



STAFF REPORT

MORGAN COUNTY PLANNING COMMISSION

PETITION FOR: VARIANCE

Property location: 1999 Newborn Road, Rutledge, GA 30663
Property tax parcel: 021-024B
Acreage: 1.13 acres
Applicant: Hugh Morton, 407 E. Second Street, Jackson, GA 30233
Applicant's Agent: N/A
Property Owner: JP Capital and Insurance, 407 E. Second Street, Jackson, GA 30233
Existing Use: Convenience store

Summary

Hugh Morton, on behalf of JP Capital and Insurance, is requesting a variance to the front setback for commercially zoned property located at 1999 Newborn Road. The property contains a convenience store and is at Exit 105 on Interstate 20.

JP Capital and Insurance submitted a building permit application on March 16, 2015 to construct an addition to the Valero Convenience Store in order to add a Subway sandwich shop. The project manager listed on the application was contacted on March 20, 2015 regarding the setback issues.

The property is located in the unincorporated county and is zoned General Commercial (C2). This zoning designation requires a 50 foot front setback, measured from the road right-of-way (ROW). The orientation of the building is such that the side of the building is the front according to the zoning ordinance. The distance from the building to the ROW is approximately 35 feet, which means the building is already located within the front setback. The applicant's letter states that they are asking for a reduction to 12 foot, 8 inches, which is a 75% reduction in the ordinance-required setback and a 64% reduction from the existing non-conforming setback.

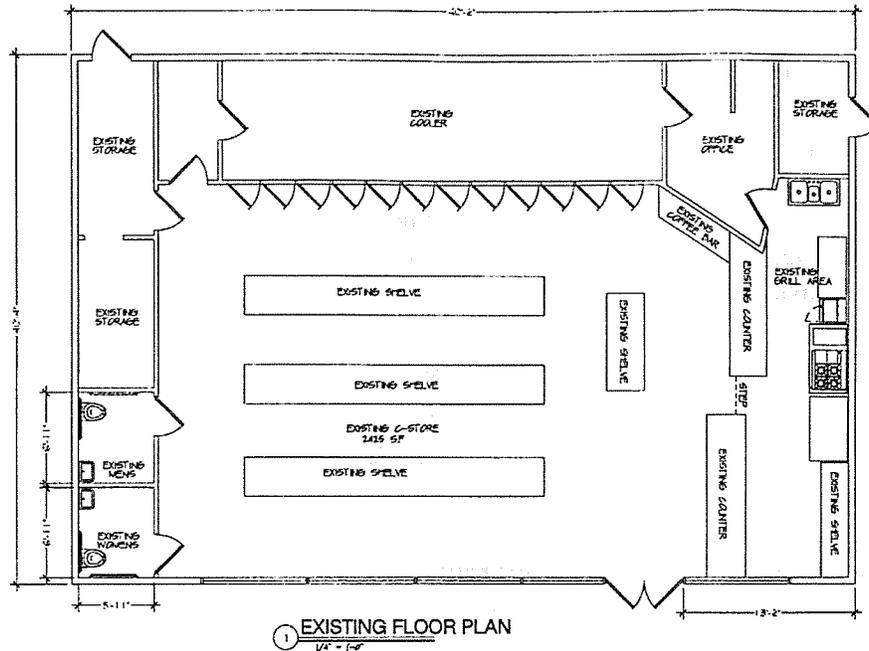
The applicant points out, correctly, in his letter that the ROW, at 120 feet, is extremely wide for a county road. The usual county road ROW is 80 feet. However, the ROW is typically 100-140 feet at a bridge, in order to facilitate bridge maintenance. The ROW on Newborn Road is wider as it approaches the interstate bridge, but narrows once it passes Davis Academy Road. So although the ROW width is large for a county road, it is not unusual for a location near a bridge.



