rayburn property (approx. 137' wide and 820' deep) is much longer and narrower than the**

adjacent parcels. This results in a far smaller building envelope once the AGR setbacks are applied. The property to the north (TMS No. 256-00-00-007) owned by Ben and Alexis Stroble is approx. 182' wide and 902' deep) and the undeveloped property to the south (TMS No. 256-00-00-123) is approx. 446' wide and 827' deep." Therefore, the request may meet this criterion.

§3.10.6(2): *These conditions do not generally apply to other property in the vicinity;*
Response: **These conditions do not generally apply to other properties in the vicinity. The applicant's letter of intent explains, "The Rayburn property is uniquely narrow when compared to other properties in the vicinity. Moreover, the three sheds and carport on the Rayburn property are unpermitted and located in the setback. This condition was not disclosed by the seller. It is our understanding that there are no other similar unpermitted structures on other properties in the vicinity. Taken together, the unique configuration of the Rayburn property and the unpermitted structures creates a unique and exceptional situation constituting an 'unnecessary hardship.'" Therefore, the request may meet this criterion.**

§3.10.6(3): *Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;*
Response: **The application of this Ordinance, Article 4.9, Sec. 4.9.3 to 3340 Oak Branch Road may unreasonably restrict the utilization of the property. The applicant's letter of intent states, "The existing one-story residential dwelling on the Rayburn property is modest. Therefore, the shed structures are needed to house yard maintenance equipment and other items that cannot be housed inside. This property is outside the Urban Growth Boundary and is considered part of rural Johns Island. It would be unreasonable for this property not to be allowed to have the customary and necessary shed structures and a carport. The limited building envelope on the property leaves no option other than to locate these features in one of the AGR setbacks." Therefore, the request may meet this criterion.**

§3.10.6(4): *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;*
Response: **Authorization of this request may not be of substantial detriment to adjacent properties or to the public good, and the character of the Agricultural Residential Zoning District may not be harmed if this variance is granted. The applicant's letter of intent states, "These structures have apparently been in place for many years. There have been no complaints by neighbors or others to our knowledge. Mr. Rayburn has received the support of his neighbors to the north Ben and Alexis Stroble the owners of**

2770 Bohicket Road (TMS No. 256-00-00-007). Please find the letter of support from the Stobles enclosed herewith. The property to the south 3339 Oak Branch Drive (TMS No. 256-00-00-123) is undeveloped." Thus, the request may meet this criterion.

§3.10.6(5): *The Board of Zoning Appeals shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a nonconforming use of land, or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance;*

Response: The variance does not allow a use that is not permitted in this zoning district, nor does it extend physically a nonconforming use of land or change the zoning district boundaries. Therefore, the request meets this criterion.

§3.10.6(6): *The need for the variance is not the result of the applicant's own actions;*

Response: The need for the variance is not the result of the applicant's own actions. The accessory structures were placed without permits by the previous property owner. The applicant purchased the property with its current conditions in 2021. Therefore, the request meets this criterion.

§3.10.6(7): *Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of the Ordinance;*

Response: Granting of the variance may not substantially conflict with the Comprehensive Plan or the purposes of the Ordinance if the Board finds that strict application of the provisions of the Ordinance results in an unnecessary hardship. Therefore, the request may meet this criterion.

Board of Zoning Appeals' Action:

According to Article 3.10 Zoning Variances, Section §3.10.6 Approval Criteria of the *Charleston County Zoning and Land Development Regulations Ordinance (ZLDR)*, (adopted July 18, 2006), The Board of Zoning Appeals has the authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship (§3.10.6A). A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Zoning Appeals makes and explains in writing their findings (§3.10.6B Approval Criteria).


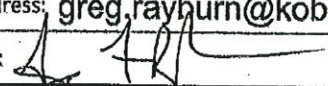

In granting a variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare (§3.10.6C).

