



CITY OF BEAUFORT
ZONING BOARD OF APPEALS
1911 BOUNDARY STREET
BEAUFORT, SOUTH CAROLINA 29902
(843) 525-7011

AGENDA

City of Beaufort
ZONING BOARD OF APPEALS
Monday, April 24, 2023, 5:30 P.M.
City Hall, Council Chambers, 2nd Floor – 1911 Boundary Street, Beaufort, SC

Please click the link below to access the webinar:

<https://us02web.zoom.us/j/86242268190?pwd=OHREOEpkbGNKMTZDZFdob3dHc0wvUT09>
Password: 893659 Meeting ID: 862 4226 8190 Call in Phone #: 1+929 205 6099

STATEMENT OF MEDIA NOTIFICATION: “In accordance with South Carolina Code of Laws, 1976, Section 30-4-80(d), as amended, all local media were duly notified of the time, date, place, and agenda of this meeting.”

I. Call to Order

II. Pledge of Allegiance

III. *FREEDOM OF INFORMATION ACT COMPLIANCE*

Public Notification of the Zoning Board of Appeals meeting has been published in compliance with the *Freedom of Information Act* requirements.

IV. Review of Minutes:

A. Minutes of the January 23, 2023 Meeting

V. Review of Projects

A. 115 Prescott Drive, identified as R120 029 00A 0163 0000, Variance

Applicant: Cedrick and Debra DeBardelaben (ZB23-05)

The applicants are requesting a side setback variance per Section 2.4.C.6 of the Beaufort code for property located at 115 Prescott Drive, identified as R120 029 00A 0000. The property is zoned T3-Neighborh District (T3-N).

B. 311 Robert Smalls Parkway, identified as R120 028 000 1230 0000, Variance

Applicant: The Foresite Group (ZB23-06)

The applicant is requesting a several variances per Section 2.4.2.C.1, 2.4.2.E.1, 2.5.1.A, 2.5.1.A.1.c, 2.5.1.B.2, 2.5.1.D.1, 3.7.2.A.1.f, and 4.5.12.B.2.b of the Beaufort Code for a Parker's Kitchen for property located at 311 Robert Smalls Parkway (Beaufort Station), identified as R120 028 000 1230 0000. The property is zoned T5 urban Center District/Regional Mixed-use District (T5-UC/RMX).

VI. Adjournment



Zoning Board of Appeals

Meeting Minutes – January 23, 2023

CALL TO ORDER

[1:50]

A meeting of the Zoning Board of Appeals was held in-person on December 21, 2022, at 5:30 p.m.

ATTENDEES

Members in attendance: Kenneth Hoffman (Chairman), Marc Sviland (Vice-Chair), Kevin Blank, Patrick McMichael and Parker Moore.

Staff in attendance: Riccardo Giani, Interim Community Development Director

REVIEW OF MINUTES

[2:35]

All Zoning Board of Appeals meeting minutes are recorded and can be found on the City's website at <http://www.cityofbeaufort.org/AgendaCenter>. Audio recordings are available upon request by contacting the City Clerk, Traci Guldner at 843-525-7024 or by email at tgundler@cityofbeaufort.org.

PUBLIC HEARING

APPLICATIONS

[3:23]

- A. **37 Robert Smalls Pkwy, identified as R120 029 000 0509 0000**, Appeal for zoning interpretation Variance
Applicant: Cypress Engineering (Case number ZB 22-09); variance for the requirement of underground power lines

Mr. McMichael recuses himself due to possible conflict of interest

Mr. Giani gave staff findings.

Motion: Chairman moves to table the motion to send back to staff. Motion fails.

Enters additional discussion.

Motion: Vice Chair makes a motion to deny the appeal as submitted. Kevin Blank seconds the motion. Patrick McMichael has recused himself from vote. Marc Sviland, Kevin Blank and Parker Moore vote in favor. Chairman Hoffman abstains. The motion passes.

1:37:25

37 Robert Smalls Pkwy, Variance

Mr. Giani gave his findings

Parker Moore states that past inconsistencies pertaining to interpretation of the Beaufort Code constitute exceptional conditions. States that these conditions do not generally apply to other properties within the immediate vicinity. States that the conditions are not a result of the applicants own actions. He also does not believe that granting the variance with effect the plan or intent of the Beaufort Code. Granting the variance would not result in a substantial detriment to the immediately surrounding properties.

2:27:40 **Motion:** Parker Moore makes a motion to grant the variance as applied. Kenneth Hoffman seconds the motion. Motion passes unanimously.

2:34:41

Salem Bay

Mr. Giani gave his findings.

The applicant, expressed that the change in originally submitted plans was due to growing market demands of prospective home buyers.

Motion: Marc Sviland makes a motion to deny the variance as submitted. Patrick McMichael seconds the motion. The motion passes unanimously.

OLD BUSINESS

[NA]

No old business addressed.

NEW BUSINESS

[NA]

No new business addressed.

ADJOURNMENT

[2:54:13]

Chairman Hoffman makes a motion to adjourn, Parker Moore seconds the motion.

115 PRESCOTT DRIVE
R120 029 00A 0163 0000
VARIANCE

Applicant: Cedrick and Debra DeBardelaben
Case Number: ZB23-05



VARIANCE APPLICATION

Community & Economic Development Department
1911 Boundary Street, Beaufort, South Carolina, 29902
p. (843) 525-7011 / f. (843) 986-5606
www.cityofbeaufort.org

APPEAL mtg.
PAID 3-10 CC
Application Fees: \$300.00
Residential - \$200
Commercial - \$300
Special Meeting - \$500
ZB23-05 Receipt # 163625

OFFICE USE ONLY: Date Filed: 2/23 Application #: 24975 Zoning District: T3-N

Submittal Instructions: Entries must be printed or typewritten. If the application is on behalf of the property owner(s), all owners must sign. If the applicant is not the owner, the owner(s) must sign the Designation of Agent (below).

Submittal Requirements: 1. A legal survey of the property. 2. An accurate, legible site plan showing the north arrow, dimensions, and locations of all existing and proposed structures and any improvements relevant to the appeal such as trees, fences, power lines. Six copies of all plans are required. 3. Photograph(s) of the site. For variances, include photos showing relationship to adjoining properties.

