

TOWN OF MEGGETT, SOUTH CAROLINA

Board of Zoning Appeals Meeting
November 16, 2023, at 6:00 PM

REVIEWING

- **BZAV-10-23-001**
- **BZAS-10-23-002**

FOIA

In compliance with the Freedom of Information Act (FOIA), a notice of this meeting and an agenda were posted and furnished to all news media and persons requesting notification. Posted notices were installed on each subject parcel 15 days prior to the meeting.



BZAV-10-23-001

REVIEW & CASE HISTORY

OWNER(S)/ APPLICANT(S):	Kevin & Penelope Vachon
LOCATION:	4504 Smoak Rd, Meggett, SC 29449
PID / TMS#:	129-00-00-015
APPLICATION:	Variance request to remove a 33" DBH Live Oak for a proposed single-family dwelling.
TOTAL ACREAGE:	0.5 acres

PARCEL HISTORY:

The Subject Parcel, originally known as Parcel 2-A, was created via subdivision in May of 1967. In the 56 years since it was created, the property has changed hands several times but has remained undeveloped; ownership of the parcel formally transferred to its current owners, Kevin and Penelope Vachon (the Applicants) in February 2023.

STAFF REVIEW:

The applicant(s) and property owner(s), Kevin and Penelope Vachon, are requesting a Variance to remove a 33" DBH Live Oak for a proposed single-family dwelling on property located at 4504 Smoak Rd (TMS 129-00-00-015).

The subject property is zoned Agricultural Rural (AR) and is undeveloped. Surrounding properties are also in either the AR or AG (Agricultural General) Zoning Districts of the Town of Meggett and contain residential homes or are vacant, undeveloped lots. Directly adjacent to the Subject Property, across Ethel Post Office Rd, is a 400+ acre Charleston County Park that is open to the public.

Staff conducted a site visit on November 1, 2023.

APPROVAL CRITERIA - §10.12.6(B)

STAFF RESPONSE & FINDINGS

According to §10.12.6(B) of the Town of Meggett *Zoning & Land Development Regulations Ordinance*, a Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Zoning Appeals makes and explains in writing the following findings:

§10.12.6 B (1): There are extraordinary and exceptional conditions pertaining to the particular piece of property;

Response: The subject property is extraordinary with respect to both its size and drainage features. Created in 1967, prior to the adoption of the Town's Zoning regulations, the lot is only 0.5 acres in size and is therefore considered legal nonconforming; newly created interior lots must be at least 3 acres (highland) under today's requirements. Further impacting the buildable area is a drainage easement that cuts across the back right corner of the property. Additionally, it is remarkable in that there is a Grand Tree growing directly in the center of the property- keeping this tree in its current location would make developing the parcel nearly impossible.

Therefore, the request meets this criterion.

§10.12.6 B (2): These conditions do not generally apply to other property in the vicinity;

Response: These conditions may be unique to the subject property and do not generally apply to other properties in the vicinity. Many of the frontage lots along the beginning of Smoak Rd are similarly sized, however, they are all already developed and as far as Staff is aware, did not have Grand Trees growing in the center of the lot.

Therefore, the request may meet this criterion.

§10.12.6 B (3): 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;

Response: Strict application of the Ordinance to the subject parcel would make it difficult to develop. The Grand Tree that the Applicants are requesting to remove is growing in the center of a parcel that is extremely small by Meggett standards; developing the parcel will be nearly impossible without impacting the tree in some fashion.

Therefore, the request meets this criterion.

§10.12.6 B (4): The 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;

Response: Granting of the Variance should not be of substantial detriment to surrounding properties, nor should it affect the character of the zoning district.

Therefore, the request may meet this criterion.

§10.12.6 B (5): The Board of Zoning Appeals shall not grant a Variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a Nonconforming Use of land, or to change the zoning district boundaries shown on the Official Zoning Map. The fact that property may be utilized more profitably if a Zoning Variance is granted shall not be considered grounds for granting a Zoning Variance;

Response: Granting of the Variance will not allow a use that is not permitted in this zoning district, nor does it extend physically a nonconforming use of land or change the zoning district boundaries. Staff has seen no evidence thus far to suggest that profitability is in any way relevant to this request.

Therefore, the request may meet this criterion.

§10.12.6 B (6): The need for the Variance is not the result of the Applicant's own actions; and

Response: The need for the Variance is not the result of the Applicant's own actions. The subject tree has been growing naturally on the parcel for many years and given that it has remained unimproved for so long, there was no way to know what the future impact might be on developing the parcel.

Therefore, the request may meet this criterion.

§10.12.6 B (7): Granting of the Variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.

