

**TALLAHASSEE-LEON COUNTY
BOARD OF ADJUSTMENT AND APPEALS
(BOAA) 2008 ANNUAL REPORT**



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Date: April 10, 2008
Case No: BOAA-08-001
Applicant: Scott L. Opperman
Property Owner: Scott L. Opperman
Parcel Identification #(s): 14-09-25- F-003-0

Request: Scott Opperman, the applicant/property owner requested a variance to Section 10-6.617(d) of the Leon County Land Development Code (LDC). The subject property is located at 8508 Hannary Circle, Tallahassee, Florida 32312, within Killearn Commons (a recorded subdivision) which has a required rear setback of twenty-five (25') feet. The applicant/property owner proposed construction of a 10' x 12' residential building addition ("Florida Room") and requested a variance to the required rear setback from twenty-five (25') feet to fourteen (14') feet.

Case Comments: Official Records Plat Book 12 Page 6, which pertains to the Killearn Commons Subdivision Plat requires a twenty-five (25) feet rear setback. The subject parcel is located at 8508 Hannary Circle, Tallahassee, Florida 32312.

Decision: Proper notice was given to the general public and to owners of property within two hundred (200) feet of the subject property. The County mailed thirty three (33) notices and received one (1) responses in favor of the request and zero (0) responses in opposition to the request. The motion to grant the setback variance passed five (5) to zero (0).

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Date: April 10, 2008
Case No: BOAA-08-002
Applicant/Agent: Johnny Petrandis, II (Agent)
Property Owners: John Ting Jui and Mei I. Ho
Parcel Identification #(s): 12-18-09-000-001-0

Request: Johnnie Petrandis, II, the applicant on behalf of John Ting Jui and Mei I. Ho, property owners requested an appeal as the misconstruction or wrongful interpretation of the Leon County Land Development Code (LDC), pursuant to Section 10-2.346 which contested the Leon County Growth and Environmental Management Development Services Director's decision to void a development order for an off-site sign located on parcel 12-18-09-000-001-0, 6641 Mahan Drive, Tallahassee, FL 32308.

Case Comments: A timely application to the BOAA was made, seeking a reversal of the Development Services Director's decision rendering permit number LB0700789 rescinded: requesting that the decision be set aside and allow the permit to remain valid. The County stipulated that the property owner has met the requirements for the matter to be heard on appeal. Leon County, the respondent presented counter testimony and evidence that the decision rendered by the County was correct, rendering the constructed off-site sign non-compliant with the LDC, rescinding the permit.

Decision: Proper notice was given to the general public and to owners of property within five hundred (500) feet of the subject property. Sixteen (16) notices were mailed. Two (2) letters were received in opposition to the appeal and zero (0) responses in support of the appeal. This item was continued from the April 10, 2008, May 8, 2008, June 12, 2008, July 10, 2008, August 14, 2008, September 11, 2008 and October 9, 2008 BOAA meetings, with a final disposition rendered at the November 13, 2008 meeting. The Board of Adjustment and Appeals approved By-Laws state that the BOAA may affirm or reverse, in part or in whole, a decision of an administrative official. If at least four (4) members concur in a finding of error in any decision, order, requirement, or determination of an administrative official appealed from, the decision of the administrative official may be reversed. The motion to grant the appeal fails two (2) to two (2).

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Date: April 10, 2008
Case No: BOAA-08-003
Applicant: Johnny Petrandis II (Agent)
Property Owner: Johnny Petrandis, Sr.
Parcel Identification #(s): 11-27-20-234-001-0

Request: Johnny Petrandis, II, the applicant on behalf of Johnny Petrandis, Sr., property owner requested an appeal as the misconstruction or wrongful interpretation of the Leon County Land Development Code, pursuant to Section 102.346 which contested the Leon County Growth and Environmental Management Development Services Director's decision to void a development order for an off-site sign located on parcel 11-27-20-234-001-0, 3465 Mahan Drive, Tallahassee, FL 32308.

