Baldwin County Commission District 3 Board of Adjustment

Agenda
May 20, 2019
4:00 p.m.
Baldwin County Central Annex
Auditorium
22251 Palmer Street
Robertsdale, Alabama 36567

- I. Call to Order
- II. Roll Call
- III. Approval of Previous Meeting Minutes (April 15, 2019)
- IV. Announcements/Registration to Address the Board of Adjustment
- V. Consideration of Applications and Request

ITEMS:

a.) Case No. V-190016, Hein Property

Request: A variance from Section 13.8.2(c) of the Baldwin County Zoning Ordinance pertaining to the occupancy of a Recreational Vehicle to allow someone to live in a travel trailer on the property

Location: The subject property is located at 26149 County Road 49 in Planning District 12

Attachments: Within Report

a.) Case No. V-190021, Aventura Associates LLC Property

Request: A 20-foot rear yard setback variance for lots 164 through 174 of Cottages of Aventura Phase III due to a required common area adjacent to the lots

Location: The subject property is located at Thompson Road and Rawls Road in Planning District 12

Attachments: Within Report

VI. Old Business

VII. New Business

VIII. Adjournment

Baldwin County Commission District 3, Board of Adjustment April 15, 2019

Regular Meeting Minutes Baldwin County Central Annex, Robertsdale

The Board of Adjustment for Baldwin County Commission, District 3 met in a regular session on April 15, 2019, at 4:00 p.m., in the auditorium of the Baldwin County Central Annex. The meeting was called to order by Chairman Donnie Waters. Members present included, Judy Powell, and Adam Bertolla. Staff member present was Linda Lee, Planner.

Approval of Previous Meeting Minutes

Mr. Bertolla made a motion to approve the minutes of the January 28, 2019, regular meeting. The motion received a second from Ms. Powell and carried unanimously.

Adjournment

There being no further business to come before the Board the meeting was adjourned at 4:05 p.m.

Respectfully submitted:	
Linda Lee, Planner	
I hereby certify that the above minutes are true, correct and ap, 2019.	proved thisday of
Donnie Waters, Chairman	



Baldwin County Planning & Zoning Department County Commission District #3

Board of Adjustment Staff Report

Case No. V-190016
Hein Property

Variance to allow a travel trailer to be occupied in a Residential District

May 13, 2019

Subject Property Information

Planning District: 12

General Location: West side of County Road 49 North of Fackler Road

Physical Address: 26149 County Road 49
Parcel Number: 05-42-05-15-0-000-031.001
Zoning: RSF-2, Single Family District

Lot Size: 4.9± acres
Applicant: Janet Hein

26149 County Road 49

Loxley, AL 36551

Owner: Same

Lead Staff: Linda Lee, Planner Attachments: Within Report

	Adjacent Land Use	Adjacent Zoning
North	Residential	RSF-2, Single Family District
South	Residential	RSF-2, Single Family District
East	Agricultural	Town of Loxley
West	Residential	RSF-2, Single Family District

Summary and Recommendation

The applicant is requesting a variance to allow a travel trailer to be occupied so someone can live on her property to assist her when she falls.

Staff recommends that in Case No. V-190016, Hein Property, variance request be **DENIED**.*

* A majority vote of the board members will be necessary to approve this request.

Variance Request

The applicant is requesting a variance to allow a travel trailer to be occupied so someone can live on her property to assist her when she falls.

Information concerning this request:

➤ On March 12, 2019 a complaint was called in concerning an RV on property being occupied. The same day a Cease and Abate Notice was issued giving the applicant 30 days to disconnect and discontinue the occupation of the RV.

➤ On April 1, 2019, the applicant submitted a variance request to allow for someone to live in a travel trailer on her property.

<u>District 12 allows accessory dwellings; therefore, staff feels that a mobile home which is allowed would be preferable to granting a variance to allow an RV to be occupied.</u>

Additional Information

Section 4.3 RSF-2, Single Family District

- 4.3.1 *Generally*. This zoning district is provided to afford the opportunity for the choice of a moderate density residential environment consisting of single family homes.
- 4.3.2 Permitted uses. Except as provided by Section 2.3: Establishment of Zoning in Planning Districts, the following uses and structures designed for such uses shall be permitted:
 - (a) The following general industrial uses: extraction or removal of natural resources on or under land.
 - (b) The following transportation, communication, and utility uses: water well (public or private).
 - (c) The following agricultural uses: Silviculture.
 - (d) Single family dwellings including manufactured housing and mobile homes.
 - (e) Accessory structures and uses.
 - (f) The following institutional use: church or similar religious facility.
- 4.3.3 Conditional uses. Except as provided by Section 2.3: Establishment of Zoning in Planning Districts, the following uses and structures designed for such uses may be allowed as conditional uses:
 - (a) Outdoor recreation uses.
 - (b) The following institutional uses: day care home; fire station; school (public or private).
 - (c) The following general commercial uses: country club.
- 4.3.4 Special exception. Except as provided by Section 2.3: Establishment of Zoning in Planning Districts, the following use and structures designed for such use may be allowed as a special exception:

The following local commercial use: bed and breakfast or tourist home (see Section 13.11: Bed and Breakfast Establishments).

