



BOARD OF ADJUSTMENT MINUTES

May 23, 2024

6:00 PM

Administration Building,
4th Floor, BCC Meeting Room,
477 Houston Street,
Green Cove Springs, FL 32043

CALL TO ORDER

Present: Keith Hadden, Chairman
Tom Goldsbury, Vice-Chairman
Brandon Ludwig

Absent: Nykki Van Hof
Brian Kraut

Staff Present: Assistant County Attorney Jamie Hovda
Zoning Chief Mike Brown

Chairman Keith Hadden called the meeting to order at 6:00 pm.

APPROVAL OF MINUTES

Board of Adjustment Meeting Minutes and Attachment February 22, 2024.

Tom Goldsbury made a motion for approval for the February 22, 2024, BOA meeting minutes, seconded by Brandon Ludwig, which carried 3-0.

PUBLIC COMMENT

Chairman Keith Hadden opened the floor for public comment at 6:00 pm.

Hearing no comments, Chairman Keith Hadden closed the public comment at 6:01 pm.

PUBLIC HEARINGS

1. Public Hearing to consider Application BOA 24-0001; Variance to Section 3-13(f) (8) of the County Land Development Code.
Variance to the Clay County Land Development Code, Article III, Section 3-13(f) (8), to reduce the minimum living area of the principle residential structure from 750 sq. feet to 720 sq. feet.

BOA-24-0001 can be seen at www.claycountygov.com/government/clay-county-tv-and-video-archive/Board-of-Adjustment/May 23, 2024, beginning at 00:58 and ending at 15:25. Below is a summary of the discussion and the vote for this agenda item.

Mike Brown, Zoning Chief, presented a PowerPoint presentation for the public hearing to consider BOA-24-0001, the request for a variance to the Clay County Land Development Code, Article III, Section 3-13(f) (8), to reduce the minimum living area of the principal residential structure from 750 square feet to 720 square feet. See Attachment A.

Questions and discussions were raised regarding surrounding homes and zoning.

Jon Mayer, Designers LifeStyles, the agent, addressed the Board to provide details and information for the requested variance.

There were questions and discussions regarding budget and costs, access to the property, requirements, livable area, feedback from neighbors, and the size of the structure.

Chairman Keith Hadden opened the floor for the public hearing at 6:15 pm.

Hearing no comments, Chairman Keith Hadden closed the public hearing at 6:15 pm.

Brandon Ludwig made a motion for approval of BOA-24-001, seconded by Tom Goldsbury, which carried 3-0.

2. Public Hearing to consider BOA 24-0003; Variance to Section 3-15(g)(4) of the County Land Development Code.

Variance to the Clay County Land Development Code, Article III, Section 3-15(g) (4), to reduce the side setback from 10 feet to 7 feet in the Rural Estates zoning district.

BOA-24-0003 can be seen at [www.claycountygov.com/government/clay-county-tv-and-video-archive/Board-of-Adjustment/May 23, 2024](http://www.claycountygov.com/government/clay-county-tv-and-video-archive/Board-of-Adjustment/May%2023,2024), beginning at 15:27 and ending at 46:50. Below is a summary of the discussion and the vote for this agenda item.

Mike Brown, Zoning Chief, presented a PowerPoint presentation for the public hearing to consider BOA-24-0003, the request for a variance to the Clay County Land Development Code, Article III, Section 3-15(g) (4), to reduce the side setback from 10 feet to 7 feet in the Rural Estates zoning district. See Attachment B.

Questions and discussions were raised regarding the surrounding properties.

Thomas Callahan, Applicant, 6597 Spirit Lane, Kingsley Lake, Florida, addressed the Board to provide more information regarding the requested variance.

There were questions and discussions regarding the site plan, location of the home on the property, clarification of the desired variance, sidewalk, size of the neighboring property, and possibility for a continuance, requirements, and additional costs.

Chairman Keith Hadden opened the floor for the public hearing at 6:45 pm.

Hearing no comments, Chairman Keith Hadden closed the public hearing at 6:45 pm.

Brandon Ludwig made a motion for approval of BOA-24-0003, seconded by Tom Goldsbury, with the motion to include the addition/walkway on the south side of the property. Mr. Ludwig agreed, and the motion carried 3-0.

3. Public Hearing to consider BOA 24-0006; Variance to Section 3-33A.III.5.h of the County Land Development Code.

Variance to the Clay County Land Development Code, Article III, Section 3-33A.III.5.h, to allow for two pump island canopies at a Convenience Store/Gas Station in the Branan Field Activity Center district.

Public Hearing to consider [www.claycountygov.com/government/clay-county-tv-and-video-archive/Board-of-Adjustment/May 23, 2024](http://www.claycountygov.com/government/clay-county-tv-and-video-archive/Board-of-Adjustment/May_23,_2024), beginning at 46:52 and ending at 1:06:43. Below is a summary of the discussion and the vote for this agenda item.

