



**City of Fairhope
Board of Adjustments Agenda
5:00 PM
Council Chambers
November 18, 2024**

Sherry Sullivan
Mayor

Council Members

Kevin G. Boone

Jack Burrell, ACMO

Jimmy Conyers

Corey Martin

Jay Robinson

Lisa A. Hanks, MMC
City Clerk

Kimberly Creech
City Treasurer

1. Call to Order
2. Approval of Minutes
 - October 21, 2024
3. Consideration of Agenda Items

A. BOA 24.13 Public hearing to consider the request of the Owners, James and Heather DeLapp, for a building height variance, an accessory structure to be built forward of the principal structure and a variance to retaining wall height of 4' or 8' based on placement of primary home on property zoned R-1 – Low Density Single-Family Residential District. The property is located at 23335 Main Street and is approximately 0.82 acres. **PPIN#: 265003**

B. BOA 24.16 Public hearing to consider the request of the Applicant, Apex Contracting Services LLC on behalf of the Owner, FST and Bell, Zachary, for a 23' front setback variance, a 25' rear setback variance and a 5' side setback variance on property zoned R-2 Medium Density Single-Family Residential District. The property is located at 258 Equity Street. The property is approximately 0.18 acres. **PPIN#: 14343**

C. BOA 24.17 Public hearing to consider the request of the Owner, FST Beckwith/The Baker Living Trust, for a Special Exception - to place an accessory structure forward of the principal structure on property zoned R-2 Medium Density Single-Family Residential District. The property is located at 519 Equality Avenue. The property is approximately 1.02 acres. **PPIN#: 15475**

4. Old/New Business
5. Adjourn

161 North Section Street

P.O. Drawer 429

Fairhope, Alabama 36533

251-928-2136

251-928-6776 Fax

www.fairhopeal.gov

Official of FAIRHOPE, ALABAMA

The Board of Adjustments met Monday, October 21, 2024, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Anil Vira, Chair; Cathy Slagle, Vice-Chair; Donna Cook; Ryan Baker; Frank Lamia; Bryan Flowers; Hunter Simmons, Planning and Zoning Director; Michelle Melton, City Planner; and Cindy Beaudreau, Planning Clerk.

Absent: None

Chairman Vira called the meeting to order at 5:02 PM.

Approval of Minutes

Ryan Baker made a motion to approve the minutes from the September 16, 2024, meeting.

Cathy Slagle seconded the motion and the motion carried with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, Ryan Baker, and Frank Lamia

Nay: None.

BOA 24.10 Public hearing to consider the request of the Applicant, Mack McKinney, on behalf of the Owner, FST Sildi LLC, for a Special Exception – Use on Appeal – to allow for a hotel on property zoned B-2 General Business District. The property is located at 301 Fairhope Avenue and is approximately 0.20 acres. **PPIN#: 14359**

Chairman Vira stated that the Applicant would like to table this item until the December meeting.

Recommendation:

Staff recommends tabling of BOA 24.10 until December.

Motion:

At the applicant's request Frank Lamia made a motion to table BOA 24.10.

Cathy Slagle seconded the motion and the motion carried with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, Ryan Baker, and Frank Lamia

Nay: None.

BOA 24.11 Public hearing to consider the request of the Owner, Jason LaSource, for a 15' front setback variance and a 5' side setback variance on property zoned R-2 Medium Density Single-Family Residential District. The property is located at 50 Fels Avenue. The property is approximately 0.22 acres. **PPIN#: 14503**

Michelle Melton, City Planner, presented the request of the Owner, Jason LaSource, for a 15' front setback variance and a 5' side setback variance on property zoned R-2 Medium Density Single-Family Residential District. Ms. Melton shared the zoning and aerial maps. Ms. Melton shared the updated site plan with the second floor and where the tree limbs would be in connection with the

second floor. Ms. Melton reminded the Board of Adjustment members that the Tree Ordinance does not apply, and the owner could cut the tree down in order to build his house, but he would prefer to protect the tree. Staff supports the efforts to save the Heritage Tree but feel a variance should be granted conditioned on a special plan that is designed to work around the tree as much as possible. The updated plan provides more information about the house itself; however, a different house placement may provide better protection for the tree. Applicant desires to maintain an existing garden and erect a new accessory structure in the backyard, which is part of the reasoning for the variance request(s).

Recommendation:

Staff recommends denial of BOA 24.11.

Jason LaSource, 50 Fels Avenue, stated that there would be 5' on either side of the tree and 10' from left to right. Mr. LaSource shared a portion of an historical zoning ordinance which states that if you were outside of the setbacks, you could build up to where your neighbor's house was to keep the continuity.

Ryan Baker asked why the house was moving closer to the side yard. Mr. LaSource answered that the house would be too narrow if they stayed within the setbacks. Mr. Baker continued that when rebuilding a house, the new house would need to stay within the new setbacks. Mr. LaSource stated that those setbacks should not apply in the Fruit and Nut or Bluff areas in order to keep the continuity in the neighborhood. Mr. Baker reminded Mr. LaSource is creating his own hardship and there are other choices that could be made that would keep the new house within the current setbacks.

Mr. Simmons added that all lots in the Fruit and Nut neighborhood are the same size, and one lot is not being punished more than the rest. The City Council, nine Planning Commissioners and staff are the ones that changed the Zoning Ordinance.

