



Kershaw County Board of Zoning Appeals

AGENDA

SEPTEMBER 6, 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**
July 5, 2022

- III. **Case 22-03:** Property owner Weslynn M. Hutto is requesting a variance to the required 35 ft. minimum front yard setback for a recently constructed accessory structure built within an RD-2 zoning district, as required in Article 3:2.5 of the Kershaw County Unified Code of Zoning and Land Development Regulations. Specifically, the applicant is requesting to allow the northern corner of the front of the accessory structure to encroach a maximum of 10.7' into the 35' front yard setback, which would result in a 24.3' front yard setback. Additionally, the applicant is requesting to allow the southeastern corner of the front of the accessory structure to encroach 3.1' into the front yard setback, which would result in a 31.9' front yard setback. The property is located at 243 Country Wood Road, TMS# 253-00-0A-006-SBU.

- IV. **Adjournment**



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Kershaw County Board of Zoning Appeals



MINUTES

KERSHAW COUNTY BOARD OF ZONING APPEALS
July 5, 2022 REGULAR SESSION
COUNCIL CHAMBERS, KERSHAW COUNTY GOVERNMENT CENTER
CAMDEN, SOUTH CAROLINA

Members Present: Mike Jones, Ben Strickland, and Amy Eudy

Members Absent: Ned Towell, and Cook Young

Staff Present: Joey Adams-Raczkowski, and Rhonda Darity

CALL TO ORDER

The Chairman, Ben Strickland, called the meeting to order at 5:30 p.m

MINUTES

The minutes from the January 18, 2022 regular meeting were reviewed. The motion to approve was made by Amy Eudy seconded by Mike Jones, and approval was unanimous.

PUBLIC HEARING CASE #22-02

Ben Strickland opened the public hearing:

Planning Manager, Joey Adams-Raczkowski, introduced the case, stating that the applicant is requesting a variance from Article 3, Section 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 SCDOT right-of-way. The property is located at 809 Ridgeway Road, zoned B-2 (General Business District). Mr. Adams-Raczkowski informed the Board that this location is a corner lot, and the existing sign is located within the SCDOT right-of-way. The new proposed sign will be vertical. Therefore, it will be out of the SCDOT right-of-way. A smaller sign will be removed from the site. He also went over the variance standards.

The applicant, Jay Linford briefly addressed the Board, and was available for any questions the Board may have.

There was a brief discussion amongst the Board members and Mr. Adams-Raczkowski went over the staff analysis for the justification given by the applicant on their application.

STAFF FINDINGS AND RECOMMENDATIONS:

In order to grant a variance, 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:

515 Walnut Street, Room 160 Camden, SC 29020 803-425-7233 Fax 803-424-5268

www.kershaw.sc.gov



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 the 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 SCDOT right-of-way, be granted for the subject property identified as TMS# 296-15-00-042.

REBUTTAL BY APPLICANT - None

PUBLIC COMMENT - None

There being no more testimony, the Chairman closed the hearing.

The Chairman called for a motion. Mike Jones made a motion to approve the variance request, to include staff analysis. The motion was seconded by Ben Strickland, and all voted to approve the application for the variance.

ADJOURNMENT

At 5:47 p.m., the Chairman called for a motion to adjourn. The motion to adjourn was made by Mike Jones, seconded by Ben Strickland, and approval was unanimous.

Respectfully submitted,

Rhonda Darity
Rhonda Darity
Secretary

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STAFF REPORT

**APPLICATION TO THE BOARD OF ZONING APPEALS
FOR VARIANCE CASE # 22-03
WESLYNN M. HUTTO, 243 COUNTRY WOODS ROAD, LUGOFF**

**KERSHAW COUNTY BOARD OF ZONING APPEALS PUBLIC HEARING
Tuesday, September 6, 2022 at 5:30 PM
Council Chambers, Kershaw County Government Center
515 Walnut Street, Camden, SC 29020**

APPLICANT: Weslynn M. Hutto, Property Owner

PROPERTY: 243 Country Woods Road, Lugoff
TMS #253-00-0A-006-SBU
Zoning: RD-2

CASE: Property owner Weslynn M. Hutto is requesting a variance to the required 35 ft. minimum front yard setback for a recently constructed accessory structure built within an RD-2 zoning district, as required in Article 3:2.5 of the Kershaw County Unified Code of Zoning and Land Development Regulations.

