

**PLANNING AND ZONING
BOARD OF ADJUSTMENT NUMBER 2**

AGENDA

October 14, 2021

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 (September 9, 2021)
4. Announcements/Registration to Address the Board of Adjustment
5. Consideration of Applications and Requests

ITEMS:

a.) Case No. AD-21003, Stevens Property

Request: appealing the issuance of a Notice of Violation for the Occupancy of a Recreational Vehicle outside of a recreational vehicle park

Location: The subject property is located at 27020 Frank Road in Planning District 22

Attachments: Within Report and Attached

a.) Case No. V-210038, Wahlbom Property

Request: approval of a variance from the front setback requirement to allow for the construction of a swimming pool

Location: The subject property is located at 685 Bonita Court in Planning District 25

Attachments: Within Report and Attached

b.) Case No. V-210039, Jones Property

Request: approval of a variance from the south side yard setback requirement to allow for a walkway (deck) handicap ramp

Location: The subject property is located at 36490 Boykin Boulevard in Planning District 22

Attachments: Within Report and Attached

6. Old Business
7. New Business
 - a.) Approval of 2022 Meeting and Deadline Calendar
8. Adjournment

Planning & Zoning Board of Adjustment Number 2
September 9, 2021
Regular Meeting Minutes
Foley Satellite Courthouse, Large Meeting Room

The Board of Adjustment Number 2 met in a regular session on September 9, 2021 at 3:30 p.m., in the Baldwin County Foley Satellite Courthouse Large Meeting Room. Chairman, Ernie Church called the meeting to order. Members present included: Samuel Mitchell, Theron Mashburn, Michael Swansburg, John Slaats, John Hilderbrandt and Johanna Moloney. Staff members present were Paula Bonner, Planning Technician, and Linda Lee, Planner.

Approval of Previous Meeting Minutes

The first order of business was approval of the minutes from the August 12, 2021 meeting. Mr. Mitchell made a motion to approve the meeting minutes. The motion received a second from Ms. Moloney and carried unanimously.

AD-21002 Harper Property

Chairman Church presented the applicant's request to withdraw the application. Due to the request being submitted less than two (2) days prior to the meeting the board had to vote to accept the withdrawal request.

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

SE-21007 Hyche Imagination LLC Property

Mrs. Lee presented the applicant's request for approval of a special exception to allow for an RV park. Staff received fourteen letters in opposition to the request. Due to the residential uses adjacent to the subject property staff felt this is not an appropriate location for an RV Park and recommended the applicant's special exception request be **DENIED**. Staff stated conditions to be considered if the board approved the request.

Mr. David Dichiara, engineer for the project, answered questions from the board.

Ms. Karen Smith, Mr. Klaus Gehringer and Mr. Patrick McAuliffe spoke in opposition to the special exception request.

Following a lengthy discussion, Mr. Swansburg made a motion to deny the variance request. The motion received a second from Mr. Mitchell and carried unanimously.

SE-21008 Fowler Property

Mrs. Lee presented the applicant's request for special exception approval to allow for an increase to structure size for a previously approved RV and Boat Storage Facility. Staff had no issues with the increase in size of the structures and recommended that the requested change in size be **APPROVED**.

Mr. John Barker spoke in favor of the special exception request.

Mr. Mitchell made a motion to approve the special exception request. The motion received a second from Mr. Hilderbrandt and carried unanimously.

V-210032 Jordan Property

Mrs. Bonner presented the applicant's request for approval of a variance from the side yard setback requirement to allow for a single-family dwelling. Per the applicant the purpose of the variance is to prevent them having to cut down an oak tree. Staff recommended the board base its decision on information provided in the staff report and at the public hearing.

Ms. Denice Stout Stout spoke in opposition of the variance request and answered questions from the board.

Mr. Chase Robinson and Mr. Terrance Jordan spoke in favor of the variance request and answered questions from the board.

Following a lengthy discussion, Mr. Swansburg made a motion to approve a variance of 3 feet (structure will be 7 feet from the fence). The motion received a second from Mr. Mashburn and carried unanimously.

Adjournment

There being no further business to come before the board the meeting was adjourned at 4:45 p.m.

Respectfully Submitted,

Linda Lee, Planner

I hereby certify that the above minutes are true, correct and approved this _____ day of _____, 2021.

Ernie Church, Chairman



Baldwin County Planning & Zoning Department

Board of Adjustment Staff Report

Case No. AD-21003

Stevens Property

Appeal of Administrative Decision (Notice of Violation for occupying a recreational vehicle outside of a recreational vehicle park)

October 7, 2021

Subject Property Information

Planning District: 22
General Location: East of Breman Rd, south of Frank Rd, in Elberta
Physical Address: 27020 Frank Road
Parcel Number: 05-53-05-22-0-000-003.002
Existing Zoning: RA, Rural Agriculture District
Existing Land Use: Occupying RVs
Square Footage: 3 acres ±
Appellant: Mark and Cynthia Stevens
27020 Frank Rd
Elberta, AL 36530
Owner: Same
Lead Staff: Orie King, Code Enforcement Officer
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Residential	RA, Rural Agriculture District
South	Residential	RA, Rural Agriculture District
East	Residential	RA, Rural Agriculture District
West	Residential	RA, Rural Agriculture District

Summary and Recommendation

Planning and Zoning received a complaint for this property on 7/07/2021. After an investigation the code enforcement officer felt there was enough evidence to issue a NOV "Notice of Violation" for occupying a recreational vehicle outside of a recreational vehicle park. Also included in the NOV was a violation for constructing a metal building without a Land Use Certificate. However, we later found that the property owner was approved for a Land Use certificate (LU-190027) to build the metal garage/shop. The issue was the original Land Use application referenced the parent parcel and not the current lot parcel number.

The zoning ordinance specifically says, "a recreational vehicle shall not be occupied as a living quarter unless it is located in a recreational vehicle park". Based on this regulation staff recommends that the Notice of Violation for occupying an RV outside of a recreational RV park be **UPHELD** and the appeal **DENIED**, and the property owner unhook the RVs from utilities and stop occupying them within 30 days of this meeting. *

**A majority vote of the members of the Board will be necessary to reverse the administrative decision (issuance of the Notice of Violation).*

Current Zoning Requirements

Section 13.8 Recreational Vehicle (RV) Parks

13.8.1 Purpose. The purpose of this section is to establish minimum standards for recreational vehicle parks.

13.8.2 Procedures and standards.

(a) Land use certificate required. All recreational vehicle parks are subject to the standards contained in this section and will be required to obtain a land use certificate prior to being granted building permit.

(b) Where permitted. Except as provided in Section 2.3.26.4(b) and Section

2.3.31.4, recreational vehicle parks are permitted as follows:

1. High Density

- A. RV-1, B-4, M-1 and M-2 by right.
- B. B-3 by conditional use approval.
- C. RR, RA and CR by special exception approval.

2. Low Density

- A. RV-1, RV-2, B-4, M-1 and M-2 by right.
- B. B-2, B-3 and OR by conditional use approval.
- C. RR, RA and CR by special exception approval.

(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.

(d) Storage and parking. Recreational vehicles may be parked or stored in residential districts as provided in Section 15.3.9: Storage and parking of trailers and commercial vehicles.

Appeals to the Board of Adjustment Information

The Baldwin County Zoning Ordinance expressly provides for an appeals process when it is believed that the Zoning Administrator (Planning Director), or other administrative official, has erred in any “order, requirement, decision, or determination”.

Section 18.5 Appeals to the Board of Adjustment

18.5.1 The Board of Adjustment shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator or other administrative official in the enforcement of these zoning ordinances.

18.5.2 Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer or department of Baldwin County affected by any decision of any administrative officer representing the County in an official capacity in the enforcement of these zoning ordinances. Such appeal shall be taken within 30 days of said decision by filing with the officer from whom the appeal is taken and with the Board of Adjustment a

notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the Board of Adjustment all papers constituting the record upon which the action was taken.