Mike Brown, Zoning Chief, presented a PowerPoint presentation for the public hearing to consider BOA-24-0006, the request for a variance to the Clay County Land Development Code, Article III, Section 3- 33A.III.5.h, to allow two pump island canopies at a Convenience Store/Gas Station in the Branan Field Activity Center District. See Attachment C.

Questions and discussions were raised regarding the code, requirements, safety, and location of the property.

Courtney Gaver, Rogers, Towers. The agent for the Applicant addressed the Board to present a PowerPoint presentation to provide details and information for the requested variance. See Attachment D.

There were more questions and discussions regarding vehicle entry and exit, canopy and coverage, the site plan, and drive isles.

Chairman Keith Hadden opened the floor for the public hearing at 7:03 pm.

Hearing no comments, Chairman Keith Hadden closed the public hearing at 7:03 pm.

Brandon Ludwig made a motion for approval and addressed the letter of opposition; Tom Goldsbury seconded the motion, which carried 3-0.

Following the public hearing, Mr. Brown introduced Ms. Tonja McCoy, Senior Planner, to the Board and spoke about the staff changes.

PUBLIC COMMENT

Chairman Keith Hadden opened the floor for public comment at 7:07 pm.

Hearing no comment, Chairman Keith Hadden closed the public comment at 7:07 pm.

ADJOURNMENT

Hearing no further business, Chairman Keith Hadden adjourned the meeting at 7:07 pm.

Attest:

Committee Chairman

Recording Deputy Clerk

Attachment

“A”

BOA-24-0001



BOARD OF ADJUSTMENT

BOA-24-0001

Public Hearing

May 23, 2024

APPLICATION INFORMATION

Applicant: Randy Usina
Agent: Jon Mayer/Dean Fletcher
Location: 4925 Windmill Court, Middleburg
Request: Variance to Article III, Section 3-13(f)(8), to reduce the minimum living area of the principle residential structure from 750 sq. feet to 720 sq. feet.

Aerial



Background

The parcel is located at the end of Windmill Court along the southern boundary of Jennings State Forest.

The parcel is located in AR zoning district with a future land use designation of Rural Residential.

The AR zoning district requires the principal residential dwelling to have a minimum 750 square feet living area.

The applicant wishes to construct a principal residential dwelling consisting of two (2) 8 ft. by 45 ft. shipping containers. Together the two containers would result in a residential dwelling totaling 720 sq. ft.

Shipping containers come in standard predetermined sizes. The applicant has indicated that larger shipping containers were not available for purchase

Conditions for a Variance

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands structures, or buildings in the same zoning district.

That the special conditions and circumstances do not result from the actions of the applicant.

The applicant desires to construct a principle residential dwelling utilizing two 8 feet wide by 45 ft. long shipping containers. Shipping containers come in standard predetermined sizes which ultimately dictate the size of a structure when containers are utilized for construction. The applicant has indicated that only the 45 ft containers were available for purchase.

The predetermined size of the shipping containers is not the result of any action by the applicant. However, it is the applicant's choice to utilize shipping containers for the construction of the residence.

Conditions for a Variance

That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district.

The granting of the variance will confer on the applicant a privilege denied to other properties in the AR zoning district by reducing the minimum required living area for a principle residential dwelling.

That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by the other properties in the same zoning district under the terms of the ordinance, and would work unnecessary and undue hardship on the applicant.

The literal interpretation of the ordinance would not deprive the applicant of rights commonly enjoyed by other property owners AR zoning district. There are other options for construction of the residence besides the utilization of shipping containers. Both mobile homes and conventionally built residential units are permitted in the AR zoning district.

Conditions for a Variance

That the variance granted is the minimum variance that will make possible the beneficial use of the land, building or structure.

The requested variance is the minimum variance needed to allow for the utilization of the two 45 ft. shipping container to construct the residential dwelling.

That the granting of the variance will be in harmony with the general intent and purposes of these ordinances and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The granting of the variance will allow for the reduction of the required livable space by 30 sq. ft. The variance if granted will be in harmony with the general intent and purpose of the LDC. The granting of the variance should not be injurious or detrimental to the public welfare.

Recommendation

Staff finds that the request to reduce the minimum required living area to 720 sf in the AR zoning district is not consistent with the Land Development Code.

The need for the variance is the result of the choice by the applicant to utilize shipping containers to construct the primary residential dwelling and shipping containers come in standard predetermined sizes.

Staff recommends denial of the requested variance.