4.3.5 Area and dimensional ordinances. Except as provided by Section 2.3: Establishment of Zoning in Planning Districts, Section 12.4: Height Modifications, Section 12.5: Yard Requirements, Section 12.6: Coastal Areas, Section 12.8: Highway Construction Setbacks, Section 18.6 Variances, and Article 20: Nonconformities, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure in F	eet 35-Feet
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	15,000 Square Feet
Minimum Lot Width at Building Lir	ne 80-Feet
Minimum Lot Width at Street Line	40-Feet
Maximum Ground Coverage Ratio	.35

13.8.2 Procedures and standards.

(c) Occupancy. A recreational vehicle shall not be occupied as a living quarter unless it is located in a recreational vehicle park as herein provided or as provided in Section 12.2.2. No recreational vehicle shall be used as a permanent dwelling. Continuous occupancy extending beyond 4 months in any 12-month period shall be considered permanent occupancy.

Section 12.2 Temporary Structures and Uses

- 12.2.1 Temporary structures for use incidental to construction work shall be permitted in any district during the period that construction work is in progress.
- 12.2.2 A recreational vehicle may be occupied as living quarters on a temporary basis for up to 18 months pending the repair or rebuilding of a primary dwelling following any disaster which may render the primary dwelling uninhabitable. A recreational vehicle, when used as temporary living quarters, may only be occupied by the owner/occupant of the primary dwelling being repaired or rebuilt, and must be located on the same parcel with the subject primary dwelling. In addition, the recreational vehicle must meet the location and setback requirements specified for accessory structures in residential districts (See Section 13.1.2 (a)). An approved land use certificate (See Section 18.2) shall be obtained from the Planning and Zoning Department, **prior** to the use of a recreational vehicle as temporary living quarters in order to ensure compliance with these ordinances.

Staff Analysis and Findings

The following standards for approval are found in Section 18.6, Variances of the *Baldwin County Zoning Ordinance*. These standards are to be considered when a variance request is being reviewed.

1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.

The subject property is currently occupied with a dwelling, a Recreational Vehicle, and several accessory structures. The property adjoins County Road 49 to the east. The adjoining properties are residential.

2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.

Staff isn't aware of any exceptional topographic conditions on this property.

3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.

The applicant states that the purpose of this request is to have someone on the property if she falls. Staff feels that if someone can't reside inside the existing residence with the applicant the zoning ordinance would allow for a manufactured home to be placed on the property for someone to reside in as long as it met zoning requirements.

4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

Staff is unaware of any adverse impacts that may be caused by the granting of this application.

5.) Other matters which may be appropriate.

Applicant has submitted letters from physician and physical therapist which are attached to this staff report.

Staff Comments and Recommendation

As stated previously, the applicant is requesting a variance to allow a travel trailer to be occupied so someone can live on her property to assist her when she falls.

Based on information contained herein, staff feels that the applicant fails to meet any of the standards for approval of a variance. Therefore, staff recommends that the variance request be **DENIED**.

* A majority vote of the board members will be necessary to approve this request.

GENERAL NOTES {By-laws}

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as the conditions upon which it is granted and the conditions imposed by the Zoning Ordinance are adhered to.

