



STAFF REPORT

MORGAN COUNTY PLANNING COMMISSION

PETITION FOR: VARIANCE

Property location: Falls at Hard Labor Creek subdivision, West Main Street, Rutledge
Property tax parcel: 012A-009, 012A-023, 012A-024, 012A-025, 012A-026, 012A-027, 012A-028
012A-029, 012A-031, 012A-032
Acreage: Lots vary between 1.68 acres and 1.05 acres
Applicant: Hidden Falls Development, 1130 Commerce Drive, Madison
Applicant's Agent:
Property Owner: Jerry Smith, Hidden Falls Development
Existing Use: Residential subdivision

Summary

Jerry Smith, on behalf of Hidden Falls Development, has requested a 25 foot variance to the front setback on 10 lots at the Falls at Hard Labor Creek subdivision in Rutledge. This will reduce the front setback from 75' to 50'.

The Falls at Hard Labor Creek was formerly known as Jackson Station subdivision. The foreclosed project was purchased by Hidden Falls Development in late 2011. The lot configuration has remained relatively intact from the approved Jackson Station arrangement. Minor lot shifting has occurred, but no lot rearrangement. Five building permits were purchased in 2013, eight in 2014, and so far, five have been issued for 2015. The permits have been a mix of speculative houses and contract projects.

Attached are two documents: the request from the applicant identifying the lots, and a plat from the engineer. Please note that the numbers are inaccurate in the applicant's letter. There is no Lot 30, as you can see on the plat. The correct numbers are Lots 9, 23-29, 31 and 32. When visiting the subdivision, please refer to your plat and the yellow zoning signs. Lot 30 is marked on site, but the land is actually divided between Lot 29 and Lot 31.

The permits issued show the sizes of the houses range from 40' x 52' to 57' x 69'. The most permitted house size is 42' x 52'. The engineer showed a 60' x 60' box to represent the house, but that size is larger than the typical constructed house in the subdivision. The plat shows the buildable area, or build box, as determined by the setbacks. The engineer has added an extra line to show where the requested variance would place the house.

Lot 26 example

Contour lines represent topography. Each line shows a two foot change in grade. In this example, the grade elevation is 650 at the very back of the lot. The grade is higher at the front of the lot. So the highest part of this lot is the right corner at the cul de sac, which is approximately 696, and the lot slopes down and to the left as the lot goes back.

The closer the topo lines, the steeper the grade.



Buildable area. The dotted lines represent the setbacks. The house and all related structures must fit within these lines.

60' x 60' box to represent a house.

Line representing the requested setback, allowing 25' more feet.

Staff offers the following review of each lot, including the applicant's reasons for the request and staff observations.

Lot 9

Applicant's reason for request: Due to depth vs. size of build box

Lot 9 is a deep narrow lot, but the house plans used by the developer will fit on the lot. The issue appears to be the fronting of the house on the cul de sac. If the house is further back, the appearance from the cul de sac is not as attractive. Topography was not listed as a reason for the request and should not be considered for this lot. The land slopes up onto the lot, but is fairly flat otherwise. The slope is no more obtrusive than slopes located on other lots which already have houses.

Lot 23

Applicant's reason for request: Limited distance behind build box and topo with house size

Lot 23 backs up to Still Branch and has a considerable drop at the rear of the property, particularly on the left side. As a corner lot, this property also has a double front setback (the front setback applies to both roads). Although the land does have topography issues, the question is whether a smaller house or an alternative floor plan would fit on the lot without a variance. House size, as mentioned in the reason for request, is not a sufficient reason for a variance.

Lot 24

Applicant's reason for request: Limited distance behind build box and topo with house size
Lot 24 also backs up to Still Branch, but has steeper topography in the center of the buildable area because of a drainage swale. Even with the variance and a different house layout, this lot will require fill dirt and a basement plan. House size, as mentioned in the reason for request, is not a sufficient reason for a variance.

Lot 25

Applicant's reason for request: Topo, fall off is very fast with size of house
Lot 25 also backs up to Still Branch and also has a drainage swale along the right side of the lot. Even with the variance and an alternative plan, this lot will have a difficult backyard and will require considerable fill dirt. House size, as mentioned in the reason for request, is not a sufficient reason for a variance.

Lot 26

Applicant's reason for request: Topo, climbing upward with size of house
As seen in the example on the previous page, Lot 26 does have a downward slope from the clu-de sac going back and left. This topography is generally preferred for a basement lot, although the 18' slope would require considerable fill dirt. House size, as mentioned in the reason for request, is not a sufficient reason for a variance.

Lot 27

Applicant's reason for request: Topo, climbing upward at fast rate
Lot 27 continues the slope from Lot 26, so it is lowest at the front left corner and slopes up to the right. This lot does not have much of a slope from front to back until the very rear, outside of the buildable area. Compared to the other lots, the grade on this lot is less challenging. Also, since the grade is going side to side, moving the house forward will not change any perceived difficulty of placing the house.

