

Board of Adjustments Meeting

Agenda Item

Data Sheet

Meeting Date: October 13, 2022

Topic:

Conduct a public hearing and consideration to approve **BOA Case P22-099**: Request by Michael Seitz for a variance from Section 50-76 General Retail (GR) District of the Tomball Code of Ordinances to allow for encroachment into the required building setback(s). The property is legally described as being approximately 0.78 acres out of the Jesse Pruitt Survey, Abstract No. 629. Located within the 700-800 blocks of East Main Street (north side) at 817 E. Main Street, within the City of Tomball, Harris County, Texas.

Background:

The subject property has been located within the city limits since at least 1978. The existing warehouse that is located on the property appears in aerial imagery as early as 1978. Prior to the current occupant, this warehouse was most recently occupied by a manufacturing use (Strackbein Machine Company). Sometime between 1995 and 2006 a log cabin was placed in the rear of the subject property and occupied as a residence. These manufacturing and residential land uses became legally non-conforming when the City of Tomball adopted zoning in 2008. In 2021, the current owner purchased the property to operate a tool & machinery rental company with the intention of occupying the existing log cabin as a residence. This year (2022), without obtaining building permits, the owner of the property constructed a carport and placed a freight container at the rear of the property to serve as accessory structures to this residence. These structures encroach beyond the side setback (5-feet) and/or rear setback (25-feet) ordinarily required for accessory structures in General Retail zoning. The applicant is now seeking variances to allow these structures (carport and freight container) to remain where they are presently located. If approved, the requested variance(s) would allow the carport and freight container to be as close as 2-feet 8-inches to the rear property line and the carport as close as 4-feet 2-inches to the western side property line.

According to Section 50-31 (a) (Nonconforming uses), no alterations may be made to nonconforming uses that will effectively expand the degree of a nonconforming use. Because the Board of Adjustments does not have the authority to approve the expansion of a nonconforming use the applicant obtained a Conditional Use Permit in August of 2022 for an accessory residence within General Retail zoning. This Conditional Use Permit brought the residential use of the existing log cabin into legal conformity, allowing the applicant to now seek variances.

Origination: Michael Seitz

Recommendation:

City Staff recommends denial of **BOA Case P22-099**.

Party(ies) responsible for placing this item on agenda: Jared Smith, City Planner

FUNDING (IF APPLICABLE)

Are funds specifically designated in the current budget for the full amount required for this purpose?

Yes: _____ No: _____

If yes, specify Account Number: # _____

If no, funds will be transferred from account: # _____ To Account: # _____

Signed: _____	Approved by: _____
Staff Member Date	City Manager Date