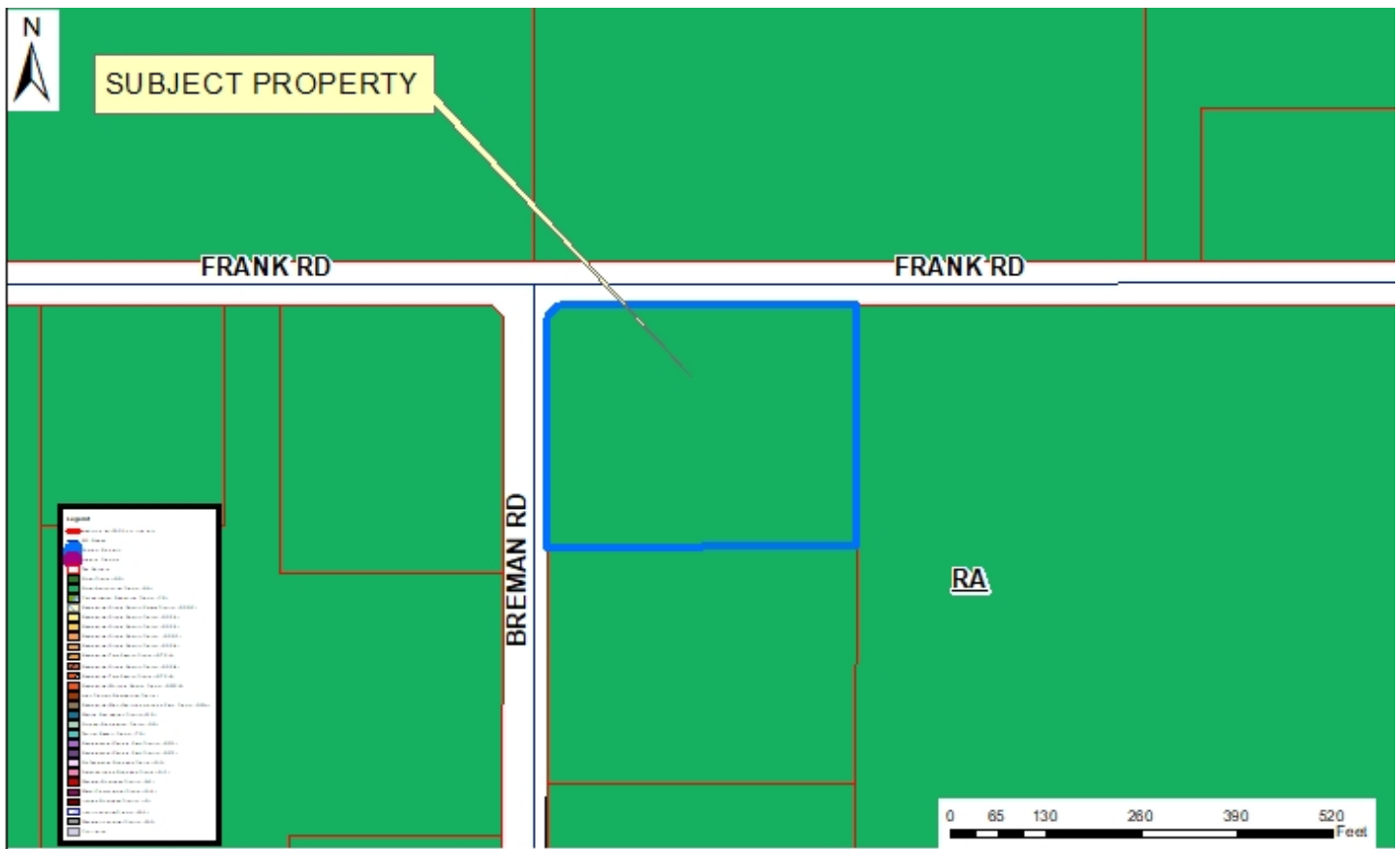
18.5.3 An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a Court of Record on application and notice to the officer from whom the appeal is taken and on due cause shown.

Property Image





Locator Map



Site Map



NOTICE OF ZONING VIOLATION

Baldwin County Planning and Zoning Department

Certified Mail

Date of Notice August 18, 2021

Mark and Cynthia Stevens
26210 Norman Woerner Ln
Elberta, AL 36530

RE: 21-005600

YOU ARE HEREBY NOTIFIED THAT:

Pursuant to the Baldwin County Zoning Ordinance, Sec. 21.3, notice is hereby given that you are in **violation** of the *Baldwin County Zoning Ordinance*.

LOCATION OF VIOLATION:

The subject property is situated in Planning District 22, and is zoned RA Rural Agricultural District, and is located at:

Street Address:	27020 Frank Road
Tax Parcel#:	<u>05-53-05-22-0-000-003.002</u>
Date of Inspection	<u>August 16, 2021</u>

NATURE OF VIOLATION:

“Recreational Vehicles” are parked on the subject property and are being occupied.

According to the Baldwin County Zoning Ordinance, “Recreational vehicles” 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.

A “metal building” was constructed without a Land Use permit.

According to the Baldwin County Zoning Ordinance, A land use certificate shall be obtained from the Zoning Administrator prior to the commencement of development and issuance of any building permit including electrical, HVAC and plumbing permits.

CORRECTIVE ACTION:

Discontinue occupying the recreational vehicle within 30 days of receipt of this notice. The recreational vehicles may not be connected to utilities. Submit a complete Land Use Application for the stated

construction within 15 days of receipt of this notice of violation. Application materials may be obtained from the offices of the Baldwin County Planning and Zoning Department or from the Baldwin County website (baldwincountyal.gov).

Baldwin County Zoning Ordinances

Article XII General Requirements

Section 12.2 Temporary Structures

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 regulations.

Article 13 Design Standards

Section 13.8 Recreational Vehicle (RV) Parks

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.

Article 18 Administration

Section 18.1 Administration, Interpretation and Enforcement

Section 18.2 Land Use Certificates

18.2.1 Authorization. A land use certificate shall be obtained from the Zoning Administrator prior to the commencement of development and issuance of any building permit including electrical, HVAC and plumbing permits.

ENFORCEMENT PENALTIES:

Failure to comply within the time specified above will subject you to penalties in accordance with Sec. 21.3 and Sec. 21.4 of the *Baldwin County Zoning Ordinances*

21.3.8 Fines. Any person(s) violating any of the provisions herein shall be fined not more than \$150.00 for each separate violation, plus all costs of court, with each day such violation continues constituting a separate violation. The fines provided for herein shall commence and accrue upon receipt of the Notice of Violation or the expiration of the allowed period for correction, whichever is later. Said fines shall continue to accrue until paid, but shall not accrue on days during which the violation is properly on appeal.

If you believe the activities or conditions described above are not in violation of the *Baldwin County Zoning Regulations*, you may provide supporting documentation or other materials to the Planning and Zoning Department at 312 Courthouse Square, Bay Minette, Alabama, 36507, within 7 days of receipt of this notice.

- Please note: This determination may be appealed to the appropriate Board of Adjustment. Appeals shall be filed within (15) fifteen days of the Date of Notice above, on forms provided by the Planning and Zoning Department. Appeals must be filed with the Board of Adjustment by delivery of the appeal form to the Planning and Zoning Director at his/her office in Robertsdale, Alabama, 22070 Highway 59, Robertsdale, Alabama 36567 (physical address) or 22251 Palmer Street, Robertsdale, Alabama 36567 (mailing address). Appeal forms are available at the Planning and Zoning Department in Robertsdale, the Foley Satellite Courthouse, or at the County website at the following address: www.planning.co.baldwin.al.us. Copies of the Baldwin County Zoning Ordinance are also available at the Foley Satellite Courthouse.

Sincerely,

Orie King

Code Enforcement Officer

cc: Matthew Brown, P.E., Planning Director

Please keep in mind when reading this message. The property owner filed an Appeal to an Administrative decision not a special exception. Even if the owner decided to request a special exception, staff would recommend denial.

[\SKIDEEZE@ymail.com](#), Steve Stachowski [\SKIDEEZE@ymail.com](#)

Subject: Notice of Public Hearing on Stevens Property Regarding RVs used as Living Quarters Case #AD-21003

This message has originated from an **External Source**. Please use proper judgment and caution when opening attachments, clicking links, or responding to this email.

To Whom It May Concern,

Regarding Case #AD-21003, we agree with the Zoning department that the Stevens Property is and has been in violation of the zoning law by having multiple RVs occupied by multiple family units. WE as a group of concerned residents of Breman and Frank roads have been concerned over this violation for some time now and appreciate the county taking action to protect the property values of this area. These RVs have been on the site well in excess of this year with no visible signs of constructing a permanent residence and personal observation suggest permanent habitation much before June of this year. To file for a special exception the applicant must meet all of the following requirements of section 18.6 as you know.

18.6.4 Standards for approval. A special exception may be approved by the Board of Adjustment only upon determination that the application and evidence presented clearly indicate that all of the following standards have been met: (a) The proposed use shall be in harmony with the general purpose, goals, objectives and standards of the Baldwin County Master Plan, these ordinances, or any other official plan, program, map or ordinance of Baldwin County. (b) The proposed use shall be consistent with the community welfare and not detract from the public's convenience at the specific location. (c) The proposed use shall not unduly decrease the value of neighboring property. (d) The use shall be compatible with the surrounding area and not impose an excessive burden or have substantial negative impact on surrounding or adjacent uses or on community facilities or services

Mr. Stevens cannot successfully demonstrate compliance with items c and d above and therefore a special exemption should be denied.

Mr. Stevens also makes claims to the effect that there are other violators of this code. Mr. Stevens does not support his claims with any tangible evidence to that and that in of itself does not lend any permissible reason for his violation.

