



Kershaw County Board of Zoning Appeals

AGENDA

JULY 5, 2022 REGULAR MEETING @ 5:30 PM
COUNCIL CHAMBERS
KERSHAW COUNTY GOVERNMENT CENTER
515 WALNUT STREET, CAMDEN, SOUTH CAROLINA

- I. **Call to Order and Determination of Quorum**

- II. **Approval of Minutes**
January 18, 2022

- III. **Case 22-02:** Applicant Rosetta Oberholtzer of Brandrite Sign Company, representative for Cook Out -Lugoff, Inc., is requesting a variance from Article 3, Sections 3:4.2-1 C & D of the Kershaw County Zoning and Land Development Regulations to allow for an existing nonconforming freestanding monopole sign to remain at the current setback location and existing height of 59'9", and replace the existing Shoney's sign face with a slightly smaller vertical Cook Out sign face that does not extend into the SC DOT right-of-way. The property is located at 809 Ridgeway Road, zoned B-2 (General Business District), and identified as TMS# 296-15-00-042.

- IV. **Adjournment**



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The January 18, 2022 Planning Commission draft minutes will be sent via a separate email once completed by Planning Commission Secretary, Rhonda Darity.

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STAFF REPORT

APPLICATION TO THE BOARD OF ZONING APPEALS FOR VARIANCE CASE # 22-02 COOK OUT - LUGOFF, INC., AT 809 RIDGEWAY ROAD, LUGOFF

KERSHAW COUNTY BOARD OF ZONING APPEALS PUBLIC HEARING
Tuesday, July 5, 2022 at 5:30 PM
Council Chambers, Kershaw County Government Center
515 Walnut Street, Camden, SC 29020

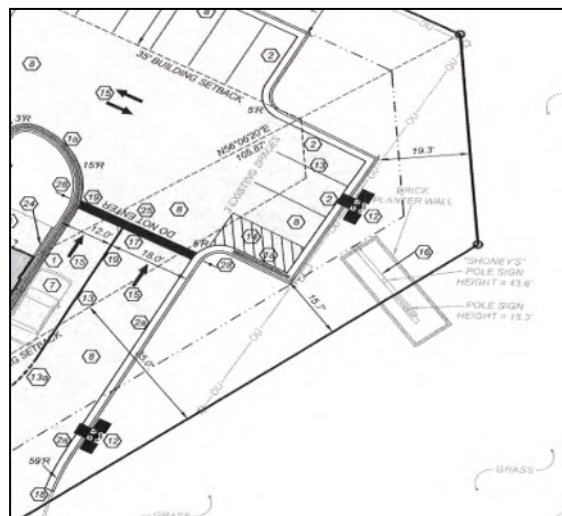
APPLICANT: Cook Out - Lugoff, Inc. (Rep. Rosetta Oberholtzer of Brandrite Sign Company)
PROPERTY: 809 Ridgeway Road, Lugoff
TMS #296-15-00-042
Zoning: B-2

CASE: Rosetta Oberholtzer of Brand Rite Sign Company, on behalf of property owner Cook Out - Lugoff, Inc., is requesting a variance from Article 3, Sections 3:4.2-1 C & D of the Kershaw County Zoning and Land Development Regulations to allow for an existing nonconforming freestanding monopole sign to remain at the current setback location and existing height of 59'9", and replace the existing 203.15 sq. ft. Shoney's sign face with a slightly smaller 201.6 sq. ft. vertical Cook Out sign face that does not extend into the SC DOT right-of-way. Cook Out will be completely removing the smaller nonconforming signage that is located at the base of the current freestanding monopole sign.