Property Images





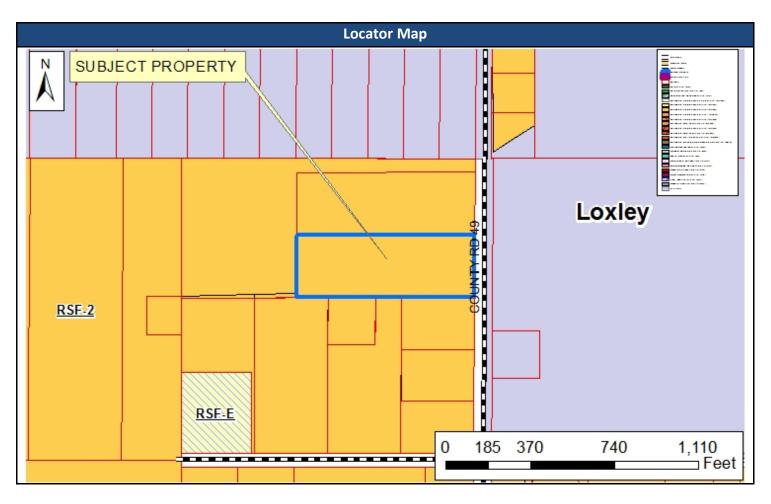






District 3 Board of Adjustment Regular Meeting

May 20, 2019

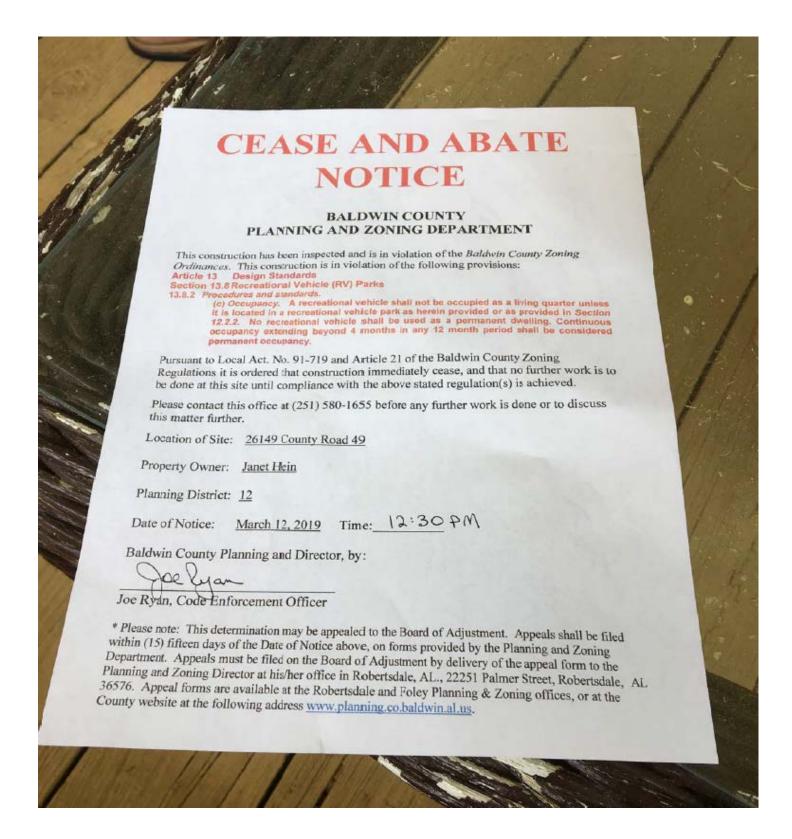




Proposed Site Plan



Cease and Abate Notice



Letters from Physician and Physical Therapist



18317 US Highway 90 Robertsdale, AL 36567 Phone: 251-947-2000 Fax: 251-947-5399

April 3, 2019

Patient: Janet R Hein Date of Birth: 1/13/1954 Date of Visit: 4/3/2019

To Whom It May Concern:

Janet Hein was seen in my office today 4/3/2019 for back, neck and leg pains. She has spinal stenosis and history of Hip replacement x 5 due to complications. She has someone living on property and due to one neighbor needs a temporary zone variance for several months receiving care with daily activities.

Sincerely,

Terry P Bell, MD

T. PHILLIP BELL, M.D.
IMC-CENTRAL BALDWIN PHYSICIANS, PC
P.O. BOX 129
ROBERTSDALE, ALABAMA 36567-0129
PHONE (251) 947-2000

To whom it may concern,

I am a licensed and practicing physical therapist assistant in the state of Alabama and Florida.

Mrs.Janet Hein stated she has fallen in excess of 3 times this year, has had multiple spinal surgeries and fusions on multiple levels, muscle skeletal weakness, extreme flex forward posture, five left total hip replacements and revisions, over the age of 65, and a host of other co morbidities. Mrs.Hein also states she has spinal stenosis, which can cause intermittent paralysis, numbness, and severe pain. She ambulates with a marked gait deviance due to severe weakness in left hip, requires use of an assistive device, which limits her mobility and balance in up-right positions.

Furthermore, due to other risk factors, such as being a caucasian female smoker over 65 years of age, marks her for increase risk of weakened bone density. This places her in a higher risk category for fractures in the event of a fall.

In my professional opinion, it is in her best interest and safety to have assistance of another person available on her property, close by for physical assistance due to her current living environment and co morbidities.

