

TOWN OF SMITHFIELD BOARD OF ADJUSTMENT AGENDA PACKET



Chairman: Sarah Edwards
Vice-Chairman: Jeremy Pearce

Monique Austin
Thomas Bell

Stephen Wensman, AICP, RLA, Planning Director
Chloe Allen, Planner I
Julie Edmonds, Administrative Assistant

Meeting Date: Thursday, April 25, 2024

Meeting Time: 6:00 p.m.

Meeting Place: Council Chambers, Smithfield Town Hall



2024
Board of Adjustments Meeting Schedule

Thursday, January 25, 2024

Thursday, February 29, 2024

Thursday, March 28, 2024

Thursday, April 25, 2024

Thursday, May 30, 2024

Thursday, June 27, 2024

Thursday, July 25, 2024

Thursday, August 29, 2024

Thursday, September 26, 2024

Thursday, October 31, 2024

Thursday, November 21, 2024

Thursday, December 19, 2024

****All meetings begin at 6:00 pm and are held in the Town Council
Chambers****

AGENDA
BOARD OF ADJUSTMENT
REGULAR MEETING
APRIL 25, 2024
MEETING TIME: 6:00 PM
TOWN HALL

Call to Order.

Approval of the minutes for March 28, 2024.

Presentation of Plaque to Stephen Upton for 12 Years Served on the Board of Adjustments.

Public Hearing.

BA-24-03 Holley's Open Air Market: The applicant is requesting a 35' variance from the front yard setback to the Town of Smithfield Unified Development Ordinances, Article 8, Zoning District Design Standards, Section 8.9.1, to allow for a 24' x 30' gas canopy to be built with a setback of 15' over already existing fuel dispensers. The is located on the northwest corner of the intersection between South Fifth Street and South Brightleaf Boulevard. The property is further identified as Johnston County Tax ID# 15041023.

Old Business.

New Business.

Adjournment.

**Draft
Smithfield
Board of Adjustment Minutes
Thursday, March 28, 2024
6:00 P.M.,
Town Hall, Conference Room**

Members Present:

Stephen Upton, Chairman
Sarah Edwards
Jeremy Pearce
Thomas Bell

Members Absent:

Monique Austin

Staff Present:

Mark Helmer, Senior Planner
Julie Edmonds, Admin Support Specialist

Staff Absent:

Stephen Wensman, Planning Director

CALL TO ORDER

Swearing in of new board member Thomas Bell.

Approval of minutes from April 27, 2023

Jeremy Pearce made a motion, seconded by Sarah Edwards to approve the minutes as written.
Unanimously approved

Approval of the 2024 Meeting Schedule

Sarah Edwards made a motion to approve the 2024 BOA meeting schedule, seconded by Jeremy Pearce.
Unanimously approved.

Stephen Upton swore in those wanting to speak.

Sarah Edwards made a motion to open BA-24-01, seconded by Jeremy Pearce. Unanimously approved.

Stephen Wensman stated the applicant is requesting a variance to the Town of Smithfield Unified Development Ordinances, Article 8, Zoning District Design Standards, Section 8.9.1, to allow for an extension of the current (legal, nonconforming) building that would not meet setback requirements. The applicant is requesting an 8' variance to the side yard setback. The property considered for variance is located about 650 feet southwest of the intersection of North Brightleaf Boulevard and Canterbury Rd. The property is further identified as Johnston County Tax ID# 15007001.

Mr. Wensman said the applicant is expanding its operations and is planning an extension to a building that is already on the lot with 0' side yard setback. The applicant's business provides HVAC/Plumbing/Electrical services 24 hours a day, 7 days a week, and to provide adequate service to their expanding customer base, they require an additional building. The property currently has 2 buildings, Suite A and Suite B, both with legal but nonconforming setbacks. These buildings were already in existence at the time of purchasing the property and the owners were unable to anticipate the growth in their customer base. There is no alternative to expanding their building without disrupting the flow and use of the site. This building expansion is not to be visible from the road, nor is it infringing upon neighboring parcels. The expansion setback is consistent with what is already present on this lot.

Planning Staff recommends the Board of Adjustment approve the 8' variance from the side yard setback, variance case number BA-24-01, based on the finding of fact.

Jeremy Pearce made a motion to approve BA-24-01 for an 8' variance to the side yard setback requirements for B-3 Article 8, Section 8.9.1, based on the finding of fact. Seconded by Tom Bell. Unanimously approved.

Old Business

None

New Business

Stephen Upton resigned as Chairman of Board of Adjustments.