Case Comments: A timely application to the BOAA was made, seeking a reversal of the Development Services Director's decision rendering permit number LB0700789 rescinded; requesting the decision be set aside and allow the permit to remain valid. The County stipulated that the property owner has met the requirements for the matter to be heard on appeal. Leon County, the respondent presented counter testimony and evidence that the decision rendered by the County was correct, rendering the constructed off-site sign non-compliant with the LDC, rescinding the permit.

Decision: Proper notice was given to the general public and to owners of property within five hundred (500) feet of the subject property. This item was continued from the April 10, 2008, May 8, 2008, June 12, 2008, July 10, 2008 meetings, with a final disposition rendered at the August 14, 2008 meeting. The Board of Adjustment and Appeals approved By-Laws state that the BOAA may affirm or reverse in part or in whole, a decision of an administrative official. If at least four (4) members concur in a finding of error in any decision, order, requirement, or determination of an administrative official appealed from, the decision of the administrative official may be reversed. The motion to grant the appeal fails four (4) to zero (0).

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Date: April 10, 2008
Case No: BOAA-08-004
Applicant: Johnny Petrandis II (Agent)
Property Owner: Nino and I. Violante
Parcel Identification #(s): 32-06-20-620-000-0

Request: Johnny Petrandis, II, applicant on behalf of Nino and I. Violante, property owners requested an appeal as the misconstruction or wrongful interpretation of the Leon County Land Development Code, pursuant to Section 10-2.346 which contested the Leon County Growth and Environmental Management Development Services Director's decision to void a development order for an off-site sign located on parcel 32-06-20-620-000-0, 6497 Apalachee Parkway, Tallahassee, FL 32311.

Case Comments: A timely application to the BOAA was made, seeking a reversal of the Development Services Director's decision rendering permit number LB0700789 rescinded; requesting that the decision be set aside and allow the permit to remain valid. The County stipulated that the property owner has met the requirements for the matter to be heard *on appeal*. Leon County, the respondent presented counter testimony and evidence that the decision rendered by the County was correct, rendering the constructed off-site sign non-compliant with the LDC, rescinding the permit.

Decision: Proper notice was given to the general public and to owners of property within five hundred (500) feet of the subject property. This item was continued from the April 10, 2008, May 8, 2008, June 12, 2008, July 10, 2008 BOAA meetings, with a final disposition rendered at the August 14, 2008. The Board of Adjustment and Appeals approved By-Laws state that the BOAA may affirm or reverse, in part or in whole, a decision of an administrative official. If at least four (4) members concur in a finding of error in any decision, order, requirement, or determination of an administrative official appealed from, the decision of the administrative official may be reversed. The county concedes the position of the appellant, except as to the physical construction of the off-site sign. A request by county counsel with a motion by the Board to dismiss the case passes four (4) to zero (0). The applicant was allowed to maintain the issued permit, subject to being in full compliance with Section 10-1.101 Article I, to include compliance with sign angle opening not to exceed sixty degrees.

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Date: April 10, 2008
Case No: BOAA-08-005
Applicant: Johnny Petrandis II (Agent)
Property Owner: Penny Petrandis
Parcel Identification #(s): 31-02-20-004-000-0

Request: Johnny Petrandis, II, applicant on behalf of Penny Petrandis, property owner is requesting an appeal as the misconstruction or wrongful interpretation of the Leon County Land Development Code, pursuant to Section 10-2.346 which contested the Leon County Growth and Environmental Management Development Services Director's decision to void a development order for an off-site sign located on parcel 31-02-20-004-000-0, 4176 Apalachee Parkway, Tallahassee, FL 32311.

Case Comments: A timely application to the BOAA was made, seeking a reversal of the Development Services Director's decision rendering permit number LB0700694 rescinded; requesting that the decision be set aside and allow the permit to remain valid. The County stipulated that the property owner has met the requirements for the matter to be heard on appeal. Leon County, the respondent presented counter testimony and evidence that the decision rendered by the County was correct, rendering the constructed off-site sign non-compliant with the LDC, rescinding the permit.

