

AGENDA
Newberry County Board of Zoning Appeals
Tuesday, December 6, 2022 at 5:30 p.m.
County Council Chambers
Newberry County Annex

I. Call to Order and Determination of Quorum:

II. Approval of Minutes of Meeting for November 1, 2022:

III. Old Business: None

IV. New Business: Case Presentation

Case # VA01-12-06-22, A Variance request for the relief of the 25-foot required front yard setback to be 8-foot from the road right-of-way, for a 24' x 24' open carport. The property is located at 304 Chalet Rd., Prosperity, SC. Tax Map # 653-3-39-9

Case # VA02-12-06-22, A Variance request for the relief of the average of the 118-foot setback from the 360-contour of Lake Murray to be 91-feet, for an inground pool. The property is located at 42 Sommerset Place, Prosperity, SC. Tax Map # 594-8-1

V. Other Business: None

VI. Discussion and Informational Items:

a) Next scheduled BZA meeting is January 3, 2023 at 5:30 p.m.

VII. Adjourn:

Attachments

MINUTES OF MEETING
Newberry County Board of Zoning Appeals
Tuesday, November 1, 2022 @ 5:30 p.m.
Council Chambers
Newberry County Annex

DRAFT

Members Present:

Chairman Wayne Boland
Vice-Chairman Anna Kay Coleman
Doug Hipp
Ty Ransdell
Patrick Wilkes
Hugh Lister

Members Absent:

None

Other Attendees:

Ron Powell, Director of Building, Planning and Zoning
Lori Shealy, Administrative Support
Bridgett Fain, Secretary
Jason Freeman, Applicant
Gary Redwine, Applicant

Call to Order and Determination of Quorum: Chairman Wayne Boland called the meeting to order at 5:30 p.m. and determined there was a quorum.

Approval of Minutes of Meeting: The minutes of the October 4, 2022, meeting was reviewed. A motion to approve the minutes as written was made by Vice-Chairman Anna Kay Coleman, seconded by Doug Hipp. The vote was unanimous to approve the minutes as written.

Old Business: None

New Business: Case Presentation

Case # VA01-11-01-22, A Variance request for the relief of the average of the 91-foot setback from the 360-contour of Lake Murray to be 71-feet, for a new house. The property is located at 729 Marina Way, Prosperity, SC. Tax Map # 592-2-24

Ron Powell presented the case to the Board as outlined in the Staff Report. He stated that the applicant, Windy Freeman, is requesting this variance to be allowed to place a new house on the property, 71-foot from the 360-contour of Lake Murray. After a brief discussion with various pertinent questions from the board members, Vice-Chairman Anna Kay Coleman made a motion to approve the request, seconded by Patrick Meetze. The vote was unanimous to approve the variance.

Case # VA02-11-01-22, A Variance request for the relief of the 25-foot required front yard setback to be 7-foot from the road right-of-way, for a new pole building. The property is located at 63 Owl Club Lane, Prosperity, SC. Tax Map # 653-4-5

Ron Powell presented the case to the Board as outlined in the Staff Report. He stated that the applicants, Gary and Terri Redwine, are requesting this variance to be allowed to place a new pole building on the property, 7-foot from the road right-of-way. After a brief discussion with various pertinent questions from the board members, Hugh Lister made a motion to approve the request, seconded by Doug Hipp. The vote was unanimous to approve the variance.

Other Business: None

Discussion and Informational Items:

- a. **Next scheduled BZA meeting is December 6, 2022, at 5:30 p.m.**

Adjourn: Due to there being no other business, Vice-Chairman Anna Kay Coleman made a motion to adjourn the meeting, seconded by Doug Hipp, and Chairman Wayne Boland adjourned the meeting at 5:53 p.m.

Notice of Appeal
Form 1
Board of Zoning Appeals
County of Newberry

Date Filed: 10-14-22 Fee Paid: \$150.00 Appeal No.: VA01-12-06-22

This form must be completed for a hearing on **appeal** from action of a zoning official, application for a **variance**, or application for **special exception**. Entries must be printed or typewritten. 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. 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 [indicate one]:

- from action of a zoning official as stated on attached Form 2.
- for a variance as stated on attached Form 3.
- for a special exception as stated on attached Form 4.

