

Variance Application

COWETA COUNTY BOARD OF ZONING APPEALS

A PRE-SUBMITTAL MEETING SHALL BE SCHEDULED NO LATER THAN ONE (1) WEEK PRIOR TO THE APPLICATION DEADLINE

Name of Applicant(s): Blue Frog Engineering, LLC on behalf of TSP, LLC

Address of Applicant(s): 3011 Sutton Gate Dr, Ste 120, Suwanee, GA 30024

Phone #: (772)559-8202 E-mail address: kburk@bfrog.net

Address of Subject Property: NWC of Hwy 29 & Pine Rd, Newnan, GA 30263

Property Tax I.D. #: 076 2072 020

Definition of Variance: A variance is a relaxation of the terms of the ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. As used in this ordinance, a variance is authorized only for height, area, and size of structure or size of yards and open spaces; establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the zoning district or uses in an adjoining zoning district.

Ordinance listing for proposed use: Article 19 Section 191 Item 1 (Variance is for setback requirements in Art 23 Note O)

Brief description of requested use: The proposed use is veterinary clinic. The site is bounded on the east by Hwy 29 and on the south and west by Pine Rd. The required setbacks are 135' from the centerline of Hwy 29 and 100' from the right-of-way of Pine Rd. Applicant is requesting a variance to the setback off of Hwy 29 to provide a 105' setback (30' reduction) from the centerline and a 60' setback (40' reduction) from the right-of-way of Pine Rd. along the south side. The 100' setback from Pine Rd. along the west side will be provided

Applicant's reason for not conforming to the Zoning Ordinance: The parcel fronts on Hwy 29 and Pine Rd (on two sides), creating multiple front-yard setback lines that overlap and materially reduce the buildable envelope, creating an undue hardship.

What extraordinary conditions concerning the property/structure/property, warrants a variance or variances? The site is bounded by three road frontages (Hwy 29 to the east and Pine Rd on the south/west). The combined setbacks from these three roads would create an undue hardship preventing development of the property.

Provide proffered measures to reduce any impact. If no mitigation is proposed, the applicant must include an explanation of why none is being proposed.

The proposed development will maintain required landscape buffers, meet Quality Development Corridor District architectural requirements, and still provide significant setbacks from the ROW lines.

A variance can only be recommended for approval only if the Board of Zoning Appeals finds and states the basis for said findings on the record, all of the following exist. The applicant and/or applicant representative must provide response.

A. That one of the following is true, through no action or fault of the property owner or predecessor:

I. Is the property exceptionally narrow shallow, or usually shaped?

The site is relatively narrow and has some unusual shape. In addition, it is surrounded by rights-of-way on three sides, which leads to the hardship requiring a variance. At the time the lot was created, the required setbacks were less restrictive than the current ordinance.

II. Does property contain exceptional topographic conditions?

No, there are no exceptional topographic conditions that impact development.

III. Does the property contain other extraordinary or exceptional conditions?

The subject property is also encumbered by a 20' Georgia Power easement across the northeast portion of the property, and an existing stormwater pond that serves the adjacent development to the north. In addition to the setback requirements, these two encumbrances also further limit development area for this parcel.

IV. Are there other existing extraordinary or exceptional circumstances?

N/A

B. That the strict application of the requirements of this ordinance would result in practical difficulties to, or undue hardship upon, the owner of this property. Please provide explanation of the undue hardship.

Strict application of the front yard setback requirements results in practical difficulties and undue hardship because the required setbacks on all three road frontages materially reduce the usable building envelope on this parcel, leaving insufficient area to reasonably site a code-compliant building and required site improvements. The constraint is unique to this property due to its three street frontages and associated setback lines and is not a condition generally applicable to other properties in the area.

C. The requested variance relief may be recommended for approval without substantially impairing the intent and purpose of this ordinance. Please provide explanation as to how this request does not substantially impair the intent and purpose of this ordinance.

Granting the requested variance will not weaken the intent of the setback requirements because the proposed building will still be located a substantial distance from both roadway rights-of-way (105' from Hwy 29 ROW centerline and 60' from Pine Rd ROW), and required buffering/landscaping shown on the concept plan will remain in place. The development will continue to provide separation, visibility, and an orderly corridor appearance consistent with the purpose of the setback standards.

Conditions: In recommending the approval of a variance, the Board of Zoning Appeals may attach such conditions regarding the location, character, and other features of the proposed building, structure, or use as it may deem advisable so that the purpose of this ordinance will be served, public safety and welfare secured, and substantial justice done. Any deviation or revision from a condition recommended by staff shall be clearly set forth in the minutes of the Board of Zoning Appeals.

Limitations on variances; improper variance requests: Variance cannot be given to totally remove a requirement or to exempt a property or applicant entirely from the requirement. If a variance is being sought that is, in the judgement of the director, a request that would constitute a text amendment, then the application shall not be accepted. Variances can only be recommended for approval to alter numeric value, such as setback, height limit, area limit, and so forth. Furthermore, the Board of Zoning Appeals shall not be authorized to recommend approval of a density variance or a use variance to permit a use in a district in which the use is prohibited. A variance application shall not be accepted if the variance seeks something that cannot be varied, or to eliminate rather than modify a requirement or regulation. A variance application shall not be accepted if the variance is contradictory to the ordinance (such as reducing a requirement to zero or totally eliminating a requirement).

Self-inflicted hardship: The Board of Zoning Appeals shall not recommend approval of variances when the hardship was created by the property owner or his predecessor and shall not recommend approval of hardship variances based on shape or topography for a lot of record. Configuring a subdivision to create lots that are difficult to build is an example of a hardship created by the property owner or predecessor, that do not justify a variance.

Please provide the following documentation for a complete variance application package:

- Application
- A copy of the Warranty Deed
- If the applicant is not the owner of the property, submit a notarized letter from the property owner giving applicant permission to file the request.
- Plat of the property, indicating all existing and proposed structures in relation to nearby streets, property lines, and driveways; dimensions are to be accurate.
- Written Legal Description of the subject property.
- Total feet of encroachment/distance from property line.

The variance application and supporting documentation must be submitted through our Accela portal by using this link: <https://aca-prod.accela.com/COWETA/Default.aspx>