General Location:

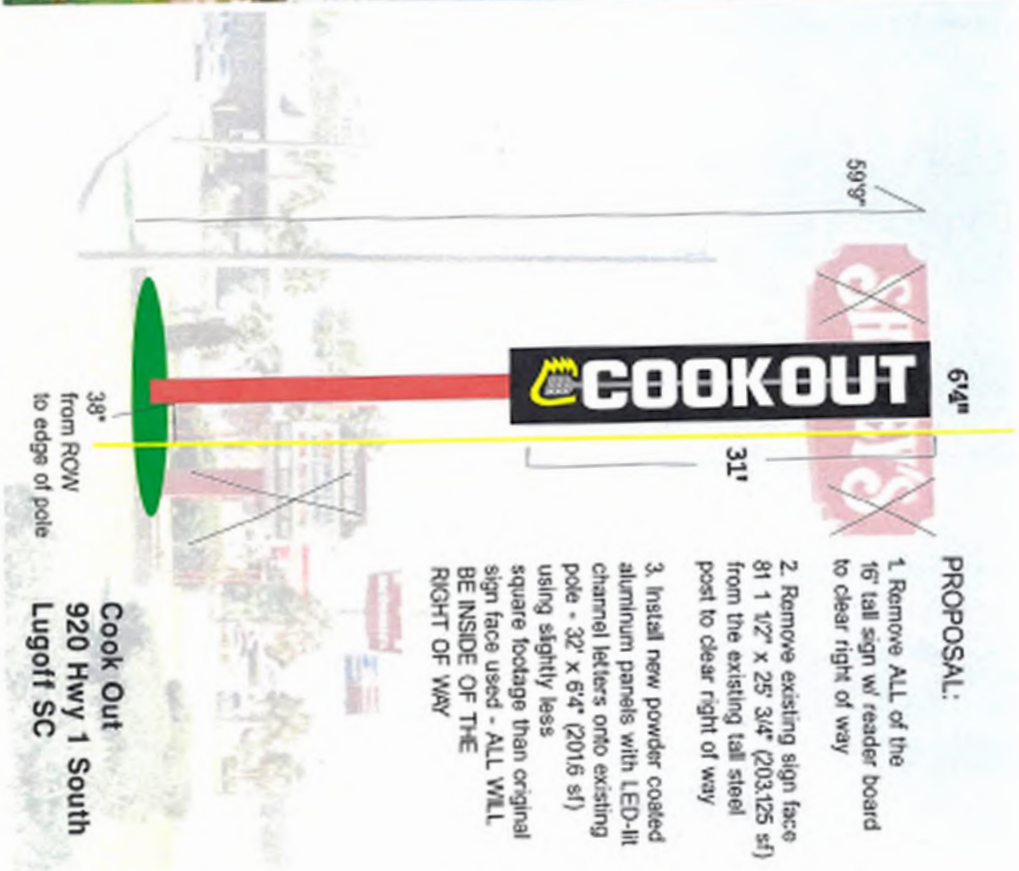


Signage location on site:





EXISTING
Grandfathered
signage



Cook Out
920 Hwy 1 South
Lugoff SC

PROPOSAL:

1. Remove ALL of the 16" tall sign w/ reader board to clear right of way
2. Remove existing sign face 81' 1 1/2" x 25' 3/4" (203,125 sf) from the existing tall steel post to clear right of way
3. Install new powder coated aluminum panels with LED-ill channel letters onto existing pole - 32' x 6'4" (2016 sf) using slightly less square footage than original sign face used - ALL WILL BE INSIDE OF THE RIGHT OF WAY

JUSTIFICATION FOR A VARIANCE:

The following is an analysis of the justification given by the applicant on the application:

1. ***Describe the provision of the Kershaw County Zoning and Land Development Regulations from which you seek a variance.***

Response from Applicant: Article 3, Sections 3:4.2.C and D regarding total allowed sq. ft. of sign face, sign setback, and sign height.

Staff Analysis and Additional Observations: The current zoning code requires new freestanding signs meet a maximum height of 10-feet, a total sign area of 40 sq. ft or less, and setback from the property line a minimum of 5-feet. The current Shoney's signage has been in place since approximately 1988, before countywide zoning was in effect, and therefore is deemed as nonconforming.