Mr Stevens is solely responsible for understanding the zoning codes as he has occupied the property for over 2 years now. He has demonstrated no effort to build a permanent dwelling and has multiple family units residing in RVs on his property. We ask the board to enforce the current code and bring this property into compliance.

Sincerely,
Paul Hammock

Office Use Only

Case No. **LU - 190027** Accepted By: [Signature] Date: 1/11/19
 Application Fee: \$250 ☒ Paid Check # 2204 Receipt # 10568

Baldwin County Land Use Certificate Application

Main Office (Mailing)
 22251 Palmer Street
 Robertsdale, AL 36567
 Phone: (251) 580-1655
 Fax: (251) 580-1656

Main Office (Physical)
 22070 Highway 59
 Robertsdale, AL 36567
 Phone: (251) 580-1655
 Fax: (251) 580-1656

Foley Office
 201 East Section Avenue
 Foley, AL 36535
 Phone: (251) 972-8523
 Fax: (251) 972-8520

**AN APPROVED LAND USE CERTIFICATE DOES NOT CONSTITUTE APPROVAL
FOR A BUILDING PERMIT**

Applicant

Are you the property owner? ☒ YES ☐ NO
 (If you are not the property owner you must submit Owner Authorization Form signed by the property owner)

Name: Cynthia J Stevens Date: 1/11/19

Mailing Address: 26210 NORMAN WERNER LN

City: ELBERTA State: AL Zip code 36530

Telephone: (251) 609-5485 Fax: () - e-mail: stevensmadj@gmail.com

Site Information

Parcel ID Number: 05-53-05-22-0-000-003-000

Physical Address (E-911): 27020 Frank Rd

Subdivision/Lot/Unit No: John Dorn Lot 1

Lot Size (acres or square feet): 3 ac. Lot Dimensions: 316 X 420

Are there existing structures on the property? ☐ YES ☒ NO

If yes, please describe: _____

Water and Sewer Information

(Check Appropriate Box)

☒ Septic Tank System

☒ Well

☐ Sewer System

☐ Water System

Name of System: _____ Name of System: _____

(Over, Please Continue to Reverse Side)

Project Description

Use: (Check One)

- ☐ Single Family ☐ Two-Family ☐ Multi-Family ☐ Commercial
☐ Industrial ☐ Alterations/Repairs ☐ Piers/Boathouse ☒ Accessory Structure
☐ Other (specify) _____

Description of work and the proposed use: 32' x 32' Garage / Shop 16' height

This certificate is valid for a six (6) month period after date of issuance. I hereby certify that the information stated on and submitted with this application is true and correct. I also understand that the submittal of incorrect information will result in the revocation of this permit and any work performed will be at the risk of the applicant. I understand further that any changes which vary from the approved plans will result in the requirement of a new Land Use Certificate.

* Applicant Signature: [Signature] Date: 1/11/19

Erosion Control Plan Submitted: ☐ YES ☒ NO

Proposed Installation Date: _____ License No. : _____

Comments: 3 acres

* Preparer Signature: [Signature] Date: 1/11/19

After application has been reviewed:

- ☐ I will pick up the approved application after I have been contacted.
☒ I would like the approved application to be forward to the appropriate Building Inspection office.

Office Use Only

Zoning Classification: RA Planning District: 22 Flood Zone: X

- ☐ Culvert Permit ☐ Sewer Release ☐ Water Release ☒ Site Plan ☐ Construction Plans ☐ Agent Authorization
☐ State Lands Permit Confirmation # _____ ☐ U.S. Army Corp. Permit ☐ U.S. Fish & Wildlife Permit

Potential Wetlands ☒ YES ☐ NO ARB ☐ YES ☒ NO Study Area: _____ FLU District: _____

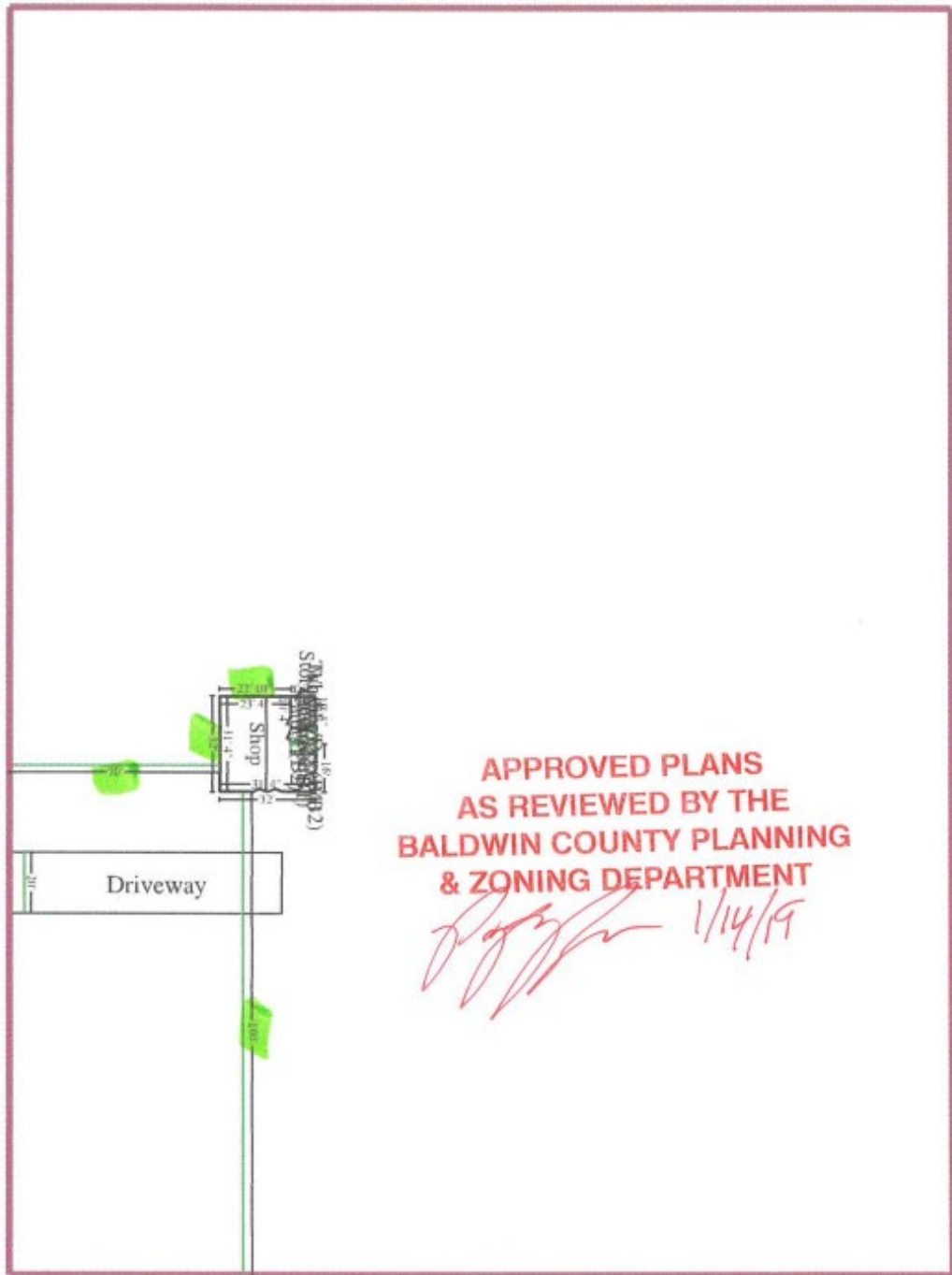
Decision: ☒ APPROVED ☐ DENIED

Comments: cannot exceed 35' in height from grade level to mean roof height.

Zoning Administrator (or designee) Signature: [Signature] Date: 1/14/19

BREMAN_ROAD

Frank Road



Breman Road

1/11/2019

Page: 1

Overview



Baldwin County Appeal of Administrative Decision

Mailing Address

201 East Section Avenue
Foley, AL 36532

Phone: (251) 972-8523 Fax: (251) 972-8520

Appellant

Are you the property owner? ☒ Yes ☐ No

(If you are not the property owner, you must submit Owner Authorization Form signed by the property owner)

Appellant Name: MARK + CYNTHIA STEVENS Date: 9-1-21

Mailing Address: 27020 FRANK RD

City: ELBERTA State: AL Zip code: 36530

Telephone: (251) 609-5485 Fax: () - - e-mail: STEVENSMAJ@GMAIL.COM

Owner

Name: CYNTHIA J. STEVENS Date: 9-1-21

Mailing Address: 27020 FRANK RD

City: ELBERTA State: AL Zip code: 36530

Telephone: (251) 942-2085 Fax: () - - e-mail: STEVENSMAJ@GMAIL.COM

Site Information

Parcel ID Number: 05-53-05-22-0-000-003.002

Zoning Classification: RA RURAL AGRICULTURE Planning District: 22

Appeal

Basis and Facts of Appeal: See attached

Requested Action: See attached

(Over, Please Continue to Reverse Side)

Page 1 of 2



Conditions of the Appeals Process

- The Board of Adjustment shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator or other administrative official in the enforcement of these zoning regulations.

- Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer or department of Baldwin County affected by any decision of any administrative officer representing the County in an official capacity in the enforcement of these zoning regulations. Such appeal shall be taken within 30 days of said decision by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall transmit forthwith to the Board of Adjustment all papers constituting the record upon which the action was taken.

- An appeal stays all proceedings in furtherance of the action appealed from unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property. Such proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a Court on application and notice to the officer from whom the appeal is taken and on due cause shown.

- Any party aggrieved by a final judgment or decision of the Board of Adjustment may, within 15 days thereafter, appeal therefrom to the Circuit Court of Baldwin County, Alabama, by filing with the Circuit Court and the Board of Adjustment a written notice of appeal specifying the judgment or decision from which the appeal is taken. In case of such appeal, the Board of Adjustment shall cause a transcript of the proceedings and the action to be certified to the Court to which the appeal is taken, and the action of such court shall be tried de novo.

(Baldwin County Zoning Regulations Section 18.10)

I have read the above conditions and understand them and agree to abide by them. I hereby certify that the information stated on and submitted with this application is true and correct. I also understand that the submittal of incorrect information will result in the revocation of any approval and any work performed will be at the risk of the applicant.

Applicant Signature: Mad [Signature] Date: 8/2/21

Office Use Only

Date of Hearing: 10-14-2021

Board Decision: _____

Conditions: _____

Chairman's Signature: _____ Date: _____

RE: Notice of Zoning Violation dated 8/18/21. Received by Appellant on 8/31/21 via certified mail.

Basis and Facts of Appeal:

A Land Use Permit was issued prior to obtaining a building permit regarding the construction of the wood-framed, detached garage on the property. We notified, in person, that we had obtained a land use permit and it was noted at that time that there must have been a clerical error on the parcel ID number. Therefore, the notice of violation is incorrect.

Regarding use of RVs as living quarters:

We are in the process of, and preparing to, build a dwelling on the property. We have two sons with Cerebral Palsy who need wheeled handicap accessibility. There is a shortage of housing in Baldwin County in general, and the availability of wheeled-accessible housing is non-existent.

We have been using RVs as living quarters since June 7, 2021, which is when we sold our previous dwelling. We constructed a deck and ramp to provide wheeled accessibility to the RVs, and one of the RVs is specially designed for accessibility. We have not attempted to conceal the fact of using them as living quarters, since we were not aware of the zoning prohibition of using RVs as living quarters. To note; There are several RVs being used as full-time dwellings within a mile of our property that are not in an RV park; We have seen several RVs used as living quarters during the construction of a dwelling, where no exception or special permit was issued, including the dwelling next door; We had received a verbal OK to use RVs as temporary housing from the person that we bought the property from; When we were building the detached garage on the property, the county building official asked if the storage room in the structure was to be used as a bedroom. When he was informed that we would be using RVs as temporary housing, he did not indicate a concern; When the septic system was being inspected, the county official was informed that we intended to use RVs as temporary housing, and again, there was no hesitancy in approval.

We now know that zoning ordinances do not allow for using RVs for living quarters. However, as there is no other wheeled-accessible housing available in our community, and moving away from this property will create significant undue hardship, we will be applying for a special exception for the temporary use of RVs as living quarters, while the dwelling is under construction.

Requested action:

We are requesting the suspension of any judicial action or fines, pending the result of further applications.



Baldwin County Planning & Zoning Department

Board of Adjustment #2

Board of Adjustment Staff Report

Case No. V-210038
Wahlbom Property
Front Yard Setback Variance
October 14, 2021

Subject Property Information

Planning District: 25
General Location: Fort Morgan
Physical Address: 685 Bonita Court
Parcel Number: 05-69-08-02-0-005-074.000
Zoning: RSF-1, Single Family District
Lot Size: 0.09 +/- Acres
Applicant: Cox Pools of the South East
22656 Canal Road
Orange Beach, Alabama 36561
Owner: David Whalbom
Lead Staff: Paula Bonner, Planning Technician
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Vacant	RSF-1, Single Family District
South	Residential	RSF-1, Single Family District
East	Vacant	RSF-1, Single Family District
West	Mobile Bay	N/A

Summary and Recommendation

The applicant is requesting approval of a variance from the front yard setback requirements, Section 12.5.2(f) and Section 13.1.2(c) of the Baldwin County Zoning Ordinance, to allow for the construction of a swimming pool.

Staff perceives no hardship on the property due to the development of the existing single-family dwelling and considers the construction of a swimming pool a convenience not a necessity therefore recommends denial.

**On Variance applications, the Board of Adjustment makes the final decision*

Variance Request

The applicant is requesting approval of a variance from the front yard setback requirements, Section 12.5.2(f) and Section 13.1.2(c) of the Baldwin County Zoning Ordinance, to allow for the construction of a swimming pool.

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 12.5 Yard Requirements

12.5.2 Yard requirements shall be modified subject to the following conditions:

- (a) Through lots shall provide the required front yard on each street.
- (b) Decks and unroofed porches may project into a required front yard for a distance not to exceed 5-feet and a rear yard not to exceed 10-feet.
- (c) Uncovered steps and handicap ramps may project into a required front, or side yard for a distance not to exceed 5-feet and a rear yard not to exceed 10-feet.
- (d) On a corner lot, the side yard from the side lot line which abuts a street shall be a minimum of 20-feet.
- (e) Where a subdivision has been approved by the Planning Commission in accordance with the Baldwin County Subdivision Regulations prior to the enacting of zoning ordinances with front, rear or side yard setbacks different than the minimums required herein, the setbacks as recorded on the plat shall apply.

(f) All buildings or structures located within the coastal high hazard area (V-zones) shall be located 50-landward of the reach of the mean high tide.

Section 13 Design Standards

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.
- (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.

Section 22 Definitions

22.2 Words and Terms Defined

Accessory structure. A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure. Except as provided in Section 10.4, Wetland Protection Overlay District, bulkheads, fences, walls, retaining walls, fountains, trellises, pergolas, air conditioner platforms, walkways and similar features which provide a decorative, security or support function shall not be considered accessory structures for purposes of these zoning ordinances.

Coastal high hazard areas (V-zones). Areas that are subject to high velocity waters caused by, but not limited to hurricane wave wash.

Yard, front. An open, unoccupied space on the same lot with the principal building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front lines of the building and the right-of-way line. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension. **On waterfront lots the front yard shall be considered from the front line of the principal building to the waterfront property 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 property is approximately 80' wide along the northern side, 50' along the eastern side, 80' wide along the southern side, and 50' along the western side. The parcel consists of approximately .09 acres. The current minimum lot width for RSF-1 is 100-feet at the building line and 50-feet at the street line. The current minimum lot size for RSF-1 is 30,000 square feet and the subject parcel consists of approximately 4,000 square feet, therefore staff believes the lot could be considered exceptionally narrow, shallow, or otherwise configured to create a hardship on the land that would require a variance.

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

Despite the location of the subject property in a VE flood zone on Mobile Bay, the property has been developed with a single-family dwelling, therefore Staff perceives no exceptional topographic conditions or other extraordinary situations or conditions which require a variance.

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 subject property, lot 3 Bonita Court Subdivision block 2, was filed with the Baldwin County Judge of Probate in 1957. Planning District 25 Zoning came into effect November 16, 1993. Per Revenue there is currently a single-family dwelling, concrete drive, and a bulkhead on the parcel. Staff perceives a swimming pool as a convenience and not a necessity for preservation of a property right that would require a variance.

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 anticipates no major impacts, therefore staff does not believe the granting of this application will 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.

5.) Other matters which may be appropriate.

Variance number V-160011 was approved on 03/10/2016 to allow for the construction of a single-family dwelling. On 03/20/2017 Land Use Certificate number LU-170177 was issued for construction of a

single-family dwelling. It appears that LU-170177 exceeded the dimensions allowed in the Notice of Action for V-160011.

