

**BALDWIN COUNTY COMMISSION DISTRICT 4
BOARD OF ADJUSTMENT**

AGENDA

July 9, 2020

Regular Meeting 3:30 p.m.

Baldwin County Satellite Courthouse

Large Meeting Hall

201 East Section Avenue

Foley, Alabama

1. Call to Order
2. Roll Call
3. Approval of Previous Meeting Minutes (June 11, 2020)
4. Announcements/Registration to Address the Board of Adjustment
5. Consideration of Applications and Requests

ITEMS:

a.) Case No. V-200016, Bonnell Property

Request: Approval of a variance from section 13.1.2(b) of the Baldwin County Zoning Ordinance pertaining to accessory structures in the front yard to allow for a tax preparation business

Location: The subject property is located at 13392 Cripple Creek Lane in Planning District 22

Attachments: *Within Report*

6. Old Business
7. New Business
8. Adjournment

Baldwin County Commission District 4, Board of Adjustment
June 11, 2020
Regular Meeting Minutes
Foley Satellite Courthouse
Large Meeting Room

The Board of Adjustment for Baldwin County Commission District 4 met in a regular session on June 11, 2020 at 2:00 p.m., in the Baldwin County Foley Satellite Courthouse Large Meeting Room. Chairman, Stuart Arnold called the meeting to order. Members present included: Samuel Mitchell, Michael Swansburg, Jack Danley, Ernie Church, Harold Stephens and Johanna Moloney. Staff members present were Celena Boykin, Senior Planner; Crystal Bates, Planning Technician and Paula Bonner, Planning Technician.

The first order of business was approval of the minutes from the February 13, 2020 meeting. Mr. Church made a motion to approve the meeting minutes. The motion received a second from Mr. Mitchell and carried unanimously.

V-200006 Robins Property

Mrs. Bates presented the applicant's request for approval of a variance from jurisdictional wetlands setback requirements to allow for the construction of a single-family dwelling. Staff recommended approval of the variance request. Staff answered questions from the board.

Mr. Andrew Robins spoke in favor of the variance request and answered questions from the board.

Mr. Patrick Kane spoke in opposition to the variance request and answered questions from the board.

Ms. Moloney made a motion to approve the variance request. The motion received a second from Mr. Swansburg and carried unanimously.

V-200007 Morris Property

Mrs. Boykin presented the applicant's request for approval of a variance from jurisdictional wetlands setback requirements to allow for the addition of a 12' x 24' deck to the rear of an existing dwelling. Staff recommended approval of the variance request. Staff answered questions from the board.

Mr. Allen Morris spoke in favor of the variance request and answered questions from the board.

Mr. Danley made a motion to approve the variance request. The motion received a second from Mr. Mitchell and carried unanimously.

V-200008 Sekeres Property

Mrs. Boykin presented the applicant's request for approval of a variance from jurisdictional wetlands setback requirements to allow for the construction of a single-family dwelling. Staff recommended approval of the variance request.

Mr. Tom Martin spoke in favor of the variance request and answered questions from the board.

Mr. Church made a motion to approve the variance request. The motion received a second from Ms. Moloney and carried unanimously.

SE-20002 Huddleston Property

Mrs. Boykin presented the applicant's request for approval of a special exception to allow for a six site Recreational Vehicle Park with four tent sites. Mrs. Boykin reviewed the site plan submitted and expressed that the twenty-foot wide portion of the access road did not meet the twenty-four-foot requirement. Staff

recommended the Board of Adjustment base its decision on information provided in the staff report and information provided at the public hearing.

If the Board feels this is a reasonable request and approves the special exception request, please consider the following conditions:

- Approval shall be for this applicant and at this location only.
- Approval subject to issuance of access permit from ALDOT
- Expansion of the park and/or changes to the site plan will necessitate further Special Exception review and approval.
- A 30' landscape buffer on the west side of subject property.

Mrs. Boykin informed the board that there was a petition submitted against the request and several letters in opposition to the request included in the agenda package. A board member asked about the stop work order issued shown in one of the photos. Mrs. Boykin explained it was for an RV that had been placed on the subject property. The applicant has sent removed the RV. They also need a Land Use Certificate for a building on the property.