APPLICANT(S) [print] Keith Brian Tolbert
Address: 408 Chalet Rd, Prosperity SC 29127
Telephone: 803-600-7329 [work] _____ [home]
Interest: _____ Owner(s): Adjacent Owner(s); Other _____

OWNER(S) [if other than Applicant(s)]: Keith & Digne Tolbert
Address: 408 Chalet Rd, Prosperity SC 29127
Telephone: 803-600-7329 [work] _____ [home]
[Use reverse side if more space is needed]

PROPERTY ADDRESS:
911 Address: 307 Chalet Rd, Prosperity SC 29127
Tax Map No. (TMS #): 653-3-39-9 Plat Book: 19 Page No.: 182
Zoning District Classifications: R5m

DESIGNATION OF AGENT [complete *only* if owner *is not* applicant]:
I ___/We ___ hereby appoint the person named as Applicant as my ___/our ___ agent to represent me ___/us ___ in this application.

Date: _____

Owner

Owner

I ___/We certify that the information in this application and the attached Form 2, 3, or 4 is correct.

Date: 10-14-2022

Keith Tolbert
Applicant
 Keith Digne Tolbert
Applicant

Reviewed for completeness by Zoning Official B. Fawcett

Variance Application
Form 3
Board of Zoning Appeals
County of Newberry

Date Filed: 10-14-22 Fee Paid: 150.00 Appeal No.: VA012-06-22

1. Applicant hereby appeals to the Board of Zoning Appeals for a variance from the strict application to the property described in Notice of Appeals {Form 1} of the following provisions of the Zoning Ordinance: Section 153.172 requires a 25-foot Road right-of-way. so
road right-of-way
that a permit may be issued to allow use of the property in a manner shown on the attached plat (site plan), described as follows: A 17-foot variance to be 8-foot from the
road right-of-way for a 24'x24' open Carport.
for which a permit has been denied by a zoning official on the grounds that the proposal would be in violation of the cited sections of the Zoning Ordinance.

2. The application of the ordinance will result in unnecessary hardship, and the standards for a variance as set by State law and the ordinance are met by the following findings of fact:

a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows: The structure Needs to be placed over the existing parking
pad at end of existing Home.

b. These conditions do not generally apply to other property in the vicinity as shown by: most of
the properties in this vicinity are already developed.

c. 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: The New
open carport could not be placed in the planned
location.

d. The authorization of the variance will not be of substantial detriment to 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 open carport is for personal use

e. The effect of the variance would would not allow the establishment of a use not otherwise permitted in the zoning district; would would not extend physically a nonconforming use of the land; would would not change the zoning district boundaries shown on the official zoning map.

3. The following documents are submitted in support of this application:

Exhibit A. Plat (Site Plan) Plat
Exhibit B. stop sign
Exhibit C. GIS aerial
Exhibit D. Department Photograph
Exhibit E. _____

Appeal No.: VA01-12-06-22

I understand that all surrounding property owners will be notified by the County, and a public hearing is required, in order for this variance application to be heard by the Board of Zoning Appeals. In addition, payment of the application fee guarantees a hearing and consideration of my request, but does not guarantee that my request will be granted.