Chris Francis, 1214 Captain O'Neal Drive, Daphne, stated that he would like for construction to be farther away from a tree, but this house would be on footers which would protect the tree roots. Mr. Francis stated that the tree can stay there with the house built around it based on the design of the house. Mr. Baker asked if there was any concern with the tree being surrounded on three sides. Mr. Francis replied generally yes, with standard construction, but the design with allow for footers that the house will sit on which will be between the roots. Mr. Francis stated that he will be there during construction so that the tree will be protected. Ms. Slagle asked if there was room to move the house behind the tree. Mr. Francis stated that the tree was in the middle of the lot and building behind it would leave a huge front yard and the house wouldn't line up with the other homes in the neighborhood. Ms. Slagle asked if the house moved 5' south, would the tree be more protected. Mr. Francis stated that cutting off the branches to put a house there would create decay in the trunk and that Mr. LaSource has designed the house so that the branches do not need to be cut. Mr. Baker continued that with 5' on each side of the tree with 18' from the front set back line, would it help the tree more if the master bedroom was pulled further away. Mr. Francis stated that the house could slide closer to the tree without hurting the tree and if the house was moved, the branches might be impacted.

Mr. Simmons stated that if the connecting the hallway was longer and the bottom half of the house moves down, the accessory structure could be attached to the house and a variance would not be needed behind the tree. Mr. Francis stated that there are other options, but this design is reasonable.

Mr., Vira asked if the garage should be behind the house. Mr. Simmons stated that the garage is typically behind the rear building line of the principal structure. Mr. Vira continued that the way the house is designed, another variance would be needed. Mr. Simmons stated yes, unless the accessory structure is connected. Mr. Simmons stated that staff would rather see a rear setback variance.

Ms. Slagle stated that Mr. LaSource should meet with the City to find another solution. Mr. Simmons stated that staff could meet with Mr. LaSource and the home designer to look for other options.

Mr. LaSource requested to table his case until revised plans are received by staff.

Motion:

At the applicant's request Donna Cook made a motion to table BOA 24.11.

Cathy Slagle seconded the motion and the motion carried with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, Ryan Baker, and Frank Lamia

Nay: None.

BOA 24.13 Public hearing to consider the request of the Owners, James and Heather DeLapp, for a building height variance, an accessory structure to be built forward of the principal structure and a variance to retaining wall height of 4' or 8' based on placement of primary home on property zoned R-1 – Low Density Single-Family Residential District. The property is located at 23335 Main Street and is approximately 0.82 acres. **PPIN#: 265003**

Mr. Baker stated that he needs to recuse himself due to him being the architect for the next-door neighbor. Bryan Flowers replaced Mr. Baker.

Mr. Simmons reminded everyone that this case is strictly a case to decide on variances and not about pointing fingers and asked if everyone would concentrate only on the variances. Mr. Simmons stated that research had been done on Alabama law relating to hardships and that finances are not a consideration when granting a hardship.

Mike Jeffries, Development Services Manager, presented the request of the Owners, James and Heather DeLapp, for a building height variance, an accessory structure to be built forward of the principal structure and a variance to retaining wall height of 4' or 8' based on placement of primary home on property zoned R-1 – Low Density Single-Family Residential District. Mr. Jeffries reminded the Board of Adjustments of the prior variance requests. Mr. Jeffries shared the aerial and zoning maps along with the site plan and elevations. Mr. Jeffries listed the summary of Mr. DeLapp's revised plans including a depiction of terraced retaining wall options, photos and illustrations of northern properties fence which has no bearing on if his property and proposed

variance requests meet the variance criteria, alternatives to the carport connected by a covered walkway and alternatives with no variance required by integrating the garage with the house.

Recommendation:

Staff recommends denial for the height variance for the retaining wall, denial for the location of the accessory structure and approval for the building height of the principal structure.

James DeLapp, 23335 Main Street, stated that he agrees with Mr. Simmons' comments and the staff recommendations. Mr. DeLapp shared a presentation which showed that he only needs a building height variance. Mr. DeLapp showed the make up of the Crawford Subdivision. Mr. DeLapp stated that this is a private subdivision and anyone using the boardwalk is trespassing. Mr. DeLapp showed what a terraced retaining wall would look like and the cost for a terraced retaining wall. The neighbor's fence was shown to show the height and length which could be considered unsightly and shared a slide showing the line of sight for his retaining wall which would not be seen from the road. Mr. DeLapp then addressed integrating the garage with the house and stated that he could add the garage to the front of the house but that would violate the HOA rules. A new image was shared that included an alternative design that integrated the garage with the house. A new proposed site plan was shown with the house falling within the setbacks.

Mr. Lamia asked Mr. Simmons what they were being asked to vote on. Mr. Simmons stated that the staff needs more information showing that this plan would work. The average elevation of the building footprint is needed to confirm whether a building height variance is required. Mr. DeLapp stated that he may not need the building height variance. Ms. Slagle asked if a home built on lots 4 and 5 would have a view of the bay. Mr. DeLapp answered that depending on what type of house would be built, lots 4 and 5 are at a higher elevation than his proposed home which would not block their view. Ms. Slagle asked how far back from the street was his proposed home. Mr. DeLapp stated that it is approximately 500'. Ms. Slagle asked if the HOA had approved all aspects of his proposed home. Mr. DeLapp stated yes. Mr. Simmons asked if there was a 3-car garage, Mr. DeLapp answered it is a 2.5 car garage.

Chairman Vira opened the public hearing at 6:09pm, having no one to speak, the public hearing was closed at 6:09pm.

Mr. Simmons stated that staff does not believe any variances are required and asked Mr. DeLapp if he wanted to withdraw his request. Mr. Jeffries suggested tabling the case until staff can review the height plans to confirm that a height variance is not required. Mr. DeLapp requested that his case be tabled until staff can vet the height variance.

Motion:

At the applicant's request Cathy Slagle made a motion to table BOA 24.13.

The motion carried with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, Frank Lamia, and Bryan Flowers

Nay: None.