Mr. Dan Huddleston spoke in favor of the special exception request. He stated he would like to have a small RV park with six nightly rentals only and four tent sites. Mr. Andrew Huddleston spoke in favor of the special exception request and reviewed the vision for the property. A board member asked if they had any problems adhering to the conditions listed by staff. Mr. Dan Huddleston stated he would abide by any requirements of the county.

Mrs. Boykin requested the board add one more condition to provide a twenty-four-foot access to the tent sites.

Mr. Mitchell made a motion to approve the special exception request subject to conditions listed in staff report and the twenty-four-foot access to tent sites. The motion received a second from Mr. Stephens. A board member asked how we determine the potential impact to property value? There followed a discussion of uses allowed on the adjacent B-4 property. The motion failed on a vote of three in favor and four against.

V-200009 Weaver Property

Mrs. Bonner presented the applicant's request for approval of a variance from the front setback requirement to allow for the construction of a swimming pool. Staff recommended approval of the variance request.

Mr. Ryan Wood spoke in favor of the variance request.

Ms. Moloney made a motion to approve the variance request. The motion received a second from Mr. Mitchell and carried unanimously.

V-200010 Bailey Property

Mrs. Bates presented the applicant's request for approval of a variance to allow for the continued occupancy of a recreational vehicle while a home is constructed. The applicant has now submitted a Land Use Certificate application for a mobile home. Staff recommended denial of the variance request. If the board is inclined to

approve the variance request, staff recommended a time limit of two (2) months. Mr. Arnold stated there are no hardships on the land.

Mr. Martin Todd Bailey spoke in favor of the variance request and answered questions from board members.

Mr. Swansburg made a motion to deny the variance request. The motion received a second from Mr. Danley and carried unanimously.

V-200014 Azevedo Property

Mrs. Bates presented the applicant's request for approval of a variance to allow for the continued occupancy of a recreational vehicle while a home is constructed. Staff recommended denial of the variance request.

Mr. Arnold asked if there was a hardship on this property.

Mr. Terry Azevedo and Mrs. Adrienne Azevedo spoke in favor of the variance request and answered questions from board members.

Ms. Moloney stated the board has approved occupancy of an RV in the past while a house was constructed.

Mr. Swansburg made a motion to deny the variance request. The motion received a second from Mr. Mitchell.

Mr. Arnold stated the board approved occupancy of an RV in cases where houses were already under construction. There followed a discussion concerning citizens lack of knowledge on occupancy of RVs in zoned areas.

The motion to deny carried unanimously.

V-200017 Phillips Property

Mrs. Boykin presented the applicant's request for approval of a variance from section 13.1.2(b) of the Baldwin County Zoning Ordinance pertaining to accessory structures in the front yard and section 2.3.22.3(a) of the Baldwin County Zoning Ordinance pertaining to accessory dwellings in planning district 22 to allow for an accessory dwelling which exceeds the size allowance. Staff recommended denial of the variance request due to applicant has not submitted any information supporting a hardship on the land.

Mr. Charles Fowler and Mr. James Phillips spoke in favor of the variance request and answered questions from the board.

Mr. Swansburg made a motion to deny the variance request. The motion received a second from Mr. Mitchell. There followed a discussion concerning the maximum size of an accessory dwelling. There was also a discussion of granting the variance on the size limitation if the structure could be moved. The board deliberated the difference between an accessory structure and accessory dwelling.

Following a lengthy discussion, the motion failed on a vote of four in favor and three against.

V-200018 Koster Property

Mrs. Bonner presented the applicant's request for approval of a variance from the east and west side setbacks to allow for the addition of a screened in porch on the south side of an existing single-family dwelling. Staff recommended approval of the variance request.

Mr. Patrick Koster spoke in favor of the variance request.

Mr. Church made a motion to approve the variance request. The motion received a second from Mr. Danley and carried unanimously.

Adjournment

There being no further business to come before the board the meeting was adjourned at 4:35 p.m.

Respectfully Submitted,

Linda Lee, Planner

I hereby certify that the above minutes are true, correct and approved this _____ day of _____, 2020.