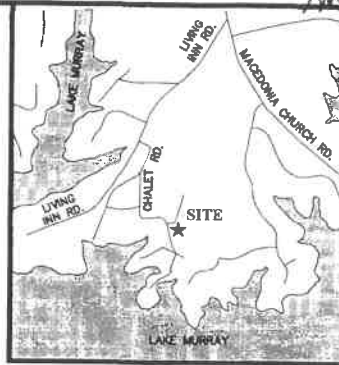
x Date: 10-14-2022

x Keith Talbot
Applicant

x Diane Talbot
Applicant

Reviewed for completeness by Zoning Official B. Fain

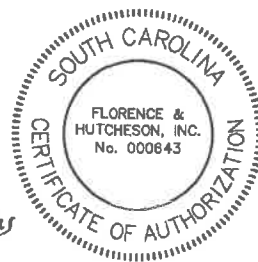
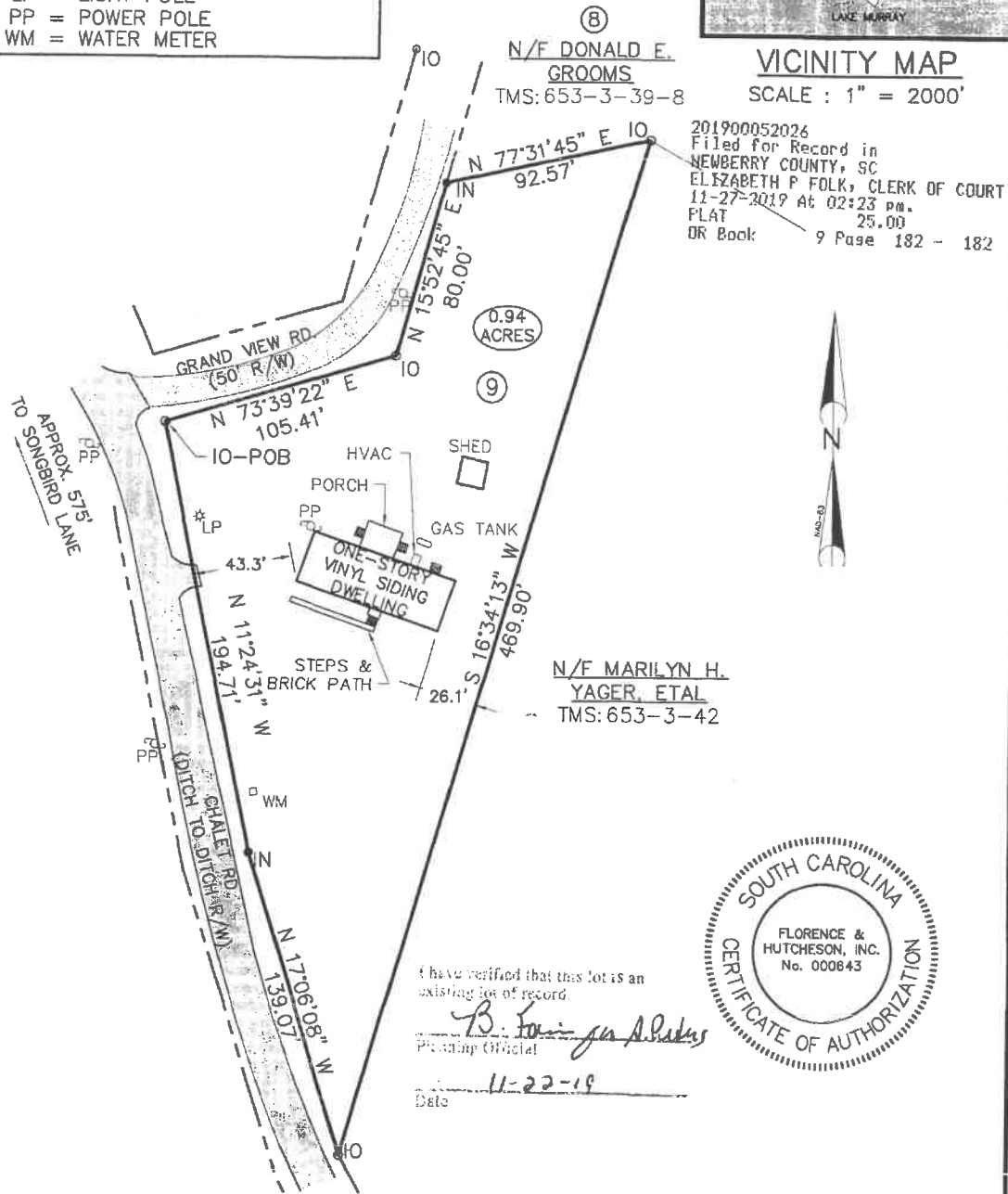
THIS PROPERTY LOCATED AT 304 CHALET ROAD AND DESIGNATED AS NEWBERRY COUNTY TMS# 653-3-39-9 AND LOT 9 ON A SUBDIVISION PLAT FOR CANDLEWOOD GENERAL PARTNERSHIP BY COLLINGWOOD & ASSOCIATES, DATED MARCH 30, 1988. LOCATED APPROXIMATELY 10 MI. SOUTH EAST OF PROSPERITY.



VICINITY MAP

SCALE: 1" = 2000'

LEGEND	
○ IO	= IRON OLD (1 1/4" OPEN PIPE)
● IN	= IRON NEW (#5 REBAR)
● POB	= POINT OF BEGINNING
HVAC	= HEAT VENTILATION & A/C
LP	= LIGHT POLE
PP	= POWER POLE
WM	= WATER METER



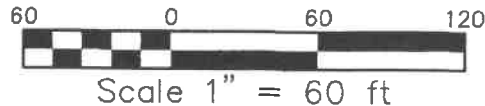
I have verified that this lot is an existing lot of record.