Lot 28

Applicant's reason for request: Topo, fall off with house size vs. build box
The topography of Lot 28 is a negligible issue compared to the size of the buildable area. Without a variance, the house depth is only around 30 feet. The grade becomes an issue in the back, where the grade is higher and the short depth makes a backyard incredibly difficult and sends run-off towards the house. There appears to be an issue with the plat as shown, as the proposed front setback line is more than 25' from the existing line. Regardless of which line is correct, the representative house box barely fits, even with the variance. However, house size is not a sufficient reason for a variance.

Lot 29

Applicant's reason for request: house size vs. build box

Despite the applicant's reasoning that the buildable area is too small for a house (a more likely reason for Lot 28), the issue with Lot 29 appears to be topography. A drainage swale runs through the center of the buildable area. A basement lot could be considered, although the backyard would be a ditch. An alternative (longer rectangle) plan would fit on the lot better.

Lot 31 (Applicant identifies as Lot 30)

Applicant's reason for request: build box vs. topo

The drainage swale on Lot 29 enters onto Lot 30 on the far left, but the topography is not as challenging where the representative house box is shown. The left side yard would have a considerable slope, but houses already constructed in the subdivision have similar side yards. If the lot was not wide enough to allow the house outside of the drainage swale, then the issue would be more difficult.

Lot 32 (Applicant identifies as Lot 31)

Applicant's reason for request: build box vs. topo

Similar to Lot 28, the main issue here is the small lot and incredibly small buildable area. This lot and Lot 9 have the mildest topography of all of the lots included in the variance request. The 60' x 60' representative house box barely fits, even with the variance. Without the variance, the buildable area appears to be approximately 35-40 feet deep. The developer has already constructed houses in the neighborhood that are only 40' deep. Also similar to Lot 28, the slope goes up in the back of the lot, making a backyard and run-off control more difficult.

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.
- (b) The literal application of this Ordinance would create an unnecessary hardship.
- (c) A variance would not cause substantial detriment to public good or impair the purposes and intent of this Ordinance.
- (d) A variance would not confer upon the property of the applicant any special privilege denied to other properties in the district.
- (e) The special circumstances surrounding the request for the variance are not the result of acts of the applicant.
- (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.
- (g) The variance proposal is consistent with all standards and criteria adopted by the City of Rutledge.

- (h) The variance is the minimum variance that will make possible an economically viable use of the land, building, or structure.

Staff Comments

Staff would like to first address a question that arose when the application was submitted: With the developer buying a foreclosed subdivision with an established lot layout, could it be considered an act of the applicant to purchase lots with known issues and then request variances? Staff compared this question to an individual buying a lot and requesting a variance; an individual would certainly realize the lot had issues, but Planning Commission has not considered it to be an act of the applicant. Likewise, the same treatment should apply to this request.

As mentioned numerous times above, the size of the house is not a sufficient reason to grant a variance. Neither is whether the variance will create a favorable monetary situation or prevent an unfavorable expense. The developer at Falls at Hard Labor Creek has several house plans that he has used repeatedly, with minor changes to differentiate the appearance of the houses. Some of the plans feature basements, while others use a slab foundation, but all of the existing plans are square-ish. On the lots in question, there are instances when the existing development plans will not work, but a house could still be constructed on the site, albeit a longer house with less depth.

Staff feels that topography is a legitimate concern on Lots 23, 24, 25 and 29, although 23 and 29 could possibly work with smaller or different house plans. A few of the lots will require additional measures to successfully construct a house (Lot 26 – considerable fill dirt, Lot 28 – run-off control, Lot 32 – run-off control), but the lots are still economically viable without the variance. The applicant may be able to explain further regarding the other lots and reasons for the variance request.

Hidden Falls Development
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706-343-1951 Office
706-342-0303 Fax

July 30, 2015

RE: Lot Variances

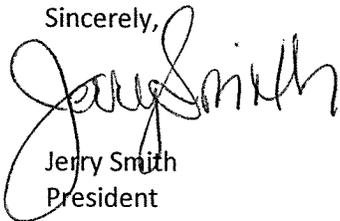
To Whom It May Concern:

Listed below are the reasons why we are asking for the lot variances:

- Lot 9 Due to depth vs. size of build box
- Lot 23 Limited distance behind build box and TOPO with house size
- Lot 24 Limited distance behind build box and TOPO with house size
- Lot 25 TOPO, Fall off is very fast with size of house
- Lot 26 TOPO, climbing upward with size of house
- Lot 27 TOPO, Climbing upward at fast rate
- Lot 28 TOPO, Fall off with house size vs. build box
- Lot 29 House size vs. buildable area
- Lot 30 Build box vs. TOPO
- Lot 31 Build box vs. TOPO

The 25' per each of the above lots will help not only the building process but the finished product as well. It will allow better water run off control and a better look as a bonus.

Sincerely,



Jerry Smith
President