BOA 24.14 Public hearing to consider the request of the Applicant, Rebecca Bryant, Watershed, on behalf of the Owner, Gerard Garcia, for a Special Exception – Use on Appeal – to allow for a restaurant, bar and community center on property zoned B-3a Tourist Resort Lodging District. The property is located at 700 S. Mobile Street and is approximately 3.21 acres. **PPIN#: 11940**

Mike Jeffries, Development Services Manager, presented the request of the Applicant, Rebecca Bryant, Watershed, on behalf of the Owner, Gerard Garcia, for a Special Exception – Use on Appeal – to allow for a restaurant, bar and community center on property zoned B-3a Tourist Resort Lodging District. The request by the Eastern Shore American Legion is an amendment to a May 16, 2022, approval. A new building will be constructed (Phase 1 Legion Club), and the existing building will be renovated and become the Legion Hall and restaurant. The restaurant will operate only on Tuesday – Saturday (drive-through is not a permitted use on site) and the Legion Events including the monthly membership meetings will be limited to only Sundays and/or Mondays (or when the restaurant is not in operation). Mr. Jeffries shared the parking information.

Recommendation:

Staff recommends approval of BOA 24.14 with the following recommendations:

1. A drive-through shall not be an allowed use on this site.
2. The restaurant shall only be open Tuesday-Saturday.
3. Legion events and monthly membership meetings shall be Sundays and/or Mondays or when the restaurant is not in operation.

Mr. Simmons added that this project was not an easy process due to wanting to preserve the building and commended the patience of the Legion members while working through the process.

Rebecca Bryant, Watershed, 103 Blakeney Avenue, stated that a goal of this project is to create an asset, rather than renting, for the Legion that would allow for fundraising. Ms. Bryant shared the plans for the design.

Mr. Vira asked Ms. Bryant to share the existing and proposed site plans. Ms. Bryant showed the phase 1 and phase 2 proposals. Ms. Bryant stated that originally there was an outdoor seating area for the restaurant which was removed and will now be used for the flag ceremony and cannons. Ms. Slagle asked Ms. Bryant to share the proposal for the two buildings. Ms. Bryant stated that in Phase 1, the rectangular building will house the Legion Club events with a small kitchen, bar and gathering space along with the Emergency Operations space and is projected to be finished in approximately 18 months. Phase 2 is dependent on fundraising. The ground floor is slated for restaurant use and the second floor is a proposed event space along with the Legion offices. Mr. Vira asked if there would be an elevator. Ms. Bryant stated yes. Mr. Lamia asked if the sitework would occur in Phase 1. Ms. Bryant stated yes. Ms. Slagle asked about the club building architecture. Ms. Bryant stated that it would be compatible with the original building and showed the rendering.

Chairman Vira opened the public hearing at 6:35pm.

Gary Gover, 300 Lincoln Street, shared his concerns about storm survival of the site.

Gerard Garcia, American Legion, stated that with a category 5 or greater, all bets would be off, but those types of storms are hundred-year storms. They will have the ability to sustain lesser storms and be able to help with Emergency Operations. Mr. Garcia stated that the building is tailored for immediate response. Fundraising for Phase 2 has been demanding but they have recently attained a 501C3 which changes their ability to apply for grants which will help with the fundraising.

Frank Thrasher, St. Alban Avenue, Loxley, Secretary of the American Legion Response Team, shared the importance of the Emergency Operations of the American Legion. This project will give them a home and actualizing missions statements received from the national level. National Security is one of the four pillars of the American Legion which helps the community. Mr. Thrasher listed many of his resources and thanked the Board of Adjustments for moving this project forward.

The public hearing was closed at 6:43pm.

Ms. Slagle asked for the history of Ivan and Sally, how much water came on site, how far away is the building from the bay, the insurance for the Legion, and the elevation of the building. Ms. Bryant stated they are well above the BFE, they have a flood elevation certification, and a geotechnical study was done on the stability of the bluff. The proposed new building is located beyond the bluff setback.

Motion:

Cathy Slagle made a motion to approve BOA 24.14 with staff recommendations.

Frank Lamia seconded the motion and the motion carried with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, Frank Lamia, and Bryan Flowers

Nay: None.

BOA 24.15 Public hearing to consider the request of the Applicant, Element 3 Engineering LLC, on behalf of the Owner, Fairhope Avenue Baptist Church, for a Special Exception – Use not Provided for – to allow for a church expansion on property zoned R-1 Low Density Single-Family Residential District. The property is located at 8717 Fairhope Avenue and is approximately 4.29 acres. **PPIN#: 13305**

Mike Jeffries, Development Services Manager, presented the request of the Applicant, Element 3 Engineering LLC, on behalf of the Owner, Fairhope Avenue Baptist Church, for a Special Exception – Use not Provided for – to allow for a church expansion on property zoned R-1 Low Density Single-Family Residential District. Mr. Jeffries shared the aerial and zoning maps along with the site plan. The applicant is requesting to expand the Sunday School classrooms, choir room and pastor's office of the existing church to accommodate the growing church congregation. The applicant provided a narrative stating the classrooms will be used during Sunday and/or Wednesday services. The choir room will be used on Sundays and one night per week for choir practice.

Recommendation:

Staff recommends approval of BOA 24.15.

Steve Fisher, Element 3 Engineering, 3938 Government Boulevard, Mobile, stated that this is a 5,060 sq ft building addition on the east side. The architectural improvements will match the existing building.

Chairman Vira opened the public hearing at 6:51pm.

Lewis Johnson, 219 Divit Loop, Pastor of Fairhope Avenue Baptist Church, added that when Hurricane Sally hit, two of the existing buildings were destroyed. They are seeking to replace the buildings that were destroyed by adding an east wing.

The public hearing was closed at 6:53pm.

Motion:

Frank Lamia made a motion to approve BOA 24.15.

Donna Cook seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, Frank Lamia, and Bryan Flowers

Nay: None.

Old/New Business

- Approval of 2025 Meeting Schedule

Motion:

Cathy Slagle made a motion to approve the 2025 Meeting Schedule.

Frank Lamia seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, Frank Lamia, and Bryan Flowers

Nay: None.