The Board of Zoning Appeals may approve, approve with conditions or deny Case # BZA-05-22-00582 [Variance request to reduce the required 30' rear setback by 27' to 3' and the required 15' interior side setback by 10' to 5' for an existing (18' x 20') shed; the required 15' interior side setback by 11' to 4' for an existing (8' x 10') shed; the required 50' front/street side setback by 28' to 22' and the required 15' interior side setback by 3' to 12' for an existing (10' x 12') shed; and the required 50' front/street side setback by 35' to 15' for an existing (18' x 20') carport at 3340 Oak Branch Road (TMS # 256-00-00-012) on Johns Island in Charleston County] based on the BZA's "Findings of Fact," unless additional information is deemed necessary to make an informed decision. In the event the BZA decides to approve the application, Staff recommends the following condition:

- 1. The applicant shall obtain all necessary permits for the unpermitted accessory structures.**



ZONING VARIANCE APPLICATION
Charleston County Board of Zoning Appeals (BZA)

Property Information			
Subject Property Address: 3340 Oak Branch Road, Johns Island, SC 29455			
Tax Map Number(s): 256-00-00-012			
Current Use of Property: Residential			
Proposed Use of Property: Residential			
Applicant Information (Required)			
Applicant Name (please print): Ross Appel, Esq. (McCullough, Khan, Appel)			
Name of Company (if applicable): n/a			
Mailing Address: 2036 eWall Street			
City: Mt. Pleasant		State: SC	
		Zip Code: 29464	
Email Address: ross@mklawsc.com		Phone #: 843-937-9798	
Applicant Signature: 		Date: 5-17-22	
Representative Information (Complete only if applicable. Attorney, Builder, Engineer, Surveyor etc.)			
Print Representative Name and Name of Company:			
Mailing Address:			
City:		State:	
		Zip Code:	
Email Address:		Phone #:	
Designation of Agent (Complete only if the Applicant listed above is not the Property Owner.)			
I hereby appoint the person named as Applicant and/or Representative as my (our) agent to represent me (us) in this application.			
Property Owner(s) Name(s) (please print): Gregory F. Rayburn			
Name of Company (if applicable, LLC etc.): n/a			
Property Owner(s) Mailing Address: 3340 Oak Branch Road			
City: Johns Island		State: SC	
		Zip Code: 29455	
		Phone #: 843-226-2675	
Property Owner(s) Email Address: greg.rayburn@kobipartners.com			
Property Owner(s) Signature: 		Date: 5/17/2022	
FOR OFFICE USE ONLY:			
Zoning District: AGR	Flood Zone: X 665K	Date Filed: 5/18/2022	Fee Paid: \$250 
Application #: BZA-05-22-00582	TMS #: 256-00-00-012	Staff Initials: jjiu	

Description of Request

Please describe your proposal in detail. You may attach a separate sheet if necessary. Additionally, you may provide any supporting materials that are applicable to your request (photographs, letter of support, etc.)

Mr. Rayburn purchased the subject property on October 5, 2021. At the time of purchase, there were three shed structures and one carport located in the setbacks depicted in the attached as-built site plan. Charleston County has advised these structures were never permitted. This was not disclosed to Mr. Rayburn by the seller. We are attempting to permit these structures after the fact to avoid the unnecessary hardship associated with demolishing these structures.

Applicant's response to Article 3.10 Zoning Variances, §3.10.6 Approval Criteria

Zoning Variances may be approved only if the Board of Zoning Appeals finds that the proposed use meets all 7 of the approval criteria. In evaluating your request, the members of the board will review the answers below as a part of the case record. You may attach a separate sheet if necessary.

1. Are there extraordinary and exceptional conditions pertaining to the subject property? Explain:

The Rayburn property (approx. 137' wide and 820' deep) is much longer and narrower than the adjacent parcels. This results in a far smaller building envelope once the AGR setbacks are applied. The property to the north (TMS No. 256-00-00-007) owned by Ben and Alexis Stroble is approx. 182' wide and 902' deep) and the undeveloped property to the south (TMS No. 256-00-00-123) is approx. 446' wide and 827' deep.