Staff Comments and Recommendation

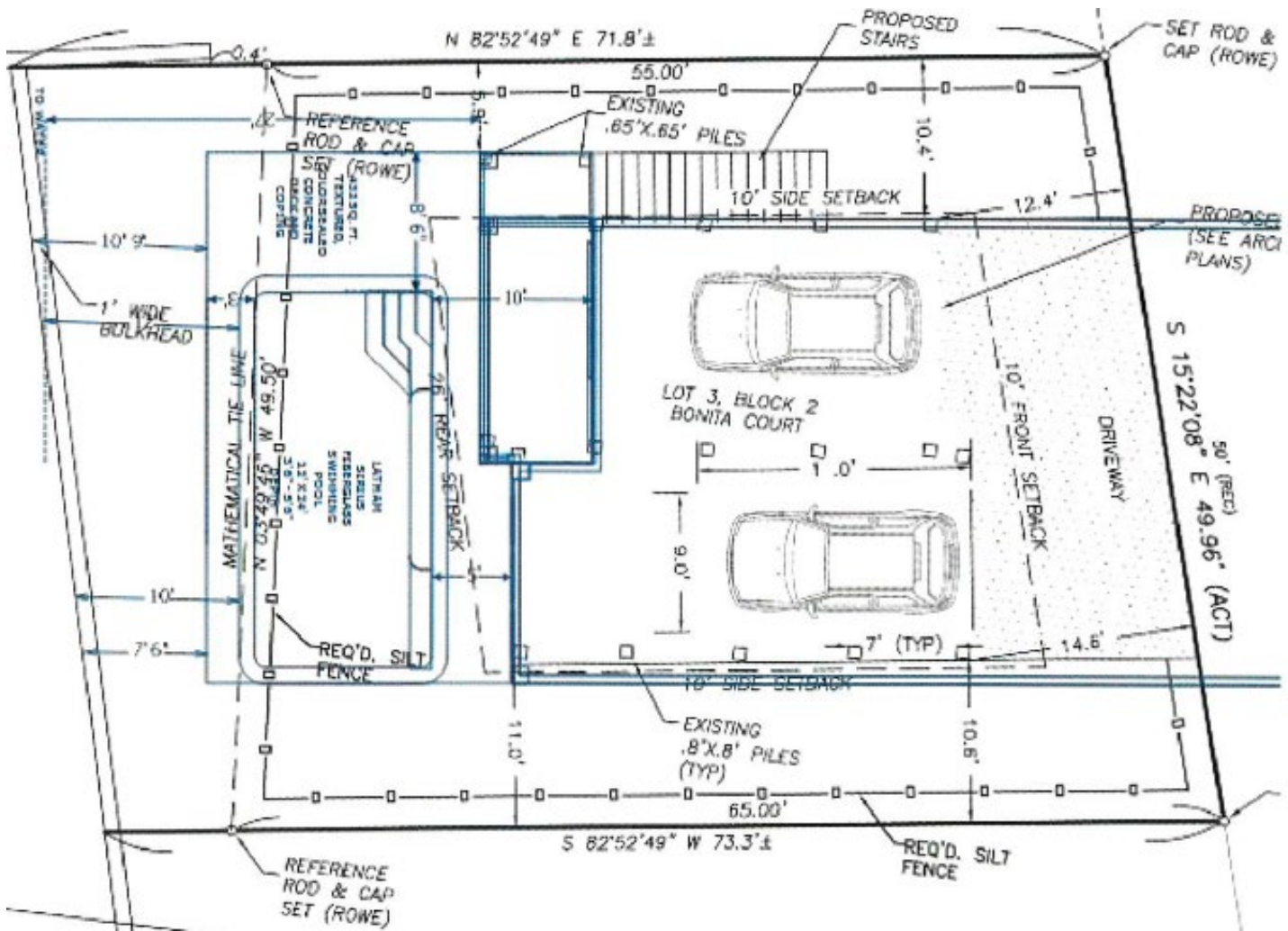
Staff perceives no hardship on the property due to the development of the existing single-family dwelling and considers the construction of a swimming pool a convenience not a necessity, therefore recommends denial.

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.

Site Plan



Property Images

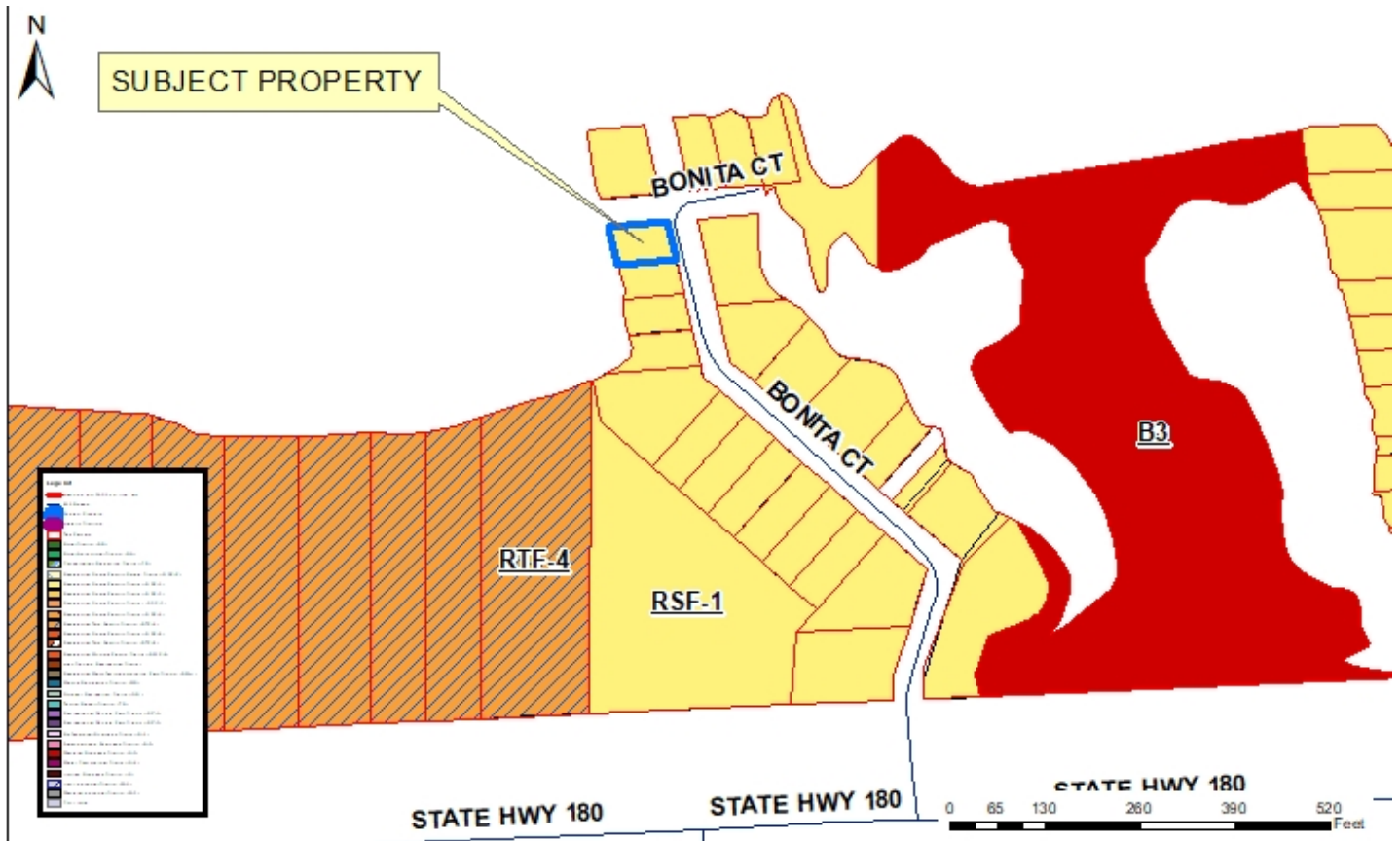








Locator Map



Site Map



FT MORGAN

PLANNING & ZONING ADVISORY COMMITTEE

Meeting Minutes – Oct 4, 2021

Applicant requests a variance from the rear bulkhead setback standard so a fiberglass swimming pool can be constructed on the property. Discussed the size of the proposed swimming pool. Site survey indicates a pool 22 ft x 24 ft - too large for the current setback dimensions. Update from installer verified pool size is actually 12 ft x 24 ft and will fit at the residence if the bulkhead setback variance is approved. The committee recommends approval of the variance.