B. Lorenz
 Planning Official

Date 11-22-19

"I hereby state that to the best of my knowledge, information, and belief, the survey shown hereon was made in accordance with the requirements of the Minimum Standards Manual for Practice of Land Surveying in South Carolina, and meets or exceeds the requirements for a Class A survey as specified therein; also there are no visible encroachments or projections other than shown."

Henry A. Shumpert
 HENRY A. SHUMPERT PLS # 19886



FH Florence & Hutcheson
 CONSULTING ENGINEERS
 1639 Burnham Street • West Columbia, SC 29169
 (803) 791-1048 • Fax (803) 791-1049

CLOSING SURVEY
 PREPARED FOR
MARVIN ZEIGLER
 NEWBERRY COUNTY, SOUTH CAROLINA

DATE 05/10/2011
 SCALE AS SHOWN
 DRAWN RMC
 JOB NO. 10093-1129
 CAD FILE ALLSEP-MAIN

Exhibit B

STAFF REPORT
BOARD OF ZONING APPEALS
December 6, 2022
Case No. VA01-12-06-22

Applicant: Keith Brian Tolbert
Property Address: 304 Chalet Rd., Prosperity, SC
Tax Map #: 653-3-39-9

Nature of Appeal: This is a request for a 17-foot variance from the required 25-foot front yard setback, to be 8-foot from the road right-of-way.

Proposed Use: New 24' x 24' open carport for personal use.

Board Determines: The Board is required to consider the following factors, per section 153.052(A)-(F) of the Zoning Ordinance:

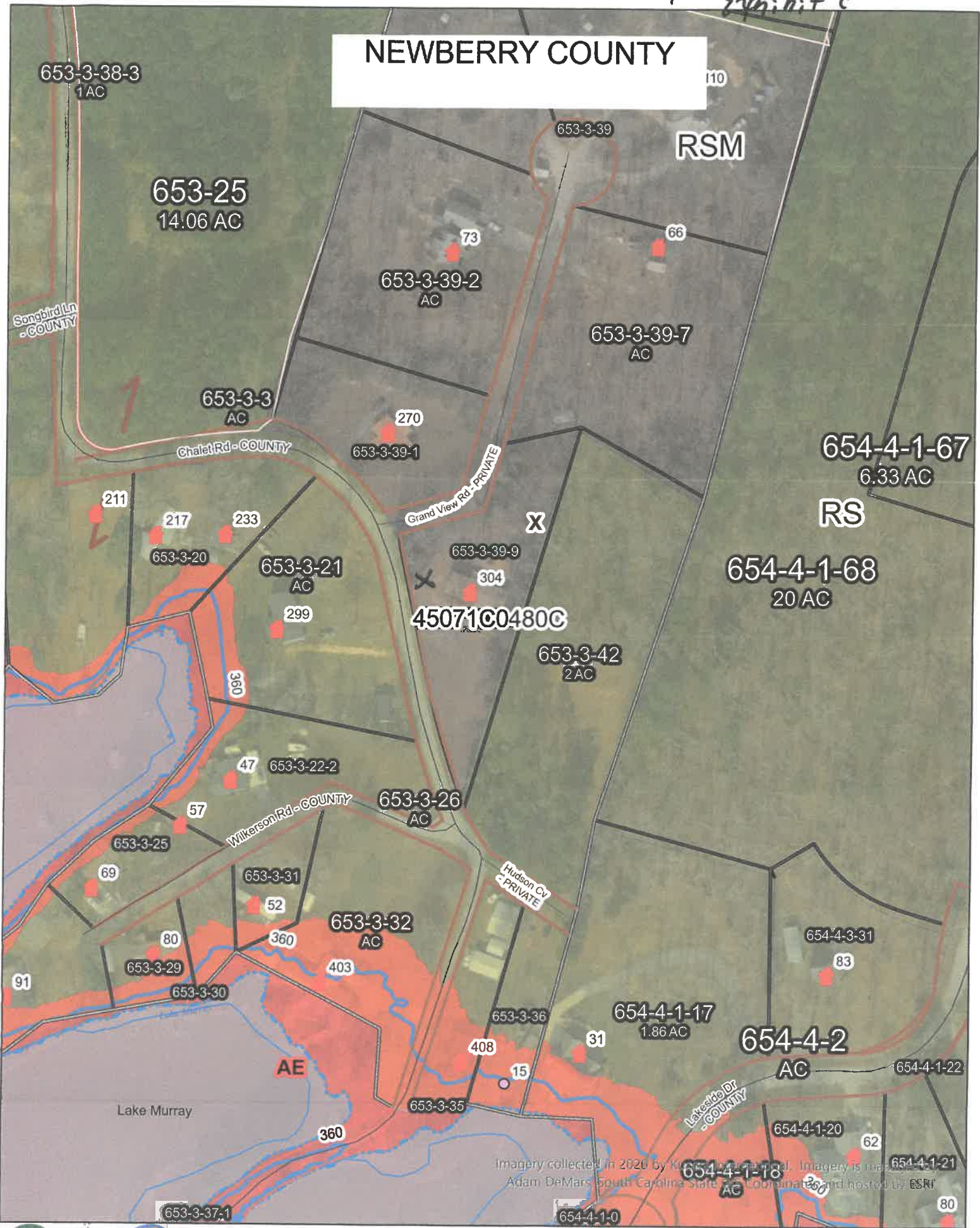
153.052 (C) (1 - 5)