Pursuant to Section 6-29-1145 of the South Carolina Code of Laws, is this tract or parcel restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity described in this application? [] Yes [X] No

Applicant, Owner and Property Information

Applicant Name: Cedric and Debra DeBardelaben

Applicant Address: 115 Prescott Drive

Applicant E-mail: cmdebar@gmail.com Applicant Phone Number: 843-575-0051

Owner (if other than the Applicant):

Owner Address:

Owner E-mail: Owner Phone Number:

Property Address: 115 Prescott Drive, Beaufort SC 29902

Property Identification Number (Tax Map & Parcel Number): R120 029 00A 0163 0000

DESIGNATION OF AGENT [complete only if owner is not applicant]

I (we) here by appoint the person named as Applicant as my (our) agent to represent me (us) in this application.

Date: Owner's Signature:

I (We) certify that the information in this application is correct.

Date: 02/24/23 Applicant's Signature: Debra DeBaro



VARIANCE APPLICATION

Community & Economic Development Department
1911 Boundary Street, Beaufort, South Carolina, 29902
p. (843) 525-7011 / f. (843) 986-5606
www.cityofbeaufort.org

Required Project Information

Applicant hereby appeals the Zoning Board of Appeals for a variance from the strict application to the property described on Page 1 of the following provisions in Section _____ of the Beaufort Code:

_____ 10' setback as shown on the attached plat _____

so that a building permit may be issued to allow use of the property in a manner shown on the attached plot plan, described as follows: (e.g., build a garage): build a garage

_____ for which a permit has been denied by a building official on the grounds that the proposal would be in violation of the cited section(s) of the Beaufort Code:

1. The application of the Beaufort Code will result in unnecessary hardship, and the standards for an variance set by State law and the Beaufort Code are met by the facts:

a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: Without the variance to go to 5' setback we will not be able to build a garage. Additionally, the access road on the plat was never built.

b. These conditions do not generally apply to other property in the vicinity as shown by: _____

c. The conditions are not the result of the applicant's own actions as follows: _____

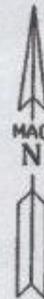
d. Granting of the variance would not substantially conflict with the Comprehensive Plan and the purposes of the Beaufort Code in that: The construction and setback would be consistent with other construction in rest of the neighborhood.

e. Because of these conditions, the application of the Beaufort Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: There would not be room to build a garage.

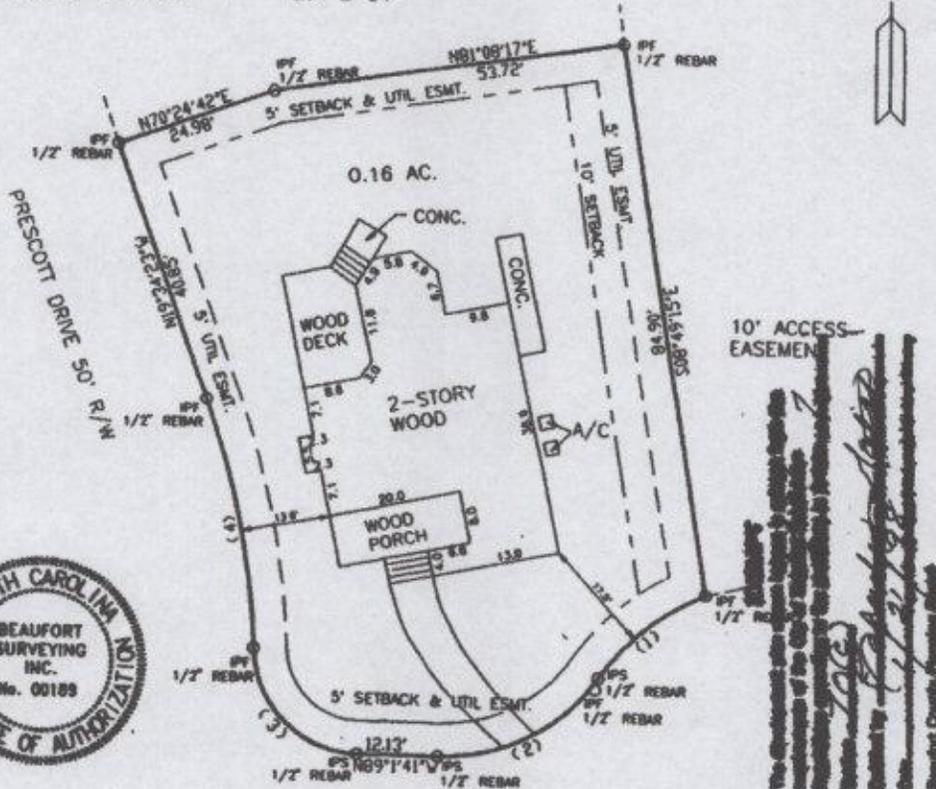
f. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: Because of the undeveloped access road, all setbacks will look uniform with the rest of the neighborhood.



1748



LOT B 34



NO.	DELTA	RADIUS	ARC	TANGENT	C.BEARING	CHORD
1	30°08'24"	40.00'	21.04'	10.77'	S51°24'02"V	20.00'
2	54°26'02"	30.00'	28.50'	15.43'	S63°37'21"V	27.44'
3	87°18'35"	16.00'	24.38'	15.27'	N45°22'43"V	22.09'
4	17°53'46"	125.00'	39.04'	19.68'	N10°46'06"V	38.88'

CLOSING PLAT PREPARED FOR
MARK D. HETRICK & ALICE M. HETRICK

THE SAME BEING LOT B 35, PHASE 3, BATTERY POINT SUBDIVISION AS SHOWN ON A PLAT BY DAVID E. GASQUE, DATED JUNE 13, 1996, REVISED JANUARY 22, 1997 AND RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR BEAUFORT COUNTY, SOUTH CAROLINA IN PLAT BOOK 59, PAGE 63.

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND 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.

THIS PROPERTY IS LOCATED IN ZONE 'C' AS DETERMINED BY FEMA, FIRM COMMUNITY-PANEL NUMBER 450025 0065 D, DATED 9/29/86.

