



MEMORANDUM

ANDERSON COUNTY DEVELOPMENT STANDARDS

DATE: December 1, 2022

TO: Board of Zoning Appeals Members

FROM: Henry Youmans

SUBJECT: December 8, 2022, Meeting

The Anderson County Board of Zoning Appeals is scheduled to hold its next meeting on Thursday, December 8, 2022, at 5:15 PM at the Historic Courthouse, 101 South Main Street, Anderson, SC 29624.

The meeting agenda and packet are attached for your review.

Please email hbyoumans@andersoncountysc.org or call 864-260-4719 to inform staff whether or not you will be in attendance. This ensures a quorum prior to arrival. Thank you.

Tommy Dunn
Chairman, District 5

John Wright, Jr.
Council District 1

Ray Graham
Council District 3

Cindy Wilson
Council District 7

ANDERSON COUNTY
SOUTH CAROLINA

Brett Sanders
V. Chairman, District 4

Glenn Davis
Council District 2

Jimmy Davis
Council District 6

Renee D. Watts
Clerk to Council

Rusty Burns | County Administrator
rburns@andersoncountysc.org

Anderson County Board of Zoning Appeals

Hubert McClure, Chair, District #5
John Farr, District #1
Tony Cirelli, District #4
Debbie Chapman, District #7

Mike Miller, Vice-Chair, District #2
Russell Barton, District #3
Brad Swillen, District #6

AGENDA

December 8, 2022

5:15 PM

Historic Courthouse
101 South Main Street
Anderson, South Carolina

- 1.) Call to Order: Mr. Hubert McClure, Chairman
- 2.) Invocation: Mr. Hubert McClure
- 3.) Roll Call of Members
- 4.) Approval of Agenda
- 5.) Approval of Minutes:
 - A. September 8, 2022
 - B. October 13, 2022 minutes forthcoming
- 6.) Public Hearing:
 - A. Special exception request to allow short term rental in R-20 zoning, located on 420 Fields Ave., Anderson, SC 29625, TMS 28-07-02-001, Council District 4.
- 7.) Old Business:
- 8.) New Business:
- 9.) Adjournment.

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

ANDERSON COUNTY
LAND USE AND BOARD OF ZONING APPEALS
SEPTEMBER 8, 2022

PRESENT:

HUBERT MCCLURE, CHAIRMAN
JOHN FARR
MIKE MILLER
TONY CIRELLI
RUSSELL BARTON
BRAD SWILLEN
DEBBIE CHAPMAN

ALSO PRESENT:

ALESIA HUNTER
HENRY YOUMANS
TIM CARTEE
BRITTANY MCABEE
TYANNA HOLMES
BRADEN BANNISTER
DANIEL COOPER

1 HUBERT MCCLURE: We'll go
 2 ahead and call this meeting to order. I hate that, but
 3 I have to. And by the agenda, we'll go by the agenda.
 4 We have the invocation. Let us pray.

5 **INVOCATION**

6 HUBERT MCCLURE: Before we
 7 get started, I'd like to have everybody's attention on
 8 the screen up here. Because we would like for
 9 everybody to be professional, we know that we've got a,
 10 you know, open forum on the second thing. The first
 11 thing I don't think we have very much to talk about --
 12 talking points. But we do have the public hearing.
 13 And that means -- and I'm just going to say this --
 14 when you get into this kind of stuff that we're talking
 15 about here, it doesn't help your situation. So if you
 16 start with the name calling and the outbursts and the
 17 said, she said, that's not going to help your situation
 18 at all. So I'm just going to go ahead and tell you
 19 that right now.

20 We've got a bunch of approval of minutes. I think
 21 we've got like two or three months because of
 22 something; I can't remember what. But do we have a
 23 motion to approve?

24 MIKE MILLER: I make a
 25 motion to approve.

26 HUBERT MCCLURE: We have a
 27 motion.

28 JOHN FARR: Second.

29 HUBERT MCCLURE: Second. All
 30 those in favor, show by uplifted hand. And that goes
 31 by without any problem.

32 We've got a staff report and public hearing to
 33 allow reduction of setback on the Williamston -- okay,
 34 Saluda Road, number 8 Saluda Road. Staff report.

35 HENRY YOUMANS: Mr. Chair,
 36 this is an application for a variance to allow the
 37 reduction of a side setback from ten feet to three
 38 feet. The applicants' names are Billy and Tori
 39 Tompkins. They are the owners of the property. The
 40 property is located at 8 Saluda Road, Williamston,
 41 South Carolina, Council District 7. The tax map number
 42 is there for your reference. It is described as lot 29
 43 in the River Drive Extension. It is currently unzoned
 44 and it's occupied single-family residence.

45 The applicants' request is requesting a variance
 46 to allow the reduction of the front setback from ten
 47 feet to three feet to complete the construction of a
 48 detached garage.

49 The finding of facts. The Anderson County Code of
 50 Ordinances under Chapter 38-120, Section 5(a),

1 accessory buildings, tennis courts, swimming pools and
2 other structures may be located within the required
3 setback area provided said uses shall be located no
4 closer than three feet to the property lines.