Stuart Arnold, Chairman



Baldwin County Planning & Zoning Department County Commission District # 4

Board of Adjustment Staff Report

Case No. V-200016

Bonnell Property

Variance to allow an accessory structure in front yard

July 9, 2020

Subject Property Information

Planning District: 22

General Location: East of Cripple Creek Ln

Physical Address: 13392 Cripple Creek Ln

Parcel Number: 05-52-05-22-0-001-005.021

Zoning: RSF-1, Single Family District

Lot Size: 5 +/- Acres

Applicant: Stefanie Lyn Bonnell
13392 Cripple Creek Ln
Lillian, AL 36549

Owner: Same

Lead Staff: Celena Boykin, Senior Planner

Attachments: Within Report

	Adjacent Land Use	Adjacent Zoning
North	Residential	RSF-1, Single Family District
South	Residential	RA, Rural Agriculture District
East	Residential	RA, Rural Agriculture District
West	Residential	RSF-1, Single Family District

Summary and Recommendation

The applicant is requesting a variance from section 13.1.2(b) of the Baldwin County Zoning Ordinance pertaining to accessory structures in the front yard to allow for a tax preparation business. Staff recommends that Case V-200016 Property, be **DENIED**, due to applicant has not submitted any information supporting a hardship on the land.

Variance Request

The applicant is requesting a variance from section 13.1.2(b) of the Baldwin County Zoning Ordinance pertaining to accessory structures in the front yard. The applicant has placed an accessory building in the front yard for a tax preparation business which would fall under a home occupation in residential zoning. The accessory building which is already on the subject property is located 40' from the front and 20' from the north side of the subject property. The Planning and Zoning Department received a complaint about this accessory structure placed in the front yard without a permit.

Section 4.2 RSF-1, Single Family District

4.2.1 Generally. This zoning district is provided to afford the opportunity for the choice of a low density residential environment consisting of single family homes on large lots.

4.2.2 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.

4.2.3 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.

4.2.4 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 13.10: Bed and Breakfast Establishments*).

4.2.5 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-Feet
Maximum Height in Habitable Stories	2 1/2
Minimum Front Yard	30-Feet
Minimum Rear Yard	30-Feet
Minimum Side Yards	10-Feet
Minimum Lot Area	30,000 Square Feet
Minimum Lot Width at Building Line	100-Feet
Minimum Lot Width at Street Line	50-Feet
Maximum Ground Coverage Ratio	.35

Section 13.1 Accessory Uses and Structures

13.1.1 *Generally.* Any use may be established as an accessory use to any permitted principal use in any district provided that such accessory use:

- (a) Is customarily incidental to and is maintained and operated as a part of the principal use.
- (b) Is not hazardous to and does not impair the use or enjoyment of nearby property in greater degree than the principal use with which it is associated.
- (c) Does not create levels of noise, odors, vibration and lighting, or degrees of traffic congestion, dust or pollutants, in a greater amount than customarily created by principal use.
- (d) Is not located in a required yard.

13.1.2 Residential districts. In residential districts an accessory use or structure will conform to the following requirements:

- (a) An accessory structure may be located in a rear or side yard but shall not be closer than 5-feet to any side or rear lot line.
- (b) An accessory structure may not be located in the front yard of a lot, except that on waterfront lots accessory structures may be located between the principal building and the waterfront property line but not within the required front yard setback.
- (c) An accessory structure may not exceed the height limit for the district in which it is located and may not occupy more than 30% of the rear yard.
- (d) No accessory structure, other than a pier and boathouse, may be located on a lot by itself.

There have been several complaints on the subject property. Below is a timeline of the current issues with the subject property:

- **1/31/2020** Complaint received about a doublewide moved on to property without permits. Code Enforcement officer was told that it would be moved off by 3/1/2020.
- **4/15/2020** Complaint received that a storage building was moved onto property without permit. Code Enforcement Officer issued a stop work order.
- **4/28/2020** A Land Use permit (LU-200249) for the accessory structure in front yard was denied because it didn't meet the accessory structure requirements.
- **4/28/2020** A Land Use permit (LU-200250) for the home occupation was denied because tax preparation does not fall under a rural home occupation.
- **4/30/2020** Code Enforcement Officer issued a Notice of Zoning Violation for an "Income Tax Business" being operated on the subject property, a "Storage Building" placed on the property without permits, and a "Mobile Home" placed on the property without permits.
- **5/13/2020** A variance application was submitted for the accessory structure in the front yard.