- 1) There are extraordinary and exceptional conditions pertaining to a particular piece of property;
- 2) These conditions do not generally apply to other property in the vicinity or in that district;
- 3) Because of these conditions, the application of the ordinance to a particular piece of property would effectively prohibit or unreasonably restrict use of the property;
- 4) The authorization of the variance will not be of substantial detriment to adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance; and
- 5) The effect of the variance would not allow the establishment of a use not otherwise permitted in the zoning district; would not extend physically a nonconforming use of the land; would not change the zoning district boundaries shown on the official zoning map.

§153.172 Lot area, width, setback requirements table (See Zoning Ordinance)

Exhibit C

NEWBERRY COUNTY



Imagery collected in 2020 by Kurban, Inc. Imagery is made available by Esri. Adam DeMars, South Carolina State Geographer, coordinated and hosted by ESRI

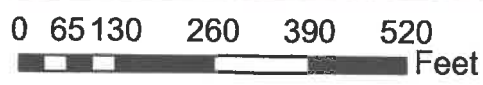
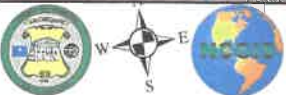


Exhibit D



Notice of Appeal
Form 1
Board of Zoning Appeals
County of Newberry

Date Filed: 11/10/22 Fee Paid: \$150.00 Appeal No.: VA02-12-06-22

This form must be completed for a hearing on appeal from action of a zoning official, application for a **variance**, or application for **special exception**. Entries must be printed or typewritten. 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. 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 [indicate one]:

- from action of a zoning official as stated on attached Form 2.
- for a variance as stated on attached Form 3.
- for a special exception as stated on attached Form 4.

APPLICANT(S) [print] Wesley Muller
Address: PO Box 1906, Irmo, SC 29063
Telephone: 803-513-1972 [work] 803-732-3636 [home]
Interest: Owner(s): _____ Adjacent Owner(s); Other _____

OWNER(S) [if other than Applicant(s)]: John & Deborah Greene
Address: P.O. Box 1037, Marlalls Inlet SC 29526
Telephone: _____ [work] _____ [home]
[Use reverse side if more space is needed]

PROPERTY ADDRESS:

911 Address: 42 Somerset Place, Prosperity SC 29127
Tax Map No. (TMS #): 594-81 Plat Book: D191 Page No.: 8
Zoning District Classifications: RS

DESIGNATION OF AGENT [complete *only* if owner *is not* applicant]:

I /We _____ hereby appoint the person named as Applicant as my _____ /our _____ agent to represent me _____ /us _____ in this application.

Date: 11/10/22

Aguarium Podsy Columbia
Owner
Contractor's
Owner

I /We _____ certify that the information in this application and the attached Form 2, 3, or 4 is correct.

Date: 11/10/2022

Wesley Muller
Applicant

Applicant

Reviewed for completeness by Zoning Official

B. Fair

Variance Application
Form 3
Board of Zoning Appeals
County of Newberry

Date Filed: 11/10/22

Fee Paid: \$150.00

Appeal No.: VA02-12-06-22

1. Applicant hereby appeals to the Board of Zoning Appeals for a variance from the strict application to the property described in Notice of Appeals (Form 1) of the following provisions of the Zoning Ordinance:

Section 153.168 setbacks from Lake shore - accessory structures shall not be less than the average setback plus so
that a permit may be issued to allow use of the property in a manner shown on the attached plat (site plan), described as follows: Needs a 27-foot variance to be 91-foot from the 300-foot contour on Lake Murray for an Inground pool own
for which a permit has been denied by a zoning official on the grounds that the proposal would be in violation of the cited sections of the Zoning Ordinance.