5 This is a diagram of the property. And this is a
6 sketch of the detached garage and proposed
7 construction. This is a location map showing where the
8 carport will be situated in the driveway on the
9 property itself. This is a photo of where the proposed
10 construction site is on the property. The actual
11 footing for the detached garage. This is your tax map
12 aerial map.

13 Staff recommendation is for board interpretation
14 for the request of the variance for the following
15 reasons: Under item 2 of the restrictive covenants for
16 Riverview Subdivision, it states should terrain prove
17 the above setback to be difficult to use, the declarant
18 may at his sole discretion waive or amend the setback
19 lines. The subdivision setback lines are fifteen feet.
20 The applicant meets the restrictive setbacks on all
21 other property lines. The parcel has a power line
22 buried through the center of the property, which would
23 hinder the building of the garage on any other location
24 on the property. As such, the proposed building would
25 not cause any detriment to the other properties. And
26 the justification for the hardship exists to the
27 topographical and terrain issues.

28 If approved, the applicant would be required to
29 obtain a residential compliance letter from Development
30 Standards and a residential building permit from
31 Building and Codes.

32 This is your staff report.

33 HUBERT MCCLURE: Thank you,
34 Henry. Just looking through and trying to find -- I
35 didn't see a -- I see the neighbor. I just haven't
36 seen a map or a plat. Okay. There's the last one back
37 there. Okay. I see the neighbor's letter. I'd tell
38 the board to look at the neighbor's letter. It's
39 speaking for.

40 So at this time, I'll go ahead and start the
41 public hearing, and open up the public hearing. If
42 there's anyone speaking against Saluda Road,
43 Williamston, number 8 Saluda Road, anyone speaking
44 against?

45 Okay. At this time we'll close the public hearing
46 and we'll reserve questions for staff or the owners if
47 they are here. Mr. and Ms. Tompkins, are you here?
48 Okay.

49 What's the feeling of the board?

50 DEBBIE CHAPMAN: That's in

1 my district and I've looked at it. I don't think it'll
 2 be a problem among the neighbors or the setting there.
 3 They're not far out of the city limits and we have a
 4 five-foot setback on each side. So I don't think
 5 that's going to be a problem since they -- the
 6 neighbors don't have a problem.

7 So I move that we approve.

8 HUBERT MCCLURE: We have a
 9 motion from Ms. Chapman. Do we have a second?

10 MIKE MILLER: Second.

11 HUBERT MCCLURE: Second. All
 12 in favor. And that passes.

13 Okay. The next thing on the agenda is, let's see,
 14 to allow the use of single-home short term rental in R-
 15 20 zoning. This is 400 Lakewood Drive. Staff report.
 16 This is a continuation from a tabled last month. So
 17 the staff report is continued onto what we learned last
 18 time. Staff.

19 HENRY YOUMANS: Mr. Chair,
 20 before I present the staff report, there was a question
 21 that was presented to know how many airbnb's that this
 22 actual board had addressed since April -- December of
 23 -- April of 2021. There have been four requests for
 24 airbnb's in zoned areas before this board. One item
 25 was withdrawn because of restrictions. One was denied
 26 because it did not meet the qualifications. Two were
 27 approved. Out of those two that were approved, one
 28 would now be rescinded because we have discovered
 29 restrictive covenants that would prohibit the operation
 30 of an airbnb in that area. So that has been sent up to
 31 the board as of now.

32 HUBERT MCCLURE: Okay.

33 HENRY YOUMANS: This is your
 34 staff report. This is an application for special
 35 exception to allow the use of a single-family residence
 36 as a short term rental in R-20 zoning.

37 The applicant is Maelen Ignacio. She is the owner
 38 of the property. The property is located at 400
 39 Lakewood Drive in Anderson. This is Council District
 40 1. Tax map number is there for your reference. It is
 41 currently zoned R-20 and its land use it residential.

42 The applicant is requesting a special exception to
 43 allow the use of the residence as a short-term rental
 44 home.

45 Finding of facts: Anderson County Code of
 46 Ordinances under Chapter 70, Section 7.17,
 47 establishments are permitted by special exception, bed
 48 and breakfasts, home stays, host homes and guest homes.
 49 This is a plat view of the property. These are
 50 pictures of the construction of the property located at

1 400 Lakewood Drive. This is the aerial tax map view of
2 the property. And this is the zoning map showing R-20
3 designation.

4 Staff recommendation is for denial of the special
5 exception requesting the following reasons with the
6 following conditions. State law under Section 6.29 --
7 6-29-145 determining the existence of restrictive
8 covenants and its effects. In the application of a
9 permit, the local planning agency must inquire in the
10 application or by written instructions to the applicant
11 whether the tract or parcel of land is restricted by
12 any recorded covenant that is contrary, conflicts with
13 or prohibits the permitted activity. If the planning
14 agency has actual notice of restrictive covenants on a
15 tract or parcel of land that is contrary to, conflicts
16 with or prohibits the permitted activity from any other
17 source, including but limited to other property
18 holders, the local planning agency must not issue the
19 permit unless the local planning agency receives
20 confirmation from the applicant that the restrictive
21 covenants have been released for the tract or parcel of
22 land by action of the appropriate authority or the
23 property holders or by Court Order.