BALDWIN COUNTY PLANNING & ZONING DEPARTMENT

201 East Section Avenue

Foley, Alabama 36535

Telephone No: 251.972.8523

Fax Transmittal No: 251.972.8520

Website: www.planning.co.baldwin.al.us

BALDWIN COUNTY COMMISSION DISTRICT #4

BOARD OF ADJUSTMENT

NOTICE OF ACTION

MEETING DATE: March 10, 2016

CASE NO: V-160011

PARCEL NO: 05-69-08-02-0-005-074.000

PROPERTY LOCATION: 691 Bonita Court

PLANNING DISTRICT: District 25

ZONING DESIGNATION: RSF-1 Single Family

APPLICANT: James Golden

10 Yacht Club Road

Titus, AL 36580

OWNER: Same

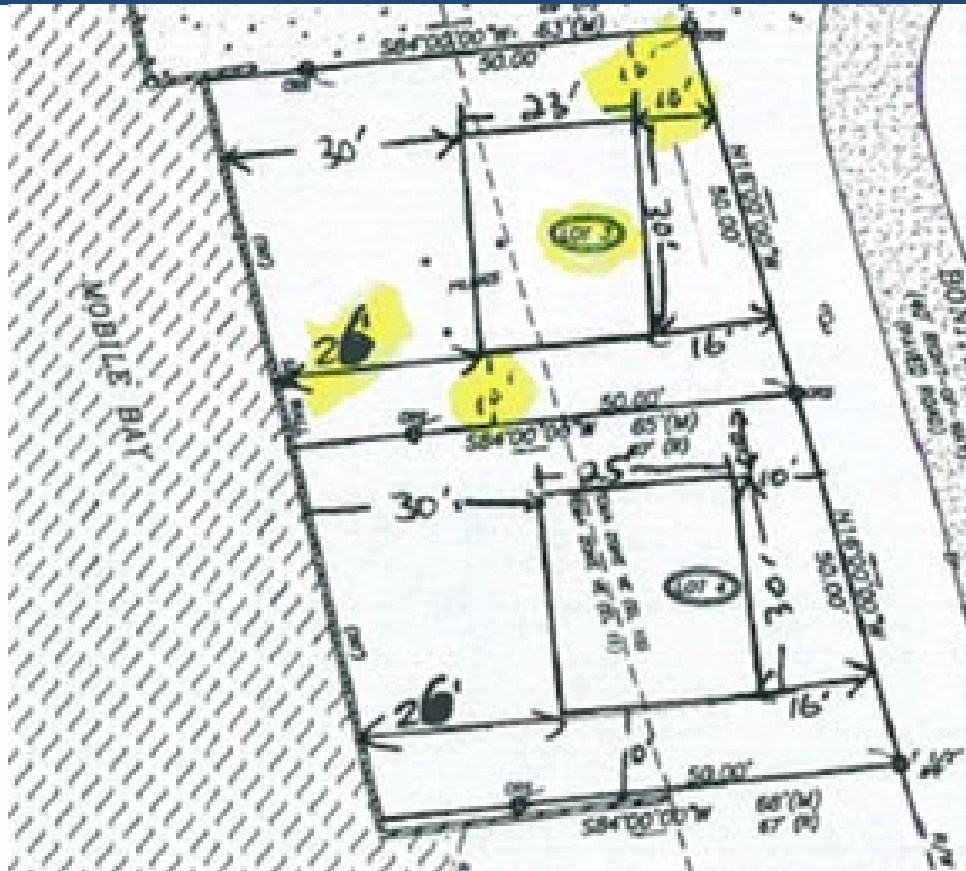
REQUEST: a 24 foot front yard setback variance and a 20 foot rear yard setback variance to allow for the construction of a single family dwelling

ACTION TAKEN BY BOARD: Approved with Conditions 1. Approval shall be limited in footprint to the size of the structure indicated on the site plan submitted, or less (Lot 3: 23' by 30') which includes any cantilevered decks. No more than two foot of roof overhang allowed. 2. The applicant must obtain a Baldwin County Land Use Certificate and building permit prior to any commencement of construction.

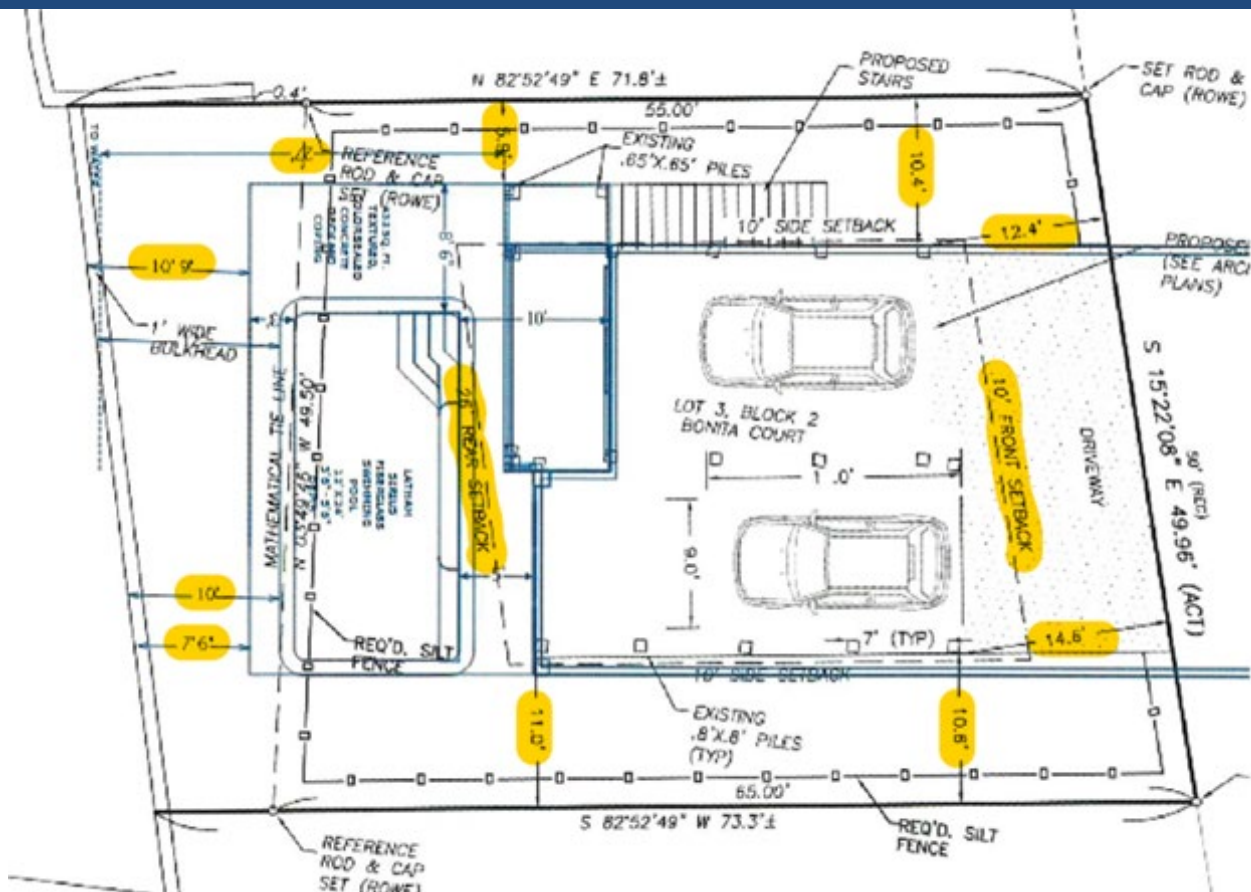


Zoning Administrator or designee

V-160011 Approved Site Plan



V-210038 Submitted Site Plan





Baldwin County Planning & Zoning Department

Board of Adjustment Number 2

Board of Adjustment Staff Report

Case No. V-210039

Jones Property

**Variance from the Side Yard Setback Requirements to allow for a Deck/Handicap Ramp
October 14, 2021**

Subject Property Information

Planning District: 22
General Location: East side of Boykin Boulevard
Physical Address: 36490 Boykin Boulevard
PID: 05-51-04-19-0-001-001.007
Zoning: RSF-1, Residential Single Family
Acreage: 0.345, more or less
Applicant: Charlene Jones
1504 Morgan Drive
Tuscaloosa, AL 35405
Owner: Charlene Jones
Lead Staff: Linda Lee, Planner
Attachments: *Within Report*

	Adjacent Land Use	Adjacent Zoning
North	Residential	RSF-1, Residential Single-Family
South	Vacant	RSF-1, Residential Single-Family
East	Water	N/A
West	Undeveloped	RSF-1, Residential Single-Family