Decision: Proper notice was given to the general public and to owners of property within five hundred (500) feet of the subject property. This item was continued from the April 10, 2008, May 8, 2008, June 12, 2008, July 10, 2008, with a final disposition rendered at the August 14, 2008. The Board of Adjustment and Appeals approved By-Laws state that the BOAA may affirm or reverse, in part or in whole, a decision of an administrative official. If at least four (4) members concur in a finding of error in any decision, order, requirement, or determination of an administrative official appealed from, the decision of the administrative official may be reversed. The county concedes the position of the appellant, except as to the physical construction of the off-site sign. A request by county counsel with a motion by the Board to dismiss the case passes *four (4) to zero (0)*. The applicant was allowed to maintain the issued permit, subject to being in full compliance with Section 10-1.101 Article I, to include compliance with sign angle opening not to exceed sixty degrees.

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Date: April 10, 2008
Case No: BOAA-08-006
Applicant: Johnny Petrandis II (Agent)
Property Owner: Johnny Petrandis, Sr.
Parcel Identification #(s): 11-27-20-234-001-0

Request: Johnny Petrandis, II, the applicant on behalf of Johnny Petrandis, Sr. property owner is requesting an appeal as the misconstruction or wrongful interpretation of the Leon County Land Development Code, pursuant to Section 10-2.346 which contested the Growth and Environmental Management Development Services Director's decision to void a development order for an off-site sign located on parcel 11-27-20-234-001-0, 3450 Acadian Blvd., Tallahassee, FL 32308.

Case Comments: The petitioner made timely application to the BOAA, seeking a reversal of the Development Services Director's decision rendering permit number LB07000691 rescinded; requesting that the decision be set aside and allow the permit to remain valid. The County stipulated that the property owner has met the requirements for the matter to be heard on appeal. Leon County, the respondent presented counter testimony and evidence that the decision rendered by the County was correct, rendering the constructed off-site sign non-compliant with the LDC, rescinding the permit.

Decision: Proper notice was given to the general public and to owners of property within five hundred (500) feet of the subject property. This item was continued from the April 10, 2008, May 8, 2008, June 12, 2008, July 10, 2008 BOAA meetings, with a final disposition rendered at the August 14, 2008. The Board of Adjustment and Appeals approved By-Laws state that the BOAA may affirm or reverse, in part or in whole, a decision of an administrative official. If at least four (4) members concur in a finding of error in any decision, order, requirement, or determination of an administrative official appealed from, the decision of the administrative official may be reversed. The county concedes the position of the appellant, except as to the physical construction of the off-site sign. A request by county counsel with a motion by the Board to dismiss the case passes four (4) to zero (0). The applicant was allowed to maintain the issued permit, subject to being in full compliance with Section 10-1.101 Article I, to include compliance with sign angle opening not to exceed sixty degrees.

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Date: June 12, 2008
Case No: BOAA-08-007
Applicant: LaTonya Smith
Property Owner: LaTonya Smith
Parcel Identification #(s): 32-08-83-C-001-0

Request: LaTonya Smith, the applicant/property owner requested a variance to (Section 10-6.617(d) of the Leon County Land Development Code. The subject property is located at 2681 Chateau Lane, Tallahassee, Florida 32311, within Woodrun East, Unit 1, which has a zoning designation of Residential Preservation, requiring a rear setback of twenty five (25) feet. The applicant proposed to construct an addition which would reduce the rear building setback from twenty five (25) feet to eleven (11) feet.

Case Comments: Woodrun East is a recorded subdivision, with the development standards requiring a twenty-five (25) feet rear setback. The subject parcel is located at 2681 Chateau Lane, Tallahassee, Florida 32311.

Decision: Proper notice was given to the general public and to owners of property within two hundred (200) feet of the subject property. The County mailed thirty two (32) notices and received one (1) response in favor of, and zero (0) in opposition to the request. The motion to grant the setback variance passed unanimously by a vote of five (5) in favor and zero (0) opposed.