Specifically, the applicant is requesting to allow the northern corner of the front of the accessory structure to encroach a maximum of 10.7' into the 35' front yard setback, which would result in a 24.3' front yard setback. Additionally, the applicant is requesting to allow the southeastern corner of the front of the accessory structure to encroach 3.1' into the front yard setback, which would result in a 31.9' front yard setback.

Note: A Certificate of Occupancy will not be granted by the Kershaw County Building Official until this encroachment issue has been remedied.

Zoning and Land Development Regulations, Section 3:2.1: Determination of Front Yard and Setbacks: The required front, side, and rear yards for individual lots, as set forth for the particular zoning district within which a given lot is located, shall be measured inward toward the center of said lot from all points along the respective front, side, and rear property lines of the lot. In general, the principal building and front yard shall be oriented toward the public street right-of-way and the rear yard shall be the opposite property line and correspond to the rear of the principal building.

Zoning and Land Development Regulations, Table 3-4: Schedule of Lot Area: This table lists the minimum required front yard setback as being 35-feet for a residential lot in an RD-2 zoning district.

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: Minimum front setback requirements compliant with RD-2 Zoning District is (35') for an accessory structure that is placed in front of the principal residential dwelling unit.

Staff Analysis and Additional Observations: The required 35 ft. minimum front yard setback for an existing new residential home built within an RD-2 zoning district is described in Sections 3:2.1 and Table 3-4 of the Kershaw County Unified Code of Zoning and Land Development Regulations.

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

Response from Applicant: The property at 243 County Wood Road has numerous holes filled with construction debris buried by the previous owner. When attempting to dig the footers for this accessory building, we had to continually adjust the corner markers so as to avoid including a debris field within the boundaries of the structure's cement slab. This inadvertently caused the front corners of the structure to cross the 35' setback requirement.

Staff Analysis and Additional Observations: The applicant has admitted to unintentionally creating this setback encroachment. However, the applicant offered significant evidence that unusual conditions of the property have caused the hardship. Staff contends that although the applicant has erred in judgment, the setback encroachment, whether proactively or relatively, would have been necessary to request due to the hardship caused by the buried materials on the property by a previous property owner. which was unknown by Ms. Hutto at the time of purchasing the property.

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

Response from Applicant: This piece of property was previously owned by a builder specializing in concrete work. It is apparent that this property was used to dump excavated concrete and construction debris. There were numerous dump sites on the property. We have attached a picture of those sites that have been re-filled.

Staff Analysis and Additional Observations: Staff contends that the applicant has provided evidence that extraordinary or exceptional conditions pertaining to this specific lot have prevented the accessory building from meeting the 35' front setback regulation.

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

Response from Applicant: The other properties in the subdivision, to my knowledge, were not used as dump sites.

Staff Analysis and Additional Observations: Staff contends that the applicant has cited the existence of extraordinary or exceptional conditions in #3 above to analyze for comparison and application 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: Since there are so many holes that could potentially sink, we believe that we have placed the building in the safest place. We feel certain the structure has a proper foundation that will maintain its integrity over time.

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 prevent structures from being built in certain portions of the property.

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: The authorization of a variance will not be a substantial detriment to adjacent properties nor the public good since the off set is only encroached on the front corners and it is our plan to establish a street line to help with the impression of closeness to the road at that corner and it is our plan to establish a tree line to help with the impression of closeness to the road at the corners. The adjacent parcels are not encroached upon and both homes are set back a good ways from where the accessory building is located.

Staff Analysis and Additional Observations: The purpose of a setback is to offer spatial separation between uses and to ensure that structures are not built too close to neighboring properties. In this specific case, the accessory structure is 82-ft from the eastern neighboring property line and approximately 180' from the western neighboring property line.

The property most impacted by the encroachment is the county owned right-of-way of County Woods Road. This right-of-way is unusually wide, having a width of 66-ft. Most county subdivision roadways are only 50-ft wide. If the county were to ever make additional improvements to County Woods Road, the county would work within a reduced 50-ft right-of-way instead. Therefore, given the large 66-ft right-of-way width, the county offers no objection to the variance request.

Due to the distance from the adjacent property lines, staff contends that authorization of the variance will not be of substantial detriment to adjacent properties or to the public good. Additionally, given that the applicant has agreed to plant an evergreen tree/shrubbery line between the road and the front of the structure, as a condition attached with this variance approval, the character of the surrounding area will not be harmed.

