



CITY OF WALHALLA BOARD OF ZONING APPEALS

Teara Barnwell, Chair
Josh Holliday

Jennifer Crawford

Frank Guldner, Vice-Chair
Kenny Johns

Thursday, April 6, 2023

Regularly Scheduled Board of Zoning Appeals Meeting

5:30 PM

206 North Church Street

Walhalla, South Carolina 29691

AGENDA

1. Call to Order
2. Approval of Agenda
3. Approval of Minutes – February 2, 2023
4. Public Hearings
 - a. Appeal: Status of Family Fence LLC's use of 135 Kelley Drive as a permitted non-conforming use.
5. Old Business
6. Public Comments, non-agenda items
7. Other Business
 - a. 2023 Meeting Schedule Revision
 - b. Inexplicit Uses Permitted
8. Adjournment

City of Walhalla Board of Zoning Appeals
Thursday, February 2, 2023 • 5:30 PM
Council Chambers • City Hall
Walhalla, South Carolina
Minutes

In accordance with the South Carolina Freedom of Information Act, Section 30-4-10 et seq., South Carolina Code, 1976, the media was duly notified of the date, time, and place of the meeting.

Members Present: Teara Barnwell, Josh Holliday, Frank Guldner and Jennifer Crawford (Zoom)

Members Absent: None

Staff Present: Brandon Burton and Celia Myers

Call to Order: Chairwoman Barnwell called the meeting to order at 5:30PM, with a quorum present to conduct the meeting and welcomed all present to the meeting.

Approval of Agenda: Mr. Guldner moved to approve the agenda with Mr. Holliday seconding. The motion to approve the agenda was unanimous.

Election of Officers: Mrs. Barnwell opened the floor to accept nominations for Chair and Vice-chair. Mrs. Barnwell was nominated to retain the Chair position by Mr. Guldner; and Mr. Guldner was nominated as Vice-Chair by Mrs. Barnwell. Mr. Holliday seconded. The motion to approve was 4-0.

Approval of Minutes: Mr. Holliday moved to approve the minutes of the July 26, 2021 meeting; and Mr. Guldner seconded. The minutes were unanimously approved.

Public Hearing: Chairwoman Barnwell stated that she had a conflict of interest with the appeal of minimum lot size in HC and removed herself from the dais. Vice-chair Guldner opened the public hearing for the appeal. Mrs. Barnwell spoke on behalf of the applicant Travis Chapman and realtor Cliff Powell, as both were unable to be present. She explained that the Highway Commercial (HC) zone referenced allowances for use that are listed under Multi-Family Residential (MFR). The applicant contends that since the minimum lot square footage of MFR is 15,000 sq ft, it should be allowed in the HC zone. Staff had ruled that minimum lot size should be 20,000 sq ft as dictated in the HC zoning description. Staff argued that the uses of MFR are allowed, but that the standards should conform to HC, not MFR. After brief discussion, Mr. Holliday moved to overturn staff interpretation and allow referenced zoning classification standards to supersede. Mrs. Crawford seconded. The motion was approved 3-0 with Mrs. Barnwell abstaining. Mrs. Barnwell resumed the Chair. The Board members mentioned that parts of the zoning ordinance were confusing or contradictory and requested that it be reviewed and potential amendments or corrections made. Mr. Burton and Mrs. Myers stated that this review was already in progress.

Old Business: None

Public Comments, non-agenda items: None were presented.

Other Business: Chairwoman Barnwell called for any other business. Mrs. Myers presented the proposed 2023 meeting schedule, outlining the Board of Zoning Appeals meetings and deadlines for submission. Mr. Guldner moved to accept the schedule, as presented; and Mr. Holliday seconded. The motion to approve the schedule passed 4-0. Mrs. Myers then provided the members with a copy of the Appalachian Council of Governments (ACOG) continuing education schedule for the year. She reminded the members that SC State Code mandates 6-hours of orientation training within the first

year of appointment to the BZA or other planning related board, and 3 hours of continuing education, each year thereafter. This was accepted by the Board as information.

Hearing no further business, Chairwoman Barnwell adjourned the meeting at 5:50 pm.

Respectfully Submitted,

Celia Boyd Myers, AICP
Community Development Manager

City of Walhalla
Board of Zoning Appeals
Staff Report
April 2023

Appeal Sought By: Blair and Patty Stoudemire

Current Owner: Cindy Reitano

Property Address: 135 Kelley Drive

TMS #(s): 500-11-01-019

Acreage: +/- 0.75

Current Zoning: GR (General Residential)

Appeal: Applicant is appealing the status of Family Fence's use of 135 Kelley Drive as a non-conforming use.