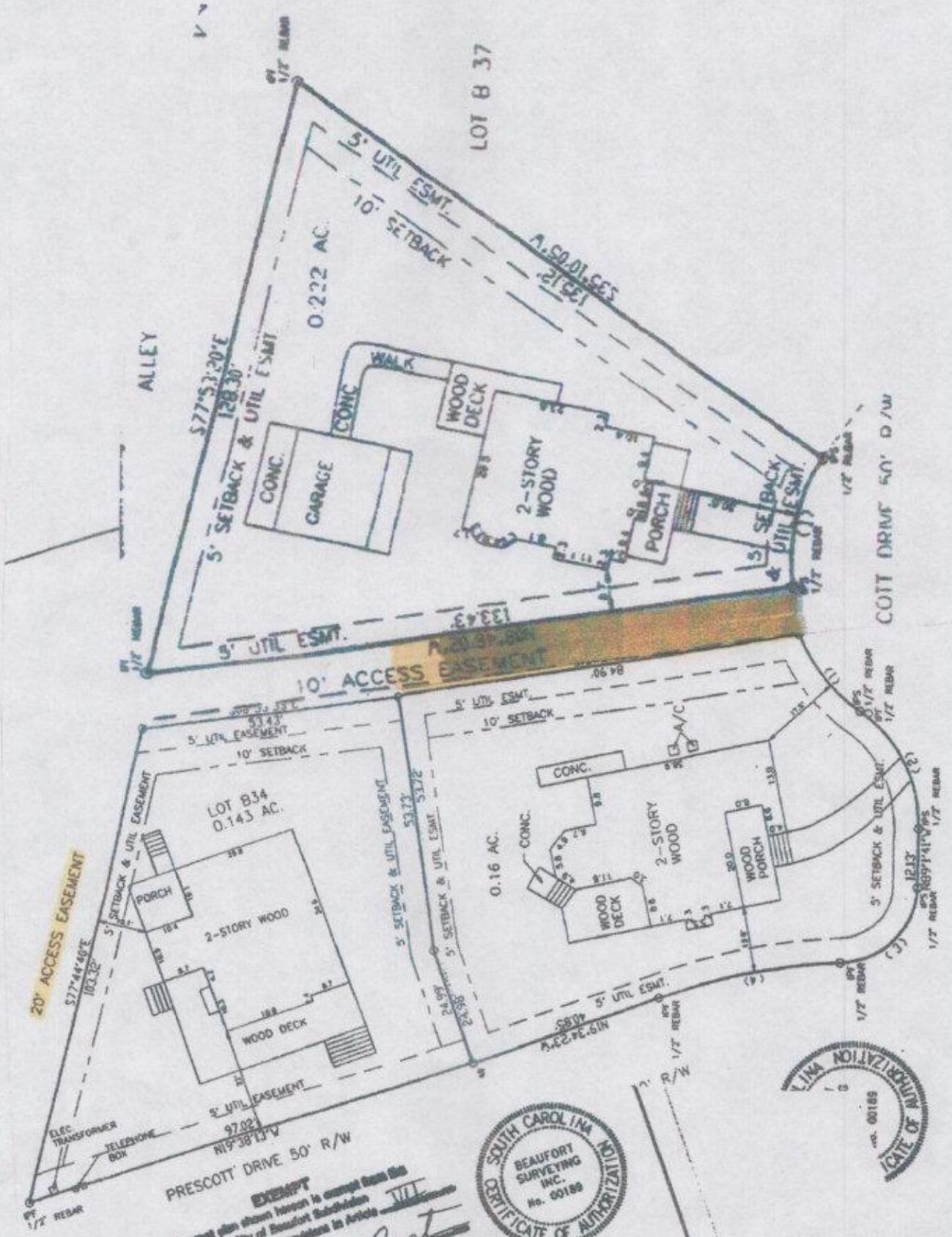
PIN: R120-029-00A-0163-0000



SCALE 1" = 20'

JANUARY 8, 1998
P6803/JRD

David S. Youmans
DAVID S. YOUMANS RLS 9785
BEAUFORT SURVEYING, INC.
1825 DUKE STREET (PO BOX 1231)
BEAUFORT, S.C. 29901
PHONE (803) 524-3281 525-1175



AS ACCORDING TO
5/13/96 REVISED
RECORDED IN PLAT
PG. 63.

EXEMPT
The development plan shown herein is exempt from the
requirements of the City of Beaufort Subdivision
Regulations according to the provisions in Article III
Section 70(C) *Deborah Aust*
Certified by *Deborah Aust*
Date *11/9/97*
Beaufort County Planning Board



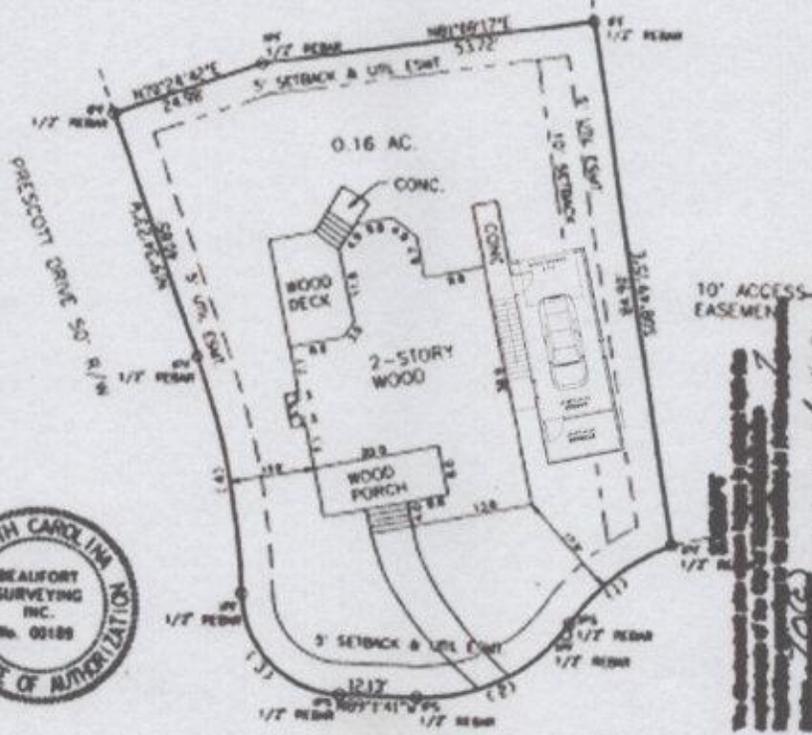
CLOSING PLAT PREPARED FOR
SAUNDERS & VALERIE K. SAUNDERS
SUBDIVISION AS SHOWN ON A PLAT
JANUARY 22, 1997 AND RECORDED
IN PLAT PG. 63, SOUTH CAROLINA IN PLAT