- **5/14/2020** An automatic rezoning application was submitted and approved. The property was rezoned from RA, Rural Agriculture District, to RSF-1 Residential Single Family District so that the home occupation could be approved.

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 approximately 166 x 1300 according to Revenue Commission and is about 5 acres. The subject property is currently occupied with two dwellings and accessory structures.

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

Staff is not 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 use of the subject property has been established with the single-family dwelling.

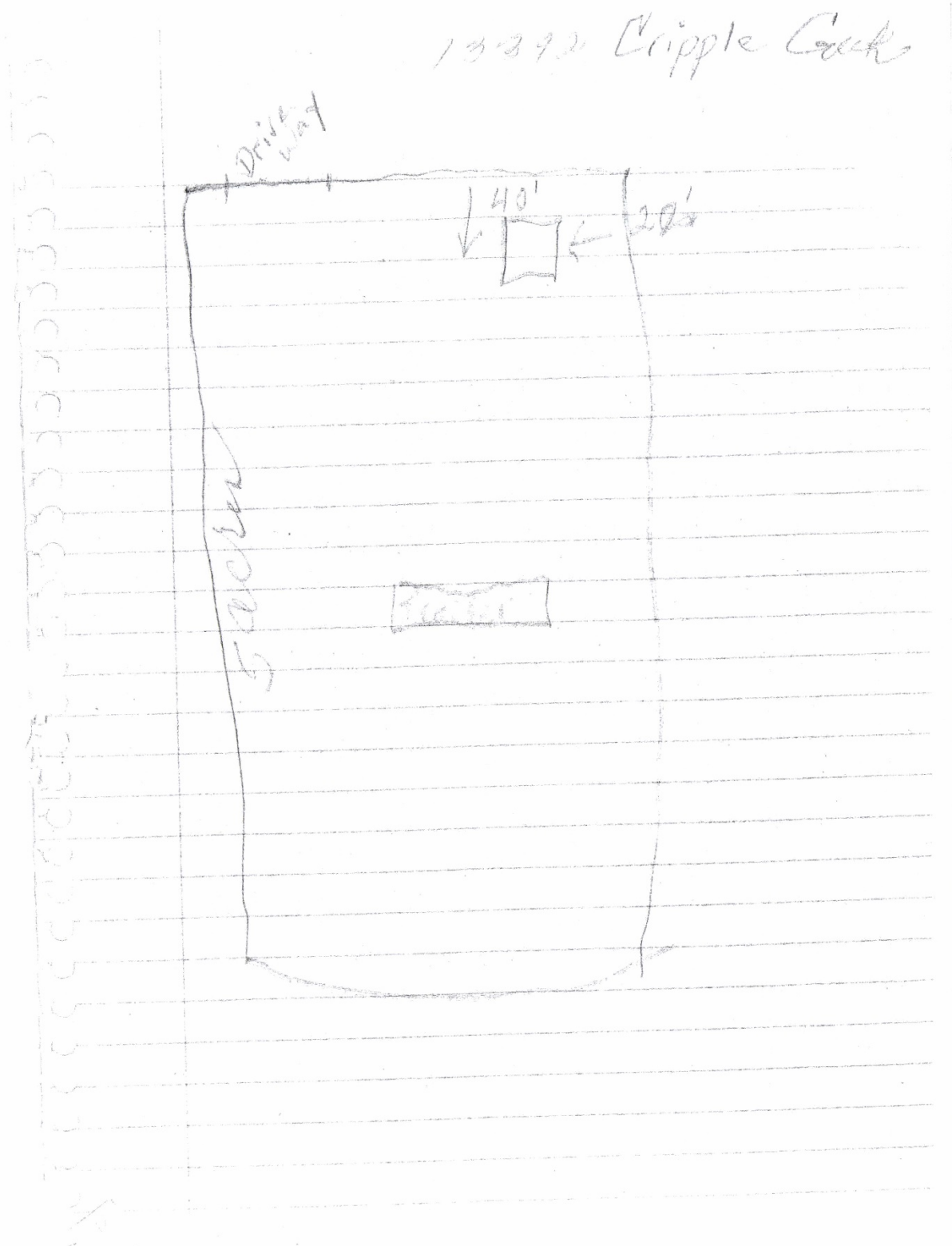
4.) The granting of this application will not impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets, or increase the danger of fire, or imperil the public safety, or unreasonably diminish or impair established property values within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

No adverse impacts.