NOTE: The current request represents a small reduction in the total sign face sq. ft, and complete removal of all signage that currently encroaches into the SC DOT right-of-way.

2. ***Describe unusual conditions of the property causing unnecessary hardship which may justify variance from the terms of the ordinance.***

Response from Applicant: Due to this property being on a corner lot, the right-of-way significantly reduces the allowable available locations for pylon signs in comparison with surrounding businesses. The corner lot also causes a good portion of the existing tall sign face to overhang the ROW. This proposal will remove that portion, which will greatly reduce the extent of non-conformity. We request the existing, tall, grandfathered pylon to be allowed to remain at its current setback location with same height and similar sq-footage of sign face.

Staff Analysis and Additional Observations: Staff contends that both the lot and right-of-way configuration at this intersection does present unusual conditions that are particular to this specific property. Additionally, the applicant is reducing the extent of nonconformity of the existing signage that has been present on the property since approximately 1988.

3. ***Describe extraordinary and exceptional conditions pertaining to the particular piece of property.***

Response from Applicant: The corner lot does not allow a pylon to be in the same site line as surrounding properties. It puts this property at a disadvantage in terms of visibility to customers. We are proposing a vertical sign on the same pole, which will bring the entire sign out of the Right-of-Way, thereby reducing the non-conforming nature of the sign to a great extent. We request the existing, tall, grandfathered pylon

to be allowed to keep its current pole location, current height, and similar sign face size to maintain comparable visibility.

Staff Analysis and Additional Observations: This specific parcel is inset further as compared to parcels toward the east along the same side of US Highway 1. The right-of-way width of US Highway 1 enlarges from 160' to 200' beginning on the west side of the US Highway 1 intersection with Ridgeway Road. The subject parcel is the first parcel affected by the increased right-of-way width.

Staff contends that this is a condition that is extraordinary and exceptional to this specific parcel, and supports the applicant's argument of maintaining comparable visibility within the sight line of travelers along this specific portion of US Highway 1.

4. Explain how the conditions described above do not generally apply to other property in the vicinity.

Response from Applicant: Other properties in the vicinity are able to retain the height, size, and setback of their tall, grandfathered signs as they have ROW take out of on the front side of their properties. The proposal we are submitting will reduce the extent of non-conformity while allowing similar visibility as the surrounding properties have.

Staff Analysis and Additional Observations: The increased width of the right-of-way does not generally impact other existing businesses that also have non-conforming signage, and therefore, visibility and sight line issues generally do not apply to other properties in the vicinity.

5. Due to these conditions, explain how the application of the Ordinance to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

Response from Applicant: The existing, tall, grandfathered pylon on this property is similar in height, site line, and face size as surrounding properties. Applying the ordinance to this sign would severely restrict the effectiveness of advertising, putting this business at a significant disadvantage.

Staff Analysis and Additional Observations: Staff contends that although the property can still be utilized for the proposed use, the unique conditions mentioned previously in this staff report do create extraordinary and exceptional conditions for this specific property that generally do not apply to other properties in the vicinity.

6. ***Explain how the authorization of a variance will not be of substantial detriment to the adjacent property or to the public good, and how the character of the surrounding area will not be harmed by granting of the variance.***

Response from Applicant: Authorization of a variance to keep the same size, heights, and setback for this pylon should not be a detriment to adjacent properties as it will maintain all of the road side signs to comparable visibility. By removing the smaller pylon and rearranging the square footage on the tall one, it keeps the signage out of the ROW. Surrounding area will be improved by an up-to-date facility with easy access and good visibility of modern signage that reduces the extent of non-conformity of the existing sign.