2. The application of the ordinance will result in unnecessary hardship, and the standards for a variance as set by State law and the ordinance are met by the following findings of fact:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property as follows:

There is an existing site built house on the property preventing the inground pool from being placed in the required 180' section

- b. These conditions do not generally apply to other property in the vicinity as shown by: There are still lots in this area to be developed.

- c. 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: The New inground pool could not be placed in the planned location.

- d. The authorization of the variance will not be of substantial detriment to 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 inground pool is for personal use

- e. The effect of the variance would would not allow the establishment of a use not otherwise permitted in the zoning district; would would not extend physically a nonconforming use of the land; would would not change the zoning district boundaries shown on the official zoning map.

3. The following documents are submitted in support of this application:

Exhibit A. Plat (Site Plan) Plat
Exhibit B. Staff Report
Exhibit C. GIS aerial
Exhibit D. Department Photographs
Exhibit E. Copy of Section 153.168
Exhibit F. Site plan
Exhibit G. Zoning Picture

Appeal No.: VA02-12-06-22

I understand that all surrounding property owners will be notified by the County, and a public hearing is required, in order for this variance application to be heard by the Board of Zoning Appeals. In addition, payment of the application fee guarantees a hearing and consideration of my request, but does not guarantee that my request will be granted.

✓ Date: 11/10/2022

Dwight Mulla
Applicant

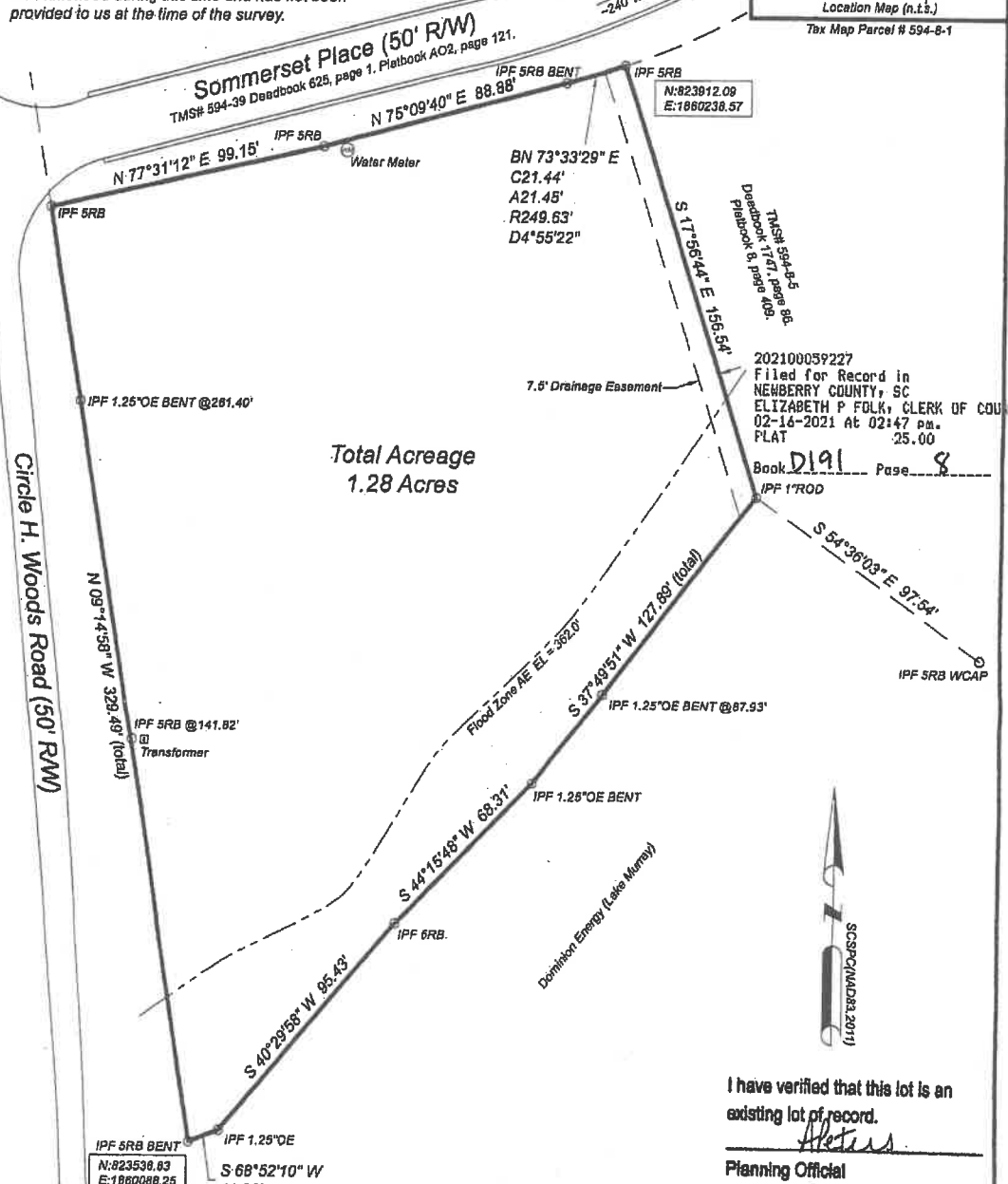
Applicant

Reviewed for completeness by Zoning Official B. Fair

1) The 300 Contour on Lake Murray from the adjacent lake properties on both sides that are developed. Setback would be 118-foot from 300 Contour

© 2021 Abraham Land Surveying. Reproduction or copying of this document may be a violation of copyright law unless permission of the author and/or copyright holder is obtained. This document is certified only to the client listed as "Prepared for" herein and is non-transferable. This document is only genuine if the embossed seal and original signature are intact. Deviations to this Plat are to be made only by the original preparer. This property may be subject to easements, right-of-ways, restrictions other than those shown hereon.

Reference made to Deedbook 1088, page 125.
Reference made to Platbook AR2, page 84.
Note: No new property lines created at this time.