5.) Other matters which may be appropriate.

The applicant has been asked numerous times to submit additional information for this variance case and staff has not received anything yet. Attached to staff report is emails that Linda Lee sent to the applicant asking for more information regarding this variance request. Also, attached is a petition and pictures from neighbors against the request.

Site Plan



Staff Comments and Recommendation

Staff recommends that Case V-200016 Bonnell Property, be **DENIED**, due to applicant has not submitted any information supporting a hardship on the land.

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.

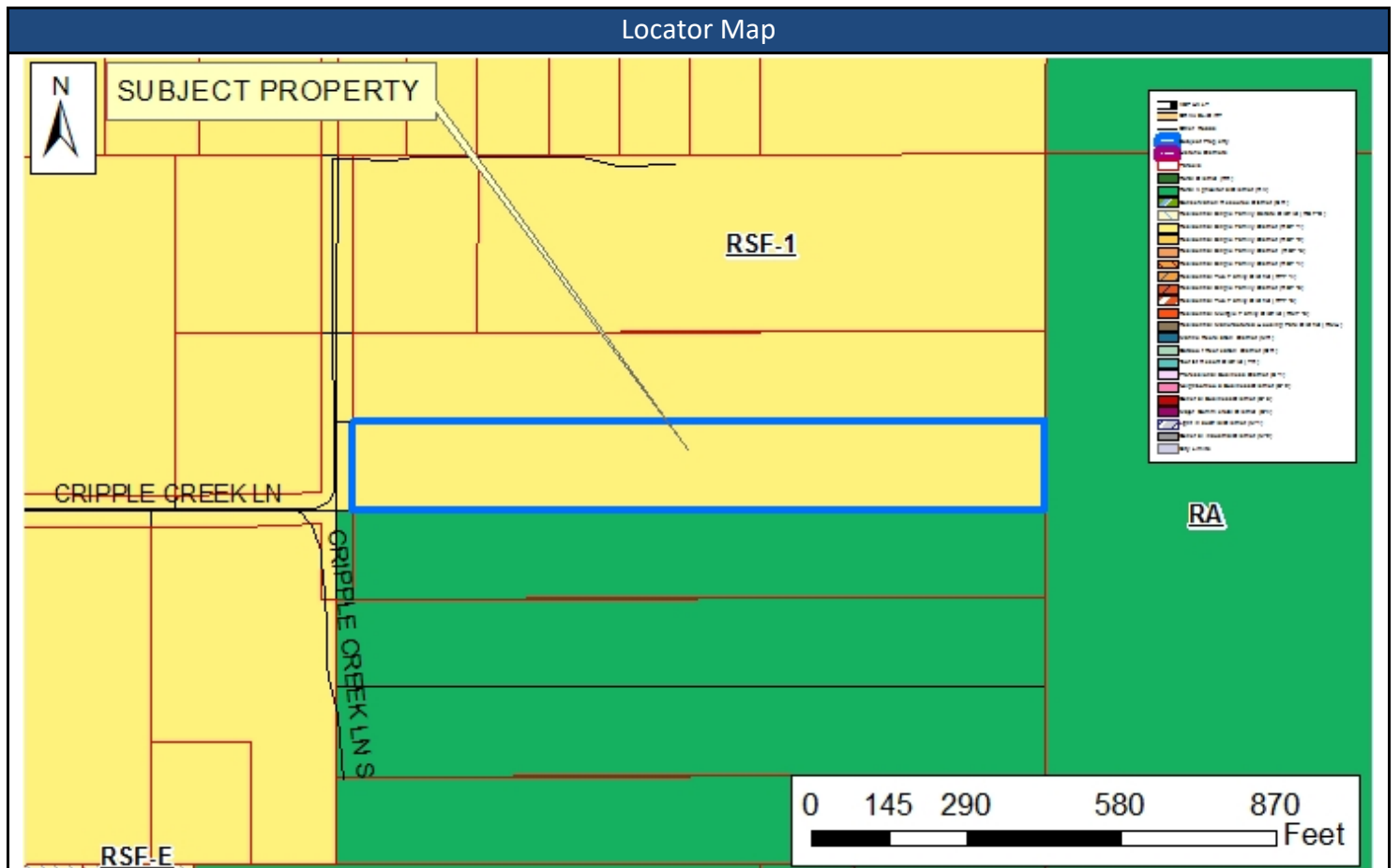
Whenever the Board imposes conditions with respect to a project or variance, such conditions must be stated in the Board Order and in the permit(s) issued, pursuant thereto by the Administrative Officer. Such permits shall remain valid only as long as the conditions upon which it is granted, and the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

