

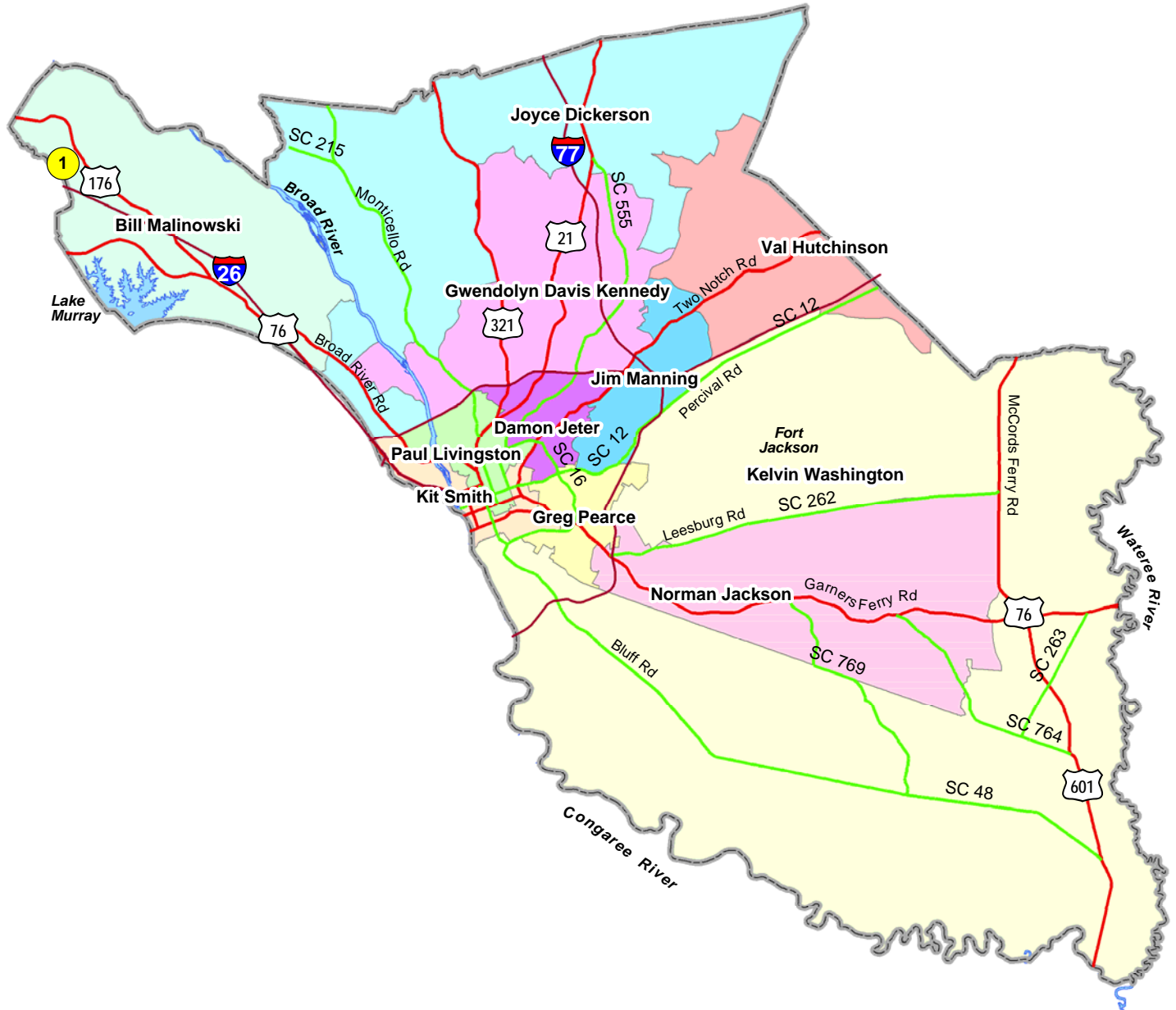
RICHLAND COUNTY  
BOARD OF  
ZONING APPEALS



Wednesday, 6 May 2009  
1:00 p.m.  
Council Chambers



# RICHLAND COUNTY BOARD OF ZONING APPEALS MAY 6, 2009



CASE NO.	APPLICANT	TMS NO.	LOCATION	DISTRICT
1. 09-12 V	Robyne Shealy	00800-05-30	1910 Martin Rd., Chapin	Malinowski