QUESTIONS

Attachment

“B”

BOA-24-0003



BOARD OF ADJUSTMENT

BOA-24-0003

Public Hearing

May 23, 2024

APPLICATION INFORMATION

Applicant: Thomas Callahan

Agent: N/A

Location: 6607 Spirit Lane

Request: Variance to Article III, Section 3-15(g)(4), to reduce the side setback from 10 feet to 7 feet in the Rural Estates zoning district.

Aerial



Background

The parcel is located between State Road 16 W and Kingsley Lake.

The parcel is located in AR-2 zoning district with a future land use designation of Rural Residential.

The parcel is part of the J.M Edwards Subdivision recorded in 1949. Clay Property Appraiser information indicates the house was built in 1968 prior to the adoption of zoning in the County.

The applicant wishes to construct a gabled entry on the south side of the existing house. The location of the existing residential unit on the lot would require the new covered entrance to encroach into the required 10 side setback by 3 feet.

The County is in receipt of an email from the neighbor indicating no issue with the reduction of the side setback for the purpose of the gabled side entrance.

Conditions for a Variance

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands structures, or buildings in the same zoning district.

That the special conditions and circumstances do not result from the actions of the applicant.

The existing residential structure is located approximately 10 feet from the south property line. Information from the Property Appraisers Office indicates the residential structure was built in 1968. The location of the existing dwelling in relation to the south property line is not a result of an action by the applicant.

Conditions for a Variance

That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district.

The granting of the variance will confer on the applicant a privilege denied to other properties in the AR-2 zoning district by reducing the side yard setback.

That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by the other properties in the same zoning district under the terms of the ordinance, and would work unnecessary and undue hardship on the applicant.

The literal interpretation of the ordinance would not deprive the applicant of rights commonly enjoyed by other property owners AR-2 zoning district. However, the existing primary residential structure was placed in the present location prior to setback requirements in the County zoning regulations. The literal interpretation of the ordinance would not allow for the covered porch on the south side of the residence.

Conditions for a Variance

That the variance granted is the minimum variance that will make possible the beneficial use of the land, building or structure.

The requested variance is to reduce the side setback to 7 feet is the minimum variance required to be able to undertake the gabled entry desired.

That the granting of the variance will be in harmony with the general intent and purposes of these ordinances and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The granting of the variance will allow for the construction of a gabled entrance on the south side of the residential unit. An email was received by staff from the neighbor on the south side of the parcel indicated they had no issue with the encroachment into the side setback for the purpose allowing for the gable entrance. The granting of the variance should not be injurious or otherwise detrimental to the public welfare.

Recommendation

Staff finds that the requested variance to reduce the side setback in the AR-2 zoning district is not consistent with the Land Development Code.

However, the existing structure has been in its present location on the parcel since 1968 and the granting of the variance would be in harmony with the general intent of the Code.

Staff recommends approval of the request to reduce side setback from 10 feet to 7 feet for the purpose of construction of gabled entrance on the south side of the primary dwelling.

QUESTIONS

Attachment

“C”

BOA-24-0006



BOARD OF ADJUSTMENT

BOA-24-0006

Public Hearing

May 23, 2024

APPLICATION INFORMATION

Applicant: Wod Timber Company Inc.

Agent: RaceTrac Inc. / Rogers Towers, P.A. (Courtney Gaver)

Location: Corner of Blanding/Gregory B Clary Way

Request: Variance to Article III, Section 3-33A.III.5.h, to allow for two pump island canopies at a Convenience Store/Gas Station in the Branan Field Activity Center district.

Aerial



Background

The parcel is located in the northeast quadrant of the intersection of Blanding and Gregory B. Clary Way.

The parcel is designated Branan Field Activity Center (BF AC) land use.

The BF AC standards for Convenience Stores and Service Stations require all pump islands to be contained under one canopy.

The applicant desires to construct a convenience store and service station that provides fueling for passenger cars and commercial vehicles. The applicant desires to separate the two fueling areas for safety purposes and therefore is requesting two canopies; one over each area of pumps.

Conditions for a Variance

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands structures, or buildings in the same zoning district.

The special conditions are related to separating passage vehicles from commercial vehicles in the fueling area. The site plan provides separate fueling area for passage vehicle and commercial vehicles with a canopy over each area. This would limit conflict and provide additional safety between the areas for passenger vehicles and the larger commercial vehicles. The Code requires all pumps to be under a canopy.

That the special conditions and circumstances do not result from the actions of the applicant.

The special conditions are a result of the desire to provide fueling for both passage vehicles and larger commercial vehicles while providing safety for the public by separating the fueling areas for the two types of vehicles.

Conditions for a Variance

That granting the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings, or structures in the same zoning district.

The granting of the variance will confer on the applicant the privilege of having multiple canopies on the site. However, the total number of fueling pumps are within the maximum number allowed for a service station in the BF AC land use area.

That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by the other properties in the same zoning district under the terms of the ordinance, and would work unnecessary and undue hardship on the applicant.