Euca Connello, PTA AL #10873



Baldwin County Planning & Zoning Department County Commission District #3

Board of Adjustment Staff Report

Case No. V-190021
Aventura Associates LLC Property
Rear Yard Setback Variance
May 20, 2019

Subject Property Information

Planning District: 12

General Location: Lots 164-174 of Cottages of Aventura Phase 3

Physical Address: Prado Loop

PID: 05-42-07-26-0-000-011.047, 011.000, 011.046, and 011.045

Zoning: RSF-4, Single Family District

Acreage: 24± acres

Applicant: Aventura Associates LLC

329 Chantilly Way W Mustang, OK 73064

Owner: Aventura Associates LLC

329 Chantilly Way W Mustang, OK 73064

Lead Staff: Celena Boykin, Planner

Attachments: Within Report

	Adjacent Land Use	Adjacent Zoning
North	Residential	RSF-3, Single Family District
South	Residential	RSF-3, Single Family District
East	Agriculture	Rawls Rd and RSF-2, Single Family District
West	Residential	RSF-3, Single Family District

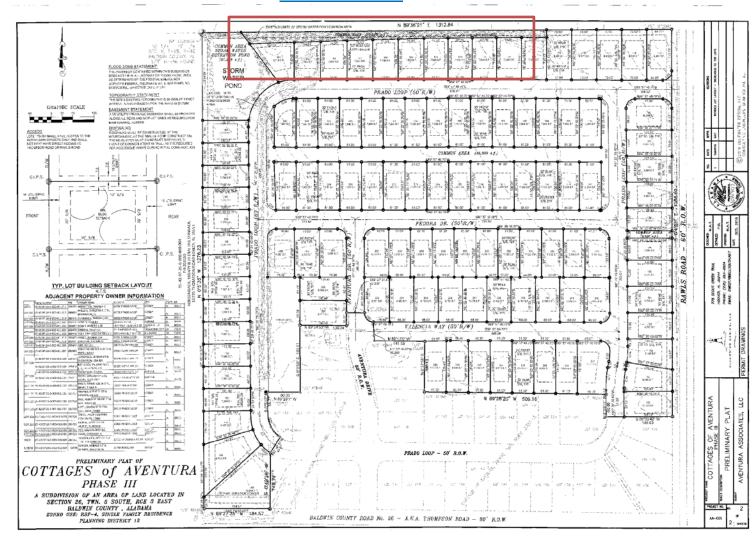
Summary and Recommendation

The applicant is requesting a 20-foot rear yard setback variance for 10 lots in Cottages of Aventura, Phase 3. Staff recommends that Case **V-190021** be **APPROVED.**

Variance Request

The applicant is requesting a 20-foot rear yard setback variance for 10 lots in Cottages of Aventura, Phase 3. The applicant stated that he is asking for this variance because the adjacent common area was required to protect a drainage feature therefore it changed the orientation, character, and layout of these 10 lots. Staff feels this is a reasonable request, therefore, staff recommends the variance request be **APPROVED.**

Subdivision Plat





Additional Information

Section 4.5 RSF-4, Single Family District

4.5.5 Area and dimensional ordinances. Except as provided by Section 2.3: Establishment of Zoning in Planning Districts, Section 12.4: Height Modifications, Section 12.5: Yard Requirements, Section 12.6: Coastal Areas, Section 12.8: Highway Construction Setbacks, Section 18.6 Variances, and Article 20: Nonconformities, the area and dimensional ordinances set forth below shall be observed.

Maximum Height of Structure in Feet	35
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area per Dwelling Unit	7,500 Square Feet
Minimum Lot Width at Building Line	60-Feet
	60-Feet 30-Feet
Minimum Lot Width at Building Line	

Staff Analysis and Findings

The following standards for approval are found in Section 18.6, Variances of the *Baldwin County Zoning Ordinance*. These standards are to be considered when a variance request is being reviewed.

1.) Exceptional narrowness, shallowness or shape of a specific piece of property existing at the time of the enactment of these zoning regulations.

The subject properties are currently vacant. The property adjoins Thompson Road to the south and Rawls Road to the east. The adjoining properties are residential and agricultural. Lots 164-174 have smaller backyards due to

the required common area in order to protect a drainage feature. This common area has reduced the backyards making it harder for these lots to meet the required 30' rear setback.

2.) Exceptional topographic conditions or other extraordinary situations or conditions of a specific piece of property.

No topographic conditions but there is a drainage area that abuts lots 167-174 which was put in a common area to protect it.

3.) The granting of the application is necessary for the preservation of a property right and not merely to serve as a convenience to the applicant or based solely upon economic loss.

The property is zoned for single family use and will be used for that purpose.

4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety, comfort, morals, or general welfare of the inhabitants of Baldwin County.