Mr. Jeffries noted that the January 2025 and January 2026, meeting dates have been moved due to the Martin Luther King holiday.

- Election of Officers

Motion:

Bryan Flowers made a motion to keep the same officers of Anil Vira as Chair, Cathy Slagle as Vice-Chair and Cindy Beaudreau as Secretary.

Donna Cook seconded the motion and the motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, Frank Lamia, and Bryan Flowers

Nay: None.

Adjournment

Cathy Slagle made a motion to adjourn.

The motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Donna Cook, Frank Lamia, and Bryan Flowers

Nay: None.

Adjourned at 6:55p.m.

Anil Vira, Chairman

Cindy Beaudreau, Secretary

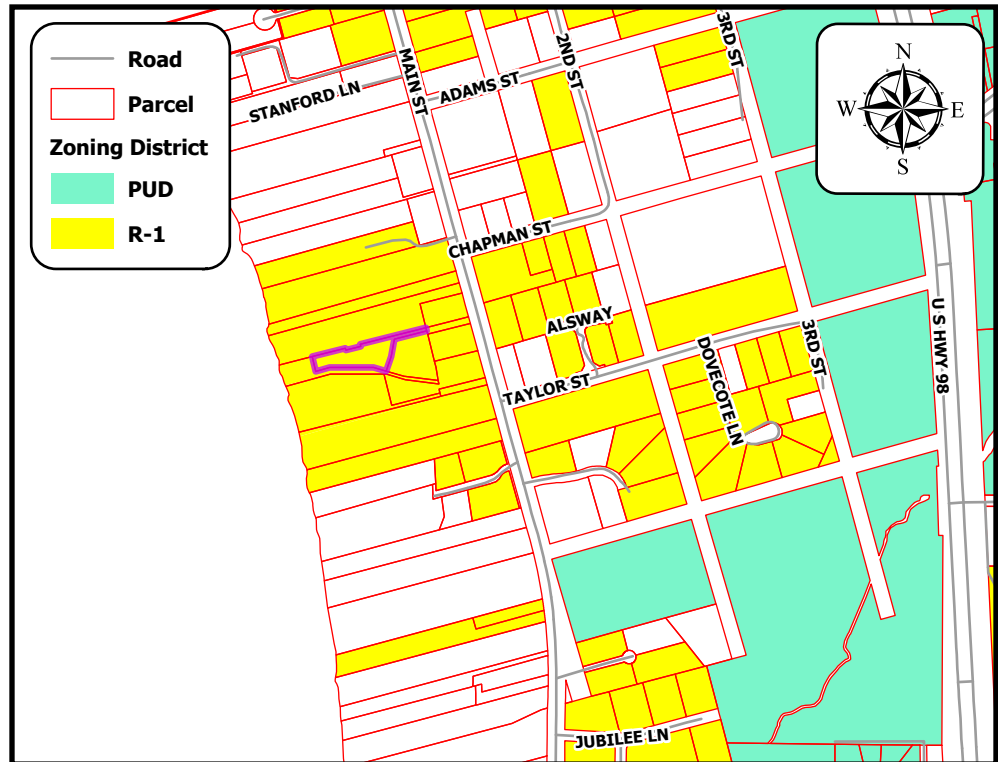
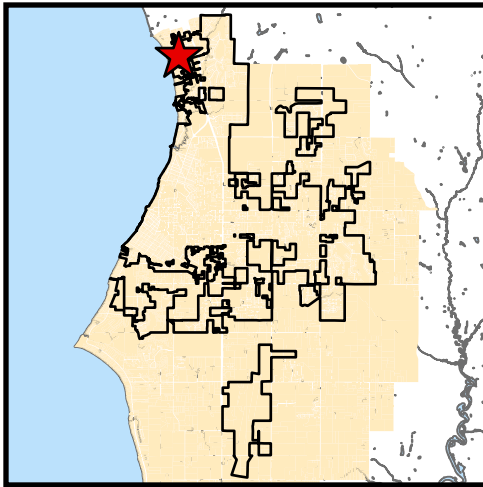
City of Fairhope

Board of Adjustments

November 18, 2024



BOA 24.13 - 23335 Main Street



Project Name:

23335 Main Street

Site Data:

0.82 acres

Project Type:

Variance Building Height

Jurisdiction:

Fairhope Planning Jurisdiction

Zoning District:

R-1

PPIN Number:

265003

General Location:

West side of Main Street, North of
Taylor Street

Surveyor of Record:

N/A

Engineer of Record:

N/A

Owner / Developer:

James and Heather DeLapp

School District:

