



STAFF REPORT

MORGAN COUNTY PLANNING COMMISSION

PETITION FOR: VARIANCE

Property location: 132 Atlanta Highway, Rutledge, GA 30663
Property tax parcel: R04-035
Acreage: 1.49 acres
Applicant: Hassan ali Lnu, 1107 Paces Park Drive, Decatur, GA 30033
Applicant's Agent: N/A
Property Owner: Hassan ali Lnu, 1107 Paces Park Drive, Decatur, GA 30033
Existing Use: Convenience store and empty building

Summary

Mr. Hassan ali Lnu has requested a reduction to the side setback for commercially zoned property in the City of Rutledge. Mr. Lnu currently operates a convenience store out of the building on the left (looking at the storefronts from Highway 278). The building on the right was previously used as a laundry mat and an arcade, but is currently empty. An offer has been made to Mr. Lnu to purchase the empty building and eastern portion of the property. The purchaser's intention is to open a liquor store in the now-vacant building. This purchase would require the property to be split between the buildings.

The required side setback for Neighborhood Commercial (C1) is 15 feet. There is only 17 feet between the buildings. Mr. Lnu is proposing to keep 15 of the 17 feet with his property containing the convenience store and sell the remaining 2 feet with the former arcade building. This results in an approximately 85% reduction in the side setback.

Aerials show a roof structure that appears to connect the buildings. This breezeway structure stops approximately 4 foot (2 foot from the roof overhang, which extends 2 foot from the building) short of the right building and does not actually connect. Should the Variance be approved and the property split, the breezeway structure would have to be removed.

The applicant has not specified how much land is proposed to be sold with the property. However, if the line submitted by the applicant, showing where he wants the split to be made, was to be continued to the front and back property lines, the split would remove .6 acres from the existing 1.49 acres. These acreages are permissible in the C1 zoning district in Rutledge.



The red line shows the applicant's proposed property line, which maintains the 15 foot setback for the building on the left, but would place the property line at the roof overhang for the right building. It should also be noted that the buildings are already within the front setback from the highway. The required front setback is 50 feet, but the buildings are only 39 feet from the property line. The buildings were grandfathered regarding the front setback when the zoning ordinance was adopted.





The rear photo shows that the breezeway does not actually connect the buildings. The building proposed to be split and sold will require substantial repairs.

Criteria for Consideration

From the City of Rutledge Zoning Ordinance. Chapter 21.6, Required Findings for Variance Approval (staff comments are in blue):

- (a) There are extraordinary and exceptional conditions pertaining to the property because of size, shape, and topography. *There are no exceptional conditions; the property is flat.*
- (b) The literal application of this Ordinance would create an unnecessary hardship. "Hardship" is not defined by Rutledge's zoning ordinance, but the American Planning Association provides the following definition: *A restriction on property so unreasonable that it results in an arbitrary and capricious interference with basic property rights. Hardship relates to the physical characteristics of the property, not the personal circumstances of the owner or user, and the property is rendered unusable without the granting of a variance. Based on this definition, the Ordinance does not create a hardship.*
- (c) A variance would not cause substantial detriment to public good or impair the purposes and intent of this Ordinance. *Although a variance would not cause detriment to the general public, the possible impairment of the Ordinance's purposes should be considered, as setbacks, defined as the minimum allowable distance between properties, are in place to protect the health, safety and welfare of the property owners and users. For example, could a fire truck pass between the buildings in the event of a fire without possible damage to the adjoining property because the setback is not adequate?*
- (d) A variance would not confer upon the property of the applicant any special privilege denied to other properties in the district. *A variance could constitute a special privilege, as such reductions are not allowed except in extreme circumstances.*

- (e) The special circumstances surrounding the request for the variance are not the result of acts of the applicant. The proximity of the buildings to each other could be construed as the result of the property owner's actions, even if the current owner did not construct the buildings. It is his decision to sell one of the buildings and associated property when the configuration of the buildings does not allow for the necessary setbacks.
- (f) The variance is not a request to permit a use of land, buildings, or structures which is not permitted by right or by conditional use in the district. The current use and the proposed use are both permitted in the zoning district.
- (g) The variance proposal is consistent with all standards and criteria adopted by the City of Rutledge. The variance request does not meet all of the criteria for a variance request.
- (h) The variance is the minimum variance that will make possible an economically viable use of the land, building, or structure. The land and building could still be used by the owner or leased to another user. Although the economic return may be greater for the applicant if the property is split and sold, the variance is not necessary to make a profit from the property.

Staff Comments

The variance request does not meet required findings for a variance request, as listed in the City of Rutledge Zoning Ordinance. Specific criteria are: a, b, c, d, e, g, and h.

Date 4-27-2015

To,

The Morgan County Planning Commission,

I am asking for a variance to the side setback
in order to split the property and separate
the in building from the larger property.

Hassan ali Lny

HALW

Signature