Note: Contact County for applicable regulations.
Note: Survey performed during a time when limited records were available from local and state agencies due to the COVID-19 Pandemic. A Title Search is also recommended during this time and has not been provided to us at the time of the survey.



Total Acreage
1.28 Acres

202100059227
Filed for Record in
NEWBERRY COUNTY, SC
ELIZABETH P FOLK, CLERK OF COURT
02-16-2021 At 02:47 p.m.
PLAT 25.00
Book D191 Page 8
IPF 1*ROD

I have verified that this lot is an
existing lot of record.
Abraham
Planning Official
Date 2-16-21

Boundary Survey & Plat Prepared for:
John Greene & Deborah Greene

Property located at the intersection of Sommerset Place & Circle H Woods Road, on Lake Murray, near Prosperity, S.C., Newberry County TMS# 594-8-1.

Abraham Land Surveying
1323 Kendall Rd., Newberry S.C.
www.surveysc.com 803.276.8719



I hereby state that to the best of my knowledge, information, and belief, the survey shown herein was made in accordance with the requirements of "The Minimum Standards for the Practice of Land Surveying in South Carolina", and meets or exceeds the requirements for a Class B survey as specified therein; also there are no visible encroachments or projections other than shown.
Abraham
Abraham D. Abraham, S.C.R.L.S #27728
Dwg.# 00421

Exh. 4: + B

STAFF REPORT
BOARD OF ZONING APPEALS
December 6, 2022
Case No. VA02-12-06-22

Applicant: Wesley Muller
Property Address: 42 Sommerset Place, Prosperity, SC
Tax Map #: 594-8-1

Nature of Appeal: A Variance request for the relief of the required 118-foot setback from the 360-contour of Lake Murray to be 91-feet from the 360-contour.

Proposed Use: Placement of a new inground pool.

Board Determines: The Board is required to consider the following factors, per section 153.052(A)-(F) of the Zoning Ordinance:

153.052 (C) (1 - 5)

- 1) There are extraordinary and exceptional conditions pertaining to a particular piece of property;
- 2) These conditions do not generally apply to other property in the vicinity or in that district;
- 3) Because of these conditions, the application of the ordinance to a particular piece of property would effectively prohibit or unreasonably restrict use of the property;
- 4) The authorization of the variance will not be of substantial detriment to adjacent property or the public good, and the character of the district will not be harmed by the granting of the variance; and
- 5) The effect of the variance would not allow the establishment of a use not otherwise permitted in the zoning district; would not extend physically a nonconforming use of the land; would not change the zoning district boundaries shown on the official zoning map.