Response: Granting of the Variance does not substantially conflict with the Comprehensive Plan and the purposes of the Zoning Ordinance. The subject property and the surrounding properties are intended for Residential Use, according to the Future Land Use Map. This Land Use Element in the Comprehensive Plan further states, *"The Residential Future Land Use Category is intended to maintain the Town's low-density single-family residential character."*

Therefore, the request may meet this criterion.

BOARD OF ZONING APPEALS' ACTION

According to Article 10.12, *Zoning Variances*, §10.12.6, *Approval Criteria*, of the *Town of Meggett Zoning and Land Development Regulations Ordinance* (ZLDR), the Board of Zoning Appeals has the authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship [§10.12.6(A)]. A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Zoning Appeals makes and explains in writing their findings [§10.12.6(B), *Approval Criteria*].

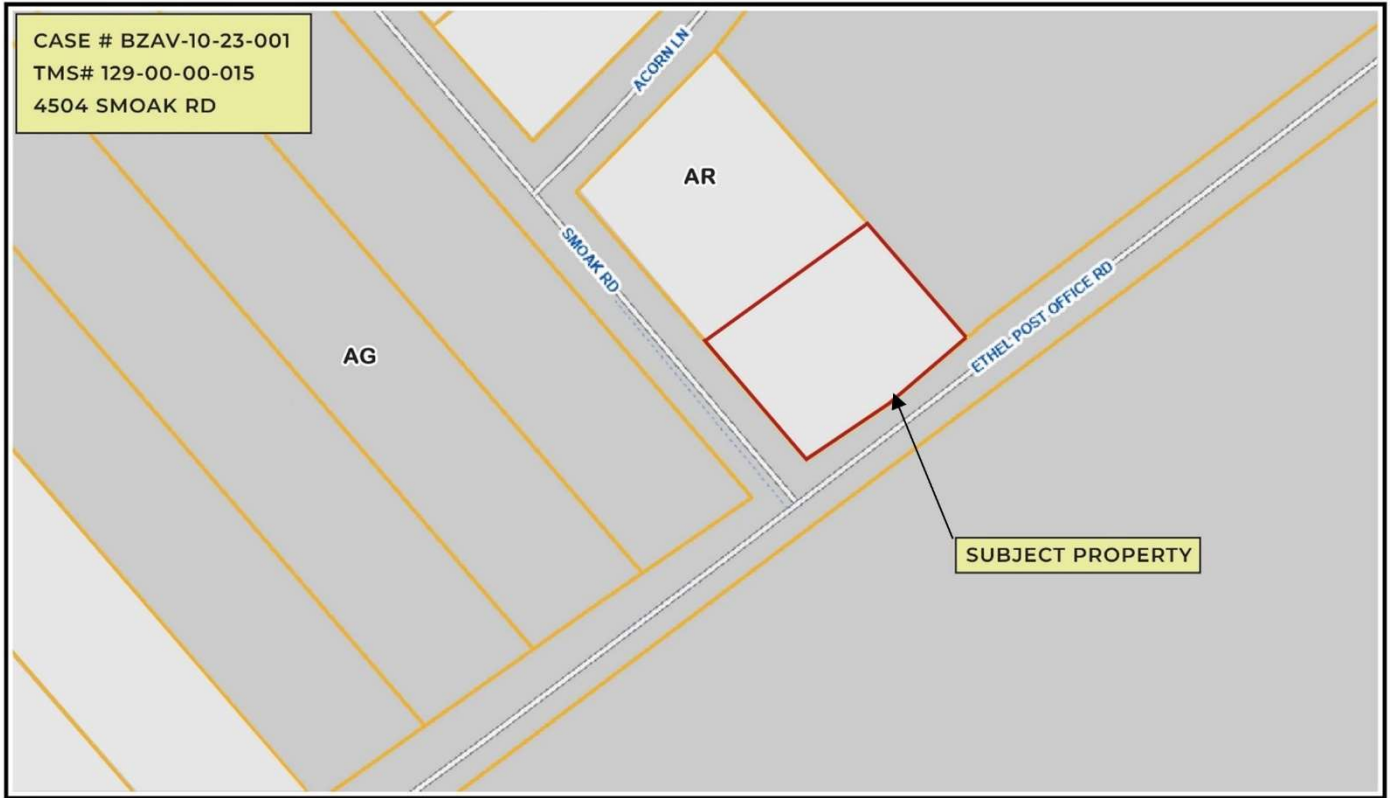
In granting a Variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare [§10.12.6(C)].

The Board of Zoning Appeals may approve, approve with conditions, or deny Case# BZAV-10-23-001 based on the BZA's "Findings of Fact", unless additional information is deemed necessary to make an informed decision. At least two-thirds of the members present and voting are required to approve a Zoning Variance pursuant to [§10.12.5(C)].