Staff Analysis and Additional Observations: Staff contends that the intent of the non-conforming section of the Zoning and Land Development Regulations is to support any efforts to bring a nonconforming situation into greater conformity. Staff contends that a vertical sign, as opposed to the existing sign face that extends into the right-of-way, has substantially less impact on the character of the surrounding area. Also in this particular situation, additional nonconforming signs located at the base of the freestanding sign will be removed. Through these efforts, the applicant has greatly reduced the extent of the non-conformity of the existing signage. Therefore, the purpose and intent of the ordinance regulations are preserved and this variance request, if granted, thereby will not be detrimental to the public good. Lastly, staff has not seen any empirical evidence that signage related to additional new construction will have a negative impact on property values. On the contrary, commercial development has the tendency to increase property values.

STAFF FINDINGS AND RECOMMENDATIONS:

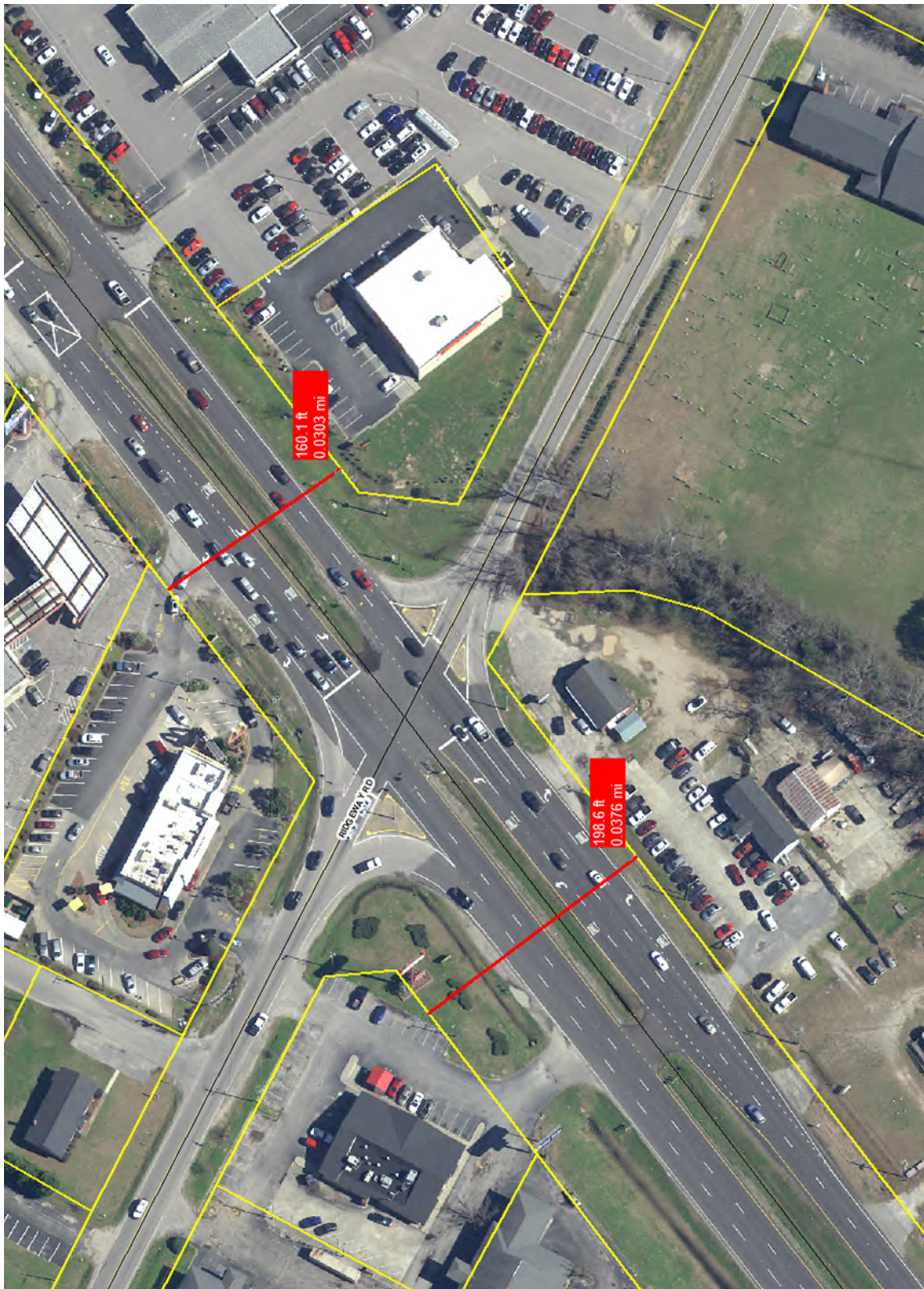
The Board of Zoning Appeals is required to determine that the application of the Ordinance will result in unnecessary hardship, and that all four standards for a variance set by State law and the Ordinance are met by the following facts:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.
2. These conditions do not generally apply to other property in the vicinity.
3. Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the surrounding area will not be harmed by granting the variance.

