

BOARD OF ZONING APPEALS



STAFF REPORT DEPARTMENT OF GROWTH MANAGEMENT

MEETING DATE:	August 1, 2023
PROJECT:	1203 May River Road – Variance Request
PROJECT MANAGER:	Jordan Holloway, Senior Planner

APPLICATION REQUEST: The Applicant, Daniel Keefer, on behalf of Ed Goetas/ERB Enterprises, LLC, is requesting a variance for the following application (Attachment 1):

ZONE-07-23-018221 - The Applicant is requesting a variance from UDO Section 5.3.7.B.2.b to encroach 35' into the 50' Highway Corridor Overlay District buffer.

The property is identified by tax map number R610 039 000 0114 0000 and is located at 1203 May River Road in the Neighborhood Core Zoning District. The BZA hearing was advertised in The Island Packet on July 16, 2023 (Attachment 2), the property was posted, and adjacent property owners were notified via certified mail.

INTRODUCTION: The subject property consists of a .673-acre parcel located at 1203 May River Road. The parcel is currently vacant/undeveloped. The Applicant is proposing to construct two commercial buildings, associated parking, and other improvements to support the site. Each building will have a commercial use on the first floor and office on the second floor. The Applicant has submitted a preliminary development plan encompassing 1203 May River Road, 1207 and 1215 May River Road, along with 19 Jason Street (Attachment 3). As the property is located within the Highway Corridor Overlay District and just outside the Historic District (1203 May River Road only), it requires a 50-foot landscape buffer at the front property line along with other regulations relating to architectural standards, site lighting, and additional landscaping standards.

BACKGROUND: Section 5.3.7.B.2.b of the Unified Development Ordinance, requires lots located along South Carolina Highway 46, outside of the Old Town Bluffton Historic District, to have a 50-foot landscaped buffer established from the road right-of-way. The buffer is intended to be left undisturbed; however, it does allow for utilities to pass through or cross, drainage swales, certain structural elements (fences or privacy walls) and other activities (driveway accesses, foot and bike paths, signage and pedestrian amenities). The buffer does not allow for parking or building placement (UDO Section 5.3.7.B.3.a-i). The requested variance is to allow the landscape buffer to be reduced from 50-feet to a 15-foot landscaped buffer along the road right-of-way to allow for the placement of the building and provide a location to accommodate the required parking.

It's important to note that 1195 May River Road (the property to the west of 1203 May River Road), which is currently under construction, requested a variance to encroach 36' into the 50' Highway Corridor Overlay District Buffer (ZONE-01-17-010509). The Board of Zoning Appeals approved the variance request for 1195 May River Road on March 7, 2017.

BOARD OF ZONING APPEALS ACTIONS: As granted by the powers and duties set forth in Section 2.2.6.D.2 of the Unified Development Ordinance, the Board of Zoning Appeals has the authority to take the following actions with respect to this application:

1. Approve the application as submitted by the Applicant;
2. Approve the application with conditions; or
3. Deny the application as submitted by the Applicant.

REVIEW CRITERIA & ANALYSIS: In assessing an application for a Variance, the Board of Zoning Appeals is required to consider the criteria set forth in Section 3.7.3 of the UDO. The seven criteria are provided below followed by a Staff Finding for each criterion.

As expressed in Section 3.7.3.B.1., a variance may be granted as applicable, and the application must comply with the following:

Unnecessary Hardship. A Variance from a dimensional or design standard may be granted by the Board of Zoning Appeals in an individual case of unnecessary hardship upon a finding that all the following standards are met:

1. Section 3.7.3.B.1.a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;

Finding. 1203 May River Road has a depth of 150' feet. When the 50' required buffer is applied along with the required parking lot, rear setbacks, and sidewalks, there is only 20' of building space that is not suitable for commercial development consistent with the May River Road Corridor.

2. Section 3.7.3.B.1.b These conditions do not generally apply to other property in the vicinity, particularly those in the same zoning district;

Finding. The 50' buffer requirement starts at 1203 May River Road because it is directly adjacent to the Historic District. The other two properties that are part of the Applicant's preliminary development plan are part of the Neighborhood General -HD Zoning District Historic District, which has a front build-to zone of between 10 and 35 feet, depending on building type. While the property to the west is in the Highway Corridor, it received a variance to allow a 14' buffer/setback.

3. Section 3.7.3.B.1.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 in a manner consistent with others in the zoning district;

Finding. The property, which has a frontage of approximately 175 feet, is a Small Commercial Lot Type. Small Commercial Lots have a minimum 20-foot rear building setbacks and a minimum 10-foot front setback. With the lot depth of 150 feet, and the required 50-foot HCOD undisturbed buffer along the front, the developable area is substantially less than other Small Commercial Lots within the same zoning district. Due to the smaller depth than most lots in the HCOD, and it directly adjacent to the Neighborhood Core-HD zoning district, the application of the Ordinance to this particular piece of property would unreasonably restrict the commercial usage of the property in a manner that is not consistent with others in the zoning district.

4. Section 3.7.3.B.1.d The need for the Variance is not the result of the Applicant's own actions;

Finding. The lot in question (1203 May River Road) was created prior to the establishment of the Highway Corridor Overlay District. Due to the lot depth, the buildable area with the overlay buffer is substantially restricted compared to other lots in the same zoning district within the Highway Corridor Overlay District. Further, as this lot is directly adjacent and across the street from the historic district, buildings are meant to be pushed closer to the street to create a walkable environment and corridor.

5. Section 3.7.3.B.1.e The authorization of a Variance does not substantially conflict with the Comprehensive Plan and the purposes of this Ordinance;

Finding. The approval of the requested variance would not substantially conflict with the Comprehensive plan or the purposes of the ordinance.

6. Section 3.7.3.B.1.f The authorization of a Variance will not result in a 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;

Finding. The approval of the requested variance would not result in substantial detriment to adjacent property owners or the public good. The property to the west received a variance to allow for the building to be pushed closer to the street, and the adjacent properties to the east are within the Neighborhood General- HD zoning District, which requires the buildings be placed closer to the street. The design of the structures will be reviewed by the Planning Commission through the Certificate of Appropriateness-HCOD process to ensure compliance with the character of the district.

7. Section 3.7.3.B.1.g The reason for the Variance is more than simply for convenience or to allow the property to be utilized more profitably.

Finding. The reason for the variance is to allow the property to be utilized in a similar fashion as the other properties within the May River Road corridor in the vicinity of the Historic District.

CONCLUSION: Applying the seven variance criteria, the Board of Zoning Appeals must determine if the literal interpretation and enforcement of the UDO and provisions of the Ordinance would result in unnecessary hardship to the property owner(s). Findings of fact and using the criteria will be required.

ATTACHMENTS:

1. Application and Narrative
2. Public Advertisement
3. Preliminary Development Plan