Overview of Issue: Mr. and Mrs. Stoudmire have a complaint against Family Fence LLC operating at 135 Kelley Dr., a fencing company operating on a GR zoned property. City documents indicate that this property was determined to be a non-conforming use. Specific issues researched include noise, zoning and business license.

Noise: The Noise Ordinance states it "does not apply to noise emanating from industrial and manufacturing operations" and "if lawful business or activity has existed or occurred on or at its present location and made noise that is not in compliance with this ordinance prior to the complaining party moving to an area that is affected by the noise."
The deed indicates the Stoudmires moved in 2021. Family Fence was at 328 N Pine beginning in 1993 and 135 Kelley beginning 2017.

Zoning: The Zoning Ordinance was enacted December 13, 1994 (#1994-8). Family Fence was at 328 N Pine beginning in 1993, and considered a non-conforming use once #1994-8 was adopted. The property at 135 Kelley Drive (directly behind 328 N Pine) was acquired in 2017 and had reportedly been used as storage for a church. Family Fence uses as storage today, with machines to move materials, but not manufacture per owner. It was brought to staff's attention that a previous Zoning Administrator (Daniel Fletcher) had concluded that this was a continuance of a non-conforming use (storage to storage) and gave Family Fence permission to use the property at 135 Kelley in this manner. Family Fence has not altered its operation since receiving approval from the City (through its Zoning Administrator) in 2018.

Business License: The Business License Ordinance was enacted June 20, 1995 (#1995-8). Family Fence received its first license 4/25/96 and has maintained since. There was an additional complaint that DogWatch is a new business, operating out of 135 Kelley and unlicensed. DogWatch an invisible dog fence offered under Family Fence LLC and does not require separate license as it is viewed as a subsidiary of Family Fence.

Appeal: While the BZA has the authority "to hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance", the Walhalla Code states that these should be filed within 10 days. The decision made by ZA Fletcher to classify this a non-conforming use was not challenged from 2018 to 2022. While the file for appeal was after the 10-day window from Mrs. Myers' written response stating Family Fence had received approval, noting Mr. Fletcher's decision; she allowed the extension as she had not notified them of the option in January.

Findings: The City has issued a business license, granting permission to operate at the location for 27 years. There is a document stating that the City approved the 135 Kelley parcel as a non-conforming use, although it is not signed and merely a Word document. Estoppel – "once an authorized official makes an interpretation, the local governing body may be estopped from changing the interpretation administratively or from enforcing the ordinance in a manner different from past enforcement when an owner has relied upon the interpretation." Staff understands this to be that since Family Fence and the surrounding neighbors have relied upon the 2018 interpretation that 135 Kelley is a permitted non-conforming use, staff is barred from denying this status now.

Timeline: On November 29, 2022, staff was made aware of a complaint regarding Family Fence's "illegal business...moving metal and running loud machines" on N Pine St. As audio of noise was provided, staff assumed this was a noise complaint. On December 2nd, staff emailed exceptions to the noise ordinance that Family Fence met and confirmed Family Fence has had a business license since 1996. Staff was then informed that the complaint was not referring to noise, but zoning. On December 9th, staff received a follow-up complaint stating that Family Fence is operating on newly acquired land (135 Kelley Drive since 2017) and a request for their business license information.

On December 12th, staff stated that it was investigating the issue and to give 30 days for a reply.

On January 3, 2023, a letter was mailed to Cindy Reitano (Family Fence) that the expansion of Family Fence's operations onto 135 Kelley was not permitted under the non-conforming status of 328 North Pine.

On January 6, 2023: Mrs. Reitano came to the office and stated that a complaint had been made in 2017 or 2018. The previous Zoning Administrator (Daniel Fletcher) had investigated. She stated that the Fire Marshal was also involved. (Neither gentlemen are still with the City.) Her statements were that their research found that the building was used for storage; and that Mr. Fletcher interviewed previous owners. She stated she had received confirmation from the City that she was approved as a continuation of non-conforming use and had been operating on that assurance. She would look for a letter/email or other document to verify. Staff promised to further research through the files. Following this meeting, staff searched the filing cabinets in the back room. A stack of folders, including one from Mr. Fletcher about the 2018 investigation was found. A piece of paper (not signed) shows where he concluded the use was a continuation of non-conforming status.

Only January 9th, a letter was sent to Mrs. Reitano regarding the found file that confirmed she had received prior approval from the City. Additionally, an email was sent to the applicants with a review of findings, stating Family Fence had received prior approval.

On January 24th, the City received a formal FOIA requesting all documents relied upon in determination.

