

**RICHLAND COUNTY**  
**Board of Zoning Appeals**



**May 5, 2021**  
**3 pm**

***Virtual Meeting***

<https://www.youtube.com/user/richlandonline/videos>





**Richland County  
Board of Zoning Appeals  
Wednesday, May 5, 2021  
3:00 p.m.**

**Zoom Hearing**

<https://www.youtube.com/user/richlandonline/videos>

**Chairman - LaTonya Derrick**

**Vice Chairman - Jason McLees**

**Mike Spearman • Lonnie Daniels • Cody Pressley**

## **Agenda**

- |   |   |
|---|---|
| <b>I. CALL TO ORDER &amp; RECOGNITION OF QUORUM</b>   | <b>LaTonya Derrick, Chairman</b>  |
| <b>II. PUBLIC NOTICE ANNOUNCEMENT</b>   |   |
| <b>III. ADOPTION OF AGENDA</b>  |   |
| <b>IV. RULES OF ORDER</b>   | <b>Chairman</b>   |
| <b>V. APPROVAL OF MINUTES - December 2020</b>   |   |
| <b>VI. PUBLIC HEARING</b>   | <b>Geonard Price,<br/>Zoning Administrator</b>  |
| <br><b><u>OPEN PUBLIC HEARING [ACTION]</u></b>  |   |
| <b>1. ZV21-002<br/>Tobey and Stephanie Elgin<br/>20 Beards Creek Circle<br/>Chapin, SC 29036<br/>TMS# 01401-01-09</b> | <b>Request a variance to encroach into the required side<br/>and rear yard setbacks on property zoned Rural (RU).</b> |
| <b>VII. OTHER BUSINESS</b>  |   |
| <b>VIII. ADJOURNMENT</b>  |   |





## REQUEST, DISCUSSION AND RECOMMENDATION

### **CASE:**

ZV21-002 Variance

### **REQUEST:**

The applicant is requesting the Board of Zoning Appeals to grant a variance to encroach into the required side and rear yard setbacks in the Rural (RU) district.

### **GENERAL INFORMATION:**

*Applicant:* Tobey Elgin

*TMS:* 01401-01-09

*Location:* 20 Beards Creek Circle, Chapin, SC 29036

*Parcel Size:* .56 acres

*Existing Land Use:* Currently the property is undeveloped.

*Proposed Land Use:* The applicant proposes a 2800-3100 square foot structure which will encroach into the required side and rear yard setbacks.

*Character of Area:* The area is residentially developed.

### **ZONING ORDINANCE CITATION:**

Section 26-33 (a) (2) of the Land Development Code empowers the Board of Zoning Appeals to authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in an unnecessary hardship. Such appeals shall be made in accordance with the procedures and standards set forth in Sec. 26-57 of this chapter.

### **CRITERIA FOR VARIANCE:**

Standard of review. The board of zoning appeals shall not grant a variance unless and until it makes the following findings:

- a. That there are extraordinary and exceptional conditions pertaining to the particular piece of property; and
- b. That these conditions do not generally apply to other property in the vicinity; and
- c. That because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
- d. That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

### **DISCUSSION:**

The applicant is proposing to construct a 2,800 - 3,100 square foot residential structure. The structure will encroach into each required side yards by ten (10) feet and the rear yard by five (5) feet. The minimum lot area for a parcel in the RU district is 33,000 square feet and the lot width is 120 feet. The lot area (24,394 square feet) for the subject site is nonconforming.

According to the applicant, the subject parcel, "...is not conducive to our current house plan." The applicant also states that the other homes are built within the required twenty (20) foot side and fifty (50) foot rear setbacks. The applicant states that if a variance is not granted, "...we would be unable to build a house suitable for our retirement as current setbacks would require a multi-story dwelling." In addition, the applicant states that the variance would allow for the construction of a home that is up to the standards of the surrounding homes.