24 The established restrictions of Lakewood
25 Subdivision, section A, item 1, states that the land
26 use is for residential purposes only. The spirit and
27 intent of a host home, break and breakfast guest home
28 is contrary to the prescribed use for this subdivision.
29 Under section 0 -- section O, item 1, if the applicant
30 can provide staff with an updated amended covenants and
31 restrictions allowing the use for a short term rental,
32 the application can be resubmitted and evaluated.

33 This is your staff report.

34 HUBERT MCCLURE: Thank you,
35 Henry. Okay. Now, we've got several people that want
36 to -- before I open the public hearing, I realize and
37 I'm going to ask this question again, I would like to
38 see hands or stand up of anyone speaking against this
39 variance. Speaking against hands up or stand up.
40 Okay. I just wanted everybody to see that.

41 The other thing I want to do is reiterate that if
42 you get into the personalities, if you get into he
43 said/she said and get into all that and talk while
44 you're not being addressed, that's not going to help
45 your situation. We understand that most of the
46 community is against this. And we understand that
47 because of your presence.

48 So I'm going to do something a little bit
49 different with the public hearing. I'm going to open
50 up the public hearing and I'm going to ask those people

1 speaking for to get questions -- to entertain questions
2 from the board. And then we will go to those speaking
3 against that have not spoke. Because we understand
4 there's a lot of people here speaking against. So we
5 can say against. You can say it a hundred times or you
6 can say it ten times. We see the against.

7 So, at this time, I've got one, two, three, four,
8 five, six, seven people that are signed up. Of those
9 seven people, who are speaking for the variance? Okay.
10 I want you to address -- I'll let you since you're --
11 are you speaking for?

12 MALE: I'm not for
13 or against. I'm for the law. I'm here to speak less
14 than three minutes about the law.

15 HUBERT MCCLURE: Okay. Well,
16 let me speak to the people that's actually for it that
17 has something to do with it. Ms. Ignacio, correct?
18 I'm going to let y'all speak. And try to keep it
19 brief. We're not going to put a time, but if you can
20 -- we know you're for it. Just tell us the high points
21 and we'll address our questions to you. So go ahead
22 and speak. Give your address, again, for the record
23 and all that good stuff.

24 MAELEN IGNACIO: My name is
25 Maelen Ignacio. I live at 400 Lakewood Drive. And I'd
26 just like to address the staff's statement there that
27 there's an assumption that we're in violation of the
28 covenants. And I'd just like to go over the covenants
29 really briefly.

30 So section I of the covenants allows advertising
31 of the homeowners for their home to be used as a
32 rental. So that is one of the permissible activities
33 in the neighborhood, is to be able to rent your home.
34 There's nowhere in the covenant that says there's a
35 restriction about the duration of the amount of time
36 homeowners are allowed to rent their home; a week, a
37 day, a month, a year. There's no restriction
38 whatsoever that states that in the covenants.

39 Secondly, residential purpose essentially means
40 it's to be used for human habitation or ordinary living
41 purposes, meaning eating, sleeping, bathing, cooking,
42 that's what it means. And we have twenty cases that's
43 been forwarded. And the Supreme Court has consistently
44 ruled that as long as a rental is to be used by
45 ordinary living purposes such as cooking, eating,
46 sleeping, such as that nature, then it's considered to
47 be a residential purpose.

48 Thirdly, I'd like for you guys to review your
49 article -- I think it's Article 4 of the Chapter 70
50 ordinance where it defines what a bed and breakfast, a

1 home stay is, a host home and a guest house, and in
2 that definition is states that the primary function of
3 a home shall remain as a residence. So this is all in
4 compliance with the covenants.

5 HUBERT MCCLURE: Okay. Thank
6 you. Next. State your name and your address.

7 ROBERT KORNWEISS: Robert
8 Kornweiss speaking as to the same property.

9 HUBERT MCCLURE: Okay.
10 ROBERT KORNWEISS: So building
11 on those points, I just wanted to emphasize the
12 background principal here that a restrictive covenant
13 is a contract and it's to be interpreted consistent
14 with contract law. And here that means that if there's
15 an ambiguity, then that ambiguity needs to be resolved
16 in favor of the free use of the property. That's the
17 starting point here.

18 And not only is residential use an ambiguous term,
19 it's more consistently been held to be consistent with
20 the use that's requested here than not. So for example
21 there's a South Carolina Court of Appeals case where
22 residential use was not even a disputed issue. It was
23 agreed and stipulated by the parties that residential
24 use allowed for rental.

25 The Maryland Court of Appeals has also looked at
26 this issue. Many courts have, but just as an example,
27 the Maryland Court of Appeals says residential use
28 without more has been consistently interpreted as
29 meaning that the use of the property is for living
30 purposes or a dwelling or a place of abode. The word
31 residential has been applied to apartment buildings,
32 fraternity houses, hotels and bed and breakfasts
33 because such structures are used for habitation
34 purposes. The transitory or temporary nature of such
35 use does not defeat the residential status.