NO.	DELTA	RADIUS	ARC TANGENT	C.BEARING
1	20°00'24"	48.80'	21.04'	55°24'02" N
2	54°56'05"	48.80'	10.77'	22°55'55" W



1748

LOT B 34



10' ACCESS EASEMENT

David S. Youmans
 Surveyor

NO	DELTA	RADIUS	ARC TANGENT	C BEARING	CHORD	
1	20°09'24"	40.00'	23.94'	80.77'	S76°24'31"W	20.00'
2	54°26'30"	30.00'	28.50'	15.43'	S63°37'21"W	27.44'
3	87°08'25"	16.00'	24.38'	15.27'	N45°02'43"E	15.89'
4	17°52'46"	12.50'	23.44'	19.48'	N10°46'36"W	38.89'

CLOSING PLAT PREPARED FOR
 MARK D. HETRICK & ALICE M. HETRICK

THE SAME BEING LOT B 35, PHASE 3, BATTERY POINT SUBDIVISION AS SHOWN ON A PLAT BY DAVID E. GASQUE, DATED JUNE 13, 1996, REVISED JANUARY 22, 1997 AND RECORDED IN THE OFFICE OF THE CLERK OF COURT FOR BEAUFORT COUNTY, SOUTH CAROLINA IN PLAT BOOK 59, PAGE 63.

I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND 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.

THIS PROPERTY IS LOCATED IN ZONE 'C' AS DETERMINED BY FEMA, FIRM COMMUNITY-PANEL NUMBER 450025 0065 D, DATED 9/29/86.

PIN: R120-029-00A-0163-0000
 0 10' 20' 40' 60'

SCALE 1" = 20'
 JANUARY 8, 1998
 P6803/JRD

David S. Youmans
 DAVID S. YOUNG RLS 9765
 BEAUFORT SURVEYING, INC.
 1625 DUKE STREET (PO BOX 1231)
 BEAUFORT, S.C. 29901
 PHONE (803) 524-3261 525-1175

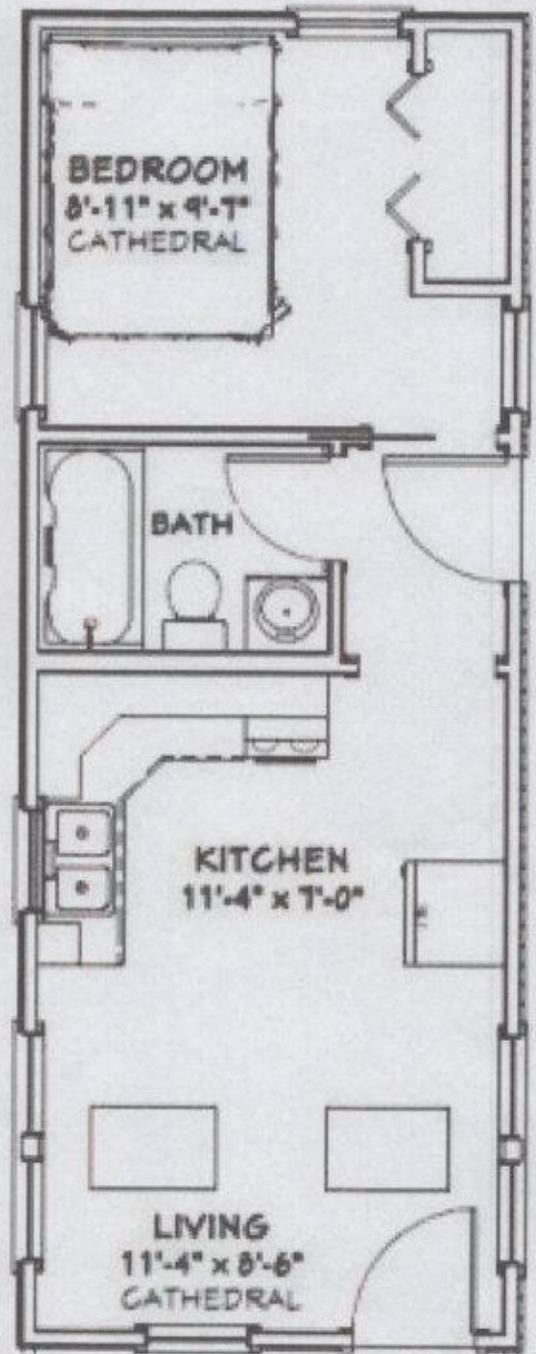
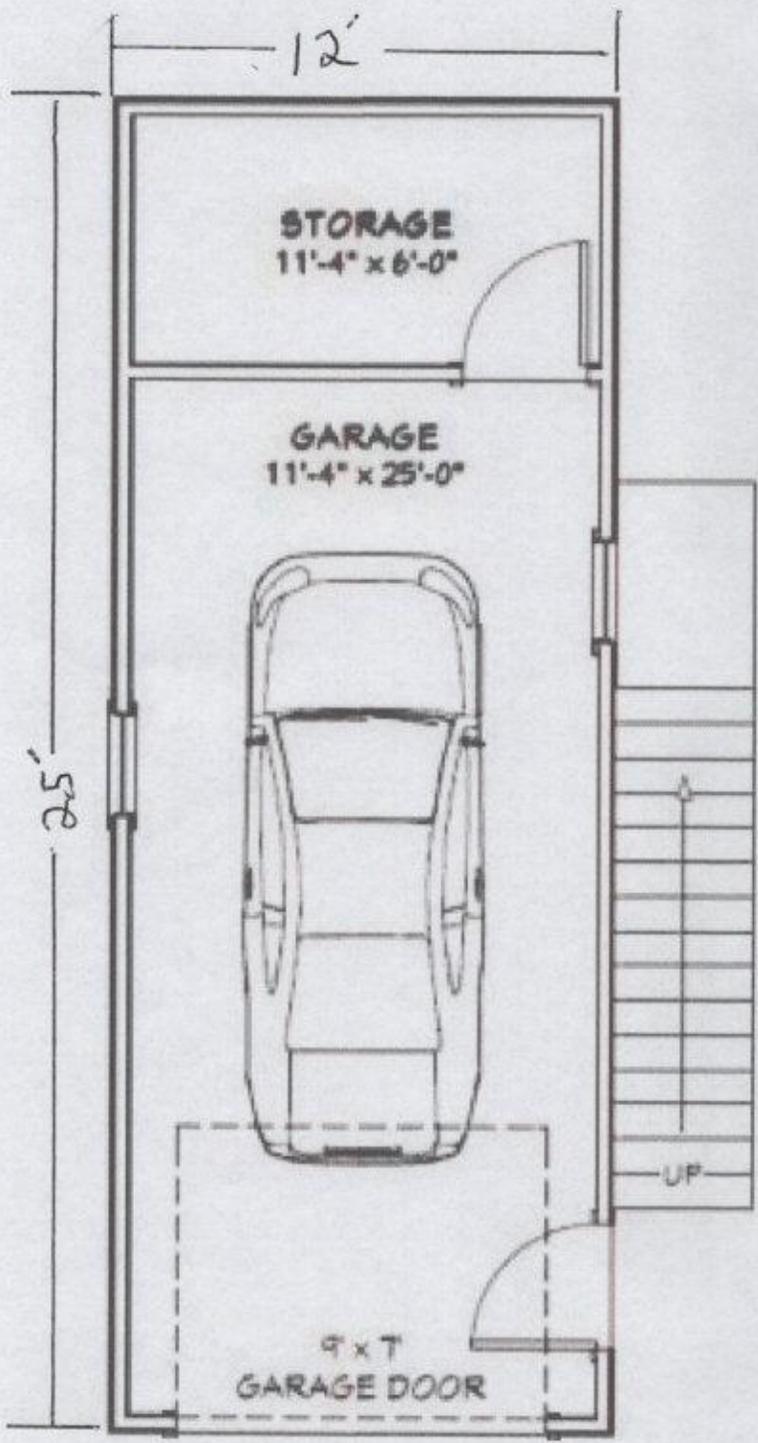