Staff believes that the subject parcel does not meet all of the criteria required for the granting of a variance. While it is established that the nonconformity of the parcel, along with the location of the 362 contour line, limits the areas of where the proposed structure could be constructed, the applicant has not demonstrated that the conditions are exclusive to the subject site. The parcels along Beard's Creek Circle are nonconforming in area and width and are encompassed in the rear by the flood zone. Staff recommends that the request be **denied**. According to the standard of review, a variance shall not be granted until the following findings are made:

**a. Extraordinary and exceptional conditions**

The nonconformity of the parcel and the location of the flood zone on the parcel, in addition to the required setbacks for the district, limits the buildable area of the proposed structure.

**b. Conditions applicable to other properties**

Staff determined that the other parcels in the general area of the subject site are nonconforming in area and width and are potentially burdened by the flood zone.

**c. Application of the ordinance restricting utilization of property**

While applying the setback requirements for the RU district would not prevent the utilization of this parcel, it does restrict the area of development.

**d. Substantial detriment of granting variance**

There would be no substantial detriment to the surrounding properties if the variance is granted. The adjacent developed parcels currently encroach into the required side yard setbacks.

Records indicate that side yard encroachment variances were granted by the Board of Zoning Appeals for parcels 01401-01-06 (Case # 92-12 V), 01401-01-07 (Case # 92-11 V), and 01401-01-05 ((Case # 17-07 V).

**CONDITIONS:**

26-57(f)(3)

Conditions. 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, structure or use as the board of zoning appeals may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare. The board of zoning appeals may also prescribe a time limit within which the action for which the variance was sought shall be begun or completed, or both.

**OTHER RELEVANT SECTIONS:**

26-57 (f) (1) Formal review.

(1) Action by the board of zoning appeals. Upon receipt of the application for a variance request from the planning department, the board of zoning appeals shall hold a public meeting on the proposed variance request. Any party may appear in person or be represented by an authorized agent. In considering the application, the board of zoning appeals shall review the application materials, the staff comments and recommendations, the general purpose and standards set forth in this chapter, and all testimony and evidence received at the public hearing. After conducting the public hearing, the board of zoning appeals may:

- a. Approve the request;
- b. Continue the matter for additional consideration; or
- c. Deny the request.

Any approval or denial of the request must be by a concurring vote of a majority of those members of the board of zoning appeals both present and voting. The decision of the board of zoning appeals shall be accompanied by written findings that the variance meets or does not meet the standards set forth in the Standard of Review. The decision and the written findings shall be permanently filed in the planning department as a public record. The written decision of the board of zoning appeals must be delivered to the applicant.

**Sec. 26-252. Nonconforming vacant lots.**

- (a) *General.* A nonconforming vacant lot is a lot that was lawfully created prior to the effective date of this chapter, or any amendment thereto, but which does not conform to the dimensional or area requirements for the zoning district in which it is located.
- (b) *Standards.* A nonconforming vacant lot may be used for any of the uses permitted by Article V. of this chapter in the zoning district in which it is located if the use of the lot meets the following standards:
  - (1) All other minimum requirements for the particular zoning district and proposed use must be met or a variance obtained from these requirements.
  - (2) The nonconforming vacant lot does not adjoin and have continuous frontage with one or more other vacant lots in the same ownership. If a nonconforming lot does adjoin and have continuous frontage with one or more other vacant lots in the same ownership, such lots shall be combined or recombined as necessary to form a conforming lot or lots. This subsection shall not apply to a nonconforming vacant lot if a majority of the developed lots located on either side of the road where such a lot is located and within five hundred (500) feet of such lot are also nonconforming. The intent of this subsection is to require nonconforming lots to be combined with other lots to create conforming lots under the circumstances specified herein, but not to require such combination when that would be out of character with the way the neighborhood has been previously developed.