Stephen Upton nominated Sarah Edwards as Board of Adjustments chairman, seconded by Jeremy Pearce.

Stephen Upton nominated Jeremy Pearce as Vice-Chairman of Board of Adjustments, seconded by Sarah Edwards.

Jeremy Pearce made a motion to adjourn the meeting, seconded by Sarah Edwards. Unanimously approved.

Thomas Bell made a motion to adjourn, seconded by Sarah Edwards. Unanimously approved.

Julie Edmonds



Administrative Support Specialist
Town of Smithfield Planning Department

DRAFT



Request for Board of Adjustment Action

Agenda
Item: BA-24-03
Date: 4/25/24

Subject: Holley's Open Air Market Variance
Department: Planning
Presented by: Chloe Allen, Planner I
Presentation: Yes

Issue Statement

The applicant is requesting a 35' front setback variance to the Town of Smithfield Unified Development Ordinances, Article 8, Zoning District Design Standards, Section 8.9.1, to allow for a 24' by 30' gas canopy with a 15' front setback to be constructed above the existing gas pumps.

Financial Impact

None.

Action Needed

To hold an evidentiary hearing, review the variance request and to decide whether to approve, approve with conditions, or deny.

Recommendation

Planning Staff recommends approval of variance BA-24-03 based on finding of fact.

Approved: Town Manager Town Attorney

Attachments:

- Staff Report
- Application



Staff Report

Agenda BA-24-03
Item:

REQUEST:

The applicant is requesting a 35' front yard setback variance to the Town of Smithfield Unified Development Ordinances, Article 8, Zoning District Design Standards, Section 8.9.1, to allow for a 24' by 30' gas canopy with a 15' front setback to be constructed above the existing gas pumps.

PROJECT LOCATION:

The property considered for variance is located at 716 S. Brightleaf Boulevard in the northeast corner of the intersection between South Fifth Street and South Brightleaf Boulevard. The property is further identified as Johnston County Tax ID# 15041023.

CASE DATA:

Applicant: Professional Permits
Property Owner: BON-RIC LLP
Tax ID#: 15041023
Town/ETJ: Town
Acreage: 0.64 acres
Present Zoning: B-3 (Highway Entrance Business)
Existing Use: Convenience Store and Gas Station
Water Service: Town of Smithfield
Sewer Service: Town of Smithfield
Electrical Service: Town of Smithfield

ADJACENT ZONING AND LAND USE:

	Zoning	Existing Use
North	R-8	Residential
South:	B-3	Commercial
West:	B-3/R-8	Commercial/Residential
East:	B-3	Commercial

STAFF ANALYSIS:

The applicant is proposing a 24' by 30' gas canopy to place over their two existing gas pumps. Currently, the pump closest to Brightleaf Boulevard sits 20' back from the property line, so they are making the request that the canopy be permitted with a 15' setback.

Gasoline pumps are permitted within 15 feet of any street right-of-way line, according to Article 7 of the UDO, section 7.22. The gas pumps in question have been on the site for many years. Then GIS Orthophotos from 2017 and earlier show that there was a canopy over the gas pumps which were removed. Based on the orthophotos, it appears as though the old canopy was setback approximately 8-10'.

The construction of the new canopy would provide safe use of the gas dispensers during inclement weather and provide lighting at night. The triangular shape of the lot would make it nearly impossible to place the gas pumps further back without demolishing the convenience store.

STAFF FINDING OF FACT FOR VARIANCE:

To approve a variance, the Board of Adjustments shall find all of the following provisions can be met (Staff's finding are in *bold/italic*):

1. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. *In absence of this variance, the applicant will not have reasonable use of the property. The applicant purchased the property with the existing non-conformities and cannot build a canopy without a variance.*

2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. *The particular property is triangular and was developed at a time when there were different development standards. Because of how the site was originally developed, there are not good alternatives to relocate the gas pumps and make good use of the property.*

3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship. *The owner purchased the property with the existing gasoline pumps that are legal and conform to setback requirements.*

4. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved. *The variance will allow for safer use of the existing gas pumps.*

RECOMMENDATION:

Planning Staff recommends the Board of Adjustment approve the 35' variance from the front yard setback, variance case number BA-24-03, based on the finding of fact.