STAFF FINDINGS AND RECOMMENDATIONS:

An owner is not necessarily entitled to relief from a self-created or self-inflicted hardship. However, this variance request clearly provides evidence that extraordinary or exceptional conditions pertaining to this specific lot prevented the accessory building from meeting the 35' front setback regulation. Staff contends that although the applicant has erred in judgment, the setback encroachment, whether proactively or relatively applied for, would have been necessary to request due to the hardship caused by the buried materials on the property by a previous property owner and unknown to the current property owner, Ms. Hutto, at the time of purchase.

According to the Comprehensive Planning Guide for Local Government as published by the Municipal Association of South Carolina, "A variance allows the board to modify an otherwise legitimate zoning restriction when, due to unusual conditions, the restriction may be more burdensome than was intended. The variance must not impair the public purpose. To obtain a variance on the ground of unnecessary hardship, there must at least be proof that a particular property suffers a singular disadvantage through the operation of a zoning regulation."

A variance must be granted on conditions of the specific piece of property and may not be granted because an applicant wants something other than what is allowed under the Ordinance and applied to all other properties within the same zoning district category.

The Board of Zoning Appeals is required to determine that the application of the Ordinance will result in an 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.

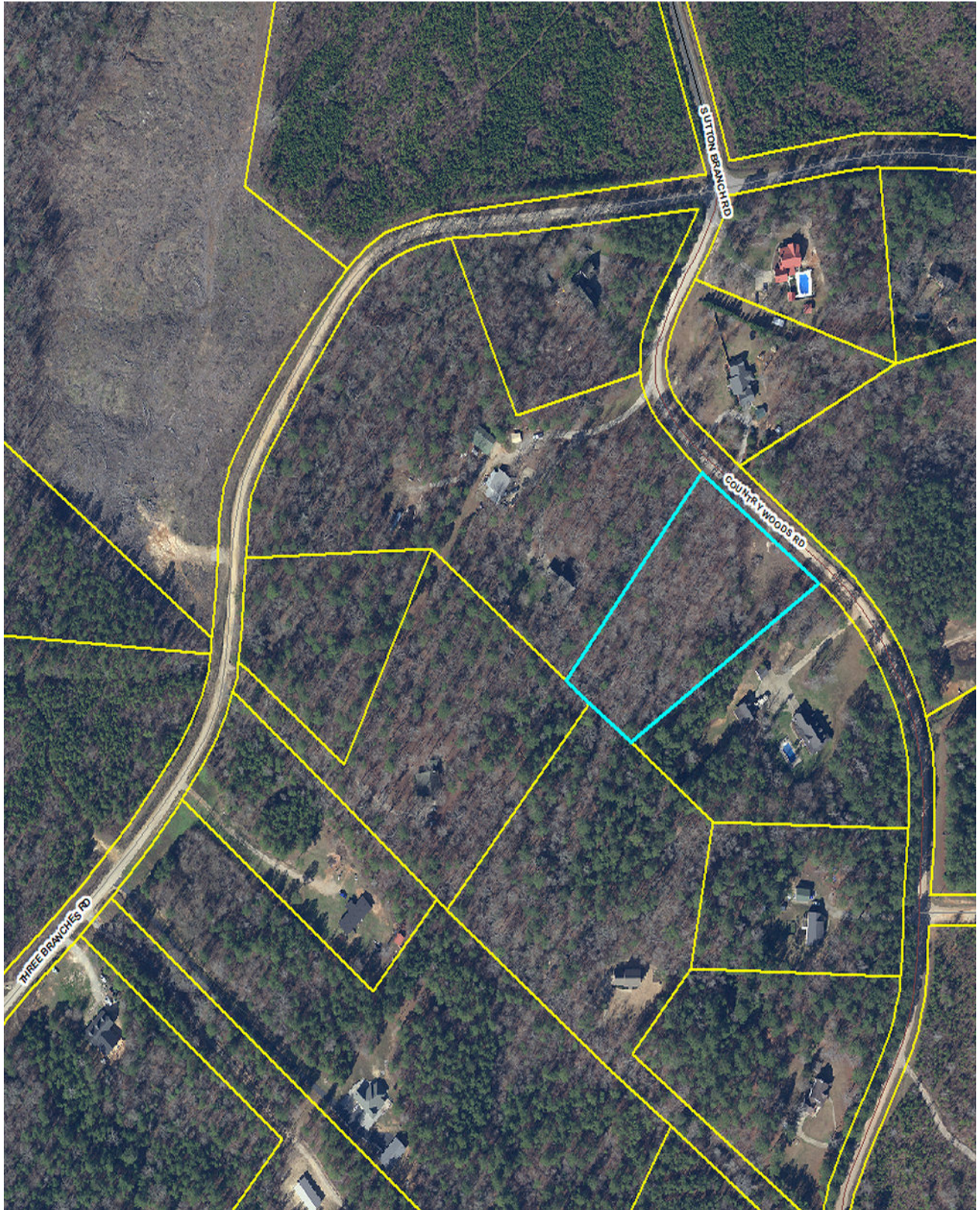
STAFF RECOMMENDATION

Based upon the application materials and staff analysis as applied to the four (4) State law standards, staff contends that the applicant has identified justifiable reasoning for allowing a variance from the minimum 35' front yard setback for this property.

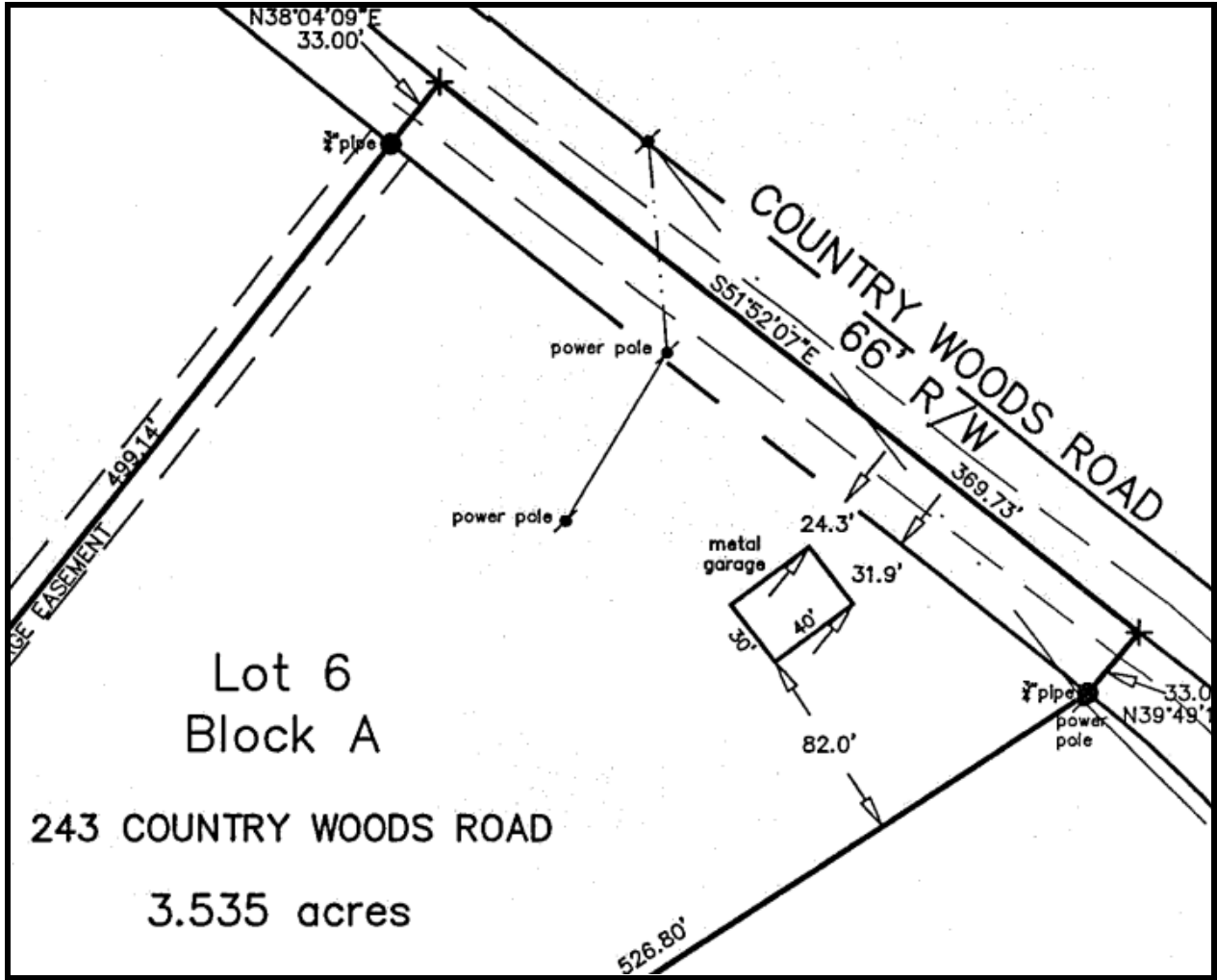
Therefore, staff recommends that a variance be granted for the front yard setbacks of the property identified in this application as 243 Country Woods Road with TMS#253-00-0A-006-SBU with the following conditions:

1. The setbacks as established by the survey as shown on page 7 of this staff report.
2. The applicant agrees to establish a planted evergreen tree/shrubbery line in between the building and the front property line. The applicant shall work with planning staff to determine the types of plantings. The plantings shall be completed no later than the spring planting season of 2023.