STAFF RECOMMENDATION

Considering that the application meets or may meet all the criteria for granting a Variance, Staff recommends approving the request.

SUBJECT PARCEL

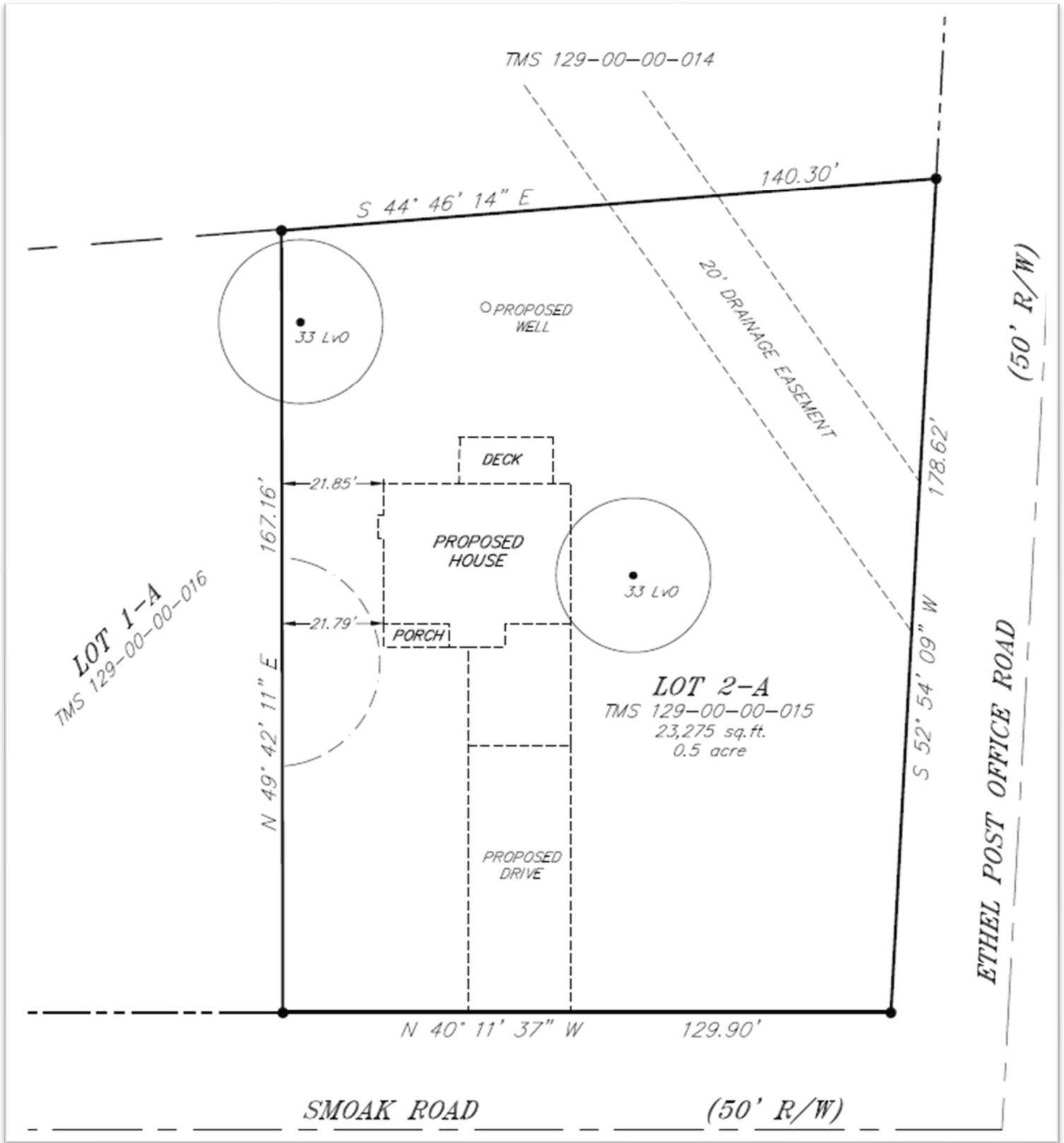


AERIAL VIEW OF THE SUBJECT PARCEL



2023 SITE PLAN

*PLEASE NOTE THAT THE TREE PROTECTION BARRICADES SHOWN ARE TOO SMALL. THE TP ZONE DRAWN BELOW MEASURES 33' TOTAL IN DIAMETER (I.E., 16.5 FT ON EACH SIDE AS A RADIUS OR ½ FT PER INCH OF DBH); ACCEPTABLE STANDARD IS 1 FT PER INCH OF DBH (I.E., 33 FT ON EACH SIDE AS A RADIUS OR 66 FT IN TOTAL DIAMETER). *



SITE PHOTOS