The literal interpretation of the LDC would result in commercial vehicle and passenger vehicles refueling in the same area, resulting in safety concerns according to the application. Separating the two types of vehicles will be safer and more efficient but not deprive the applicant of rights commonly enjoyed by other property owners in the BF AC zoning district. An alternative would be for the applicant to forgo the ability to fuel commercial vehicles thereby providing a hardship for the applicant.

Conditions for a Variance

That the variance granted is the minimum variance that will make possible the beneficial use of the land, building or structure.

The requested variance is the minimum variance needed to allow for the separate fueling areas for passenger vehicles and for commercial vehicles.

That the granting of the variance will be in harmony with the general intent and purposes of these ordinances and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The granting of the variance will allow the applicant to have separate fueling areas; one for passenger vehicles and one for commercial vehicles providing enhanced safety for those utilizing the fueling station. All pump islands would be under a canopy as required in the Branan Field Master Plan. All other setback, buffering and landscaping standards will be met. The granting of the variance should not be injurious or otherwise detrimental to the public welfare.

Recommendation

Staff finds that the requested variance to allow for two canopies for a convenience store and service station in the BF AC land use is not consistent with the Land Development Code.

However, the desire for safety reasons to provide separate fueling areas for passenger vehicles from larger commercial vehicle is in harmony with the general intent of the Code and will not be detrimental to the public welfare.

Therefore, staff recommends approval of the requested variance.

QUESTIONS

Attachment

“D”

RaceTrac Presentation

(Applicant)

RACETRAC VARIANCE REQUEST

**CLAY COUNTY BOARD OF ADJUSTMENT MEETING
MAY 23, 2024**

BOA 24-0006



ROGERS | TOWERS

RACETRAC VARIANCE REQUEST

BOA 24-0006

OWNER

WOD TIMBER COMPANY INC.

AGENT/APPLICANT



ENGINEER

BETH LEAPTROTT, P.E.

CONNELLY & WICKER INC.

LEGAL

COURTNEY GAVER

ROGERS TOWERS, P.A.

RACETRAC VARIANCE REQUEST

BOA 24-0006

Location:

Northeast Quadrant of intersection of Blanding Blvd. and Gregory B. Clary Way

Zoning:

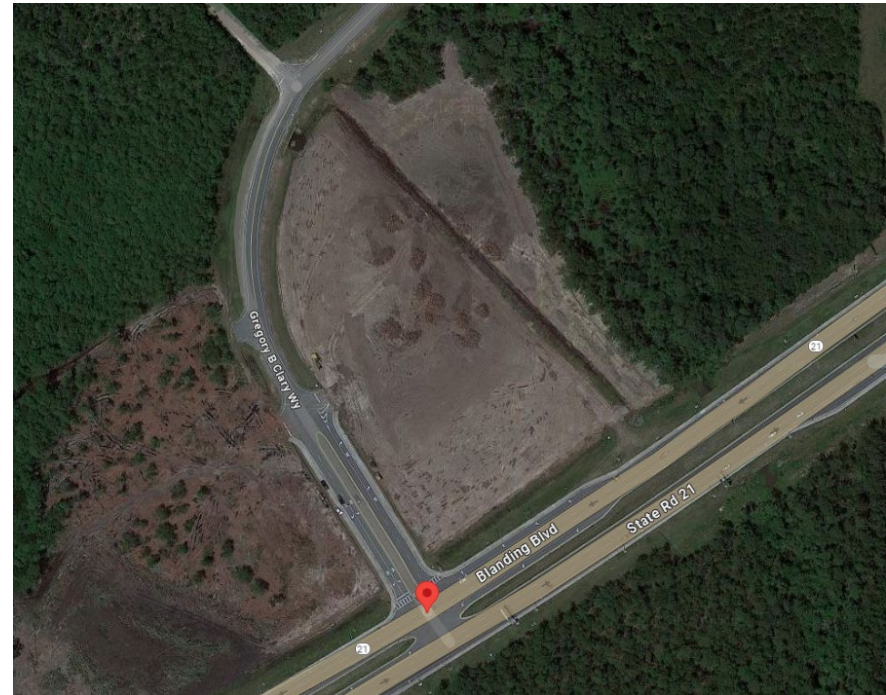
Branan Field Planned Unit Development (PUD)

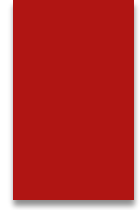
Land Use:

Branan Field Activity Center (BF AC)

Request:

Variance from BF AC standards for Convenience Stores and Service Stations that require all pump islands to be contained under one (1) canopy. See Clay County Land Development Code, Article III, Sec. 3-33A.III.5.h.





3896 FL-5

Marathon, Florida

Google Street View

Jun 2023 See more dates



RACETRAC VARIANCE REQUEST



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