36 So there's much case law across the country
37 stating very similar things. In other words, rental is
38 not inconsistent with residential. And so renting this
39 property out is a residential use. And the covenant is
40 not violated. At most residential use is an ambiguous
41 term that could be interpreted either way. And if
42 that's the case, the permit should still be granted
43 because ambiguous terms are to be interpreted in favor
44 of the free use of the property.

45 HUBERT MCCLURE: Okay. Thank
46 you.

47 BRAD SWILLEN: May I ask a
48 question before you ---
49 HUBERT MCCLURE: Go right
50 ahead.

1 BRAD SWILLEN: What is your
2 relation -- I'm just curious. What is your
3 relationship to the homeowners here?
4 ROBERT KORNWEISS: I'm Mr.
5 Kornweiss's brother.
6 BRAD SWILLEN: Okay. Are
7 you investing in it or are you just a casual observer?
8 ROBERT KORNWEISS: I have no
9 financial stake. I'm not invested in it. I'm just here
10 to support.
11 BRAD SWILLEN: Okay.
12 HUBERT MCCLURE: And anybody
13 else before we get to this gentleman?
14 Okay. You wanted to speak, you said not for or
15 against. So you're neutral. You're right down the
16 middle, huh? Please state your name, address and if
17 you live near the property, how far.
18 MIKE WALDSMITH: All right. My
19 name is Mike Waldsmith. My address is 217 Giles
20 Street. I live probably two miles away. I'm just here
21 to say that I think we can all agree that there's
22 thousands of rental properties in Anderson County.
23 They get rented for a year at a time. They get rented
24 for six months at a time. They get rented for month to
25 month. There is currently no county ordinance that
26 says it has to be month to month; that it has to be six
27 months. So unless you guys change the law, we have to
28 follow the law that's in place. And that means these
29 folks can rent their place because there is no time
30 limit. If they want to rent it for a week, they can.
31 If you change the law, then they're going to have to
32 follow the law. I want everybody to follow the law.
33 I'm a military veteran. Follow the law. That's all I
34 want people to do. That's all I've got to say.
35 MIKE MILLER: Can I ask
36 you a question?
37 HUBERT MCCLURE: Hold on a
38 second, sir. He's got a question.
39 MIKE MILLER: I've got a
40 question. Do you have any rental property?
41 MIKE WALDSMITH: Yeah, I do.
42 MIKE MILLER: Can you tell
43 me where your rental property is located?
44 MIKE WALDSMITH: At my
45 address.
46 MIKE MILLER: Okay. And
47 are you inside of a restricted area?
48 MIKE WALDSMITH: No.
49 MIKE MILLER: So you're
50 not anything with restrictions or anything where you've

1 got your rental property?
2 MIKE WALDSMITH: Like
3 neighborhood restrictions?
4 MIKE MILLER: Yes, sir.
5 MIKE WALDSMITH: No.
6 MIKE MILLER: Okay.
7 That's what I needed to know.
8 HUBERT MCCLURE: Thank you.
9 MIKE WALDSMITH: I'm a law
10 follower.
11 HUBERT MCCLURE: Well, we all
12 want to follow the law.
13 Okay. Is there anyone speaking -- I know that
14 everybody else is speaking against. But of these seven
15 people, anyone want to speak on these seven people up
16 here -- I think three have spoken, so that means four
17 speaking against. Do you want to go ahead and say
18 something right now? Go ahead. Please address your
19 name -- state your name and your address and how far
20 you live from the property, please.
21 FRED KOCKENMEISTER: Good evening.
22 My name is Fred Kockenmeister. I live at 116 Frances
23 Cannon Drive, about 1,500 feet from the property in
24 question.
25 So one thing that is being discussed here is the
26 use of this property as a short term rental. If that
27 is the spirit of the objective, short term rental or
28 airbnb or bed and breakfast or other names, implied or
29 otherwise, would be subject to South Carolina law under
30 45-410, also known as the Bed and Breakfast Act of May
31 27, 1998. Bed and breakfast describes it as serves as
32 both the innkeeper's place of residence and a place of
33 lodging. At no time has it been suggested that this
34 would be the primary residence for the applicant. So
35 that would not be in compliance with that law.
36 If the property is going to be used as a bed and
37 breakfast, it would also be subject to the restrictions
38 under the Bed and Breakfast Act, which includes a
39 requirement for a commercial grade fume hood and
40 extinguishing system in the kitchen as it is used as a
41 food preparation area. It's applicable to all new
42 construction. And as this is a new building and new
43 construction and it's being used as a short term rental
44 bed and breakfast, guest house, whatever, that would be
45 compliant with that. Based upon the photos, there's no
46 evidence to suggest that it would be compliant.
47 Also would be subject to requisite commercial
48 insurance requirements, local and residential insurance
49 requirements, as well.
50 That's all I have.

1 HUBERT MCCLURE: Okay. Thank
2 you. Next person speaking against. Go ahead, ma'am.
3 Please state your name and address and how far you live
4 from the property.