Summary and Recommendation

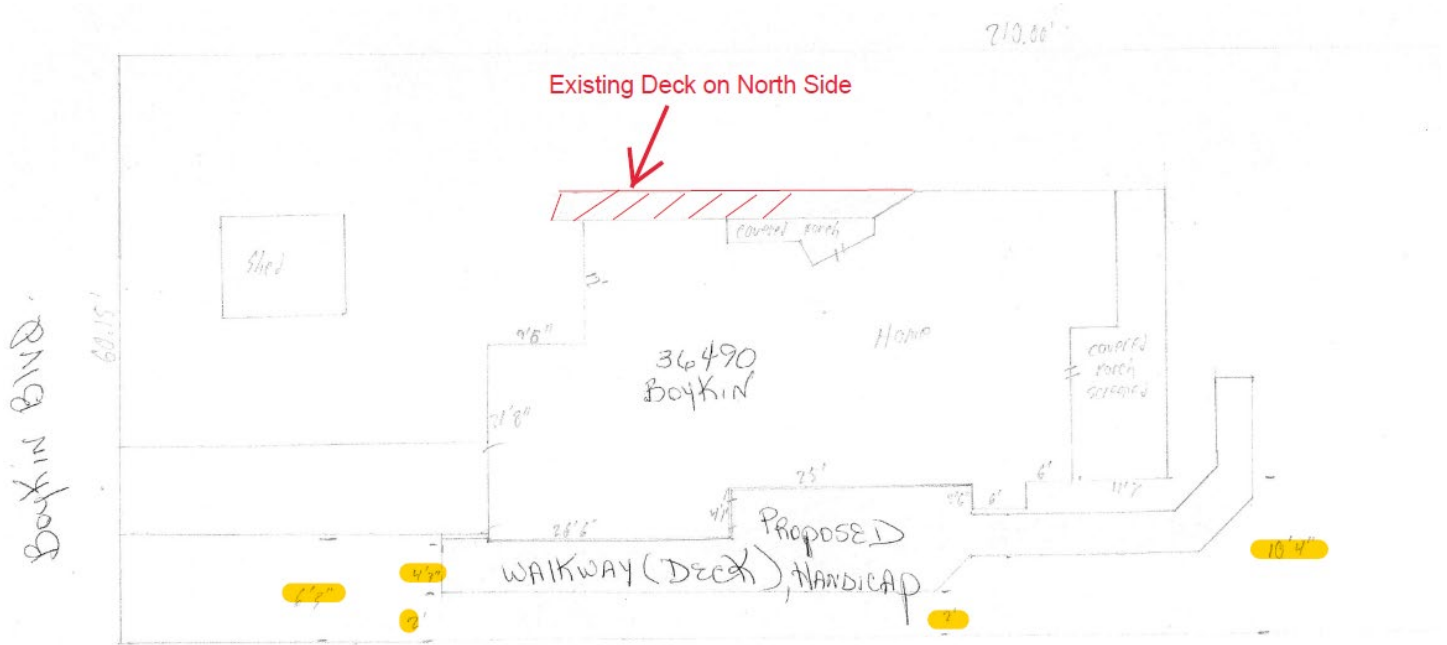
The applicant is requesting a variance from the south side yard setback requirement to allow for the construction of a deck/handicap ramp. Applicant has not submitted any information supporting a hardship on the land. Per pictures obtained from the internet staff has ascertained that a deck/handicap ramp could be located on the north side of the house. Therefore, staff recommends denial of the variance request.

Variance Request

The applicant is requesting a variance from the south side yard setback requirement to allow for the construction of a deck/handicap ramp.

The applicant is proposing to construct a handicap ramp on the south side of the existing dwelling two (2) feet from the side property line. The Zoning Ordinance allows for a handicap ramp to extend five (5) feet into the required side yard. The existing dwelling was built in 1999 prior to the enactment of zoning in 2002 which makes the dwelling legally nonconforming.

Proposed Site Plan



Additional Information

The following sections from the *Baldwin County Zoning Ordinance* are relevant to this application:

Area and Dimensional Requirements for the RSF-1 Zoning Designation

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

(b) Decks and unroofed porches may project into a required front yard for a distance not to exceed 5-feet and a required rear yard not to exceed 10-feet.

(c) Uncovered steps and handicap ramps may project into a required front, or side yard for a distance not to exceed 5-feet and a rear yard not to exceed 10-feet.

(d) On a corner lot, the side yard from the side lot line which abuts a street shall be a minimum of 20-feet.

(e) Where a subdivision has been approved by the Planning Commission in accordance with the *Baldwin County Subdivision Regulations* prior to the enacting of zoning ordinances with front, rear or side yard setbacks different than the minimums required herein, the setbacks as recorded on the plat shall apply.

(f) All buildings or structures located within coastal high hazard areas (V-zones) shall be located 50-feet landward of the reach of the mean high tide.

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 described as irregular lot 151 and part of lot 152 Lillian Beach Subdivision. The current dimensions of the lot are approximately 60'x271'. The lot does not meet the minimum lot width and area for property zoned RSF-1. The lot has been developed with a single-family dwelling; therefore, staff feels the size and shape of the property isn't a hindrance to adhering to the zoning requirements.

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

Staff is unaware of any exceptional topographic conditions or other extraordinary situations or conditions. Per the applicant there is a ditch on the north side of the property. However, the ditch did not prevent the construction of the existing deck on the north side. The contours layer does not show any excessive slope in the land. Therefore, staff believes the property does not meet the extraordinary situation or condition of a specific piece of property standard.



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 residential use and is currently developed with a principal dwelling. The applicant hasn't submitted any information supporting a hardship on the land. Therefore, staff feels the granting of the application is not necessary to preserve a property right.

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 does not anticipate any adverse impacts, therefore staff does not believe the granting of this application will 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.

5.) Other matters which may be appropriate.

Per the property owner, there isn't an active Property Owners Association.

Why Do I Need a Wheel Chair Ramp-

I bought the house in June of 2020, there was a deck that had steps out of the back door of the garage and a walkway for the A/C, garbage cart and large propane tank. Because my life partner was diagnosed with cancer in July 2020, I was unable to return to the home until September 15th, the day before Hurricane Sally severely damaged or destroyed my home, back porch, garage, pier and the walkway.

In redoing the damaged areas, it was my understanding that if I was replacing something that was there before the storm, it was not necessary to get a permit. So, I hired Nick Estes, a handiman, to replace my walkway but to extend it from the driveway around to the walkway from the back porch so that it was a level walking area.

In my considerations, I took into account that I was already 74 years old, and that many of my family and friends were my age or older (several in their 80's). This thought led to the request to an ADA compliant wheelchair walkway and level walking area. I have one friend, who has Neuropathy, and is very unstable on his feet and frequently falls, particularly on uneven ground, which was the case. The wooden ramp would eliminate this issue, and be available for a wheel chair when it was needed. Since I had to rebuild the destroyed walkway, it seemed to be a good time to include this.

The lot next door was woods on the right side so there was no clear delineation of the property line. While I do not have a picture of the right side of the house before the hurricane, I am including some picture of the damaged right side after the hurricane. Hopefully, this picture will confirm my belief that the deck was not 10 feet away from the property line when I purchased the house.

I would appreciate your consideration of this variance request.

As you can see from the pictures below, there appears to have been a ground level walkway on the south side of the dwelling not an above ground walkway.

There appears to have been a small deck on the southside of the dwelling, but based on the pictures submitted, it appears to have not extended pass the edge of the brick wall.





Staff Comments and Recommendation

As stated previously, the applicant is requesting a variance from the south side yard setback requirement to allow for the construction of a deck/handicap ramp. Applicant has not submitted any information supporting a hardship on the land. Per pictures obtained from the internet staff has ascertained that a deck/handicap ramp could be located on the north side of the house. Therefore, staff recommends **DENIAL** of the variance request.

** 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 there from 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.

Pictures from Zillow



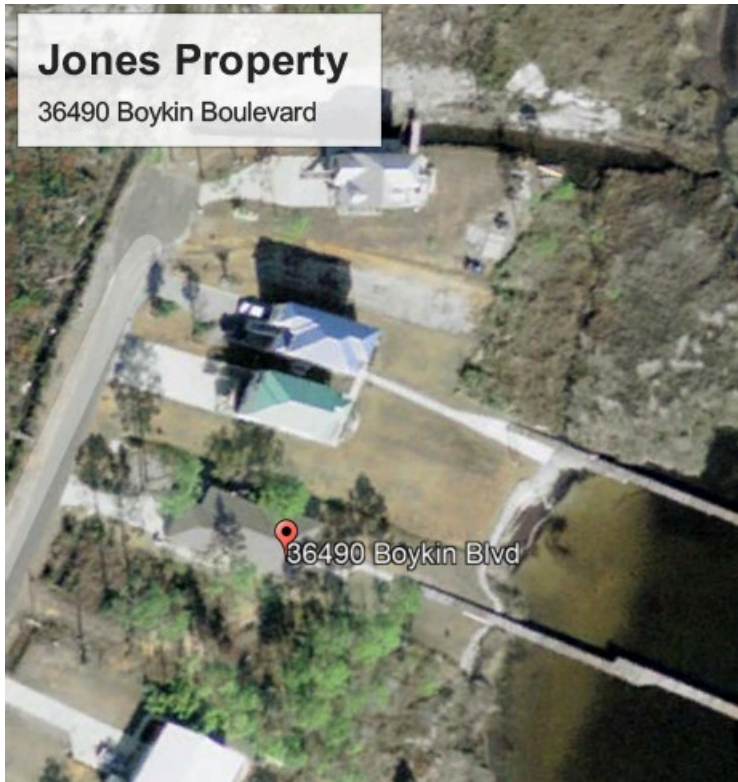
Deck and walkway on North side of dwelling