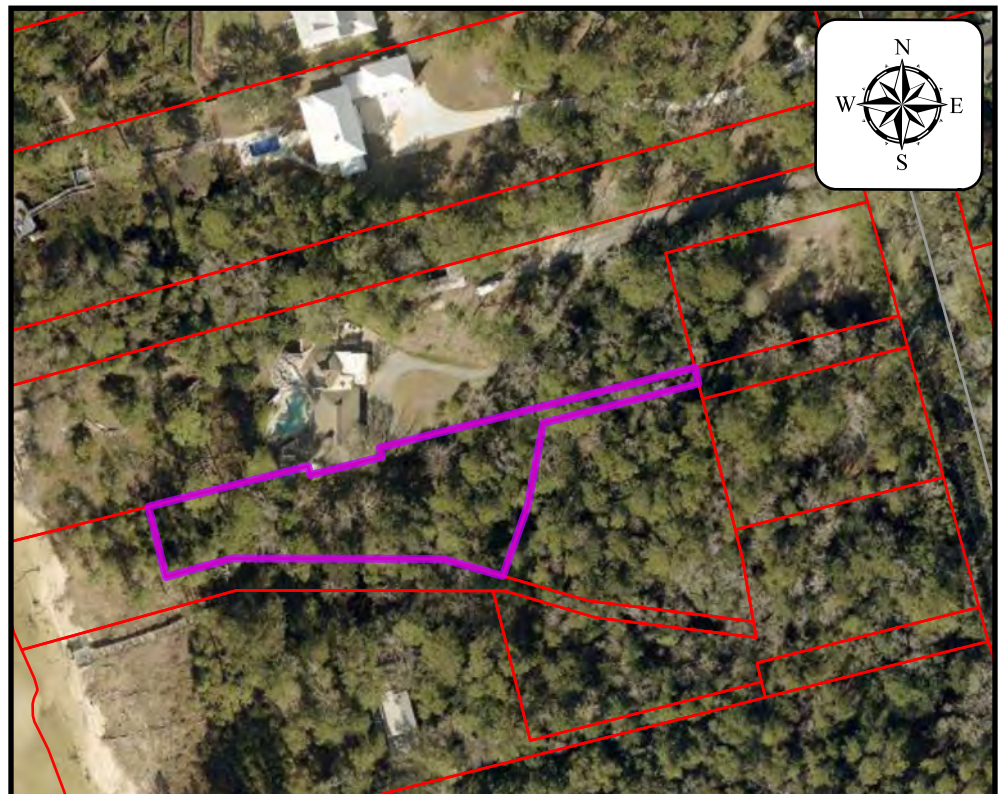
Fairhope Elementary School
Fairhope Middle and High Schools

Recommendation:

Approval

Prepared by:

Hunter Simmons





APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: ☐ Administrative Appeal ☐ Special Exception ☒ Variance

Property Owner / Leaseholder Information

Name: James & Heather DeLapp Phone Number: 979-575-1425
 Street Address: 492 Boulder Creek Ave
 City: Fairhope State: AL Zip: 36532

Applicant / Agent Information

If different from above.

Notarized letter from property owner is required if an agent is used for representation.

Name: _____ Phone Number: _____
 Street Address: _____
 City: _____ State: _____ Zip: _____

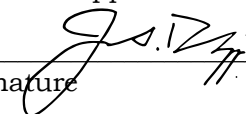
Site Plan with Existing Conditions Attached: **YES** NO
 Site Plan with Proposed Conditions Attached: **YES** NO
 Variance Request Information Complete: **YES** NO
 Names and Address of all Real Property Owners
 within 300 Feet of Above Described Property Attached: **YES** NO

Applications for Administrative Appeal or Special Exception:

Please attach as a separate sheet(s) information regarding the administrative decision made or information regarding the use seeking approval. Please feel free to be as specific or as general as you wish in your description. This information will be provided to the Board before the actual meeting date. It is to your benefit to explain as much as possible your position or proposal.

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. *If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

James & Heather DeLapp
 Property Owner/Leaseholder Printed Name


 Signature

13 August 2024
 Date

 Fairhope Single Tax Corp. (If Applicable)



VARIANCE REQUEST INFORMATION

What characteristics of the property prevent / preclude its development?:

- | | | |
|--------------------------------------|---|--|
| ☐ Too Narrow | ☒ Elevation | ☐ Soil |
| ☐ Too Small | ☒ Slope | ☐ Subsurface |
| ☐ Too Shallow | ☒ Shape | ☐ Other (specify) |

Describe the indicated conditions: 23335 Main St., Lot 6 of the Crawford Subdivision, has several unique characteristics which make development a challenge including, irregular shape and sloping site in two directions.

How do the above indicated characteristics preclude reasonable use of your land?

Because of the significant change in elevation, the maximum height limitation using the entire lot for natural elevation makes it almost impossible to build a home as intended. Because of the irregular shape, slope, and bluff upon which the lot sits, mandates placement of the carport in front of the main home in order to allow vehicles to access to the carport. In order to maintain a safe and generally level site between drive, carport, and home a retraining wall is required that would exceed 4'.

What type of variance are you requesting (be as specific as possible)?

- Seeking a variance to Art.III.C.1. Lot and Principle Structure Max Height to use average elevation of buildable site and not entire lot.
- Seeking variance to Art. III.C.2. Residential Accessory Structures for determination of and placement of carport in front of main home.
- Seeking variance to retaining wall height of 4' or 8' based on placement of primary home, site conditions and safe access.

Hardship (taken from Code of Alabama 1975 Section 11-52-80):

"To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit of the (zoning) ordinance shall be observed and substantial justice done."

BOA Fee Calculation:

	Residential	Commercial
Filing Fee:	\$100	\$500
Publication:	\$20	\$20
TOTAL:	\$ 120.00	

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. *If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