On February 17th, the documents were compiled and ready. An email was also sent informing applicants of their right to appeal.

Public Outreach:

Staff hereby certifies that the required public notification actions have been completed, as follows:

- March 18: Board of Zoning Appeals public hearing advertisement published in the *Seneca Journal*.
- March 7: A letter was mailed to Mrs. Reitano informing her of the appeal.

Public Feedback:

To date, staff has received no inquiries requesting more information.



CITY OF WALHALLA Community Development

206 N Church St. • P.O. Box 1099 • Walhalla, SC 29691 • (864) 638-4343 • Fax (864) 638-4357 • www.CityofWalhalla.com

Board of Zoning Appeals Application

Date Filed: March 6, 2023 Permit Application No. _____ Appeal No. 2023-25

INSTRUCTIONS

This application and its corresponding form must be completed for a hearing on **appeal** (corresponding form on page 2) from action of a zoning official, application for a **variance** (corresponding form on page 3), or application for **special exception** (corresponding form on page 4). This application shall be accompanied by a \$ 100.00 check made payable to the CITY OF WALHALLA, to help defray the cost of processing. If the application is on behalf of the property owner(s), all owners must sign. If the applicant is not an owner, the owner(s) must sign the Designation of Agent.

An accurate, legible plot plan showing property dimensions and locations of structures and improvements must be attached to an application for variance or special exception

THE APPLICANT HEREBY APPEALS: for action of zoning official for a variance for a special exception

Applicant(s)

Name: Blair L. Stoudemire and Patricia B. Stoudemire
Address: 327 North Church Street, Walhalla, South Carolina 29691
Telephone: _____ Mobile: _____ Email: _____

Owner(s) (If other than the applicant)

Name: Same
Address: _____
Telephone: _____ Mobile: _____ Email: _____

Designation of Agent (Complete, if the owner is not applicant)

I (we) hereby appoint the person named as Applicant as my (our) agent to represent me (us) in this application.
Owner's Signature: _____ Date: _____

Interest

Applicant holds the following interest: Owner Adjacent Owner Other, please explain _____

Property Description

Property Address: 135 Kelley Drive
TMS #: 500 - 11 - 01 - 019 Zoning District: _____ Acreage: 0.75 acres
Lot: 4B Block: _____ Subdivision: _____ Lot Dimensions: _____
Plat Book: A59 Page #: 5

I (we) certify that the information in this application and the attached is correct.

Applicant's Signature: Blair L. Stoudemire Date: March 4, 2023

Patricia B. Stoudemire

Appeal from Action of Enforcement Official Application

1. Applicant hereby appeals to the Board of Zoning Appeals from the action of the Zoning Official affecting the property described on the grounds that: Granting Denial of an application of a permit to _____
- The property in question is a non-conforming use of 135 Kelley Drive, Walhalla, SC. No business was ever conducted by Dog Watch by Family Fence at 135 Kelley Drive, by College Street Baptist Church during their ownership prior to 12/04/2017. was erroneous and contrary to provisions of the zoning ordinance in Section _____

or other action/decision of the Zoning Official was erroneous, as follows: Family Fence operated at business at 328 North Pine Street, Walhalla, SC prior to the enactment of the zoning ordinance and a business license was issue for such prior. The adjacent lot, 135 Kelley Drive, was retained by College Street Baptist Church when 328 North Pine Street was conveyed. College Street Baptist Church used the property primarily for storage of their Church Bus as evidenced by usage and the garage in which it was kept. When College Street Baptist Church purchased the Catherine Hughes property on College Street, and the adjacent corner lot, the usage of Kelley Drive stopped as the vehicles, if any, were stored on College St., and 135 Kelley Drive, became excess property for them and it was sold in 2017 to Kenneth Reitano Cindy Reitano. It was afterward that the use was expanded and used by Family Fence Co. They have no business license for 135 Kelley Drive.

2. Applicant is aggrieved by the action or decision in that: While the noise does not exceed in decibels the limit for a violation of the noise ordinance in Walhalla, it is used from early in the morning (prior to 8 a.m.) and continuously throughout the day at sporadic times sounding like bulldozers. They are conducting business on 135 Kelley Drive and in violation of the zoning ordinance. The property is not "Grandfathered In" as they would have you believe as the property was never used in violation of the Zoning Ordinance prior to 2017.

3. Applicant contends that the correct interpretation of the zoning ordinance as applied to the property is: That 135 Kelley Drive is residential and a Cease and Desist Order should be issued to the owners to stop using the property for the nonconforming use.