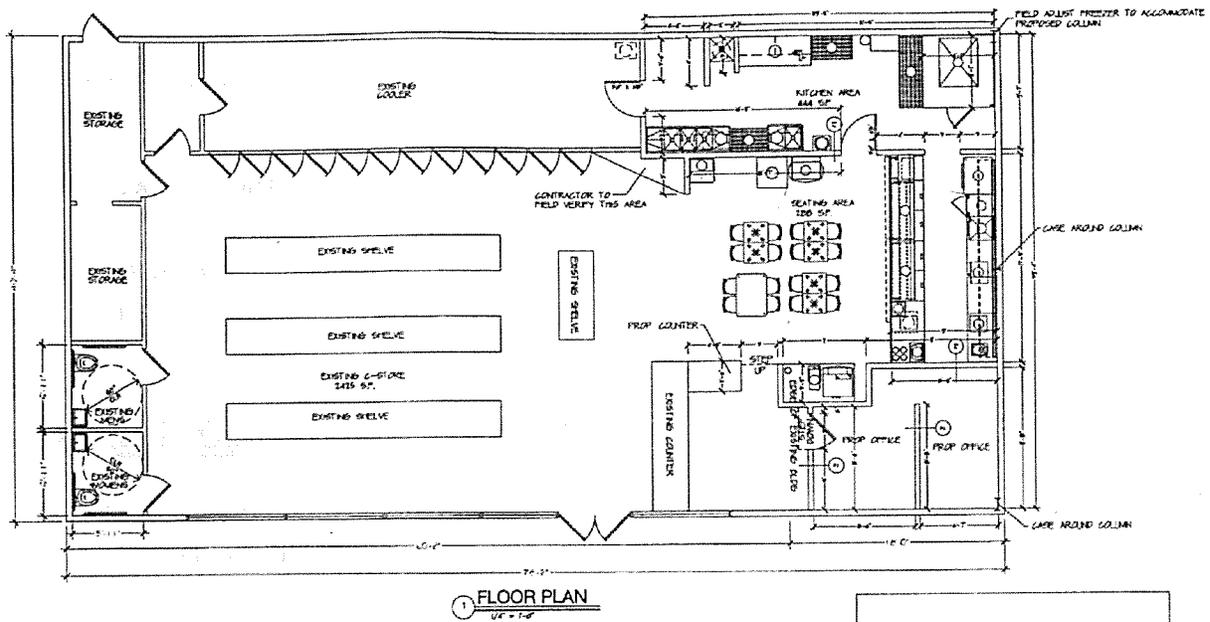
The red line denotes the front setback location. For convenience during site visits, the line is approximately located at the road side edge of the sign. The yellow arrow shows the distance, approximately 97 feet, to the rear property line.

Discussions with the Environmental Health Department reveal that the septic tank is located in the rear grassy area approximately 62 feet from the building. The drain field lines are under the paved area (under the yellow arrow). The septic tank permit, obtained in 1987, indicates that the tank is only large enough for one retail area restroom. The Health Department informed Staff that the Subway addition has not been approved because of the undersized tank and an inadequate soils survey that cannot be used to determine if the tank and drain lines can be moved. In summary, the Health Department confirmed that the septic tank and drain lines must be replaced or modified to accommodate a restaurant addition.

This information means that the addition could be located at the rear of the building. The distance between the existing septic tank and the building would allow for the addition, even if the current tank was to be used. However, based on comments from the Health Department, it appears the tank will have to be addressed anyway. An addition to the rear would, however, greatly increase the costs of the addition and possibly require the relocation of the restrooms, coolers or checkout area.



The existing plan for the convenience store shows the location of the counters, with the grill area located behind. Plumbing is run to that side of the building, as indicated by the sinks. However, plumbing is also on the left side of the building, as indicated by the restrooms in the front corner. The proposed Subway addition (below) shows the restaurant on the same side as the current grill.



Criteria for Consideration

From the Morgan County Zoning Ordinance. Chapter 20.3.1, Required Findings for Variance Approval. Note that the criteria are bulleted in the zoning ordinance; they are numbered here for ease of use. (staff comments are in blue):