RECOMMENDED MOTION:

"Move to approve variance BA-24-03 for a 35' variance to the front yard setback requirements for B-3 (Highway Entranceway Business District) Article 8, Section 8.9.1, based on the 4 finding of fact (comment on each):

- 1. Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.*
- 2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.*
- 3. The hardship did not result from actions taken- by the applicant or the property owner.*
- 4. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured, and substantial justice is achieved.*

Holley's Open Air Market

File Number:
BA-24-03

Project Name:
Holley's Open
Air Market

Location:
716 S Brightleaf Blvd
(At S Fifth St
Intersection)

Tax ID#:
15041023

Existing Zoning:
B-3

Owner:
BON-RIC LLP

Applicant:
Professional Permits



1 in = 59 ft

Map created by Chloe Allen
Planner I on 4/12/24





Town of Smithfield
Planning Department
350 E. Market St. Smithfield, NC 27577
P.O. Box 761, Smithfield, NC 27577
Phone: 919-934-2116
Fax: 919-934-1134

VARIANCE APPLICATION

Pursuant to Article 4, of the Town of Smithfield Unified Development Ordinance, an owner of land within the jurisdiction of the Town (or a duly authorized agent) may petition the Board of Adjustment for relief from a requirement of the Unified Development Ordinance and to permit construction in a manner otherwise prohibited by this Ordinance where specific enforcement would result in unnecessary hardship.

In granting variances, the Board of Adjustment may impose such reasonable conditions as will insure that the use of the property to which the variance applies will be as compatible as practicable with the surrounding properties.

Variance applications must be accompanied by nine (9) sets of the complete application, nine (9) sets of required plans, an Owner's Consent Form (attached) and the application fee.

SITE INFORMATION:

Name of Project: _____ Acreage of property: _____
Parcel ID Number: _____ Tax ID: _____
Deed Book: _____ Deed Page(s): _____
Address: _____
Location: _____

Existing Use: _____ Proposed Use: _____

Existing Zoning District: _____

Requested Zoning District _____

Is project within a Planned Development: Yes No

Planned Development District (if applicable): _____

Variance Request (List Unified Development Code sections and paragraph numbers)

FOR OFFICE USE ONLY

File Number: _____ Date Received: _____ Amount Paid: _____

OWNER INFORMATION:

Name: _____
Mailing Address: _____
Phone Number: _____ Fax: _____
Email Address: _____

APPLICANT INFORMATION:

Applicant: _____
Mailing Address: _____
Phone Number: _____ Fax: _____
Contact Person: _____
Email Address: _____

REQUIRED PLANS AND SUPPLEMENTAL INFORMATION

The following items must accompany a variance application. This information is required to be present on all plans, except where otherwise noted:

- All required plans (*please see the plan requirements checklist*).
- Owner Consent form
- A Statement of Justification.
- Required Finding of Fact.
- Other Applicable Documentation: _____

STATEMENT OF JUSTIFICATION

Please provide detailed information concerning all requests. Attach additional sheets if necessary.

REQUIRED FINDINGS OF FACT

Article 4, Section 4.10.2.2 of the Town of Smithfield Unified Development Ordinance requires applications for a variance to address the following findings. The burden of proof is on the applicant and failure to

adequately address the findings may result in denial of the application. Please attach additional pages if necessary.

4.10.2.2.1 Unnecessary hardship would result from the strict application of the Ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

4.10.2.2.2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.

4.10.2.2.3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.

4.10.2.2.4. The requested variance is consistent with the spirit, purpose, and intent of the Ordinance, such that public safety is secured and substantial justice is achieved.

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Board of Adjustment of the Town of Smithfield to approve the subject Variance request. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Smithfield, North Carolina, and will not be returned.

_____ *Print Name*

_____ *Signature of Applicant*

_____ *Date*



Town of Smithfield
Planning Department
350 E. Market St Smithfield, NC 27577
P.O. Box 761, Smithfield, NC 27577
Phone: 919-934-2116
Fax: 919-934-1134

OWNER'S CONSENT FORM

Name of Project: _____ **Submittal Date:** _____

OWNERS AUTHORIZATION

I hereby give CONSENT to_____ (type, stamp or print clearly full name of agent) to act on my behalf, to submit or have submitted this application and all required material and documents, and to attend and represent me at all meetings and public hearings pertaining to the application(s) indicated above. Furthermore, I hereby give consent to the party designated above to agree to all terms and conditions which may arise as part of the approval of this application.

I hereby certify I have full knowledge the property I have an ownership interest in the subject of this application. I understand that any false, inaccurate or incomplete information provided by me or my agent will result in the denial, revocation or administrative withdrawal of this application, request, approval or permits. I acknowledge that additional information may be required to process this application. I further consent to the Town of Smithfield to publish, copy or reproduce any copyrighted document submitted as a part of this application for any third party. I further agree to all terms and conditions, which may be imposed as part of the approval of this application.