4. Applicant requests the following relief: A Cease and Desist Order for the Owrerns of 135 Kelley Drive to stop using the property in storage and for the construction of fencing for residential and commercial use.

Applicant's Signature

Yain K. Staudemire

Date: March 4, 2023

Patricia B. Staudemire

For Official Use

Date of Hearing: 4-6-2023

Board of Zoning Appeals' Decision: _____

Reason: _____

Board of Zoning Appeals Chair: _____

Date: _____

met w/ Cindy 11/6/23

found note of compliance from 2018

Zoning Complaint

Name: Patti + Blair Stoudemire

Email: [REDACTED]

Phone: _____

Address: 327 N Church Street

Suspected Violation: noise / zoning violation manufacturing in GR

Findings of Fact

Owner/Business: Kenneth + Cindy Reitano / Family Fence

Address: 328 N Pine St / 135 Kelly Dr.

Zoning: GR

Land Use: residential / manufacturing

Notes: 11/29 - Email re: noise from an "illegal" business "moving metal and running loud machines"

11/30 - Email sent promising to research. 12/2 - ^{Sent} ~~approved~~ exceptions to noise ordinance and confirmed business license since 1996

12/8 - Email from Blair S. referencing zoning. Fat grandfathered due to age but promised to check. 12/9 - received email allegation

business is operating on newly acquired property (2017) vs what is listed on their license / application. 12/9 - received email requesting license info

12/12 - emailed investigating and to give 30 days.

* Business license ordinance enacted 6/20/95 (#1995-8)

* Family Fence first received license 4/25/96. Need to determine when business was begun and if at 328 N Pine. Each year, Family

Fence has renewed their license, including 17-21, and indicated the business location is 328 N Pine. Accusation states business

is operating at 135 Kelly behind their home. Satellite imagery shows a road from the house to the building at 135 Kelly.

imagery appears to show work vehicles and materials. 135 Kelly is GR zoned.

Zoning Complaint

Name: Paul + Blair Stoudemire Email: _____

Phone: _____ Address: _____

Suspected Violation: _____

Findings of Fact

Owner/Business: Family Fence

Address: _____

Zoning: _____ Land Use: _____

Notes: 1.) Found documentation (business license) ¹⁹⁹³ indicating

Family Fence was present prior to zoning - Grandfathered.

2.) Did business seek variance / special exception or receive approval to expand to 135? - Didn't move & was granted

3.) mailed letter to Cindy R re: issue 1-3-2023 (expansion of nonconforming use)

approval. See notes below

4.) On 1-6-2023, Cindy R came by office - stated a complaint was made in 2017/2018 and that previous ZA investigated. Stated fire marshal + ZA went to site to see that office wasn't in building + that was used for storage; added that ZA called/interviewed previous owners confirming continuation of non conforming use; promised to look for letter or file to confirm.

* 1-6-2023 - Found misfiled folder in back Storage room - notes within folder have Daniel Fleeter (ZA) concluding continuation of use and therefore allowed. - notified owners.

** Based on findings - DF's approval -> Family Fence received City approval.

1-9-23 - letter mailed to Cindy R

1-9-23 - email sent to Stoudemires w/ results

Reitano Notes:

Meeting at city hall the morning of 04/20/2018 09:00am

Cindy Reitano came in for a meeting to discuss the zoning violation at 135 Kelly dr. She explained to me that College St Baptist Church had used the property as commercial storage since 1989 and presented her argument that they were continuing that use. She also stated that they had been using part of that lot unopposed and uncontested for material storage since 1993. No customers or clients have access the property.

I spoke with Randy McMannahay, a representative of College St. Baptist Church @ 10:00am following our meeting. He confirmed the Reitanos had been using part of the lot and church had indeed used the building and land at 135 Kelly dr. for storage of buses, trailers, and building supplies since 1989 if not longer possibly going back to the mid 70s.

Based on this information I concluded that the Reitano's use of this lot for the storage of materials and vehicles constitutes a continuation of a non-conforming use. Which is permitted per Article VII Zoning ordinance 2018.

-Daniel Fletcher- Zoning administrator

Contacts in reference to case

Randy McMannahay (607) 265-2222

Cindy Reitano (607) 265-2222



CITY OF WALHALLA

"MAIN STREET to the MOUNTAINS"

Mr. Danny Edwards, Mayor

Mr. Danny Woodward, Mayor Pro Tem
Ms. Sarai Melendez, Councilwoman
Mr. Keith Pace, Councilman
Mr. Tyler Jordan, Councilman

Mr. Grant Keehn, Councilman
Mr. David Underwood, Councilman
Mr. Michael Kozlarek, City Attorney
Mr. Timothy B. Burton, City Administrator

January 9, 2023

Cindy Reitano
Family Fence, LLC
328 North Pine Street
Walhalla, South Carolina 20691

Mrs. Reitano:

Thank you for coming by the office to speak with me on January 6, 2023, regarding the zoning complaint and letter sent December 30, 2022. Your additional information was helpful. After an exhaustive search, a 2018 document was found from Daniel Fletcher, previous Zoning Administrator. A copy is enclosed for your records.