Property Images

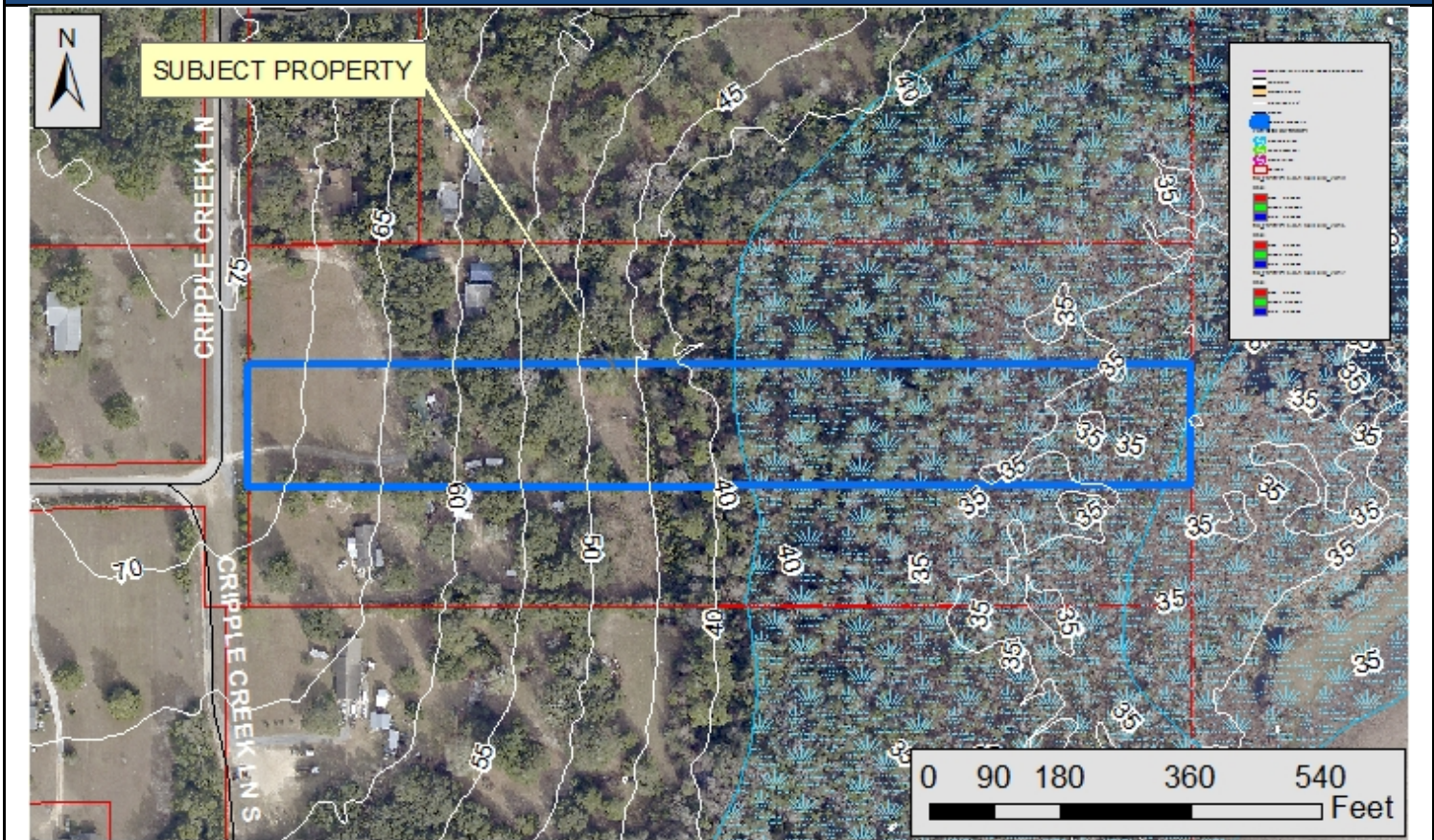








Site Map



Emails Requesting Information from Applicant

Celena Boykin

Subject: RE: FW: FW: 13392 Cripple Creek Lane

From: Linda Lee
Sent: Friday, June 12, 2020 12:45 PM
To: Stefanie Bonnell <stefanielynbonnell@gmail.com>
Subject: RE: FW: FW: 13392 Cripple Creek Lane

Ms. Bonnell,

I still haven't received the information needed for your variance application. Please know that this case will go to the July board meeting with or without the required information.