5 And that was Mr. Fred. We'll just go with Fred.
6 How about that? Thank you.

7 SARAH CHEEK: My name is
8 Sarah Cheek. I live at 311 Lakewood Drive, which is
9 directly in front of the home in question. I have
10 lived there for forty-nine years. During that time my
11 house has been broken into and robbed. That's a
12 horrible experience, I'm here to tell you. To me
13 having people in and out of that home on a frequent
14 basis with no more concern for the property than the
15 fact that they have to pay for what they're getting
16 that particular night.

17 People who are on vacation do not have the same
18 goals in mind as people who live there. If indeed this
19 house were to hold twelve people, parking would be an
20 issue because the driveway is so short, it'll hold two
21 cars side by side. All other parking would have to be
22 along the side of the road. And this particular home
23 is in a very tight dead-end road. And there are five
24 houses around it. Three of us are widows. Having
25 people in and out, not knowing who they are and why
26 they're there is a concern for us. We hope that this
27 is not granted because we feel like our neighborhood is
28 being put upon to become a situation that it was not
29 designed to be. My house was not the first house in
30 the neighborhood, but it was the fourth or fifth.
31 Thank you for your time.

32 HUBERT MCCLURE: Thank you. I
33 thought I saw -- okay. Come on up. What's your name
34 so I can mark you off.

35 JAY FROBOESE: Jay Froboese,
36 334 Greenhill Drive. We back up to the -- we're in the
37 next subdivision over but we back up to the house, to
38 this residence.

39 I spoke last time, and I'm mainly approaching it
40 was law enforcement. I'm thirty-year law enforcement
41 veteran, retired. And the community that I worked in,
42 we had this very situation many, many times over where
43 our city council in this municipal situation allowed
44 some short term rentals to go in because there were no
45 restrictions. And for our law enforcement services it
46 became a constant drain. My entire career dealing with
47 people that came in from out of town in a vacation mode
48 causing issues with parking, causing issues with
49 response for fire and police into the area.

50 This particular location on Lakewood is one way

1 in, one way out. And as this previous lady mentioned,
2 there is nowhere to park a third car other than on the
3 street. And they're in a cul-de-sac. The street is 28
4 feet wide. You're going to be having to put cars on
5 the grass. It's just not a situation that is conducive
6 to a residential area. And we can put lipstick on the
7 term residential as much as you want. The intent of
8 cities and counties when they zone something
9 residential is for owner-occupied residences. There
10 may be other interpretations, yes. But this Lakewood
11 Subdivision and then the one next to it, Greenhill
12 Plantation, we are owner-occupied homes, almost a
13 hundred percent. There are some long term rentals.
14 Some homes are rented, you know, for several years.
15 There are no short term rentals.

16 And bringing this one short term rental into the
17 area is going to cause a lot of problems for Lakewood
18 and it's going to spill over into our community next
19 door, Greenhill Plantation, because the precedent would
20 have been set where you have the Lakewood situation,
21 where they have a rental there.

22 Our covenants and restrictions read exactly the
23 same as Lakewood. No one ever saw this coming.
24 Perhaps we need to do an amendment at some point.

25 But I don't believe the county should allow this.
26 It's not the intent of R-20 residential zoning, to have
27 a business come in -- and that's what this is, this is
28 a business -- to come in and have different people week
29 after week after week, parking issues, access issues
30 for law enforcement and fire. It's just not the right
31 community. I don't know if you've seen aerials, you've
32 looked at aerials of this, but it's very, very tight
33 down at the end of this street.

34 That's all I wanted to share with you. Thank you.

35 HUBERT MCCLURE: Thank you,
36 sir. I think we've got one or two more people on here.
37 Who else. And you're Mr. Froboese? Thank you.

38 DAVE AXTHELM: My name is David
39 Axthelm. I live at 403 Lakewood Drive. One thing I
40 wanted to say was you can split hairs on the document
41 on the covenants, but it doesn't say just residential.
42 It says single-family residential. This is a single-
43 family neighborhood. So talking about the petition
44 that we have, we filed it with (inaudible). We've
45 contacted most of the 229 addresses that the county
46 considers to be impacted by this request, and a 190 of
47 our neighbors have signed a petition requesting you to
48 deny this zoning residence -- I mean this zoning
49 variance.

50 There's a map you probably have seen. Basically

1 we've colored in all of the people that have actually
2 signed the petition, and you can see that 400 Lakewood
3 is surrounded by a sea of red in Lakewood and a sea of
4 orange in neighboring Greenhill, representing the
5 houses that do not want this request approved.

6 Some important things to note. Last time in the
7 meeting it was brought up that Columbia and Charleston
8 do allow short term rentals. But you weren't told that
9 due to problems with them, they have imposed strict
10 rules. And Columbia is looking into restricting them
11 even further.

12 A few important rules to note, in Charleston they
13 limit residency to one family or four unrelated adults.
14 Columbia is even stricter, allowing one family and only
15 three unrelated adults. Charleston also requires that
16 the house must be the owner's full time primary
17 residence and as such must be the address of the
18 owner's driver's license, voter's registration and so
19 on. The owner must physically reside in the property
20 for a minimum of 183 days per year. Investment
21 properties aren't eligible to be residential short term
22 rentals. Short term rental permits are needed to be
23 renewed in Charleston annually.