Based on his previous conclusion that Family Fence's use of 135 Kelley, "for the storage of materials and vehicles constitutes a continuation of a non-conforming use", it is determined that the complaint against Family Fence is unfounded. Family Fence's operation at 328 N Pine St and storage at 135 Kelley Drive are allowed to continue as a compliant non-conforming use.

I apologize for any inconvenience this has caused and wish Family Fence the best in its future endeavors.

If you have questions, please contact me.

Sincerely,

COPY

Celia Boyd Myers, AICP,
Community Development Manager

Enclosure

mailed 1-9-23

Reitano Notes:

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-Daniel Fletcher- Zoning administrator

Contacts in reference to case

Randy McMannahay ([REDACTED])

Cindy Reitano ([REDACTED])

Mr. Danny Edwards, Mayor

Mr. Danny Woodward, Mayor Pro Tem
Ms. Sarai Melendez, Councilwoman
Mr. Keith Pace, Councilman
Mr. Tyler Jordan, Councilman

Mr. Grant Keehn, Councilman
Mr. David Underwood, Councilman
Mr. Michael Kozlarek, City Attorney
Mr. Timothy B. Burton, City Administrator

December 30, 2022

Cindy Reitano
Family Fence, LLC
328 North Pine Street
Walhalla, South Carolina 20691

Mrs. Reitano:

The City of Walhalla is in receipt of a zoning complaint, related to the business Family Fence, LLC. In the course of investigating the complaint, the following was found non-compliant with the zoning ordinance.

1. Family Fence, LLC expanded its operation and is operating out of a structure, located at 135 Kelley Drive, a General Residential (GR) zoned parcel. Commercial use is not permitted within this zoning district. The parcel adjoins 328 N Pine Street which is grandfathered, as a non-conforming use. The non-conforming use status does not allow for expansion, per ordinance.

Additionally, the City requires new and expanding businesses to receive approvals from the Oconee Joint Regional Sewer Authority (OJRSA), City of Walhalla Utilities Director, Fire Marshal and other regulatory agencies, as appropriate. These approvals are not on file.

Due to the above findings, it is determined that Family Fence, LLC is currently operating a business out of compliance with the City of Walhalla's Code of Ordinances. Family Fence, LLC shall immediately discontinue its business operations at 135 Kelley Drive.

Pursuant to Section 700.1 of the City's Zoning Code "Rules Applying to all Nonconforming Uses", if the non-conforming use of 328 N Pine Street was discontinued for a period of three-hundred and sixty-five (365) days, the non-conforming use exception has expired. Otherwise, the non-conforming status remains in effect.

You have the right to appeal this decision to the Board of Zoning Appeals (BZA). If you wish to appeal, please submit a written request, along with the completed Board of Zoning Appeals Form within ten (10) days.

CITY OF WALHALLA

"MAIN STREET to the MOUNTAINS"

Mr. Danny Edwards, Mayor

Mr. Danny Woodward, Mayor Pro Tem
Ms. Sarai Melendez, Councilwoman
Mr. Keith Pace, Councilman
Mr. Tyler Jordan, Councilman

Mr. Grant Keehn, Councilman
Mr. David Underwood, Councilman
Mr. Michael Kozlarek, City Attorney
Mr. Timothy B. Burton, City Administrator

You may also request a variance or special exception from the Board of Zoning Appeals, as provided for in the Zoning Ordinance. If you wish to request a special exception or variance, please complete and submit the Board of Zoning Appeals Form.

The referenced sections of the City's Zoning Ordinance and Board of Zoning Appeals Form are enclosed.

If you have questions, please contact me.