Image capture: Apr 2022 © 2023 Google





We do not plan to build the porch.











STAFF REPORT: 115 Prescott Drive, Side Yard Variance

DATE: April 24, 2023

GENERAL INFORMATION		
Applicant:	Cedric and Debra DeBardelaben	
Site Location/Address:	115 Prescott Drive/ R120 029 00A 0163 0000 0.16 acre lot.	
Applicant's Request:	The Applicant is requesting a 5' side setback variance of Section 2.4.C.6	
Current Zoning:	T-3 N	
ZONING DISTRICT INFORMATION		
	<u>T-3N</u>	
Max Density	N/A	
Min. Lot Size	4,000 sf. Min/3,000 min alley served lots	
Min. Lot Width	40'	
Front Setback	15'-30'	
Side Setback	6' (10' per Battery Point)	
Rear Setback	15'	
Building Height:	2.5 stories	
SURROUNDING ZONING, LAND USE AND REQUIRED BUFFERS		
<u>Adjacent Zoning</u>	<u>Adjacent Land Uses</u>	<u>Setbacks for Adjacent Zoning /Buffer required if rezoned</u>
North: T-3 N	Battery Point Subdivision	N/A
South: T-3 N	Battery Point Subdivision	N/A
East: T-3 N	Battery Point Subdivision	N/A
West: T-3 N	Battery Point Subdivision	N/A

PROPOSAL/BACKGROUND

The Applicant is proposing a 5' side setback variance from Section 2.4.C.6 to build a two-story garage. The garage is proposed on the eastern side of the lot, abutting 117 Prescott Drive—a one story home. When the lots were platted, a 10' access easement was platted along the Eastern portion of this lot in between it and 117 Prescott Drive. A 10' side setback was platted along with the access easement on this side (see plats attached). The side access easement is currently not utilized nor paved, and instead the owners of 115 and 117 Prescott utilized a rear alley to access their homes. The rear yard has a rough measurement of ~ 30-35 of varying space to the rear property line of the lot. The property owner at 117 Prescott Drive has submitted a letter in opposition to the request found in the packet.

VARIANCE REVIEW CRITERIA

Required Findings: A variance may be granted by the ZBOA if it concludes that the strict enforcement of any design and performance standard set forth in this Code would result in unnecessary hardship to the applicant, and that by granting the variance, the spirit of this Code will be observed, public welfare and safety will not be diminished, and substantial justice will be done. A variance may be granted in an individual case of unnecessary hardship only when the ZBOA makes, and explains in writing, all of the following findings:

a. There are extraordinary and exceptional conditions pertaining to the particular piece of property. For example, the variance is justified because of topographic or other special conditions unique to the property and development involved, in contradistinction to the mere inconvenience or financial disadvantage.

x. Staff finds this condition **has not** been satisfied for the following reasons:

- This is a typical corner lot, with a larger than average yard for Battery Point, with over 30' in the rear yard for a potential addition.

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

Staff finds this condition **has partially** been satisfied for the following reasons:

- x. All lots within the subdivision are rear loaded.
- ✓ The side access easement is unique to this property.

c. The conditions are not the result of the applicant's own actions.

x. Staff finds this condition **has not** been satisfied for the following reasons:

-
- The variance would create a self-inflicted hardship, as there is space to meet setbacks and build a garage to the rear off the alley.

d. Granting of the variance would not substantially conflict with the Comprehensive Plan, the Civic Master Plan and the purposes and intent of this Code.

Staff finds this condition **has** been satisfied for the following reasons:

- ✓ The variance will not conflict with the Comprehensive Plan or Civic Master Plan

e. Because of these conditions, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

x. Staff finds this condition **has not** been satisfied for the following reasons:

- As aforementioned, there is room to meet setbacks, and build a rear garage if this variance is not granted.

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

Staff finds this condition **has** been partially satisfied for the following reasons:

- ✓ The character of the zone will not be harmed.

x. The neighboring 117 Prescott is a one-story home, setback on the street, to face a portion of this two story home. Allowing an additional two-story garage addition built to the setback line, may be to the detriment of this home and its front façade.

Limitations: The ZBOA may not grant a variance if it would do any of the following:

- a. Allow the establishment of a use not otherwise permitted in the applicable district.**
- b. Increase the density of a use above which is permitted in the applicable district.**
- c. Physically extend a nonconforming use of land.**
- d. Change the zone boundaries shown on the Official Zoning Map.**

Profitability Not to Be Considered: Profitability shall not be considered grounds for a variance.

N/A for all limitations.

PUBLIC NOTICE AND COMMENT

Notice of the Zoning Board of Appeals hearing has been mailed to property owners within 200 feet of the subject property, a legal ad published, and the property was posted as required by the Development Code.

FINDINGS AND RECOMMENDATIONS

Staff recommends disapproval of the 5' side yard setback variance (Section: 2.4.C.6) requested for the property located at 115 Prescott Drive as it does not satisfy all the recommended findings found in pages 2-3 of this staff report, as per the requirements of Section 9.14.2. F.