Signature of Owner *Print Name* *Date*

CERTIFICATION OF APPLICANT AND/OR PROPERTY OWNER

I hereby certify the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Smithfield, North Carolina, and will not be returned.

Signature of Owner/Applicant *Print Name* *Date*

FOR OFFICE USE ONLY

File Number:	Date Received:	Parcel ID Number:
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TOWN OF SMITHFIELD Notice of Public Hearing

AFFIDAVIT OF PUBLICATION

State of Pennsylvania, County of Lancaster, ss:

Kevin King, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Johnstonian News - (Johnston County), a newspaper printed and published in the City of Smithfield, County of Johnston, State of North Carolina, and that this affidavit is Page 1 of 1 with the full text of the sworn-to notice set forth on the pages that follow, and the hereto attached:

PUBLICATION DATES:

Apr. 10, 2024

NOTICE ID: 9QY3V1NWBFGWF7mgzi6

NOTICE NAME: BOA - BA-24-03 April 2024

Publication Fee: 67.70

I declare under penalty of perjury under the laws of North Carolina that the foregoing is true and correct.

Kevin King

(Signed) _____

VERIFICATION

State of Pennsylvania
County of Lancaster

Commonwealth of Pennsylvania - Notary Seal
Nicole Burkholder, Notary Public
Lancaster County
My commission expires March 30, 2027
Commission Number 1342120

Subscribed in my presence and sworn to before me on this: 04/11/2024

Nicole Burkholder

Notary Public

Notarized remotely online using communication technology via Proof.

Notice is hereby given that a public hearing will be held before the Board of Adjustment of the Town of Smithfield, N.C., on Thursday, April 25, 2024 at 6:00 p.m. in the Town Hall Council Chambers located at 350 East Market Street to consider the following request:

BA-24-03 Holley's Open Air Market: The applicant is requesting a 35' variance from the front yard setback to the Town of Smithfield Unified Development Ordinances, Article 8, Zoning District Design Standards, Section 8.9.1, to allow for a 24' x 30' gas canopy to be built with a setback of 15' over already existing fuel dispensers. The is located on the northwest corner of the intersection between South Fifth Street and South Brightleaf Boulevard. The property is further identified as Johnston County Tax ID# 15041023.

All interested persons are encouraged to attend. To accommodate disabilities and to comply with ADA regulations, please contact the town office if you need assistance. Further inquiries regarding this matter may be directed to the Smithfield Planning Department at (919) 934-2116 ext. 1111 or online at www.smithfield-nc.com.
The Johnstonian
April 10, 2024

ParcelID	Name1	Name2	Address1	Address2	CityStateZip
15041023	BON-RIC LLP			PO BOX 3068	WILSON, NC 27895-3068
15041019	COATS, STANLEY B II	COATS, KELLY LEE	1560 BROGDEN RD		SMITHFIELD, NC 27577-9245
15041002	SMITHFIELD HOUSING AUTHORITY		801 S 5TH ST		SMITHFIELD, NC 27577-0000
15040017A	BRIGHTLEAF #2004, LLC			PO BOX 1266	SMITHFIELD, NC 27577-1266
15040027	PARKER RENTALS, LLC		88 SANDY RD		FOUR OAKS, NC 27524-7844
15040037	XG PROPERTIES I, LLC		402 DIXIE DR		SELMA, NC 27576-2308
15045015	B&B PARADISE HOMES, INC.		10713 NC HIGHWAY 210		FOUR OAKS, NC 27524-9459
15041020B	REDBIRD REAL ESTATE LLC		108 BRADY CT		CARY, NC 27511-4554
15045031A	CARPENTER, WILLIAM CHRISTIAN		3032 YELVERTON GROVE RD		SMITHFIELD, NC 27577-7563
15041020C	CAMEEN INVESTMENTS LLC		816 PARKRIDGE DR		CLAYTON, NC 27527-5312



PLANNING DEPARTMENT

Chloe Allen, Planner I

Notice of Public Hearing

Notice is hereby given that a public hearing will be held before the Board of Adjustment of the Town of Smithfield, N.C., on Thursday, April 25, 2024 at 6:00 p.m. in the Town Hall Council Chambers located at 350 East Market Street to consider the following request:

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You have been identified as a property owner in the area specified above and are being advised of this meeting as you may have interest in this matter. You are welcome to attend; however, you are not required to in order for the Board to act on this request. Additional information may be obtained by contacting the Town of Smithfield Planning Department at 919-934-2116 ext. 1111.