James & Heather DeLapp
Property Owner/Leaseholder Printed Name

13 August 2024

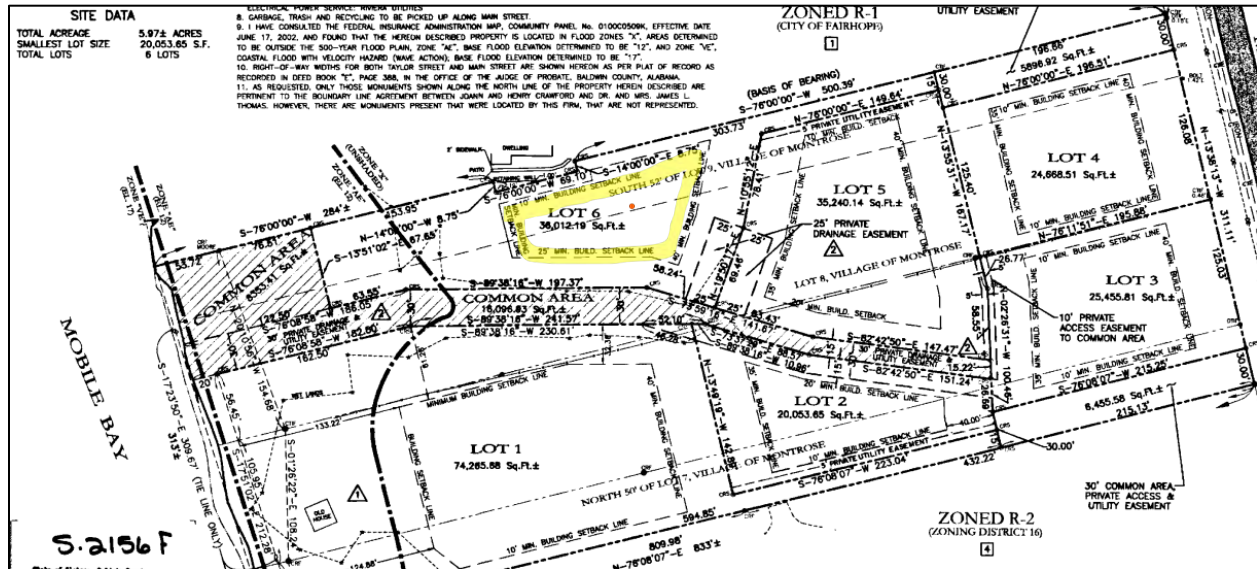
Date

Signature 

Fairhope Single Tax Corp. (If Applicable)

Summary of Request:

The applicants, James and Heather DeLapp, requests a building height variance. More particularly on how the building height is defined. Subject property is zoned R-1, Low Density Single-Family Residential District (approx. 36,012sf) at 23335 Main Street. The request is for Lot 6 of the Crawford Subdivision (S 2156-F). See below.



Comments:

The property slopes from ~95' close to Main Street to ~11' along a common area on Mobile Bay. Applicants state that the elevation, slope, and shape of the lot warrant the variance requests.

Principle Structure Height Variance

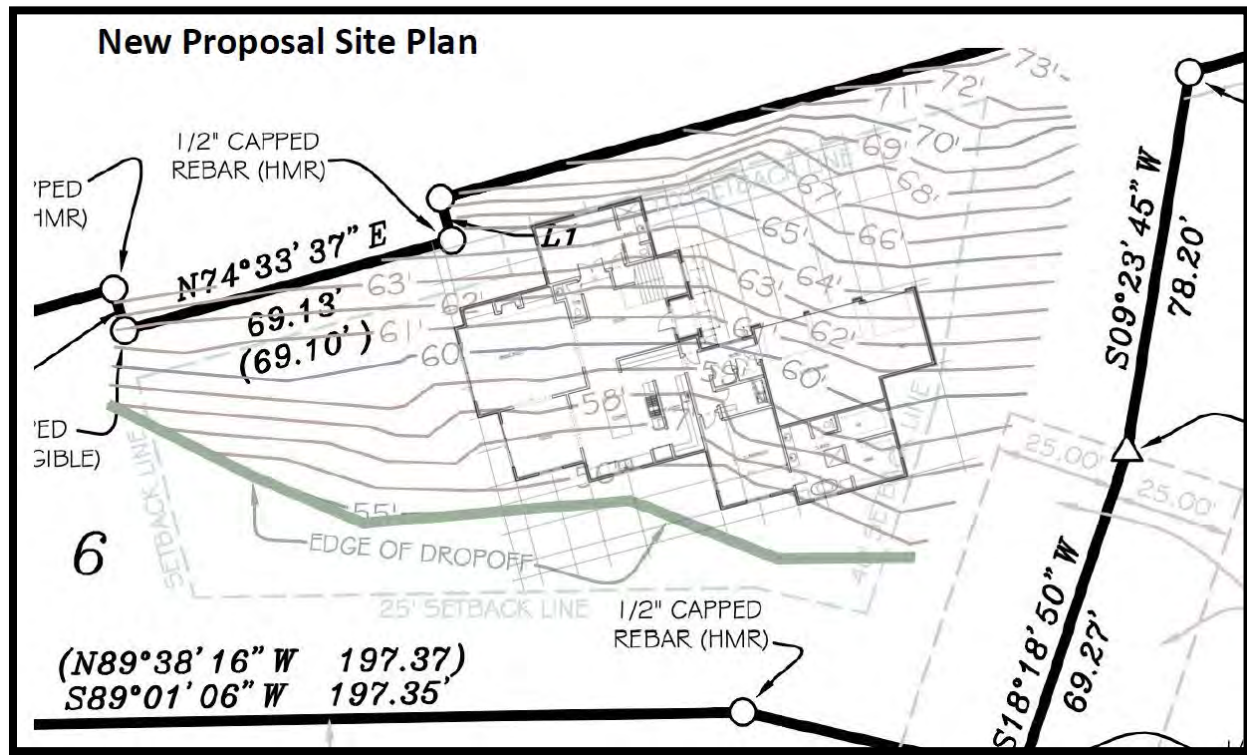
Table 3-2 Lots and Principle Structure has a maximum height of 30ft for R-1 zoned property.

Table 3-2: Dimension Table - Lots and Principle Structure

Dimension District or use	Min. Lot Area/ Allowed Units Per Acre (UPA)	Min. Lot Width	Setbacks				Max. total lot coverage by all structures	Max. height
			Front	Rear	Side	Street side		
R/A	3 acres/-	198'	75'	75'	25'	50'	none	30'
R-1	15,000 s.f./-	100'	40'	35'	10' ^b	20'	40%	30' *

Building Height is defined in the Zoning Ordinance as "The vertical distance measured from the average natural elevation of the lot to the mean point of the roof of the building." Applicants are requesting a variance from the definition of building height because "...the maximum height limitation using the entire lot for natural elevation makes it almost impossible to build a home as

Staff supports the request to measure FROM the natural elevation of the building footprint.