Thank you,

Linda Lee
Planner
Baldwin County Planning & Zoning Department
(251) 972-8523 ext. 2833

From: Stefanie Bonnell <stefanielynbonnell@gmail.com>
Sent: Thursday, June 4, 2020 11:34 AM
To: Linda Lee <LLee@baldwincountyal.gov>
Subject: Re: FW: FW: 13392 Cripple Creek Lane

I'm currently working on it. Our internet wa down yesterday and I broke screen on my phone.

On Thu, Jun 4, 2020 at 11:32 AM Stefanie Bonnell <stefanielynbonnell@gmail.com> wrote:

On Thu, Jun 4, 2020 at 10:04 AM Linda Lee <LLee@baldwincountyal.gov> wrote:

Ms. Bonnell,

I left you a voice message and I wanted to let you know in writing that since we have not received the information needed your variance request is being removed from the June Board of Adjustment meeting agenda and will be heard in July.

Thank you,

Linda Lee

Planner

Baldwin County Planning & Zoning Department

(251) 972-8523 ext. 2833

From: Linda Lee

Sent: Wednesday, June 3, 2020 12:14 PM

To: 'Stefanie Bonnell' <stefanielynbonnell@gmail.com>

Cc: Celena Boykin <Cboykin@baldwincountyal.gov>

Subject: RE: FW: [13392 Cripple Creek Lane](#)

Ms. Bonnell,

You can email me the requested documents/information as long as the paper size isn't larger than 11x17 and the information requested can be clearly read on the smaller paper. I will need this information by first thing tomorrow morning or your case will have to be rescheduled until the July meeting.

Thank you,

Linda Lee

Planner

Baldwin County Planning & Zoning Department

(251) 972-8523 ext. 2833

From: Stefanie Bonnell <stefanielynbonnell@gmail.com>

Sent: Wednesday, June 3, 2020 12:05 PM

To: Linda Lee <LLee@baldwincountyal.gov>
Subject: Re: FW: [13392 Cripple Creek Lane](#)

[CAUTION: External Email]

Ms. Lee,

I apologize for it taking me so long to respond. I will get the things you are requesting handled as quickly as possible. Please advise if you prefer for me to email these items to you or to drop them off at your office? Thank you for your assistance in this matter. Have a wickedly wonderful Wednesday! ;)

Sincerely,

Stefanie Lyn Bonnell

251.228.2681

13392 [Cripple Creek Ln](#)

[Lillian, AL 36549](#)

On Tue, Jun 2, 2020 at 8:29 AM Linda Lee <LLee@baldwincountyal.gov> wrote:

Reminder...Please respond.

Thank you,

Linda Lee

Planner

Baldwin County Planning & Zoning Department

(251) 972-8523 ext. 2833

From: Linda Lee
Sent: Tuesday, May 19, 2020 3:07 PM
To: stefanielynbonnell@gmail.com
Subject: [13392](#) Cripple Creek Lane

Ms. Bonnell,

After reviewing your variance application and talking to the Code Enforcement Officer we have determined that we need additional information from you.

We need a detailed list of each structure on your property and the proposed use for them. A revised site plan showing all structures, the dimensions of each structure and the distance each structure is from the property lines. Please show the road on the site plan.

Your variance application is incomplete. Although the end result may be to allow for the home occupation on the property, your request should be what zoning ordinance are you needing a variance from. I believe in this case you are wanting to have an accessory structure in the front yard. Therefore your request would be a variance to allow an accessory structure in the front yard. Where it ask what are the conditions which prevent you from using this property in accordance with its current zoning classification – you need to state what is preventing you from locating the structure in the rear or side yard where it is allowed. Variances are based on a hardship on the land.