Aerial view of subject property (BZA# 22-03)



Enlarged View of Building Setback Encroachment (Case# 22-03)



Photos of buried debris areas near accessory building



Photos of buried debris areas near accessory building



Photos of buried debris areas near accessory building



Country Woods Road Located to Left of Fence Line
(note dense treeline bordering eastern adjoining property in distance)



Accessory Building as Viewed from Hutto Property Entrance
(note dense treeline bordering western adjacent property line in distance)



Application (BZA Case# 22-03)

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: 8/02/2022	REQUEST NO.:
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I, Weslynn M. Hutto, hereby make application to the Kershaw County Board of Appeals for a variance.

PROPERTY LOCATION

STREET ADDRESS: 243 Country Woods Road	COMMUNITY/SUBDIVISION: Country Woods
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TMS#:	PROPERTY AREA: 3.5 acres
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DEED BOOK:	PLAT BOOK:	SEWER DISTRICT:	WATER DISTRICT:
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CURRENT USE:	PROPOSED USE:
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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] Weslynn submit a copy with this application.

THE APPLICANT IS: PROPERTY OWNER [x] AGENT OF PROPERTY OWNER [] 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: Weslynn M. Hutto	E-MAIL: weslynn63@gmail.com
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MAILING ADDRESS: 253 Country Woods Road	CITY: Lugoff	STATE: SC	ZIP: 29078
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TELEPHONE: -----	CELL: 803-243-2810	FAX: -----
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APPLICANT (If other than property owner.)

NAME:	E-MAIL:
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MAILING ADDRESS:	CITY:	STATE:	ZIP:
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TELEPHONE:	CELL:	FAX:
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If applicant is other than owner, state applicant's interest in the proposed variance:

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.)

I, N/A (PROPERTY OWNER) hereby appoint N/A (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____

Describe the provision of the Kershaw County Zoning and Land Development Regulations from which you seek a variance.
Article 3, Section 3:2.5-1 which requires accessory structures to meet the 35' front setback in the rd-2 zoning district.

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.

The property at 243 Country Woods Road has numerous holes filled with construction debris buried by the previous owner. When attempting to dig the footers for this accessory building, we had to continually adjust the corner markers so as to avoid including a debris field within the boundaries of the structure's cement slab. This inadvertently caused the front left corner of the structure to cross the 35' setback requirement.

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

This piece of property was owned by a builder specializing in concrete work. It is apparent that this property was used to dump excavated concrete and construction debris. There were numerous dump sites on the property. We have attached a picture of those sites that have not been re-filled.

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

The other properties in the sub-division, to my knowledge, were not used as a construction dump site

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.

Since there are so many holes that could potentially sink, we believe that we have placed the building in the safest place. We feel certain that the structure has a proper foundation that will maintain its integrity over time.

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.

The authorization of a variance will not be a substantial detriment to the adjacent properties nor the public good since the off set is only encroached on one corner and it is our plan to establish a tree line to help with the impression of closeness to the road at that corner. The adjacent properties are not encroached upon and both homes are set back a good ways from where the accessory building is located.

APPLICANT'S SIGNATURE: Weslynn M. Hutto DATE: 8-4-2022

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: Natalie M. Huff	E-MAIL: nataliehuff@bellsouth.net
MAILING ADDRESS: 253 Country Woods Road	CITY: Lugoff STATE: SC ZIP: 29078
TELEPHONE: ---	CELL: 803-315-9128 FAX: ---

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

I, Natalie M. Huff (PROPERTY OWNER) hereby appoint Weslynn M. Hutto (APPLICANT) as my agent to represent me in this request for administrative appeal.

Owner's signature: Natalie Huff Date: 8/4/2022

Given under my hand and seal, this 7 day of Aug, 2022

Candace Zamble (Seal)
 Notary Public for South Carolina

My commission expires on 17th day of Nov., 2027