Staff Recommendation:

Zoning Ordinance Requirements:

Variances: A modification of the strict terms of the relevant regulations in a district with regard to placement of structures, developmental criteria or provision facilities. Examples would be: allowing smaller yard dimensions because an existing lot of record is of substandard size; waiving a portion of required parking and/or loading space due to some unusual circumstances; allowing fencing and/or plant material buffering different from that required due to some unusual circumstances. Variances are available only on appeal to the Board of Adjustment and subject to satisfaction of the standards specified in this ordinance.

The Board of Adjustments is authorized to grant variances through Article II.A.d(3) which says the following:

d. Duties and Powers: The Board shall have the following duties and powers:

(3) Variances - To authorize upon appeal in specific cases variance from the terms of this ordinance not contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done.

Prior to granting a variance, the Board shall find that:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- (b) The application of this ordinance to the particular piece of property would create an unnecessary hardship;
- (c) Such conditions are peculiar to the particular piece of property involved; and,
- (d) Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

The Ordinance provides guidance for variance requests through the following criteria:
Article II.C.3.e.

Criteria – (1) An application for a variance shall be granted only on the concurring vote of four Board members finding that:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- (b) The application of the ordinance to this particular piece of property would create an unnecessary hardship. Personal financial hardship is not a justification for a variance.
- (c) Such conditions are peculiar to the particular piece of property involved; and
- (d) Relief, if granted, would not cause substantial detriment to the public good and impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

When a variance is granted by the Zoning Board of Adjustment it has the following effect:

Article II.C.3.g.

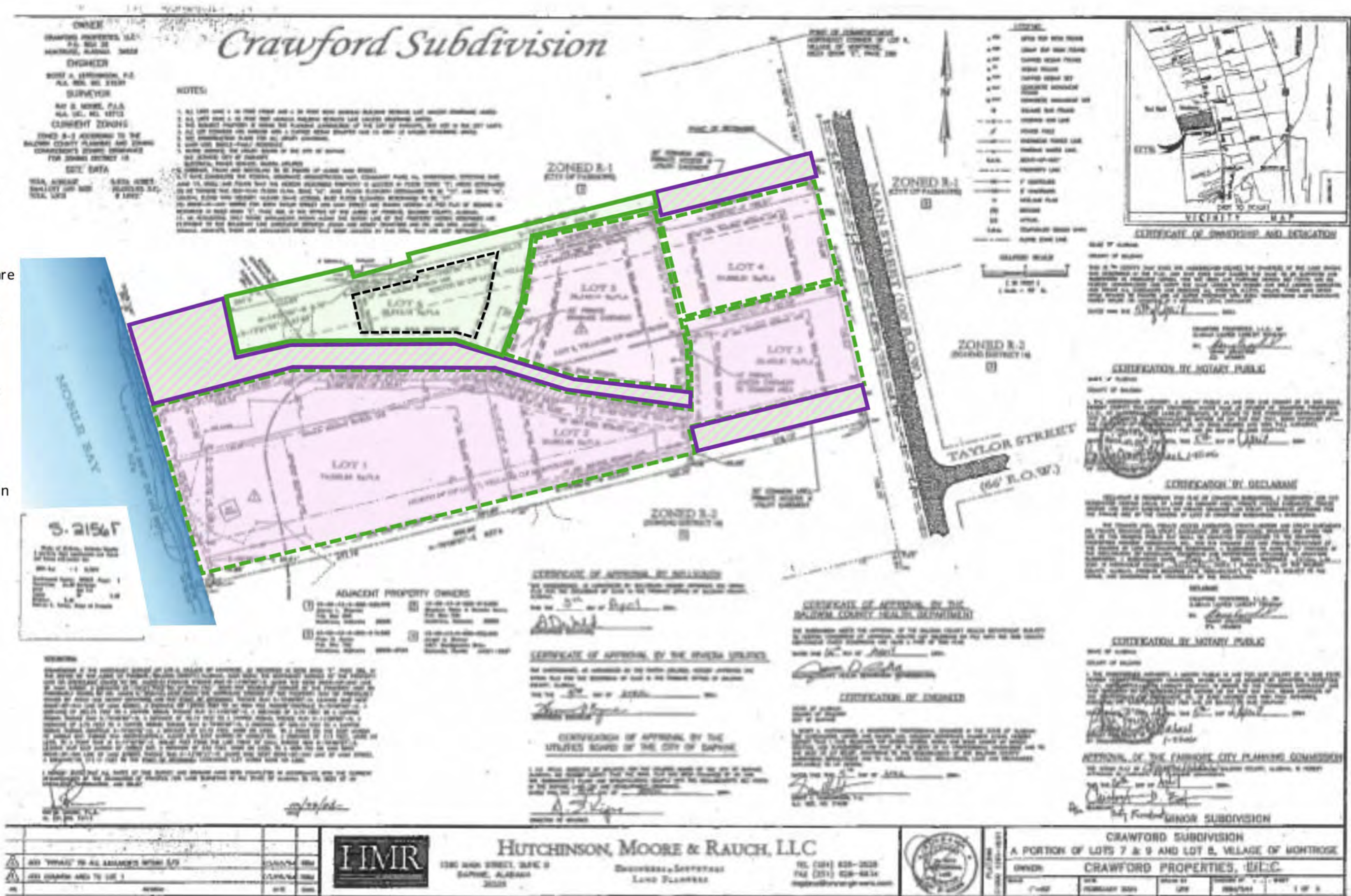
Effect of Variance - Any variance granted according to this section and which is not challenged on appeal shall run with the land provided that:

- (1) The variance is acted upon according to the application and subject to any conditions of approval within 365 days of the granting of the variance or final decision of appeal, whichever is later; and
- (2) The variance is recorded with the Judge of Probate.