2. Do these conditions generally apply to other property in the vicinity or are they unique to the subject property? Explain:

No. The Rayburn property is uniquely narrow when compared to other properties in the vicinity. Moreover, the three sheds and carport on the Rayburn property are unpermitted and located in the setback. This condition was not disclosed by the seller. It is our understanding that there are no other similar unpermitted structures on other properties in the vicinity. Taken together, the unique configuration of the Rayburn property and the unpermitted structures creates a unique and exceptional situation constituting an "unnecessary hardship."

3. Because of these extraordinary and exceptional conditions, does the application of this Ordinance to the subject property effectively prohibit or unreasonably restrict the utilization of the property? Explain:

The existing one-story residential dwelling on the Rayburn property is modest. Therefore, the shed structures are needed to house yard maintenance equipment and other items that cannot be housed inside. This property is outside the Urban Growth Boundary and is considered part of rural Johns Island. It would be unreasonable for this property not to be allowed to have the customary and necessary shed structures and a carport. The limited building envelope on the property leaves no option other than to locate these features in one of the AGR setbacks.

4. Will the authorization of a variance be a substantial detriment to adjacent property or to the public good? Will the character of the zoning district be harmed if this variance is granted? Explain:

These structures have apparently been in place for many years. There have been no complaints by neighbors or others to our knowledge. Mr. Rayburn has received the support of his neighbors to the north Ben and Alexis Stroble the owners of 2770 Bohicket Road (TMS No. 256-00-00-007). Please find the letter of support from the Strobles enclosed herewith. The property to the south 3339 Oak Branch Drive (TMS No. 256-00-00-123) is undeveloped.

5. The BZA shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a Nonconforming Use of land, or to change the zoning district boundaries shown on the Official Zoning Map. The fact that property may be utilized more profitably if a Zoning Variance is granted shall not be considered grounds for granting a Zoning Variance. Does the variance request meet this criterion?

This variance request does not seek to establish a use not permitted in the AGR district. Nor does it seek a physical extension of a non-conformity. We are merely seeking after the fact permits for three sheds and a carport that existed on the property at the time of my client's purchase in October 2021.

6. Is the need for the variance the result of applicant's own actions? Explain:

No. The three sheds and carport were built and not-permitted by Mr. Rayburn's predecessors. Furthermore, Mr. Rayburn is not responsible for the configuration of his lot, relative to his neighbors, as he was not involved in the original subdivision process.

7. Does the variance substantially conflict with the Charleston County Comprehensive Plan or the purposes of the Ordinance? Explain:

No. The structures for which variances and after the fact permits are being sought are all consistent with AGR zoning, the intent of the AGR zoning district, and the Comprehensive Plan's land use policies regarding rural areas, generally, and rural Johns Island outside of the Urban Growth Boundary, specifically.

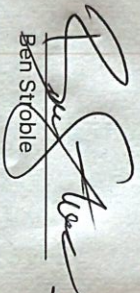
In granting a variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare.

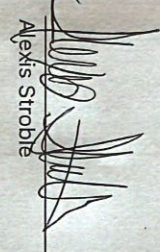
Ben and Alexis Strobe
2770 Bohicket Road
Johns Island, SC 29455

To: The Charleston County Zoning Board

To whom it may concern, our neighbor, Greg Rayburn, is requesting a variance for structures that were built on his property prior to his ownership.

We are the only neighbors directly adjacent to the property (3440 Oak Branch Road) and we support Greg Rayburns request for a variance.