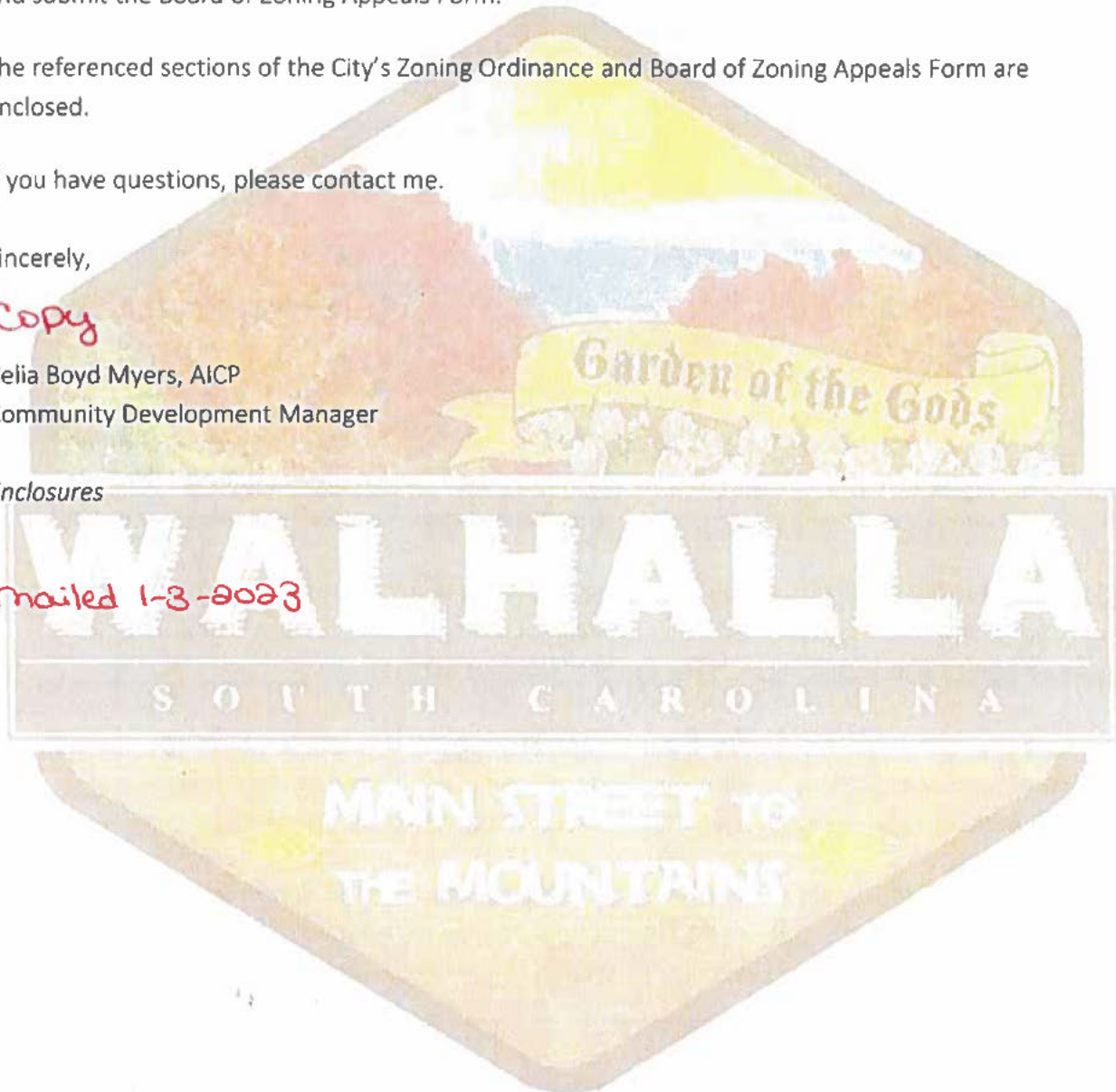
Sincerely,

Copy

Celia Boyd Myers, AICP
Community Development Manager

Enclosures

mailed 1-3-2023



City of Walhalla, SC
Thursday, March 30, 2023

Chapter 330. Zoning and Subdivision

Part 1. Zoning

Article VIII. Administration, Enforcement, Appeals and Remedies

§ 330-1.57. Administration and enforcement.

It shall be the duty of the City of Walhalla Zoning Administrator to administer and enforce the provisions of this Part 1. If the Zoning Administrator finds that any of the provisions of this Part 1 are being violated, he shall

- A. Notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it;
- B. Order discontinuance of illegal buildings, structures, uses or of illegal additions, alterations or structural change, and discontinuance of any illegal activity; and
- C. Take any other action authorized by this Part 1 to ensure compliance with or to prevent violation of its provisions.

§ 330-1.58. Violation complaints.

Whenever a violation of this Part 1 occurs, or is alleged to have occurred, any person may file a written complaint. Such a complaint, stating fully the causes and basis thereof, shall be filed with the Zoning Administrator. He shall record properly such complaint, immediately investigate and take appropriate action thereon.

§ 330-1.59. Appeal from decision of Zoning Administrator.