**CASE HISTORY:**

**ATTACHMENTS:**

- Plat
- Application





**CASE ZV21-002  
TOBEY ELGIN  
20 BEARDS CREEK CIRCLE  
CHAPIN, SC 29036  
TMS: 01401-01-09**





# BOARD OF ZONING APPEALS

## VARIANCE APPEALS



Application # 2V21-002

1. Location 20 BEARDS CREEK CIR. CHAPIN, SC 29036  
 TMS Page 01300 Block 02 Lot 01A 01401-01-09 Zoning District RU
2. Applicant hereby appeals to the Zoning Board of Appeals for a variance from the strict application to the property as described in the provisions of Section 26 86 of the Richland County Zoning Ordinance.
3. Applicant requests a variance to allow use of the property in a manner shown on the attached site plan, described as follows: New residential build - Home of 2800-3100 sqft
4. The application of the ordinance will result in unnecessary hardship, and the standards for a variance set by Sec. 26-602.3b(1) of the Richland County Zoning Code are met by the following facts.
  - a) There are extraordinary and exceptional conditions pertaining to the particular piece of property as following: Last lot on Beards Creek Circle without a single family home on it lot width is not conducive to our current house plan.
  - b) Describe how the conditions listed above were created: Because the property was zoned RURAL prior to land being split up and sold for single family dwellings
  - c) These conditions do not generally apply to other property in the vicinity as shown by: Current houses are built inside of the 20' setbacks and inside the 50' rear set back.
  - d) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: without the variance we would be unable to build a house suitable for our retirement as current setbacks would require a multi-story dwell
  - e) The authorization of the variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: granting set backs would allow us to build a home up to the standards of the surrounding homes.
5. The following documents are submitted in support of this application (a site plan must be submitted):
  - a) Survey/plot
  - b) survey/plot with house plan
  - c) \_\_\_\_\_

(Attach additional pages if necessary)