Deck on North side of dwelling



Deck on North side of dwelling



2007



2010



2013

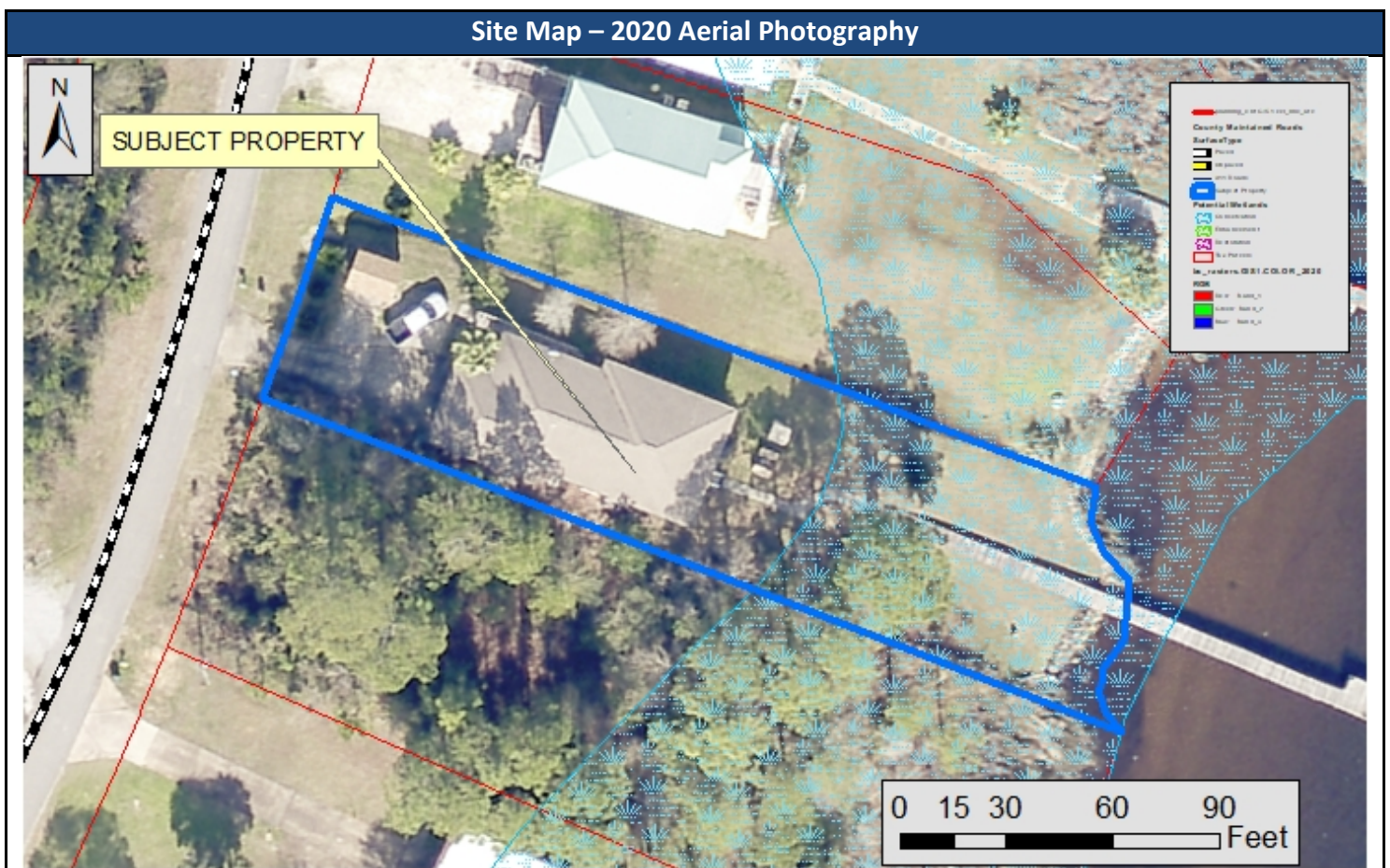
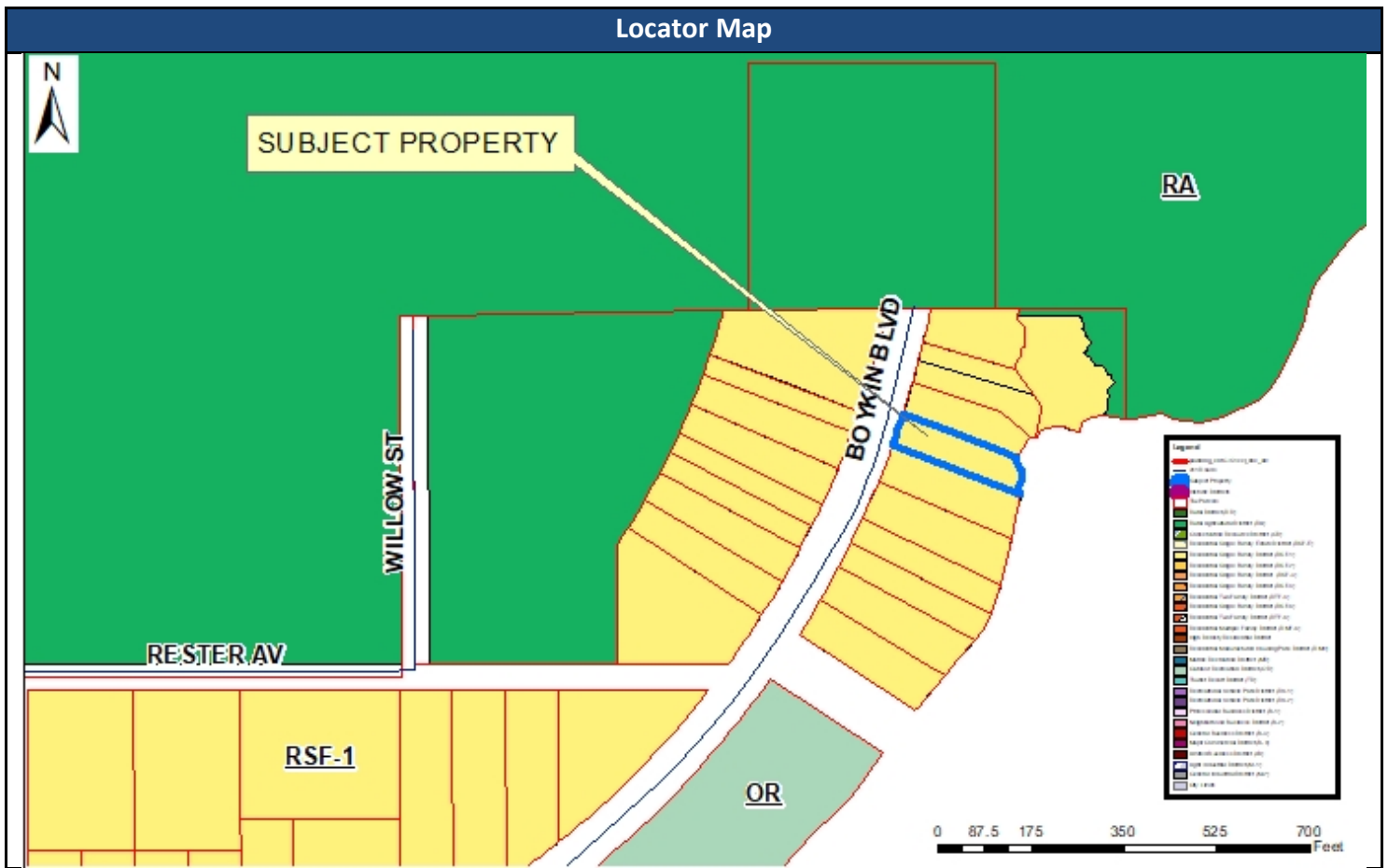


November 2020









**BALDWIN COUNTY PLANNING AND ZONING
BOARD OF ADJUSTMENT NUMBER 2**

**2022
MEETING DATES
&
APPLICATION DEADLINE DATES**

Meeting time: 3:30 p.m.

Meeting location: Foley Satellite Courthouse Large Meeting Hall

All applications to be considered by the Baldwin County Board of Adjustment #2 Planning and Zoning Board of Adjustment shall be submitted no later than 4:30 p.m. on the deadline date listed below. There will be no exceptions.

MEETING DATE	STAFF REPORTS DUE	APPLICATION DEADLINE DATE
January 13, 2022		December 22, 2021
February 10, 2022		January 20, 2022
March 10, 2022		February 16, 2022
April 14, 2022		March 22, 2022
May 12, 2022		April 21, 2022
June 9, 2022		May 18, 2022
July 14, 2022		June 22 2022
August 11, 2022		July 21, 2022
September 8, 2022		August 17, 2022
October 13, 2022		September 22, 2022
November 10, 2022		October 20, 2022
December 8, 2022		November 15 2022

Dates may differ from original meeting dates and/or application deadline dates due to holidays and may be subject to change upon request by the Chairman of the Board.

U:\Zoning\Board of Adjustment - Baldwin County Board of Adjustment Number 2 (South end) Deadline and Meeting Calendar 2022