§153.168 Setback from the Lake Shore (See Zoning Ordinance)

594-22-201

NEWBERRY COUNTY

Parcel 1 &
594-10-21
1.41 AC

594-22
4.3 AC

RSM

594-7-11
1.57 AC

594-3
41.099998 AC

594-40
3.06 AC

594-7-12
1.7 AC

594-7-13
1.42 AC

594-7-38-1
4 AC

594-48
1484

594-47
73

594-39
AC

594-10-2
438

RS

X

Somerset Pl - COUNTY

Peninsula Dr - COUNTY

594-7-14
1.79 AC

45071C0480C

594-8-1
1.28 AC

1463

594-7-15
1.41 AC

1521

Bay Ct - PRIVATE

Lake Murray

Circle H Woods Rd - PRIVATE

AE

594-8-10
41

594-8-11
49

594-8-12
42

594-8-13
42

594-8-14

594-8-15
523

594-8-17

594-9-7
1.16 AC

594-8-18

594-9-9
1.59 AC

555-2-138
9 AC

Imagery Managed by Adam Demas

Melrose Pl - COUNTY

594-8-23
85

594-8-24
73

594-8-25

594-8-20
65

594-8-22
73

594-8-28

594-8-29

594-8-31
84

594-8-33



0 45 90 180 270 360 Feet

Exhibit D



**AREA, SETBACK AND DIMENSIONAL
REQUIREMENTS**

**§ 153.165 PURPOSE, INTENT AND
APPLICABILITY.**

In order to ensure that new development, renovations, and reconstructions are designed, sized, and sited to complement the area in which they are located and the character of the county in general; and to protect existing development and property values through the promotion of high standards of compatibility; the following standards are hereby adopted.

(Ord. 06-11-16, passed 9-21-2016)

§ 153.166 CONFORMANCE.

All permitted, conditional, and accessory uses and uses permitted by special exception shall conform to the area, height, density and dimensional requirements as provided in this section for the district in which the use is located.

(Ord. 06-11-16, passed 9-21-2016)

**§ 153.167 MODIFICATION OF
REQUIREMENTS.**

The requirements of this chapter may be further modified by other applicable sections of this zoning ordinance, including, but not limited to, those provided in §§ 153.088 *et seq.* - Conditional Uses and §§ 153.136 *et seq.* - Special Exceptions. Where requirements differ, the more restrictive requirement shall apply.

(Ord. 06-11-16, passed 9-21-2016)

**§ 153.168 SETBACK FROM THE LAKE
SHORE.**

All principal and accessory structures shall be set back no less than 50 feet from the 360 contour line 1929 National Geodetic Vertical Datum (NGVD) on

Lake Murray and the 440 contour line on Lake Greenwood. However, where adjacent lake properties on both sides of a property are developed, the setback shall not be less than the average of the setback from the 360 contour on Lake Murray or the 440 contour on Lake Greenwood of the principal structures on the adjacent lake properties. Mapping and survey data as provided by the Newberry County Geographic Information System (GIS) will be used by the Zoning Administrator to determine the original location of the 360 or 440 contour lines. Local, state, or federal setback requirements from the lake shore may also apply.

(Ord. 06-11-16, passed 9-21-2016; Am. Ord. 12-23-18, passed 2-6-2019)

**§ 153.169 ORIENTATION OF REQUIRED
YARDS.**

(A) *Generally.* In interpreting requirements related to establishment of required yards, the Zoning Administrator shall apply the following interpretation to the orientation of the yards.

(1) *Through lots.* If both the front and rear yards of a lot abut public streets, then the rear building line shall respect the alignment of buildings on the back street while the front building line shall respect the alignment of buildings on the fronting street.

(2) *Corner lots with 2 frontages.* In the case of corner lots with 2 frontages, a front yard of the required depth shall be provided on the frontage of the street having the higher traffic volume. Where the traffic volumes on both streets are approximately equal, the required depth shall be provided on the street frontage having the minimum lot width. A second front yard of half the depth required generally for front yards in the district shall be provided on the other frontage.

(3) *Corner lots with more than 2 frontages.* In the case of corner lots with more than 2 frontages, the Zoning Administrator shall determine the front yard requirements, subject to the following limitations:

Exhibit G

11/8/22



Pool