STAFF RECOMMENDATION

Based upon the application materials as applied to the four (4) State law standards, in addition to the staff analysis and observations as provided in this staff report, staff recommends that the variance request to allow for an existing nonconforming freestanding monopole sign to remain at the current setback location and existing height of 59'9", and replace the existing 203.15 sq. ft. Shoney's sign face with a slightly smaller 201.6 sq. ft. vertical Cook Out sign face that does not extend into the SC DOT right-of-way, be granted for the subject property identified as TMS# 296-15-00-042.

Aerial image showing Highway 1 right-of-way widths



Kershaw County Planning and Zoning Department

515 Walnut Street, Room 160, Camden, SC 29020 803-425-7233

**PETITION TO BOARD OF ZONING APPEALS
FOR A VARIANCE**

All data and exhibits found herein or appended to this petition shall be deemed to be public record.

DATE: 6-3-2022 REQUEST NO.:

I, Rosetta Oberholtzer, hereby make application to the Kershaw County Board of Appeals for a variance.

PROPERTY LOCATION 809 Ridgeway Road

STREET ADDRESS: 920 Highway I South COMMUNITY/SUBDIVISION: —

TMS#: 296-15-00-042 PROPERTY AREA: .84 acres

DEED BOOK: 4465-237 PLAT BOOK: 43 SEWER DISTRICT: WATER DISTRICT:

CURRENT USE: Restaurant PROPOSED USE: Restaurant

Has previous variance application been made for all or any part of this property? Yes [] No [X] If yes when?

Per the South Carolina Local Government Planning enabling Act (Section 6-29-1145 of the South Carolina Code of Laws), is/are this/these tract(s) or parcel(s) restricted by any recorded covenant, restriction, easement, etc., that is contrary to, conflicts with, or prohibits the proposed land use? Yes [] No [X]. If so, submit a copy with this application.

THE APPLICANT IS: PROPERTY OWNER [] AGENT OF PROPERTY OWNER [X] OPTION HOLDER []

PROPERTY OWNER (If property is owned by more than one person, each owner must be listed. An additional form is provided at the end of this application and may be duplicated if necessary.)

NAME: Cook Out - Lugoff Inc. E-MAIL:

MAILING ADDRESS: 15 Laura Lane, Ste 300 CITY: Thomasville STATE: NC ZIP: 27360

TELEPHONE: 336-215-7025 CELL: 336-279-3242 FAX: 336-474-1849

APPLICANT (If other than property owner.)

NAME: Rosetta Oberholtzer E-MAIL: rosetta@brandnitesign.com

MAILING ADDRESS: 313 John C. Calhoun Dr CITY: Orangeburg STATE: SC ZIP: 29115

TELEPHONE: 803-533-7446 CELL: 803-707-1509 FAX: 803-533-0331

If applicant is other than owner, state applicant's interest in the proposed variance:
We are applying for the sign permit and will build & install the signage.

DESIGNATION OF AGENT (To be completed by owner, only if owner is not applicant. If property is owned by more than one person, each owner must complete a Designation of Agent Form. An additional form is available at the end of this application. The signature of each owner must be notarized.)