Richland County  
Board of Zoning Appeals  
Wednesday, 6 May 2009  
2020 Hampton Street  
2<sup>nd</sup> Floor, Council Chambers

Agenda

- |      |                                       |  |
|------|---------------------------------------|--|
| I.   | CALL TO ORDER & RECOGNITION OF QUORUM | Joshua McDuffie,<br>Chairman           |
| III. | RULES OF ORDER                        | Amelia Linder,<br>Attorney             |
| V.   | APPROVAL OF MINUTES – April 2009      |  |
| VI.  | PUBLIC HEARING                        | Geonard Price,<br>Zoning Administrator |
|      | <u>OPEN PUBLIC HEARING</u>            |  |

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09-12 V  
Robyne Shealy  
1910 Martin Rd.  
Chapin, SC 29036  
00800-05-30

Requests a variance to encroach into the setbacks on  
property zoned RU. (Rural)

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**VII. OTHER BUSINESS**

- a. Reconsideration of case 09-04 V
- b. Reconsideration of case 09-08 V

**VIII. ADJOURNMENT**

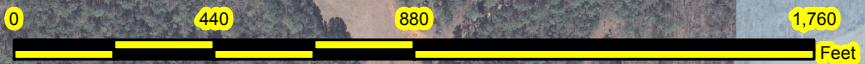
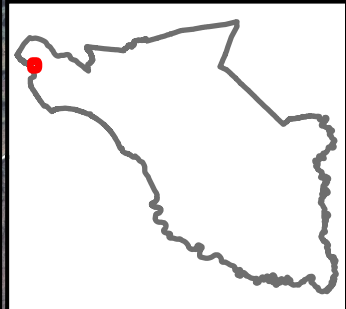




**CASE 09-12 V**  
**ROBYNE SHEALY**  
**TMS 00800-05-30**



-  FLOOD ZONE A
-  FLOOD ZONE AE
-  WETLANDS











6 May 2009  
Board of Zoning Appeals

REQUEST, ANALYSIS  
AND  
RECOMMENDATION

**09-12 Variance**

**REQUEST**

The applicant is requesting the Board of Appeals to grant a variance to locate an accessory dwelling in front of the building line of a principal structure on property zoned RU (Rural).

**GENERAL INFORMATION**

**Applicant**

Robyne Shealy

**Tax Map Number**

00800-05-30

**Location**

1910 Martin Road

**Parcel Size**

5 acre tract

**Existing Land Use**

Residential

**Existing Status of the Property**

The subject property has an existing 6,797 square foot residential structure.

**Proposed Status of the Property**

The applicant is proposing to establish an accessory dwelling in front of the building line of the residential structure.

**Character of the Area**

The area is comprised of heavily wooded, large parcels, either residentially developed or undeveloped.

**ZONING ORDINANCE CITATION**

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

**CRITERIA FOR VARIANCE**

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

- a. That there are extraordinary and exceptional conditions pertaining to the particular piece of property; and
- b. That these conditions do not generally apply to other property in the vicinity; and
- c. That because of these conditions, the application of this chapter to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

- d. That the authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the granting of the variance will not harm the character of the district.

## DISCUSSION

Staff visited the site.

The applicant is requesting a variance to construct an accessory dwelling in front of the building line of the residential structure. Section 26-185 (b) of the Richland County Land Development Code establishes location standards for accessory structures.

According to the applicant, the proposed structure is needed for a relative - mother.

The applicant has identified a location on the parcel, near Martin Road, for the placement of the structure. It is stated by the applicant that this location is the only reasonably flat area on the property and the removal of trees and plants, in order to develop on other areas, would result in severe erosion and run-off. Staff has not determined how this relatively flat, cleared section of the property was created.

Staff believes that the subject parcel meets all of the criteria required for the granting of a variance. Staff recommends that the request be approved. According to the standard of review, a variance shall not be granted until the following findings are made:

a. **Extraordinary and exceptional conditions**

Staff concurs that the parcel is challenged by the elevations of the topography; however, while the elevations don't render other areas of the parcel unbuildable, there would be additional challenges to develop in these areas (i.e., grading and tree removal).

b. **How were conditions created**

The natural topography of the area.

c. **Conditions applicable to other properties**

The same topography conditions are present on other parcels in the area.

