

**Board of Zoning Appeals
Final Decision and Order on Variance
Application # BZA-10-16-00157 for property
located at 4494 Highway 174**



Findings of Fact

The Town of Meggett Board of Zoning Appeals ("BZA") makes the following findings of fact pursuant to S.C. Code Ann. §6-29-800 and the *Town of Meggett Zoning and Land Development Regulations Ordinance (ZLDR)* Article 10.12, §10.12.6. Based on the evidence presented at the hearing and pursuant to the *Town of Meggett ZLDR* §10.12.6, the Town of Meggett BZA finds that Stephanie Smith, Town Administrator, acting on behalf of the Town of Meggett ("the Applicant") filed an application for a Variance for property identified as TMS #061-00-00-063 and located at 4494 Highway 174. The Applicant requests a Variance to build a picnic shelter within the 50-foot OCRM Critical Line setback, encroaching within the setback a total of 36.3 feet, in the Agricultural General (AG) Zoning District. The Applicants filed this request on October 3, 2016 and the BZA heard the Applicants' request on November 16, 2016.

The BZA finds that there are extraordinary and exceptional conditions pertaining to this particular piece of property, as the Land & Water Conservation Fund Grant awarded to the Town of Meggett on October 26, 2012, regarding this property, includes funds for the picnic shelter and restricts the building space for the picnic shelter to a specific approved Project Area. Furthermore, on December 19, 2014, through a Grant of Conservation Easement, the Town of Meggett conveyed certain rights regarding this property to the Lowcountry Open Land Trust, Inc., to ensure that the property will be retained in perpetuity predominantly in its relatively natural and scenic condition for conservation purposes.

The BZA also finds that these conditions do not generally apply to other property in the vicinity, as there are no other similar properties in the area; this property is owned by the Town of Meggett and is unique to Meggett, SC.

The BZA also finds that because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property, as the conditions of the 50-foot critical line setback prevents the Town from placing a picnic shelter that would be used for recreational and educational purposes as laid out by the Grant Conservation Easement for the Town of Meggett.

The BZA also finds that authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance, as the picnic shelter will not obstruct any views of neighboring properties, its presence will benefit the public by offering shelter and an optional event location, and the zoning district will not be affected as the area is already a recreational and educational environment.

The BZA also finds that the granting of this variance would not result in the establishment of a use not otherwise permitted in a zoning district, extend physically a Nonconforming Use of land, or change the zoning district boundaries shown on the Official Zoning Map, as the property is already used as a cottage rental and event location.

The BZA also finds that the need for this variance is not the result of the applicant's own actions, as the need for the variance is a result of the restriction applied by the Land & Water Conservation Fund Grant, which was awarded to the Town of Meggett.

The BZA also finds that the granting of this variance the effect of which would be to allow the construction of a picnic shelter on this property, would not substantially conflict with the Comprehensive Plan or the purposes of the Ordinance.

Conclusions of Law

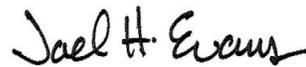
The BZA is authorized pursuant to S.C. Code Ann. §6-29-800 and the *Town of Meggett Zoning and Land Development Regulations Ordinance (ZLDR)* §10.12.6 to hear and approve, approve with conditions, or deny special exceptions. Based upon the findings of fact, the Board of Zoning Appeals concludes as a matter of law that the Applicants' request for the variance satisfies the Approval Criteria in the *Town of Meggett (ZLDR)* §10.12.6.

THEREFORE, the Town of Meggett Board of Zoning Appeals approves the variance request for the reduction of the required 50-foot OCRM (Office of Ocean and Coastal Resource Management) Critical Line setback by 36.3 feet to 13.7 feet in the Agricultural General (AG) Zoning District, subject to the following conditions;

1. The owner shall engage a Certified Arborist through design and construction of the picnic shelter to make recommendations on tree protection and preservation techniques to be utilized in order to mitigate negative impacts to the overall health of all Grand Trees within 40' of any land disturbance.
2. Tree protection barricades shall be installed and inspected around all required trees before site work can begin on site. These barricades, constructed of wood or plastic fencing or other approved materials shall be placed beneath the canopy drip line or one and one-half feet times the DBH (diameter breast height) of the tree. The barricades shall remain in place until development activities are complete.

Any person with a substantial interest may appeal the Board of Zoning Appeals' decision to the Circuit Court of Charleston County within 30 calendar days after the decision of the Board of Zoning Appeals is mailed.

Pursuant to the *Town of Meggett (ZLDR)*, *Article 10.12 Zoning Variances*, §10.12.10 *Lapse of Approval*, all approvals are subject to South Carolina State Law, Vested Rights Act, Sections 6-29-1510 through 6-29-1560.



Joel H. Evans, AICP, PLA
BZA Secretary

Date issued: November 16, 2016

Date mailed to parties in interest: November 23, 2016