All questions arising in connection with the enforcements of this Part 1 shall be presented first to the Zoning Administrator. The Zoning Administrator shall issue a written decision to all such questions and shall send it to the person filing the complaint. Appeal may be made to the Board of Zoning Appeals by written notice given to it within 10 days after the date of receipt of the decision.

City of Walhalla, SC
Thursday, March 30, 2023

Chapter 330. Zoning and Subdivision

Part 1. Zoning

Article VII. General Provisions

§ 330-1.39. Continuance of nonconforming uses.

Nonconforming uses are declared to be incompatible with the uses in the districts in which they are located. It is the purpose of this Part 1 to provide for the lawful continuation and to permit the improvement to property value through the repair or replacement of all nonconforming use in the City of Walhalla. A nonconforming use may be modified without expanding the nonconformity of the use or structure.

A. Rules applying to all nonconforming uses.

- (1) If a use which is a nonconforming use is discontinued for a period of 365 days, the nonconforming uses exception shall expire, and the nonconforming use may not thereafter be resumed.
- (2) The casual, intermittent, temporary or illegal use of land or buildings shall not be sufficient to establish the existence of a nonconforming use, and the existence of a nonconforming use on a part of a lot or tract shall not be construed to establish a nonconforming use on the entire lot or tract.
- (3) Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with the public safety, upon order of such official.
- (4) Nothing in this section shall prevent the owner from maintaining a nonconforming building or structure in good repair.

B Replacement of or modification to nonconforming building, structure and use permitted In order to improve property value, an owner of a nonconforming building or structure may replace, modify, alter or add to the nonconforming building, structure or use only if the replacement, modification, addition or alteration meets all specific performance standards of the district in which is located and that use described within this Part 1

§ 330 1 40 Nonconforming lots of record

Where the owner of a lot of record at the time of the adoption of this Part 1 does not own sufficient land to enable him to conform to the dimensional requirements of this Part 1, such lot may nonetheless be used as a building site, provided that said lot requirements are not reduced below the minimum specified in this Part 1 by more than 20%. Use of any lot requiring dimensional waivers below the 20% minimum set forth in this section shall be approved by the Board of Zoning Appeal, provided that further decreased dimensional requirements shall conform as closely as possible to the required dimensions.

City of Walhalla, SC
Thursday, March 30, 2023

Chapter 330. Zoning and Subdivision

Part 1. Zoning

Article IV. Requirements by District

§ 330-1.17. GR General Residential District.

- A. Intent of district. It is the intent of this section that the GR Zoning District be developed and reserved for medium-density residential purposes on lots not less than 5,000 square feet in size. The regulations which apply within this district are designed to discourage any land use which would generate nonresidential traffic on local or collector streets, to encourage the formation and continuation of a stable, healthy residential environment and to discourage unwarranted encroachment of commercial, industrial or other uses capable of adversely affecting the residential character of the district.
- B. Permitted uses. The following uses shall be permitted in any GR Zoning Districts:
- (1) All permitted uses in the R-15 Single-Family Residential District, as shown in § **330-1.15B**.
 - (2) Duplex dwellings and dwellings with garage apartments, with no more than two dwelling units per building.
- C. Conditional uses. The following uses shall be permitted on a conditional basis in any GR Zoning District:
- (1) All conditional uses permitted in the R-25 and R-15 Zoning Districts, as shown in § **330-1.14C** and § **330 1.15C**;
 - (2) Public or private care homes, provided such uses meet the following requirements:
 - (a) Minimum lot area: one acre.
 - (b) Minimum lot width: 100 feet, measured at the front setback line.
 - (c) Minimum front yard setback: 35 feet.
 - (d) Minimum side yard setback: 15 feet.
 - (e) Minimum rear yard setback: 20 feet.
 - (f) Maximum building height: 2.5 stories or 35 feet.
[Amended at time of adoption of Code (see Ch 1, General Provision, Art II)]
 - (3) Vegetative screening. The owner of any public or private care home in this district which adjoins a lot restricted to residential use shall provide and maintain a suitable vegetative screen at least six feet in height above finished grade between it and any lot restricted to residential use.
 - (4) Additional requirements. Any public or private care home in this district shall meet all standards set forth in county, state, federal and local law.