Tobey Elgin  
Applicant's Signature

20 Beards Creek Circle  
Address

8036711194  
Telephone Number

Tobey Elgin  
Printed (typed) Name

Chapin SC 29036  
City, State, Zip Code

843655843  
Alternate Number

Mailing Address: 110 Avalon Ct Chapin, SC 29036

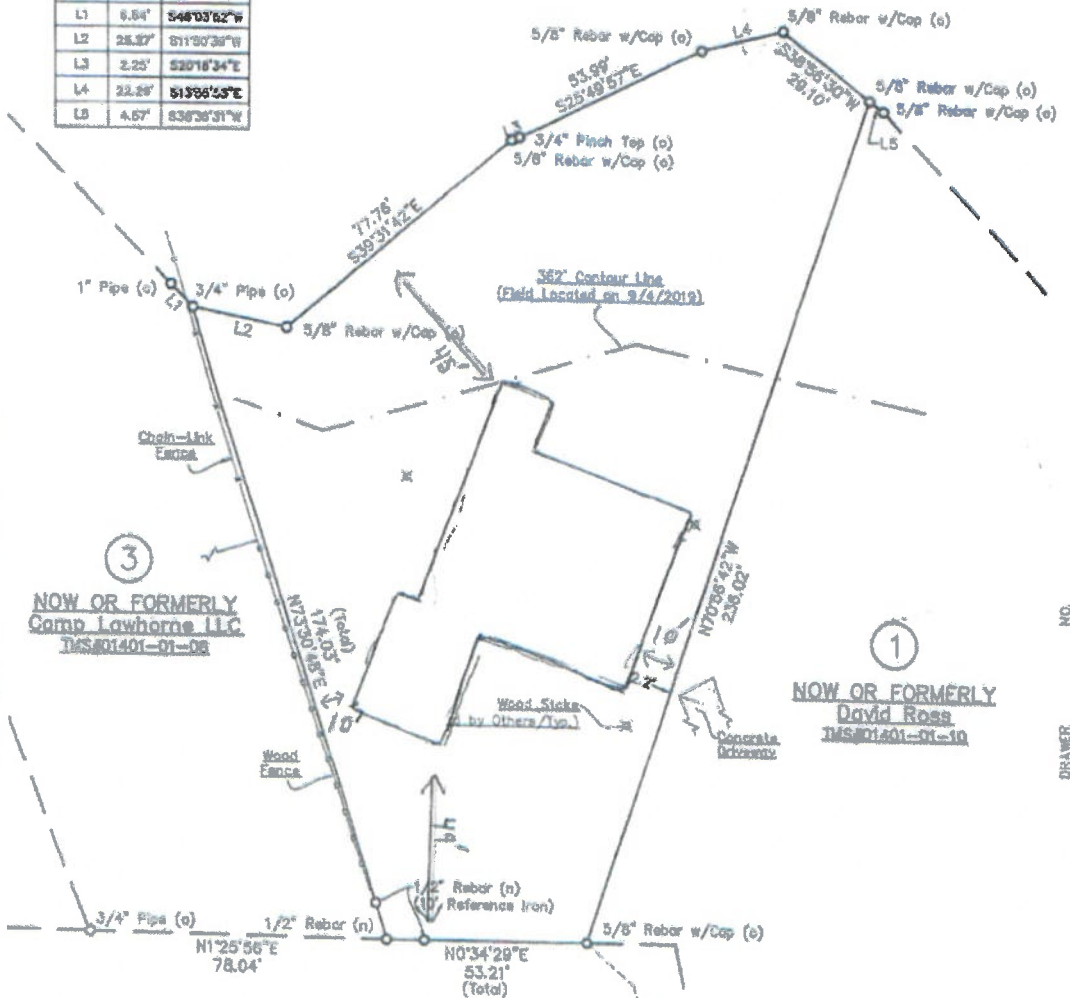
MAGNETIC

Lake Murray  
(SCE&G Co.)  
TMS-01300-02-01A

NOTE:  
REFER DESIGN MARK USED IS NGS MONUMENT "RUSTY ANCHOR", ELEVATION=376.5 (feet) (NAVD 88 DATUM), AS TAKEN FROM NGS DATA SHEET. <http://www.ngs.noaa.gov/>.

Line Table

Line #	Length	Direction
L1	9.84'	S46°03'62"W
L2	28.37'	S11°50'36"W
L3	2.25'	S201°1'34"E
L4	22.28'	S138°5'53"E
L5	4.67'	S38°38'31"W



3  
NOW OR FORMERLY  
Camp Lawhorne LLC  
TMS-01401-01-08

1  
NOW OR FORMERLY  
David Ross  
TMS-01401-01-10

BEARDS CREEK CIRCLE  
(50' R/W)

\* Revised on 8/4/2018  
To change name, show 362'  
Contour Line, and place new  
left front property corner.

PLAT  
PREPARED FOR

MILLER & LESLIE ROBINSON

RICHLAND COUNTY, NEAR WHITE ROCK, S.C.

REFERENCES:

- 1) A RESUBDIVISION OF LOTS FOR EDWIE ROSS, BY WHITWORTH & ASSOCIATES, INC., DATED SEPTEMBER 8, 1892, AND RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS FOR RICHLAND COUNTY IN PLAT BOOK 54, PAGE 2538.
- 2) A PLAT PREPARED FOR W.F. GRAHAM, BY WILLIAM WINGFIELD, DATED OCTOBER 17, 1981, AND RECORDED IN PLAT BOOK "S", PAGE 123.

EXEMPTION FROM REVIEW PROCESS  
This plat is a SURVEY of an existing lot of record with no changes to existing lot lines.

(Registered Surveyor)  
Printed Name: JEFFERY E. EDMONSTON  
License #: 29121

MARCH 22, 2017



COX AND DINKINS, INC.  
724 BELTLINE BLVD.  
COLUMBIA, SOUTH CAROLINA 29208  
803-264-0518 Fax: 803-785-0805  
Email: [ced@coxanddinkins.com](mailto:ced@coxanddinkins.com)

I hereby state that, to the best of my professional knowledge, information, and belief, the survey shown herein was made in accordance with the requirements of the Standards of Practice Manual for Surveying in South Carolina, and meets or exceeds the requirements for a Class B survey as specified therein; also there are no visible encroachments or projections other than shown.

PROF. LAND SURVEYOR NO. 29121  
JEFFERY E. EDMONSTON

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THIS SURVEY IS NOT VALID WITHOUT AN ORIGINAL SIGNATURE.

NO. DRAWER

ORDER NO. 37844







Richland County Government  
2020 Hampton Street  
Columbia, SC 29204

Phone (803) 576-2180  
Fax (803) 576-2182

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