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Date: June 12, 2008
Case No: BOAA-08-008
Applicant: Rod Moeller
Property Owner: Rod Moeller
Parcel Identification #(s): 14-03-20-202-000-0

Request: Rod Moeller, the applicant/property owner is requesting an appeal as the misconstruction or wrongful interpretation of the Leon County Land Development Code, pursuant to Section 10-2.346 which contested the Leon County Growth and Environmental Management Development Services Director's determination that the subject property, located off of Osprey Court, in Killearn Lakes subdivision is not entitled to be developed for residential use.

Case Comments: A timely application to the BOAA was made, seeking a reversal of the Development Services Director's decision. The first public hearing was held on June 12, 2008 where testimony and evidence was presented; it was continued until the August 14, 2008 BOAA meeting, at which time it was continued without testimony or evidence. The final hearing was held on September 11, 2008, at which time testimony and evidence was presented, the hearing was closed, and a final decision was rendered. The BOAA found the County produced competent and substantial testimony and evidence that the subject property is not entitled to develop any residential units by virtue of the legal status of the Killearn Lakes Development of Regional Impact (DRI), that any vested rights retained by Golden Eagle Unit 6 that may have inured to the subject site were extinguished by the acceptance and recording of the plat for Unit 6, and that no development rights remain. Finally, the BOAA found that the County's Development Services Director made the correct decision that the property is ineligible for single family use.

Decision: Proper notice was given to the general public and to owners of property within five hundred (500) feet of the subject property. Sixteen (16) notices were mailed and six (6) E-mails/phone calls were received in support of the request and five hundred (500 +/-) property owners signed a petition and/or sent E-mails in opposition to the request. The Board of Adjustment and Appeals approved By-Laws state that the BOAA may affirm or reverse, in part or in whole, a decision of an administrative official. If at least four (4) members concur in a finding of error in any decision, order, requirement, or determination of an administrative official appealed from, the decision of the administrative official may be reversed. The motion to deny this appeal passed by a vote of two (2) in favor and two (2) opposed.

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Date: July 10, 2008
Case No: BOAA-08-009
Applicant: Omer Ipek
Property Owner: Omer Ipek
Parcel Identification #(s): 24-24-05-000-012-0

Request: Omer Ipek, the applicant/property owner requested a variance to Section 10-6.612(e) of the Leon County Land Development Code. The subject property is located at 239 Thompson Circle, Tallahassee, Florida 32312, within Thompson Subdivision, which has a zoning designation of Rural, requiring a rear setback of fifty (50) feet. The applicant proposed to allow an existing manufactured home to remain in place with an existing setback of 48 feet.

Case Comments: Thompson Subdivision is an unrecorded subdivision impacted by the canopy road overlay and the small lots designated Rural zoning, and containing "agricultural-type" building setbacks.

Decision: Proper notice was given to the general public and to owners of property within two hundred (200) feet of the subject property. The County mailed thirty two (32) notices and received none in opposition to the request. The motion to grant the setback variance passed unanimously by a vote of five (5) to zero (0).

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Date: July 10, 2008
Case No: BOAA-08-010
Applicant: Omer Ipek
Property Owner: Omer Ipek
Parcel Identification #(s): 24-24-05-000-011-0

Request: Omer Ipek, the applicant/property owner requested a variance to Section 10-6.612(e) of the Leon County Land Development Code. The subject property is located at 245 Thompson Circle, Tallahassee, Florida 32312, within Thompson Subdivision, which has a zoning designation of Rural, requiring a rear setback of fifty (50) feet. The applicant proposed to allow an existing manufactured home to remain in place with an existing setback of 48 feet.

Case Comments: Thompson Subdivision is an unrecorded subdivision impacted by the canopy road overlay and the small lots designated Rural zoning, and containing "agricultural-type" building setbacks.

Decision: Proper notice was given to the general public and to owners of property within two hundred (200) feet of the subject property. The County mailed twenty-one (21) notices and received none in opposition to the request. The motion to grant the setback variance passed unanimously by a vote of five (5) to zero (0).