311 ROBERT SMALLS PARKWAY

R120 028 000 1230 0000

VARIANCES

Applicant: The Foresite Group

Case Number: ZB23-06



VARIANCE APPLICATION

Community & Economic Development Department
1911 Boundary Street, Beaufort, South Carolina, 29902
p. (843) 525-7011 / f. (843) 986-5606
www.cityofbeaufort.org

Application Fees: \$300
Residential - \$200
Commercial - \$300
Special Meeting - \$500

Receipt # _____

OFFICE USE ONLY: Date Filed: 3/28 Application #: 25118 Zoning District: T5-UC RMX

Submittal Instructions: Entries must be printed or typewritten. If the application is on behalf of the property owner(s), all owners must sign. If the applicant is not the owner, the owner(s) must sign the Designation of Agent (below).

Submittal Requirements: 1. A legal survey of the property. 2. An accurate, legible site plan showing the north arrow, dimensions, and locations of all existing and proposed structures and any improvements relevant to the appeal such as trees, fences, power lines. Six copies of all plans are required. 3. Photograph(s) of the site. For variances, include photos showing relationship to adjoining properties.

Pursuant to Section 6-29-1145 of the South Carolina Code of Laws, is this tract or parcel restricted by any recorded covenant that is contrary to, conflicts with, or prohibits the activity described in this application? [] Yes [x] No

Applicant, Owner and Property Information

Applicant Name: Sarah Hamblin (Foresite Group)

Applicant Address: 3740 Davinci Court, Suite 100, Peachtree Corners, GA 30092

Applicant E-mail: shamblin@fg-inc.net Applicant Phone Number: (803) 727-8777

Owner (if other than the Applicant): Beaufort Station Partners LLC

Owner Address: 4521 Sharon Rd, Suite 275 Charlotte, NC 28211

Owner E-mail: _____ Owner Phone Number: _____

Property Address: 311 Robert Smalls Parkway, Beaufort, SC 29906

Property Identification Number (Tax Map & Parcel Number): R120 028 000 1230 0000

DESIGNATION OF AGENT [complete only if owner is not applicant]

I (we) here by appoint the person named as Applicant as my (our) agent to represent me (us) in this application.

Date: 3-28-23 Owner's Signature: [Signature]

I (We) certify that the information in this application is correct.

Date: 03/27/23 Applicant's Signature: Sarah Hamblin



VARIANCE APPLICATION

Community & Economic Development Department
1911 Boundary Street, Beaufort, South Carolina, 29902
p. (843) 525-7011 / f. (843) 986-5606
www.cityofbeaufort.org

Required Project Information

Applicant hereby appeals the Zoning Board of Appeals for a variance from the strict application to the property described on Page 1 of the following provisions in Section _____ of the Beaufort Code:

see supplemental page

so that a building permit may be issued to allow use of the property in a manner shown on the attached plot plan, described as follows: (e.g., build a garage); build a Parker's Kitchen convenience store and fueling station.

for which a permit has been denied by a building official on the grounds that the proposal would be in violation of the cited section(s) of the Beaufort Code:

1. The application of the Beaufort Code will result in unnecessary hardship, and the standards for an variance set by State law and the Beaufort Code are met by the facts:
 - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: there is a 50' buffer along Robert Smalls Parkway blocking visibility and direct pedestrian access from the street. Therefore, there is no advantage to having the building front the buffer.
 - b. These conditions do not generally apply to other property in the vicinity as shown by: most of Robert Smalls Parkway was built out before the new Code was enacted and therefore the new Code requirements only apply to a few remaining parcels.
 - c. The conditions are not the result of the applicant's own actions as follows: The 50' buffer was established by the Beaufort Code prior to the applicant acquiring the property.
 - d. Granting of the variance would not substantially conflict with the Comprehensive Plan and the purposes of the Beaufort Code in that: The proposed development is an allowed use under the current zoning, RMX and is in compliance with all other land use regulations.
 - e. Because of these conditions, the application of the Beaufort Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: The proposed layout allows for better vehicular circulation and improves pedestrian safety.
 - f. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: The proposed development is well designed, with the highest quality construction, plentiful landscaping, brick architecture, a decorative canopy, and will complement the overall area from an architecture standpoint.

March 27, 2023

Parker's Kitchen Beaufort Station
City of Beaufort Variance Request

City of Beaufort Code Variance Requests:

- 1. 2.4.2.C.1 (Pg 17):** **Front Setback – Primary:** 60 ft max (when corridor buffer requirements – Section 5.5.1.B – are required, the maximum front setback may be increased to no greater than 50 feet behind the buffer)
Variance: Building is placed approximately 148 feet behind the buffer.
- 2. 2.4.2.E.1 (Pg 17):** **Parking Location:** Parking areas and drive aisles shall be located in the side or rear yard whenever possible. Parking areas and drive aisles shall not be located within the front setback, but may be placed in front of the building. However head-in rows of parking shall not be permitted to front Primary Streets. Diagonal rows of parking shall not front Primary Streets except as part of a slip or frontage-road design, or when there are less than 10 consecutive spaces. Where 10 or more parking spaces are required, the majority of the parking shall be located in the side or rear of the building.
Variance: Head-in parking is located in front of the building.
- 3. 2.5.1.A (Pg 18):** **Frontage and Orientation on Street:** All buildings shall front a street right-of-way, and have a usable entrance on the Primary Frontage
Variance: Since building is setback further, the entrance fronts the parking lot, not the Primary Street.
- 4. 2.5.1.A.1.c (Pg 18):** Perimeter buildings shall be oriented so that the primary facade(s) faces a public street and has a usable entry on that street.
Variance: Since building is setback further, the entrance fronts the parking lot, not the Primary Street.
- 5. 2.5.1.B.2 (Pg 18):** Front facades shall front public streets or rights-of-way. In the case where buildings front multiple streets, or desire to have entrances facing the parking lot, multiple front facades may be designed.
Variance: Since building is setback further, the entrance fronts the parking lot, not the Primary Street.
- 6. 2.5.1.D.1 (Pg 21):** Buildings shall have their principal pedestrian entrances on a frontage line.
Variance: Since building is setback further, the entrance fronts the parking lot, not the Primary Street.