24 Now item 3, there's another item that had come up
25 last time about somebody was asking about safety and
26 background checks. And I believe they asked the
27 applicant about the background checks and the applicant
28 stated they would be done. It wasn't clear who would
29 do those; a short term rental site would do it, airbnb,
30 VRBO, Estrada, etcetera, who was going to do them. But
31 running background checks is difficult, incredibly time
32 consuming and may bear an expense component, as well.
33 Airbnb has a very detailed section on their webpage
34 that points out how incomplete the background checks
35 are and lists the pitfalls that they encounter when
36 trying to check somebody's background.

37 It's important to note that airbnb states, and I
38 quote from their site, these checks only work when
39 people give us their full correct legal names and date
40 of birth. Even if they provide all required
41 information, we can't guarantee it's accurate or that
42 it even really belongs to them. They continue, this is
43 a quote, because our background checks are limited, we
44 can't guarantee that they will identify all past
45 criminal convictions or sex offender registrations by a
46 guest or a host. Therefore, you shouldn't rely on them
47 as a guarantee that the user has no criminal background
48 or other red flags. Lastly, it's important to note
49 that only the guest who makes the reservation will be
50 checked. And then only if airbnb has the necessary

1 information. Background checks are not performed on
2 any of the other guests.

3 Regarding the parking, that was brought up. You
4 know, I think it was something about -- somebody said
5 something about it being 28 feet wide there. It's
6 actually -- this location has much potential to cause
7 serious parking problems. The street is quite narrow;
8 down to 12 feet in places. And it is on a steep hill.
9 It's a T-intersection of dead-end streets. It's quite
10 easy to block the entire street, which often happens
11 with delivery and work trucks.

12 In a short term rental situation, you're looking
13 at six, eight, maybe more people showing up at this
14 house with multiple cars. And since the lake is
15 nearby, probably some type of water craft trailer,
16 possibly multiple trailers. As we've already
17 personally experienced due to recent construction work
18 going on here, it can be difficult for us and our
19 neighbors to get in and out of driveways. This is an
20 inconvenience, yes. But it can turn into a health and
21 safety issue, as well, since emergency vehicles, fire
22 trucks, ambulances, etcetera, are very wide and they
23 need the entire street for access.

24 To illustrate, the nearest fire hydrant in this
25 community is over 1,000 feet away from this site. Fire
26 hoses do not reach this far. To overcome this
27 limitation, the Hopewell Fire Department does have
28 pumps that can pull water from the lake. But in order
29 to do so, they need to get within 300 feet of the lake
30 so their hoses can reach. As Lakewood Drive gets very
31 narrow here, it doesn't take much to block access. And
32 that negatively impacts fire protection for all homes
33 in this part of the community.

34 The important point -- and I'll be wrapping up
35 here; thanks for your patience -- is we bought into a
36 community that was meant to be a single-family
37 residential, single family residential. We've been --
38 we do not feel the new homeowner who bought with the
39 intention of running a business out of it, while
40 knowing that such purpose was not allowed by the
41 zoning, should be allowed to change the zoning of that
42 house and impact the quiet residential nature of our
43 neighborhood. We live here. We bought here knowing
44 the zoning and restrictions and expect those to be
45 followed. This owner, in our opinion, bought here with
46 the express intention of not respecting the R-20 zoning
47 and restrictions (inaudible).

48 So in closing, please reference this map once
49 again. An overwhelming majority of residents directly
50 affected by this zoning are opposed. We respectfully

1 ask that you acknowledge the concerns of the majority
2 of the residents in the Lakewood area and please deny
3 this zoning variance request.

4 Thank you very much for your time.

5 HUBERT MCCLURE: Thank you.
6 And I think there was one more person on this list. I
7 think it was like three or four people. Anybody else
8 on this list?

9 UNIDENTIFIED: (Inaudible.)

10 HUBERT MCCLURE: I'm not going
11 to start that. I'm sorry. I appreciate it, but I'm
12 not going to start that. You can tell me if you're for
13 or against it.

14 UNIDENTIFIED: Against it
15 and I live in the neighborhood.

16 HUBERT MCCLURE: Okay. Thank
17 you. I'm going to close the public hearing at this
18 time. And I hate doing that. But I'm closing the
19 public hearing.

20 I told the -- I was going to say congregation, but
21 I'm not a preacher -- I told y'all the first day that
22 we started this, last meeting, that there was a timing
23 thing here going on. Okay. I believe there's a timing
24 thing going on because we're seeing more and more of
25 these. And of course, there was two or three that we
26 voted on a couple of them got thrown out. One of them
27 we voted on, but I don't think there was anybody here
28 voting against it or it didn't have restrictions.
29 Something like that.

30 But I think I said something at that time that we
31 need to address this as a county. And that's why I
32 wanted the definition of a short term. And to this day
33 nobody has given it to me. Now everybody says thirty
34 days or less, thirty days or less. That's not what
35 we're talking about. Okay? And we found out that the
36 county cannot give us a definition except for thirty
37 days or less.