Jeremy A. Reeves, President
I, Cook Out-Lugoff, Inc. (PROPERTY OWNER) hereby appoint Rosetta Oberholtzer (APPLICANT)

as my agent to represent me in this request for administrative appeal.

Owner's signature: [Signature] Date: June 1, 2022

Given under my hand and seal, this 1st day of June, 2022

[Signature] (Seal)
Notary Public for North Carolina

My commission expires on 1st day of November, 2023



Describe the provision of the Kershaw County Zoning and Land Development Regulations from which you seek a variance.

Article 3, Sections 3:4.2, C and D
(includes total sq.ft. of sign face, the sign setback,
and sign height)

JUSTIFICATION FOR VARIANCE - If additional space is needed, use a separate sheet of paper.

Describe unusual conditions of the property causing unnecessary hardship which may justify variance from the terms of the ordinance.

Due to this property being on a corner lot, the right-of-way significantly reduces the allowable available locations for pylon signs - in comparison with surrounding businesses. The corner lot also causes a good portion of existing tall sign face to overhang the R.O.W. This proposal will remove that portion, which will greatly reduce the extent of non-conformity. We request the existing, tall, grandfathered pylon to be allowed to remain at its current setback location with same height and similar sq-footage of sign face.

Describe extraordinary and exceptional conditions pertaining to the particular piece of property.

The corner lot does not allow a pylon to be in the same side line as surrounding properties. It puts this property at a disadvantage in terms of visibility to customers. We are proposing a vertical sign on the same pole, which will bring the entire sign out of the right-of-way - thereby reducing the non-conforming nature of the sign to a great extent. We request the existing, tall, grandfathered pylon to be allowed to keep its current pole location, current height, and similar sign face size to maintain comparable visibility.

Explain how the conditions described above do not generally apply to other property in the vicinity.

Other properties in the vicinity are able to retain the height, size and setback of their tall, grandfathered signs as they have R.O.W. taken out of only the front side of their properties. The proposal we are submitting will reduce the extent of non-conformity while allowing similar visibility as the surrounding properties have.

Due to these conditions, explain how the application of the Ordinance to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

The existing tall, grandfathered pylon on this property is similar in height, site line and face size as surrounding properties. Applying the Ordinance to this sign would severely restrict the effectiveness of advertising ~ putting this business at a significant disadvantage.

Explain how the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and how the character of the surrounding area will not be harmed by the granting of the variance.

Authorization of a variance to keep the same SIZE, HEIGHT and SETBACK for this pylon should not be a detriment to adjacent properties - as it will maintain all the roadside signs to comparable visibility. By removing the smaller pylon and arranging the square footage on the tall one, it keeps all the signage out of the R.O.W. Surrounding area will be improved by an up-to-date facility with easy access and good visibility of modern signage that reduces the extent of non-conformity of existing sign.

APPLICANT'S SIGNATURE:

Rosetta Oberholzer

DATE:

6-3-2022

ACTION BY APPEALS BOARD:

SIGNATURE OF CHAIRMAN:

DATE:

ADDITIONAL PROPERTY OWNER AND DESIGNATION OF AGENT FORMS

(To be duplicated if needed for additional property owners.)

PROPERTY OWNER FORM (To be completed by each owner if property is owned by more than one person.)

NAME:	E-MAIL:		
MAILING ADDRESS:	CITY:	STATE:	ZIP:
TELEPHONE:	CELL:	FAX:	

DESIGNATION OF AGENT FORM (To be completed by each owner if owner is not the applicant.)

I, _____ (PROPERTY OWNER) hereby appoint _____ (APPLICANT) as my agent to represent me in this request for administrative appeal.

Owner's signature: _____ Date: _____

Given under my hand and seal, this ____ day of ____, 20__

_____, (Seal)
Notary Public for South Carolina

My commission expires on ____ day of ____, 20__