7. 3.7.2.A.1.f (Pg 67): Additional Standards for Vehicle- and Boat- Related Uses:

Orientation: The structure shall be street-oriented, with pedestrian entrances from the street.

Variance: The pedestrian entrance fronts the parking lot, not the street since the building is setback from the street.

8. 4.5.12.B.2.b (Pg 98): The pumps should be located to the side or rear of the building where possible. They shall not be located between the building and the adjacent primary street.

Variance: The pumps are located between the building and the adjacent primary street.



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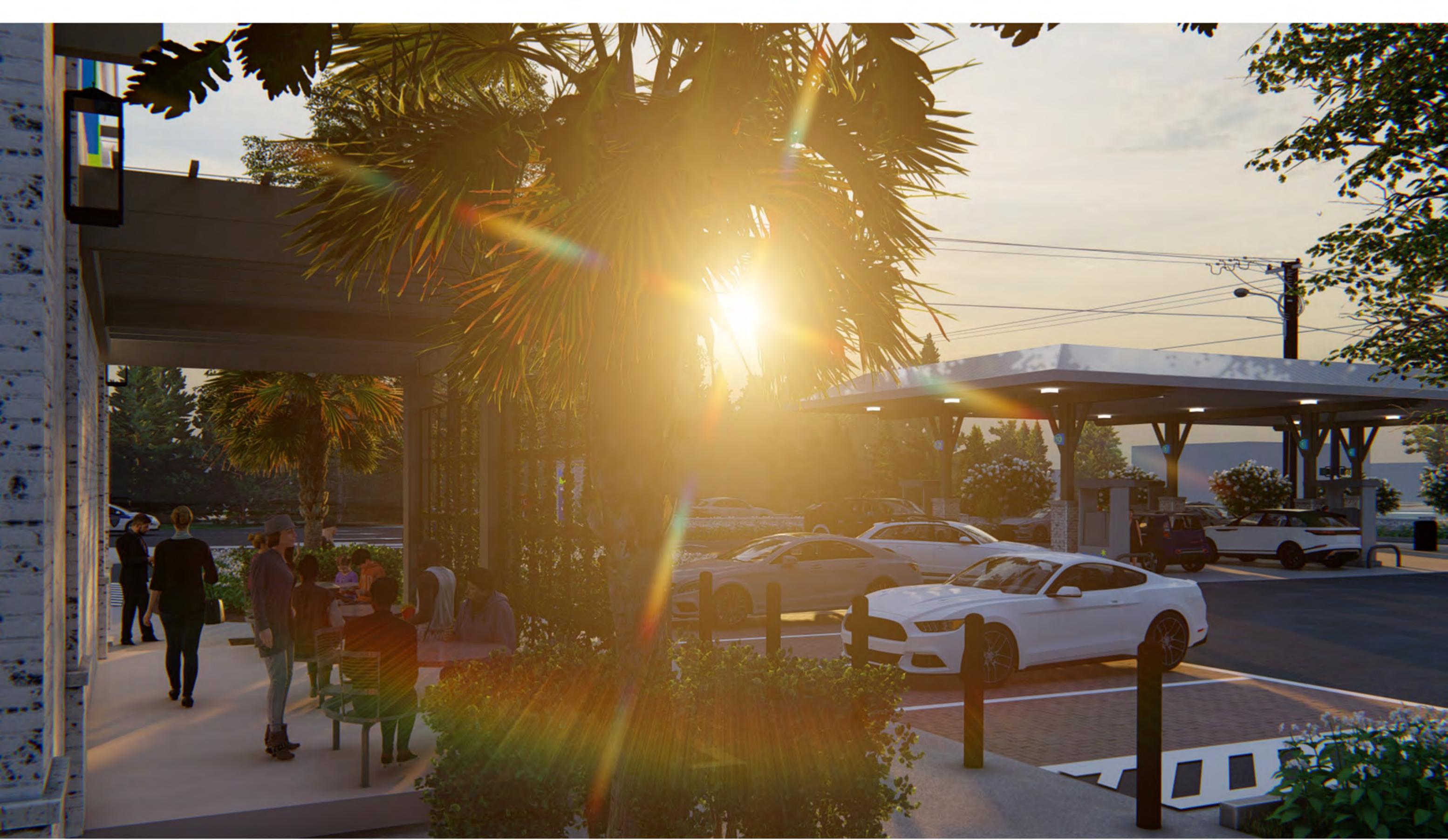
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STAFF REPORT: 311 Robert Smalls Parkway Variances

DATE: April 24, 2023

GENERAL INFORMATION	
Applicant:	Sarah Hamblin, Foresite Group, agent for Beaufort Station LLC
Site Location/Address:	311 Robert Smalls Parkway/ R120 028 000 1230 0000.
Applicant's Request:	<p>The Applicant is requesting a serious of variances:</p> <p>Section 2.4.2.C.1 front setback from 50' to 148'</p> <p>Section 2.4.2.E.1: parking in front rather than rear</p> <p>Section 2.5.1.A: frontage not oriented to Hwy 170</p> <p>Section 2.5.1.A.1.c: perimeter buildings not fronting HWY 170</p> <p>Section 2.5.1.B.2: front façade not facing Hwy 170</p> <p>Section 2.5.1.D.1: principal entrance not along frontage line</p> <p>Section 3.7.2.A.1.f: pedestrian entrance not along HWY 170</p> <p>Section 4.5.12.B.2.b: Gas Pumps in front not rear</p>
Current Zoning:	RMX/T-5 UC

ZONING DISTRICT INFORMATION		
	<u>T-5 UC</u>	<u>RMX</u>
Max Density	N/A	30 DU per acre
Min. Lot Size	N/A	6,000 sq. ft.
Min. Lot Width	N/A	60'
Front Setback	0'/15' (50' buffer)	10' min/60' max
Side Setback	0'	10'
Rear Setback	5'	15'
Building Height:	5 stories	4 stories

SURROUNDING ZONING, LAND USE AND REQUIRED BUFFERS		
<u>Adjacent Zoning</u>	<u>Adjacent Land Uses</u>	<u>Setbacks for Adjacent Zoning /Buffer required if rezoned</u>
North: RMX/T-5 UC	Commercial/Mall	N/A
South: RMX/T-5 UC	Undeveloped	N/A
East: RMX/T-5 UC	Undeveloped	N/A
West: RMX/T-5 UC/IC	Undeveloped	N/A

PROPOSAL

The Applicant has petitioned for the following variances to build a Parkers Kitchen Gas Station at Beaufort Station on the Northeastern commercial outlot along Robert Smalls Parkway. The gas station as proposed would be set back ~150' on the lot which abuts Hwy 170, with parking and gas pumps to the front of the lot, and thus not meet setback, building frontage, parking, gas pump, pedestrian access, or building orientation standards of the Beaufort Development Code.