38 Now, we realize, Ms. Ignacio, you've made a big
39 investment with this property. And I don't know how --
40 and I would -- you know, I know you didn't build this
41 property going against -- I don't know how that
42 happened. But the purpose of this board is to try to
43 get through things like this. But sometimes the board
44 has got its hands tied. And with this one we have our
45 hands tied.

46 And I'll tell you why. Because if we vote for
47 this, we're going to set a precedent for every
48 restricted community in Anderson County to come in here
49 and have this or that. It doesn't have to be a bed and
50 breakfast; it could be something else. Okay? We can't

1 go against the restrictions.

2 And then if we vote for it -- I mean if we vote
3 against it, then we've got another problem because
4 we're going against the restriction of the community.
5 Now, with the residence, I understand your argument
6 against the residence. I understand that. A residence
7 can be this, a residence can be that. But I think when
8 those -- and that's for a court to decide. And I'm not
9 passing the buck here, but there's some things the
10 board can't do. We can't write law and we can't
11 interpret law.

12 So I'm down the middle on this because I
13 understand Ms. Ignacio. And I would suggest that, Ms.
14 Ignacio, with your investment, I think that it needs to
15 be searched a little bit more. Because I'm going to be
16 honest with you. In Anderson County, I'm going to be
17 honest, this is not -- we are walking not on -- we're
18 walking on eggshells here. And I just think that this
19 needs to be a learning experience because the county
20 needs more definition on this.

21 And as a board member, I'm going to make a motion
22 that we deny this because of the restrictions. Do I
23 have a second?

24 MIKE MILLER: I second.

25 HUBERT MCCLURE: All in favor
26 uplifted arm. All denied? What are you going to stay?
27 Okay. We've got one abstention. We thank y'all for
28 being here tonight and y'all have a good night. That's
29 it.

30 Any new business or old business?

31 HENRY YOUMANS: Mr. Chair,
32 one item of old business, and Mr. Bannister will
33 present it to the board.

34 HUBERT MCCLURE: Okay. Go
35 right ahead.

36 BRADEN BANNISTER: Mr. Chairman,
37 this is an update on the agenda item heard on the July
38 22nd board meeting. The board approved an additional
39 wall sign for Eagle Guard storage with the condition to
40 remove the freestanding sign. As of today, the
41 freestanding sign is still on the property. Staff has
42 notified the applicant that the freestanding sign is to
43 be removed. The applicant was notified by email as
44 well as certified mail. The staff is also working to
45 remove the freestanding sign. This is your update.

46 HUBERT MCCLURE: Thank you for
47 that. Tell them where it is again. Mr. Farr didn't
48 hear it.

49 JOHN FARR: Where are you
50 talking about? Where is the sign?

Application for a Special Exception
Anderson County Land Use Board of Zoning Appeals Meeting
County Council Chambers 2nd Floor-Historic Courthouse (DISTRICT #7)
Anderson, South Carolina
December 8, 2022
5:15 PM

Staff Report

Application for a **Special Exception** – To allow the use of a single-family residence as a short-term rental in R-20 Zoning.

Applicant: Scott Bryan

Owner of Property: Same as above

Property Location: 420 Fields Ave., Anderson, SC 29625

Council District: Four (4)

Tax Map Number (TMS #): 28-07-02-001

Property Description: approximately .18 acres

Current Zoning: RM-7 (Residential Multi-Family)

Land Use: Residential

Applicant Request: Applicant is requesting a Special Exception to allow the use of residence as a short-term/rental home.

Findings of Fact: *Anderson County Code of Ordinances*, Under Chapter 70, Section 7:17, establishments are permitted uses by special exception – Bed and breakfast, homestays, host homes and guest homes..... provided that they meet the requirements/provisions of Section 7:17

Staff Recommendation: Staff recommends APPROVAL of the Special Exception request for the following reasons and with following conditions

- 1) The use meets all of the requirements in Section 5:7.2. Uses permitted by special exception.
- 2) The residence meets all of the requirements for R-20 Zoning.
- 3) No restrictions or covenants are recorded or filed with the Register of Deeds, and none are on the record.
- 4) The 1,500 sq. ft distance requirement between bed and breakfasts has been met.
- 5) The use is not detrimental to public health or general welfare.
- 6) The use will not violate neighborhood character nor adversely affect surrounding properties.
- 7) Applicant must meet all tax, fire and building code requirements, pertaining to the residential structure and obtain all necessary permits from Building and Codes and Land Use Permit from Development Standards
- 8) The Board's granting of the approval for this Special Exception is in keeping with similar requests previously granted for zoned areas.



Special Exception Application

(For Zoned Areas Only)

Processing Fee:\$200

Please submit applications and processing fees simultaneously to avoid delay in processing

Applications can be submitted by email, or if supporting documents (reference page 3) is greater than 10 pages, applications should be mailed or brought in person.

For payment cash(in-person only), check (in-person or by mail), and cards(call to pay over phone) are accepted.

Date Application Received

Application Status (Approved or Denied)

All special exception applicants are required to go before the Anderson County Board of Zoning Appeals and must attend the live scheduled Board of Zoning appeals meeting when their request is to be heard. Applicants may be exempt from attending the scheduled meeting for the following reasons only: an unexpected illness or passing of oneself or a loved one or if an applicant is on active military duty or deployed.