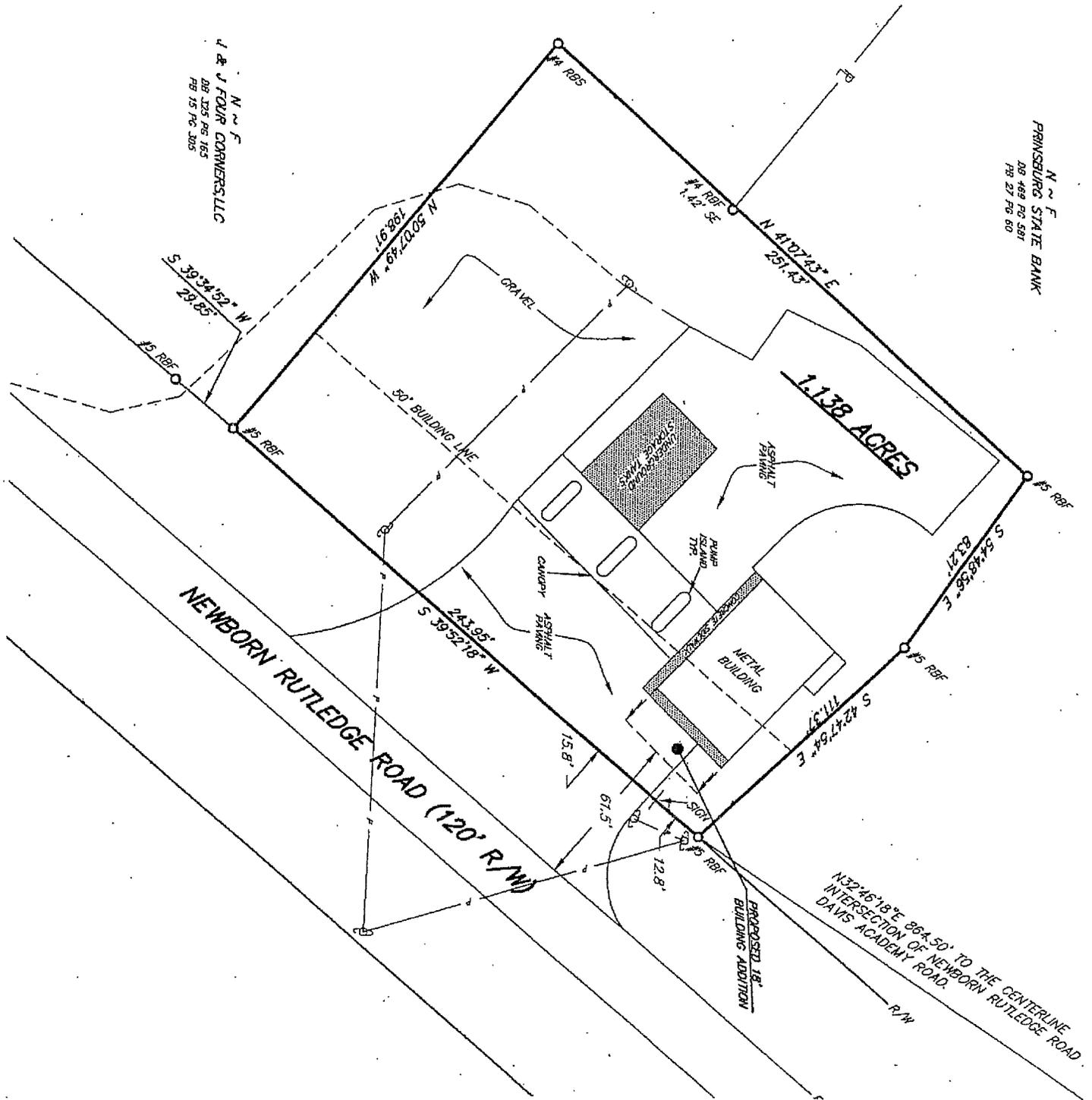
1. There are extraordinary and exceptional conditions pertaining to the property because of size, shape and topography. *There are no issues with topography. The lot is flat.*
2. The literal application of this Ordinance would create an unnecessary hardship. "Hardship" is not defined by Morgan County's 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.
3. A variance would not cause substantial detriment to public good and 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.*
4. 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.*
5. The special circumstances surrounding the request for the variance are not the result of acts of the applicant. *The circumstances are the direct result of the applicant's actions, as the proposed addition can be placed elsewhere on the property without the need for a variance.*
6. 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.*
7. The zoning proposal is consistent with all standards and criteria adopted by Morgan County. *The variance request does not meet all of the criteria for a variance request.*
8. The variance is the minimum variance that will make possible an economically viable use of the land, building or structure. *The current use as a convenience store and gas station are economically viable even without the proposed Subway addition.*

Staff Comments

The variance request does not meet required findings for a variance request, as listed in the Morgan County Zoning Ordinance. Specific criteria are: 1, 2, 3, 4, 5, 7 and 8. Staff encourages the applicant to consider the addition on the rear and will be happy to discuss the possibility with both the applicant and Environmental Health.

N ~ E
PRINCEBURG STATE BANK
DB 469 PG 581
PB 27 PG 80

N ~ E
J & J FOUR CORNERS, LLC
DB 125 PG 165
PB 15 PG 205



Request for zoning variance
Subway Restaurant
Valero Convenience Store
1999 Newborn Rd.
Rutledge, GA 30663

Jones Petroleum is proposing to add a Subway Restaurant in the Valero Convenience Store located on the northwest corner of the intersection of I-20 and Newborn Road exit 105. The current building is not adequate in size to totally accommodate the space needs of the Subway facility. We need to add 18 feet to the Southeast end of the building structure to satisfy the requirements of the Subway Corporation.

We are advised that this addition is not in compliance with the current 50 foot set-back requirements for the subject property. We need a reduction in the set-back to 12.8' feet.

The right-of-way for the Newborn-Rutledge road is an exceptionally wide 120 feet at this location-far wider than the typical county road. The requested addition would be 61.5 feet from the pavement of the road at the closest point. We believe this should be adequate distance from road traffic to the added improvement, especially since all store entry and operations are to the left (south) of the structure.

There are no other eating establishments at this location. Indeed there are no other travel services of any sort at this interstate exit. Perhaps this Subway facility could be the catalyst to improve the development of this exit.

We humbly request that you approve this variance to permit us to install a Subway restaurant at this location.