Linda Lee

Planner

Baldwin County Planning & Zoning Department

(251) 972-8523 ext. 2833

From: Linda Lee

Sent: Tuesday, May 19, 2020 3:07 PM

To: stefanielynbonnell@gmail.com

Subject: [13392](#) Cripple Creek Lane

Ms. Bonnell,

After reviewing your variance application and talking to the Code Enforcement Officer we have determined that we need additional information from you.

We need a detailed list of each structure on your property and the proposed use for them. A revised site plan showing all structures, the dimensions of each structure and the distance each structure is from the property lines. Please show the road on the site plan.

Your variance application is incomplete. Although the end result may be to allow for the home occupation on the property, your request should be what zoning ordinance are you needing a variance from. I believe in this case you are wanting to have an accessory structure in the front yard. Therefore your request would be a variance to allow an accessory structure in the front yard. Where it ask what are the conditions which prevent you from using this property in accordance with its current zoning classification – you need to state what is preventing you from locating the structure in the rear or side yard where it is allowed. Variances are based on a hardship on the land.

Per the Code Enforcement Officer you currently have three structures on this property. The structure for the proposed tax business, a single wide mobile home and a double wide mobile home. The double wide mobile home has been placed on the property without a Land Use Certificate and building permit. If it is your intentions for this structure to be the principal dwelling, it would need to be in front of the single wide mobile home and we would need to know the dimensions of both structures as the zoning ordinance has a requirement that an accessory dwelling may not exceed 60% of the size of the principal dwelling. In a residentially zoned property an accessory dwelling is not allowed in the front yard.

It is your right to request a variance from zoning requirements that your are unable to meet however please know that the granting of a variance isn't guaranteed. You will need to revise your variance application to accurately state what all you are requesting a variance from.

I have attached your variance application. Please white-out responses under 'Purpose of this variance is to allow' and 'conditions which prevent you from using this property...' and tell us what zoning requirement you need a variance from and why you can't meet the said zoning requirement. I will need this information asap in order to keep your request on the June 11th agenda.

Please contact me if you have any questions.

Thank you,

Linda Lee

Planner

Baldwin County Planning & Zoning Dept.

201 East Section Avenue

Foley, AL 36535

Petition and Pictures from Neighbors

PETITION **AGAINST** VARIANCE CASE NUMBER V-200016

DEAR BOARD MEMBERS OF THE PLANNING AND ZONING,

WE ARE A RESIDENTIAL COMMUNITY. WE PURCHASED OUR HOMES TO LIVE A QUIET COUNTRY LIFE. WE DO NOT WANT A TAX OFFICE IN OUR NEIGHBORHOOD, THIS IS AGAINST MOST OF THE RESIDENTS THAT LIVE HERE, WE HAVE ENOUGH TRAFFIC GOING UP AND DOWN OUR STREET ALREADY. THIS KIND OF BUSINESS WOULD BE OUT OF PLACE. WE ARE OK WITH VARIANCE V-200017.

DUE TO COVID-19 WE ARE NOT ATTENDING THE MEETING JUNE 11, 2020, BUT WE STILL WANT OUR VOICES TO BE HEARD. WE ARE LOOKING FORWARD TO YOUR HELP IN THE MATTER.

- 1 Charles Fowler 13560 Cripple Creek Lane Lillian
- 2 Rose Ewen 13377 Cripple Creek Lane Lillian, AL
- 3 Mary Robertson 13381 Cripple Creek Lane Lillian, AL
- 4 Lani Robertson 13381 Cripple Creek Lane Lillian AL
- 5 Suzanne McAlbee 13360 Cripple Creek Ln, Lillian, AL
- 6 Ezell Davis 13365 Cripple Creek Ln Lillian AL
- 7 Gandra Davis 13365 Cripple Creek Ln. Lillian AL
- 8 Ruth M. Wotton 13338 Cripple Creek Ln Lillian AL
- 9 Erma M. Waltman 13338 Cripple Creek Ln Lillian AL
- 10 James Phillips 13424 Cripple Creek Lillian AL
- 11 Darrel Robert 13401 Cripple Creek Ln., Lillian, AL
- 12 _____
- 13 _____
- 14 _____
- 15 _____
- 16 _____
- 17 _____
- 18 _____
- 19 _____
- 20 _____