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

Without the granting of the variance, other sections of the parcel could be developed, but, as previously stated, would incur a number of challenges.

e. **Substantial detriment of granting variance**

The granting of the variance will not be of substantial detriment to the adjacent properties or harm the character of the district if the required front yard setback for the district, 40 feet, is met and the existing tree line is maintained.

## CONDITIONS

26-57(f)(3)

*Conditions.* In granting a variance, the board of zoning appeals may attach to it such conditions regarding the location, character, or other features of the proposed building, structure or use as the board of zoning appeals may consider advisable to protect established property values in the surrounding area, or to promote the public health, safety, or general welfare. The board of zoning appeals may also prescribe a time limit within which the action for which the variance was sought shall be begun or completed, or both.

## OTHER RELEVANT SECTIONS

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

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

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

Any approval or denial of the request must be by a concurring vote of a majority of those members of the board of zoning appeals both present and voting. The decision of the board of zoning appeals shall be accompanied by written findings that the variance meets or does not meet each of the standards set forth in subparagraph (2) below. The decision and the written findings shall be permanently filed in the planning department as a public record. The written decision of the board of zoning appeals must be delivered to the applicant.

## ATTACHMENTS

- Plat
- Letters

## CASE HISTORY

No record of previous special exception or variance request.



09-12 V







# BOARD OF ZONING APPEALS

## VARIANCE APPEALS



Application #

1. Location 201 Holly Grove Road, Blythewood, SC, 29016  
 TMS Page 10200 Block 07 Lot 02 Zoning District RU

2. Applicant hereby appeals to the Zoning Board of Appeals for a variance from the strict application to the property as described in the provisions of Section \_\_\_\_\_ of the Richland County Zoning Ordinance.

3. Applicant requests a variance to allow use of the property in a manner shown on the attached site plan, described as follows: To construct a new accessory building to provide secure, adequate storage and work space without demolishing the existing accessory building on the property.

4. The application of the ordinance will result in unnecessary hardship, and the standards for a variance set by Sec. 26-602.3b(1) of the Richland County Zoning Code are met by the following facts.

- a) There are extraordinary and exceptional conditions pertaining to the particular piece of property as following: The existing accessory building does not provide secure, adequate storage and work space, which is why a new building is necessary. However, the existing building has sentimental and historical value, provides benefits to the primary residence, and adds value to the property as a whole.
- b) Describe how the conditions listed above were created: We applied for a permit to construct a new accessory building, but because of the existing accessory building on the property, we exceed the allowed requirement of 50% of the primary residence or 1,200 square feet.
- c) These conditions do not generally apply to other property in the vicinity as shown by: To our knowledge, other properties in the vicinity that have similar existing structures have not pursued construction of new accessory structures.
- d) Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: We would be forced to incur the cost to demolish the existing accessory building and lose the value and benefits it provides OR be deprived on the much needed secure storage/work space the new accessory building would provide.
- e) The authorization of the variance will not be of substantial detriment to the adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance for the following reasons: The adjacent property owners also wish to see the existing structure preserved and understand our need for the new accessory building. Both structures would be situated such that neither would create a visual or physical encroachment on any adjacent properties.

5. The following documents are submitted in support of this application [a site plan must be submitted]:
- a) Site plan
  - b) \_\_\_\_\_
  - c) \_\_\_\_\_

(Attach additional pages if necessary)

Deborah F. Jowers  
Applicant's Signature

201 Holly Grove Road  
Address

803-609-5748  
Telephone Number

Deborah F. Jowers  
Printed (typed) Name

Blythewood, SC, 29016  
City, State, Zip Code

803-217-2150  
Alternate Number



Hunter Hill Road 50' R/W

561-20-51W 249.47'

560-59-05W 106.18'

N34-04-03W 208.46'

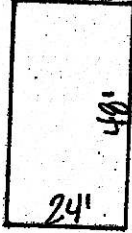
N60-34-18E 43.78'

N67-05-08E 84.42'