Ben Strobe


Alexis Strobe

Date 5/15/2022

NOTES

- 1) PROPERTY OWNERS SET ARE ALL AT THE REAR UNLESS NOTED OTHERWISE
- 2) THE PLAT IS A REPRESENTATION OF THE PROPERTY AND NOT A GUARANTEE OF THE ACCURACY OF THE INFORMATION SHOWN THEREON. THE PLAT IS NOT TO BE USED FOR ANY PURPOSE OTHER THAN THAT FOR WHICH IT WAS PREPARED.
- 3) THE PLAT IS NOT TO BE USED TO DETERMINE THE BOUNDARY OF ANY PROPERTY OR TO DETERMINE THE LOCATION OF ANY STRUCTURE OR OTHER IMPROVEMENT.
- 4) THE PLAT IS NOT TO BE USED TO DETERMINE THE LOCATION OF ANY EASEMENT OR OTHER RIGHT.
- 5) THE PLAT IS NOT TO BE USED TO DETERMINE THE LOCATION OF ANY RIGHT-OF-WAY OR OTHER PUBLIC RIGHT.
- 6) THE PLAT IS NOT TO BE USED TO DETERMINE THE LOCATION OF ANY OTHER RIGHT OR INTEREST.
- 7) NO ASSURANCE OF ACCURACY IS GIVEN FOR ANY INFORMATION NOT SHOWN ON THE PLAT.
- 8) THE PLAT IS NOT TO BE USED TO DETERMINE THE LOCATION OF ANY OTHER RIGHT OR INTEREST.
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ZONING ACT

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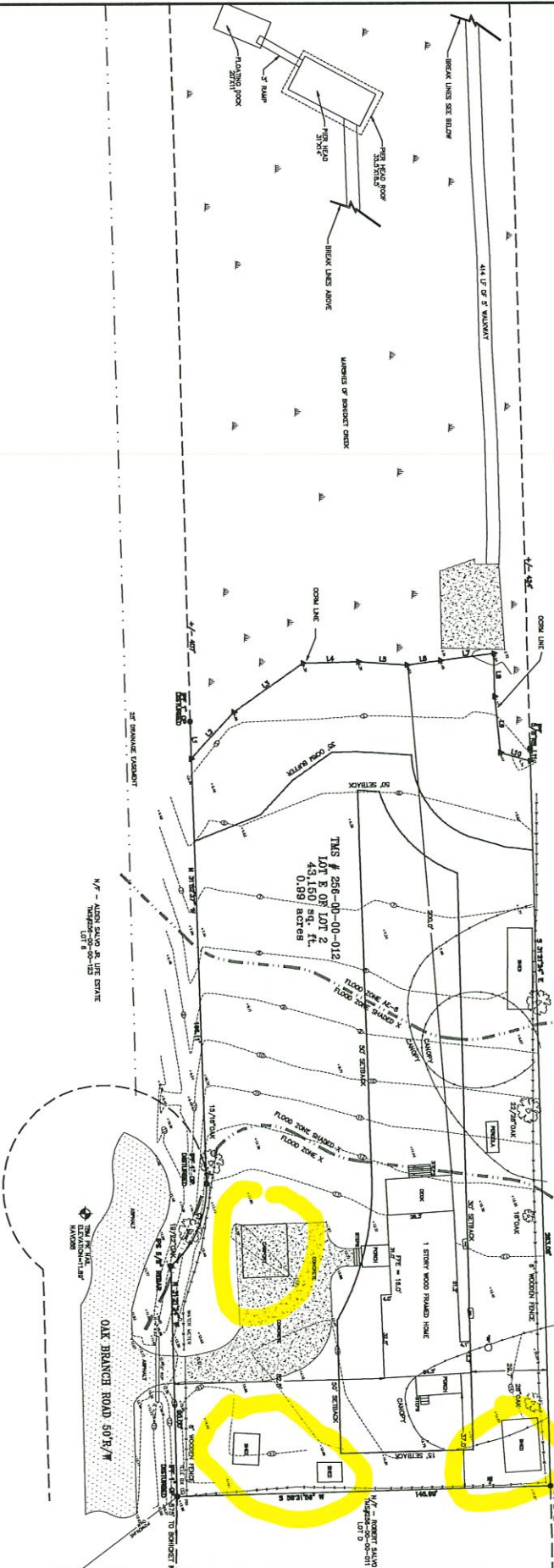
REFERENCES