The variances requested are as follows:

Section 2.4.2.C.1 Front setback from HWY 170 from 50' to 148'.

Section 2.4.2.E.1: Parking Location: from parking in rear, to parking in front of building.

Section 2.5.1.A: Frontage and Orientation on Street: Building must orient to HWY 170.

Section 2.5.1.A.1.c: Perimeter buildings façade must orient to main order street HWY 170.

Section 2.5.1.B.2: Front facades must front main order street (HWY 170) ROW.

Section 2.5.1.D.1: Principal entrances must be on 170 build to frontage line.

Section 3.7.2.A.1.f: Pedestrian entrances must be fronted and access main order street (Hwy 170).

Section 4.5.12.B.2.b: Gas Pumps must be in rear, and behind front façade.

BACKGROUND

Beaufort Station was approved and reviewed under the T-5/UC standards. The T-5/UC standards call for a pedestrian friendly urban corridor with facades that face the main order street, fenestration mass and scale along said street, parking and gas stations to the rear, and pedestrian entryways along the street. The Civic Master Plan and the Comprehensive Plan also envision the same T-5/UC development pattern along Hwy 170. All properties in the vicinity and along 170 share the same T-5/UC zoning to create this envisioned development pattern.

VARIANCE (s) REVIEW CRITERIA

Required Findings: A variance may be granted by the ZBOA if it concludes that the strict enforcement of any design and performance standard set forth in this Code would result in unnecessary hardship to the applicant, and that by granting the variance, the spirit of this Code will be observed, public welfare and

safety will not be diminished, and substantial justice will be done. A variance may be granted in an individual case of unnecessary hardship only when the ZBOA makes, and explains in writing, all of the following findings:

a. There are extraordinary and exceptional conditions pertaining to the particular piece of property. For example, the variance is justified because of topographic or other special conditions unique to the property and development involved, in contradistinction to the mere inconvenience or financial disadvantage.

x. Staff finds this condition **has not** been satisfied for the following reasons:

- This is a standard commercial outlot with no unique topographic or lot conditions.
- All other commercial outlots in Beaufort Station were developed under the T-5 UC standards.
- There is good site visibility and access for passing motorists.

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

x. Staff finds this condition **has not** been satisfied for the following reasons:

- All other commercial outlots in Beaufort Station were developed under the T-5 UC standards. Applying variances to this property, would allow it a very different suburban development pattern than the rest of the outlots.
- There is nothing unique about this commercial outlot.

c. The conditions are not the result of the applicant's own actions.

x. Staff finds this condition **has not** been satisfied for the following reasons:

- The variance would create a self-inflicted hardship, as there is room to place the building and the pumps in a conforming manner to the code. Enmarket on Boundary is an example of a conforming gas station to the T-5 UC standards, which allows good access and visibility for a gas station.
- The commercial developer developed the lot with the knowledge of the T-5 UC requirements.

d. Granting of the variance would not substantially conflict with the Comprehensive Plan, the Civic Master Plan and the purposes and intent of this Code.

x. Staff finds this condition **has not** been satisfied for the following reasons:

- The variances will conflict with the Civic Master Plan, the Comprehensive Plan, and the Code which envision an urban pedestrian friendly corridor, with façades, fenestration, entryways oriented to Hwy 170, and parking and gas pumps to the rear to screen them from motorists. Approval of the variances would establish a suburban use in direct conflict with the intentions of the Civic Master Plan, the Comprehensive Plan, and the Development Code.

e. Because of these conditions, the application of this Code to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

x. Staff finds this condition **has not** been satisfied for the following reasons:

- As aforementioned, there is plenty of room and access to build a gas station on the property under the code and meet all the code requirements.

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

Staff finds this condition **has not** been satisfied for the following reasons:

- The character of the zone will be harmed by establishing a suburban development pattern in an urban transect zone. The variances appeal all the primary functions and requirements of the T-5/UC district and would harm the character of this district which is to require a walkable urban pattern with mass and scale to match.
- All outlots and properties in Beaufort Station were developed with T-5 UC standards. Approving a non-T-5 UC standards to one outlot within the district would be to the detriment of the adjacent properties and the public good.
- All adjoining properties to Beaufort Station are also zoned with the same T-5 UC standards and are envisioned by the Civic Master Plan and Comprehensive Plan to possess the same urban transect standards of buildings and facades engaging HWY 170, pedestrian access, and parking and gas pumps to the rear. It would be to the substantial detriment of the public good and the development of the future and existing site to approve one lot which does not meet any of these standards.

Limitations: The ZBOA may not grant a variance if it would do any of the following:

a. Allow the establishment of a use not otherwise permitted in the applicable district.

- x. The gas pumps are an allowed use, but a use which must be behind the building in the majority of transects including T-5/UC. Staff has concerns the granting of the variances may impact or permit a use type not allowed in the urban transects of the Beaufort Code.

b. Increase the density of a use above which is permitted in the applicable district.

c. Physically extend a nonconforming use of land.

d. Change the zone boundaries shown on the Official Zoning Map.

Profitability Not to Be Considered: Profitability shall not be considered grounds for a variance.

Additional Staff Comments:

Staff has concerns that additional variances/design waivers would be required if the variances requested are approved. The actual design of the gas station building would likely require variances or design

waivers as it would not meet the basic fenestration and other perimeter building design and massing standards of the T-5 UC district.

PUBLIC NOTICE AND COMMENT

Notice of the Zoning Board of Appeals hearing has been mailed to property owners within 200 feet of the subject property, a legal ad published, and the property was posted as required by the Development Code.

FINDINGS AND RECOMMENDATIONS

Staff recommends disapproval of the following variances (Section 2.4.2.C.1, Section 2.4.2.E.1, Section 2.5.1.A, Section 2.5.1.A.1.c, Section 2.5.1.B.2, Section 2.5.1.D.1, Section 3.7.2.A.1.f, and Section 4.5.12.B.2.b) requested for the property located at 311 Robert Smalls Parkway as it does not satisfy any of the recommended findings found in pages 2-4 of this staff report, as per the requirements of Section 9.14.2. F.