D. Special exception uses.

- (1) Certain uses within any GR Zoning District are to be special exception uses pursuant to the requirements and procedures of § **330-1.47** and all subsections and all conditions stipulated herein:
 - (a) Antennas, towers, masts and similar structures measuring over 17 feet above the top of the highest peak of the roofline
 - (b) Mobile homes. Mobile homes and mobile home parks are special exceptions in any GR Districts, subject to the requirements and procedures of § **330-1.47**, all subsections and all conditions stipulated herein.
- (2) Mobile home park
 - (a) Each mobile home park shall be no less than one acre in size and be located on a well-drained site properly graded to ensure rapid drainage and freedom from stagnant pools of water.
 - (b) Each mobile home park shall not contain more than eight mobile home units per gross acre.
 - (c) Mobile home spaces shall be provided consisting of an average of not less than 5,000 square feet in area, each space to be at least 40 feet wide and 100 feet in depth.
 - (d) All mobile home spaces shall abut upon an all weather surface driveway not less than 20 feet in width, which shall have unobstructed access to a street. The driveway surface may be of concrete, brick, asphalt, gravel or similar material, but not grass or dirt.
 - (e) Each mobile home park must be serviced by an approved community or public water and sewer system, and safe and adequate provision for the centralized collection of waste and garbage must be provided by the owner or operator of the mobile home park, all of which shall comply fully with all laws, ordinances or regulations prescribed by the County Board of Health and the South Carolina Department of Health and Environmental Control (SCDHEC)
 - (f) Mobile home parks shall have a minimum of 25% common open space for active or passive recreation, which shall be easily accessible from all mobile home lots or spaces.
 - (g) All mobile homes, within or outside of mobile home parks, shall adhere to the standards and conditions set forth in Sub section **E**, below

E. Manufactured home standards.

[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]

- (1) Manufactured homes are permitted by special exception in the GR General Residential District and must comply with the requirements of Chapter **199**, Manufactured Home, of the City Code.
- (2) Abandoned mobile homes.
 - (a) Any mobile home which has been abandoned and is declared to be a nuisance under the terms of this Part **1** or Chapter **199** shall be removed by the owner of the land within 90 days of notification. A mobile home shall be considered abandoned if any one of the following applies:
 - [1] If it has been unoccupied with utilities disconnected for a period of one year or greater; or
 - [2] If it has been deemed unsafe, unfit or condemned by the Building Inspector, code official or a Health Authority and no attempt has been made to remedy or repair to current code requirements within 60 days of being declared uninhabitable; or

[3] If the needed repairs exceed 75% of its replacement value.

- (b) The City may recover from the owner of the land upon which such abandoned mobile home is located the expense of removal and disposal of the mobile home and any administrative fees.
- (3) Enforcement. It shall be unlawful for any person to place or park any mobile home or manufactured home upon any premises within the corporate limit, except as provided by this Part 1, Chapter 199 and any amendments thereto; and in the event of any violation of these provisions, such shall be sufficient grounds for the City of Walhalla to discontinue all municipal services to such mobile home.
- F Other requirements. Use permitted or conditional use in GR Zoning District shall be required to conform to the specific dimensional requirements unless otherwise specified. All other relevant portions of this Part 1 shall apply.
- (1) Minimum lot requirements: 5,000 square feet.
- (2) Minimum width in feet 60 feet measured at the front setback line, but in no case is the lot to be less than 25 feet at the right-of-way line.
- (3) Minimum setback requirements:
- (a) Front: 25 feet.
- (b) Side: 10 feet
- (c) Rear: 10 feet.
- (4) Maximum height of building: 2.5 stories or 35 feet.
[Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. II)]
- (5) Maximum structure surface coverage of lot 60%

[HISTORY: Adopted by the City Council of the City of Walhalla by Ord. No. 1994-8, as amended through 1-21-2020 by Ord. No. 2019-21. Subsequent amendments noted where applicable.]

City of Walhalla, SC
Thursday, March 30, 2023

Chapter 210. Noise

§ 210-4. Exceptions.

- A. This chapter does not apply to noise emanating from industrial and manufacturing operations, governmental activities, airports and aircraft, railways, emergency signal devices, firearms discharged as a result of lawful game hunting, agricultural activities, parade, carnival, school band practice or performances, and school- or government-sponsored athletic events.
- B. Additionally, this chapter does not apply to noise between the hours of 7:00 a.m. and 10:00 p.m. which emanates from lawn and yard maintenance activities, tree harvesting or clearing or pile for construction and land clearing
- C. Any lawful business operating as of the date of this chapter that is not in compliance with this chapter and does not fall under exceptions set out in this chapter shall have six months from the date of this chapter to come into compliance with this chapter.
- D. Any lawful business or activity operating as of the date of this chapter that is not in compliance with this chapter and does not fall under exceptions set out in this chapter will nevertheless be considered to be in compliance with this chapter if said lawful business or activity has existed or occurred on or at its present location and made noise that is not in compliance with this chapter prior to the complaining party moving to an area that is affected by the noise