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Date: October 9, 2008
Case No: BOAA-08-011
Applicant: Blackhawk Engineering
Property Owner: William E. And Patricia Barber
Parcel Identification #(s): 31-19-20-010-000-0

Request: Blackhawk Engineering, the applicant on behalf of Mr. and Mrs. Patricia Barber, 11036 Tung Grove, Tallahassee, FL 32317, property owners of parcel 31-19-20-010-000-0 requested a Previously Existing Land Use Conformity (PELUC) Certificate for the site located off of Tram Court, Tallahassee, FL to establish the pre-existing condition of this land use and its eligibility for waiver under Section 10-6.404 of the Leon County Land Development Code. The existing use of the subject property is a borrow pit. The applicant's request, if approved, would allow the petitioner to enhance the use of the site to include an air curtain burner (ACB), a low-emission incinerator for the disposal of yard trash on the site through Leon County Land Development Code site plan approval process.

Case Comments: The subject property is located in Township 19, Section 1 South, Range 1 East and is approximately seven (7) acres. The subject property is zoned R-3 which does not allow commercial uses.

Decision: Proper notice was given to the general public and to owners of property within five hundred (500) feet of the subject property. The County mailed twenty four (24) notices and received one response in support, one (1) response in opposition to the request. The motion to grant the PELUC with conditions passed by a vote of four (4) in favor and one (1) opposed.

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Date: December 11, 2008
Case No: BOAA-08-012
Applicant: Bill Tolar
Property Owner: Express Lane, Inc.
Parcel Identification #(s): 41-35-20-216-000-0

Request: Mr. Bill Tolar, the applicant on behalf of Express Lane, Inc., 1328 Jenks Avenue, Panama City, property owner of parcel 41-35-20-216-000-0 requested a Previously Existing Land Use Conformity (PELUC) Certificate for the site located at 6330 Crawfordville Highway, Tallahassee, Florida 32305 to establish the pre-existing condition of this land use and its eligibility for waiver under Section 10-6.404 of the Leon County Land Development Code to include Supplementary non-conformity regulations. The previous use of the subject property was a convenience store with gas pump stations. The applicant's request, if approved, would allow the petitioner a less intensive use to include a convenience store without gas pump stations and a small family restaurant, provided an application is made through Leon County Land Development Code site plan approval process.

Case Comments: The subject property is located in Township 35, Section 1 South, Range 1 West, in the southeast ¼ of the west 1/4 and is approximately one point four (1.4) acres. The subject property is zoned R-3 which does not allow commercial uses.

Decision: Proper notice was given to the general public and to owners of property within five hundred (500) feet of the subject property. The County mailed twenty four (24) notices and received no responses in favor or in opposition to the request. The motion to grant the PELUC with conditions passed by a vote of four (4) in favor and one (1) opposed.

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Date: December 11, 2008
Case No: BOAA-08-013
Applicant: Moore Bass Consulting, Inc.
Property Owner: Regions Bank (formerly known as AmSouth Bank)
Parcel Identification #(s): 14-22-20-040-000-0

Request: Moore Bass Consulting, the applicant on behalf of Regions Banks (formerly known as AmSouth Bank), property owner requested a variance to Section 10-4.345 of the Leon County Land Development Code. The subject property is located at 6715 Thomasville Road, Florida 32312, within Bradfordville Corners Subdivision, which has a zoning designation of Bradfordville Commercial Auto Oriented district (BC-1). Pursuant to the LDC, all proposed development requires the preservation of twenty-five (25%) percent natural area of the site. The applicant requested that the proposed development be allowed eighteen (18%) natural area for the site.

Case Comments: The subject property is located in Township 22, Section 2 North, Range 1 East, in the northwest $\frac{1}{4}$ of the northeast $\frac{1}{4}$ and southwest $\frac{1}{4}$ of the northeast and is approximately zero point eight eight (0.88) acres. The subject property is zoned Bradfordville Commercial Auto Oriented district (BC-1).

Decision: Proper notice was given to the general public and to owners of property within two hundred (200) feet of the subject property. The County mailed nine (9) notices and received one (1) E-mail/phone call in opposition to the request. The motion to grant the natural area variance passed by a vote of four (4) in favor and one (1) opposed.