Deadlines for all special exception applications and supporting documents are due by the first business day of each month.

Applications and supporting documents that are submitted by the first of each month will go before the Board of Zoning Appeals the following month (example: deadline is July 1st, application and supporting documents are submitted by July 1st, request will go before the board in August). Those that do not submit applications and supporting documents before the first of each month, the request will automatically be delayed and will not go before the board until both the application and supporting documents are received (example: due date July 1st, application submitted July 2nd, request will not appear before the board until September) (Date for request to appear before the board is continuously extended (by month) until both applications and supporting materials are received).

Applicant's Information

Name: Scott Bryan
Mailing Address: 1558 Franklin Circle, Dacula GA 30019
Telephone and Fax: 404 867 8873 E-Mail: topturf1@bellsouth.net

Owner's Information

(If Different from Applicant)

Name: _____
Mailing Address: _____
Telephone and Fax: _____ E-Mail: _____
Designation of Agent: (Complete only if owner is not the applicant)

I (We) hereby appoint the person named the Applicant as my (our) agent to represent me (us) in this request for a special exception.

Scott Bryan
Owner's Signature

10/17/22
Date

Project Information

Property Location: 420 Fields Ave, Anderson SC 29625
Parcel Number(s)/TMS: 0280702001
County Council District: Anderson 4 School District: Anderson 4
Total Acreage: .18 Current Zoning: RM7
Requested Special Exception: Short Term Rental
Purpose of Special Exception: We would like to use our property as a short term rental

Have you researched your Private Covenants/Deed restrictions at the Anderson County Register of Deeds?
Yes: No: Date visited ROD or Date searched online: 10/17/2022

Private Covenants or Deed Restrictions on the Property: Yes No

If you indicated no and covenants/deed restrictions are discovered after application submittal, the application will be removed from the agenda and any approvals granted by the Board of Zoning Appeals will be null and void. If you indicated no, your signature is required.

If you indicated yes, please provide a copy of your covenants and deed restrictions with this application – pursuant to State Law (Section 6-29-1145: July 1, 2007) – determining existence of restrictive covenants. Copies may be obtain at the Register of Deeds Office. It is the applicant's responsibility for checking any subdivision covenants or private covenants pertaining to the property.

Comments: We also own the adjacent property that can serve as overflow parking.

Please attach an accurate, legible plot plan showing the dimensions and locations of structures and improvements of the property to this application.

For Office Use Only:

Application Received By: _____ Date Complete Application Received: _____

Application Fee Amount Paid: _____ Check Number: _____

Scheduled Board Hearing Date: _____

Land Use/Board of Zoning Appeals' Decision: _____

Special Exception Application Checklist

Anderson County Code of Ordinances Chapter 48 Zoning- Article 7.- Provisions for uses permitted by special exception

Section 7:1.- General Provisions

The board of zoning appeals may issue permits for those uses permitted by special exception which are in accordance with the provisions of this chapter and the specific conditions set forth below. The board shall determine that:

- A. The use meets all required conditions.
- B. The use is not detrimental to the public health or general welfare.
- C. The use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar services.
- D. The use will not violate neighborhood character nor adversely affect surrounding land uses.

Anderson County Code of Ordinances Chapter 48 Zoning- Article 9.- Board of Zoning Appeals Section 9:5.-Powers and Duties

Section 9:5.1 Review. The board shall hear and decide appeals where it is alleged there is error in any order, requirements, decision, determination made by the zoning administrator in the enforcement of this chapter

Section 9:5.3 Uses permitted by special exception. The board of zoning appeals may hear and decide upon uses permitted by special exception specifically authorized by the terms of this chapter. A use permitted by special exception shall not be authorized by the board unless and until:

- A. A written application is submitted.
- B. Notice shall be given at least 15 days in advance of a public hearing in a newspaper of general circulation.
- C. The request has been referred to the appropriate zoning advisory group for review and report to the board of zoning appeals. The planning commission staff will also refer the request to the appropriate zoning advisory group for review and report to the board of zoning appeals. The zoning advisory group will meet in public sessions and shall provide a written report and recommendation.
- D. A public hearing shall be held.
- E. The board shall make findings.
- F. The board shall make written findings certifying compliance with the regulations governing the special use.

The following checklist is to aid the applicant in providing the necessary materials for submittal.

Application Submittal Requirements

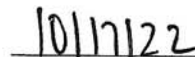
- Completed and Signed Special Exception Application
- \$200 Processing Fee
- Site Plan or diagram of property for the proposed special exception
- Clear Statement of why the special exception is being requested

- Valid contact information on application
- Covenants and Deed Restrictions (Can be obtained from Anderson County Register of Deeds)

The Development Standards Staff will recommend approval or denial to the Board of Zoning Appeals at a scheduled Public Hearing . Applicants are notified of the date, time, and location of this meeting, and must attend in case questions arise. The Board of Zoning Appeals will make the final decision.

As the applicant, I hereby confirm that the required information and materials for this application are authentic and have been submitted to Development Standards.


Applicant's Signature


Date





WELBORN ST

REIDSANE

VALLEYVIEW

REIDSANE

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