The granting of this application should not have any effect on adjacent properties.

5.) Other matters which may be appropriate.

Staff Comments and Recommendation

Staff recommends that Case V-190021 Aventura Associates LLC Property, be Approved.

GENERAL NOTES {By-laws}

Any party aggrieved by a final judgment or decision of the Board may within fifteen (15) days thereafter appeal therefrom to the Circuit Court, but without expense to the Board of Adjustment, appear in person or by attorney in the Circuit Court or any other court, in defense of said order of the Board or in a trial de novo.

Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as the conditions upon which it is granted and the conditions imposed by the Zoning Ordinance are adhered to.

Property Images







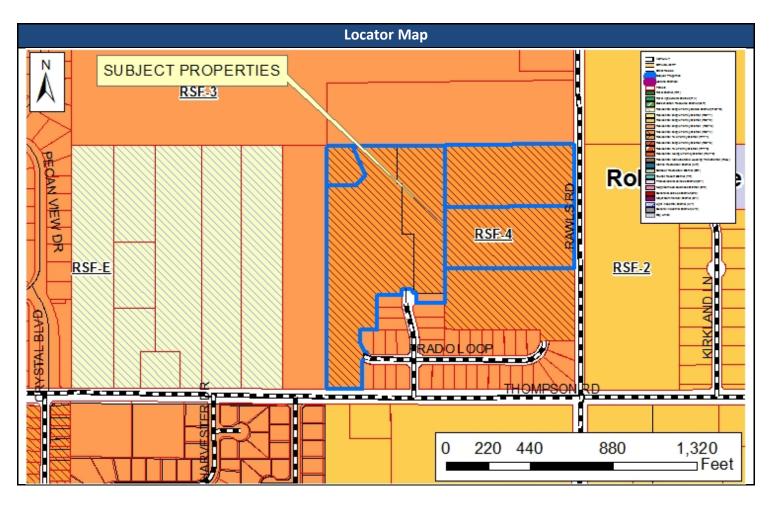


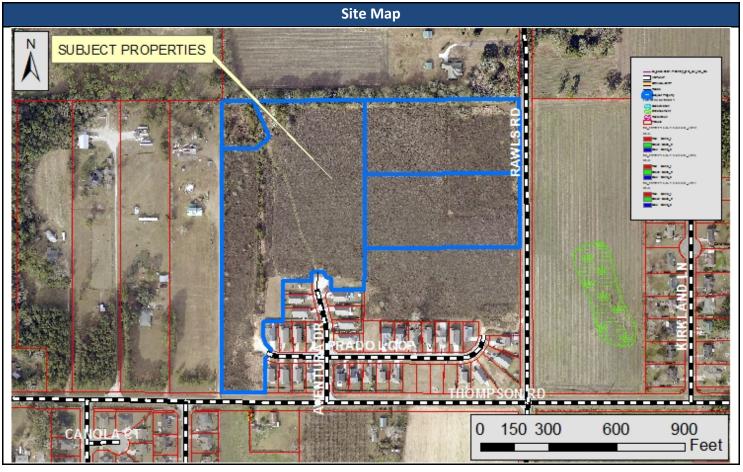




District 3 Board of Adjustment Regular Meeting







From: D Hart

Rubject: FW: <EXTERNAL> Re: Variance Question Date: Tuesday, April 30, 2019 1:22:41 PM

V-19021 info on covenants.

From: Mike Thomas [mailto:bwd217@bellsouth.net]

Sent: Tuesday, April 30, 2019 1:04 PM

To: D Hart <DHart@baldwincountyal.gov>

Subject: Re: <EXTERNAL> Re: Variance Question

I spoke with the owners & they have the option of adopting the Phase I covenants or recording a new set when the plat is recorded.

Does that answer your question?

Thanks,

Mike

Sent from my iPhone

On Apr 30, 2019, at 10:18 AM, D Hart < DHart@baldwincountyal.gov > wrote:

I already have it and was entering the info into the computer. That's when I noticed the POA information was not included.

From: Mike Thomas [mailto:bwd217@bellsouth.net]

Sent: Tuesday, April 30, 2019 10:17 AM

To: D Hart < DHart@baldwincountyal.gov >
Subject: < EXTERNAL > Re: Variance Question

I do not believe so. I will confirm and provide you documentation.

The fee was overnighted yesterday and will arrive today.

Thanks,

Mike

Sent from my iPhone

On Apr 30, 2019, at 10:13 AM, D Hart < DHart@baldwincountyal.gov > wrote:

I needed to confirm that the covenants for phase 1 will not apply to Phase III. I am assuming phase III will have covenants at a later time.