- 1) PLAT # 256-00-00-012
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LEGEND

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- 2. ROAD LEFT
- 3. ROAD CENTER
- 4. ROAD RIGHT
- 5. ROAD LEFT
- 6. ROAD CENTER
- 7. ROAD RIGHT
- 8. ROAD LEFT
- 9. ROAD CENTER
- 10. ROAD RIGHT
- 11. ROAD LEFT
- 12. ROAD CENTER
- 13. ROAD RIGHT
- 14. ROAD LEFT
- 15. ROAD CENTER
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- 97. ROAD RIGHT
- 98. ROAD LEFT
- 99. ROAD CENTER
- 100. ROAD RIGHT

LOCATION MAP NOT TO SCALE



I, the undersigned, being a duly qualified and licensed Surveyor in the State of South Carolina, do hereby certify that the foregoing is a true and correct copy of the original survey and plat as the same appears in the records of the Surveyors Office in the County of Charleston, South Carolina.

MICHAEL S. GILLES, S.C. F.L.S. No. 15238
 1200 RIVERSIDE BLVD. S.E.
 ATLANTA, GA 30316
 PHONE: (404) 298-1607

MICHAEL S. GILLES, S.C. F.L.S. No. 15238

GRAPHIC SCALE
 (IN FEET)
 1 inch = 40 ft.

LINE	LENGTH	BEARING	LINE	LENGTH	BEARING
1	1.50	N 15° E	11	1.50	N 15° E
2	1.50	N 15° E	12	1.50	N 15° E
3	1.50	N 15° E	13	1.50	N 15° E
4	1.50	N 15° E	14	1.50	N 15° E
5	1.50	N 15° E	15	1.50	N 15° E
6	1.50	N 15° E	16	1.50	N 15° E
7	1.50	N 15° E	17	1.50	N 15° E
8	1.50	N 15° E	18	1.50	N 15° E
9	1.50	N 15° E	19	1.50	N 15° E
10	1.50	N 15° E	20	1.50	N 15° E
21	1.50	N 15° E	31	1.50	N 15° E

TOPOGRAPHIC SURVEY OF TMS#256-00-00-012
 LOT E OF LOT 2 OF FAIR OAK AREA
 OWNED BY ELIZABETH E. BENTZ
 LOCATED IN
 TOWN OF JOHN'S ISLAND
 CHARLESTON COUNTY SOUTH CAROLINA
 DATE SURVEYED: OCTOBER 25, 2021

John Kyros
Lands

BOOK S 87
PAGE 235

BOHICKET CREEK

Charleston, South Carolina
Office of Register Mesne Conveyance

11:45 AM
Recorded this 27 day of August 1967
in Plat Book 41 Page 13, and tracing cloth
copy filed in File 4 Drawer 52, Folder 35
Original plat (a white print) delivered
to SA James A. Robinson

William S. Sanders

REGISTER MESNE CONVEYANCE

Salvo
Lands

OAK BRANCH DR.

I, W. O'Heare Sanders, Jr., a registered
surveyor in the state of S.C. do hereby
certify that this is a true and
correct survey made on the ground
to an accuracy of 1:4356 and that
all necessary markers have been
installed.

W. O'Heare Sanders, Jr.
Surveyor S.C. Reg. 499

State of South Carolina
County of Charleston

Previously Approved Subdivision

W. O'Heare Sanders, Jr.

Showing Lot E, of Lot 2
Betsey Field Tract, Johns Island

March 28, 1967

W. O'Heare Sanders, Jr.
Scale 1" = 60'
Surveyor S.C. Reg. 499

- Note:
- (1) Developer; Curtis V. Tennyson
 - (2) No public water or sanitary sewer available
 - (3) A-1-A; 0.91 Acres High Land
1.12 Acres Salt Marsh