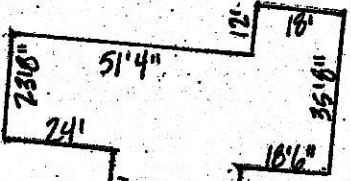
N66-55-29E 91.51'

N66-56-15E 203.07'

1.608 Acres



Proposed Accessory Building



1 story Frame Residence



Existing Accessory Building

I(10) 1" pipe

I(10) 1" pipe

I(10) 1" pipe

I(10) 1" pipe

I(10) 1" pipe

Scale 1" = 40'

Holly Grove Road

23'

175.24' S30-00-00E

# Reconsideration Request

09-04 V

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Law Offices  
QUINN LAW FIRM, LLC  
2019 Park Street  
Post Office Box 73  
Columbia, South Carolina 29202

Michael H. Quinn

Telephone (803) 779-6365  
Facsimile (803) 779-6372  
Email: [qlf@bellsouth.net](mailto:qlf@bellsouth.net)

April 27, 2009

Mr. Geonard Price  
Zoning Administrator, Richland County  
Richland County Administration Building  
2020 Hampton Street  
Columbia, SC 29204

**RE: Request for Reconsideration Case 09-04 Variance;  
110 Clemson Road Extension, Columbia, SC 29229;  
TMS 256-08-01-40; Columbia Development Group, LLC**

Dear Mr. Price:

This request for reconsideration is submitted in behalf of Columbia Development Group, LLC, the owner of the property located on Clemson Road in Richland County, and reflected on the Richland County tax map as TMS 25608-01-40.

Columbia Development Group requests a reconsideration for the granting of a variance to Richland County Ordinance 26-175 reducing the required driveway separation on its property which is zoned General Commercial. The requested variance was denied at the April 1, 2009 Board of Zoning Appeals Hearing. Specifically, the variance requested was for access to and from Clemson Road by a curb cut allowing right in and right out access to and from Clemson Road.

This request for reconsideration is based on mistake of law, and due to, in part, the mistake of law, also on mistake of fact.

As reflected by the record, the property in question abuts on Clemson Road on its front, and on a private road on its side. The property does not have access to Clemson Road. The established law in South Carolina is that a property owner is entitled to access to and from any public road that abuts its property.

The South Carolina Supreme Court, in the 2007 case of Elisha B. Tallent d/b/a Elisha's California Hair v. South Carolina Department of Transportation, in referring to the right of access to a public road, stated the following:

Mr. Geonard Price  
April 27, 2009  
Page 2

As we have held, a property owner in South Carolina has an easement for access to and from any public road that abuts his property, regardless of whether he has access to and from an additional public road. (citing South Carolina State Hwy. Dept. v. Allison, 346 S.C. 389, 393, 143 SE2d 800, 802 (1965)). Thus, for example, in South Carolina, an owner of a corner lot has an easement for access to and from both roads that abut his property. 371 S.C. 598, 641 SE2d at 437, 442 (2007).

Based on the established law of this State, the property owner has a right (easement) of access to Clemson Road. The fact that it does not have such access is an extraordinary and exceptional condition pertaining to this particular property. Other properties abutting on Clemson Road in this area have access to Clemson Road.

The lack of access to Clemson Road is clearly out of the ordinary based on law and fact, thus meeting the requirements of extraordinary and exceptional conditions pertaining to this particular property.

The extraordinary and exceptional condition of non-access pertaining to this particular property, coupled with (i) the condition of non-access generally not applying to other properties in the area, (ii) the non-access effectively restricting use of the property, and (iii) the improvement of safety by allowing the variance as requested, with the conditions agreed to, all mandate granting of the variance, based on law and fact.

Should the Board grant this request, and in order to avoid the repetition of the testimony and other evidence presented at the previous hearing, we would ask that all evidence introduced in the previous hearing be admitted into the next hearing, and made a part of the record. As such, with prior testimony and evidence being a part of the record, the next hearing would only have to deal with the issues raised by this request.

Respectfully submitted,

QUINN LAW FIRM, LLC

By: Michael H. Quinn  
Michael H. Quinn  
Attorney for Columbia  
Development, Group, LLC



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Richland County Government  
2020 Hampton Street  
Columbia, SC 29204

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

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