Approved in 2004

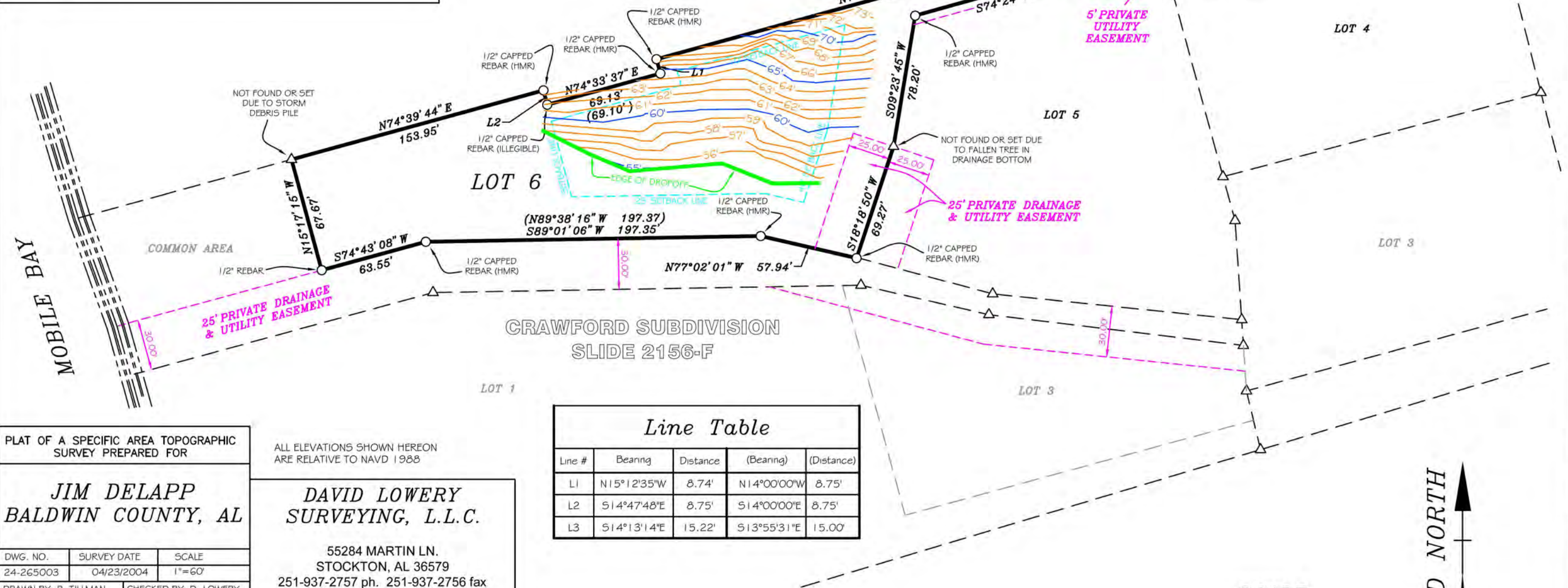
- 6 Original Lots
- Lots 1,2,3 were combined in 2023 and are owned by Henry and Joanne Crawford.
- Lot 4 is owned by Lui, Lot 5 is owned by Small, and Lot 6 is owned by DeLapp.
- There are 4 property owners in the Crawford Property Owners Association: Crawford, DeLapp, Small, and Liu.

	Lot 6 DeLapp
	Crawford Owners Association Common Areas
	Lots 1 - 5
	Mobile Bay



1. All bearings shown hereon are relative to GRID NORTH. GRID NORTH was obtained by G.P.S. observations.
2. Corner monuments shown as set iron pins are 5/8" reinforcing bars with a durable plastic cap stamped "26623".
3. Only Select Fixed Interior Improvements shown hereon.
4. This survey was prepared for the client shown and is not to be used for any other purpose without prior approval from this surveyor.
5. No instruments of record reflecting easements, right of ways, and/or ownership were furnished this surveyor, except as shown or noted.
6. No underground installations or improvements have been located, except as shown or noted.
7. This survey was prepared without the benefit of an abstract of title or a title search unless stated hereon. No liability is assumed by the undersigned for loss relating to any matter that might be discovered by an abstract, title search, or legal judgement rendered on the property.
8. Liability of the undersigned for the survey shown shall not exceed the amount paid for this survey.

LOT 6 OF CRAWFORD SUBDIVISION AS SHOWN ON SLIDE 2156-F AS RECORDED
IN THE OFFICE OF THE JUDGE OF PROBATE FOR BALDWIN COUNTY, AL



<i>Line Table</i>				
Line #	Bearing	Distance	(Bearing)	(Distance)
L1	N15°12'35"W	8.74'	N14°00'00"W	8.75'
L2	S14°47'48"E	8.75'	S14°00'00"E	8.75'
L3	S14°13'14"E	15.22'	S13°55'31"E	15.00'

PLAT OF A SPECIFIC AREA TOPOGRAPHIC
SURVEY PREPARED FOR

ALL ELEVATIONS SHOWN HEREON
ARE RELATIVE TO NAVD 1988

JIM DELAPP
BALDWIN COUNTY, AL

DAVID LOWERY
SURVEYING, L.L.C.

55284 MARTIN LN.

STOCKTON, AL 36579

251-937-2757 ph. 251-937-2756 fax
dlsurvey25@hotmail.com

DWG. NO.	SURVEY DATE	SCALE
24-265003	04/23/2004	1"=60'
DRAWN BY: R. TILLMAN		CHECKED BY: D. LOWERY

(**)	RECORD BEARING/DISTANCE
OE	OVERHEAD ELECTRIC
●	SET IRON PIN
○	FOUND IRON PIN
△	PIN NOT SET
P.O.C.	POINT OF COMMENCEMENT
P.O.B.	POINT OF BEGINNING
	NOT TO SCALE
	FENCE
■	FENCE CORNER POST
□	CONCRETE MONUMENT



D.L.H.

David Lowery
Al Lic No 26623
55284 Martin Ln.
Stockton, AL 36579
251-937-2757

I, David Lowery, a licensed land surveyor in the State of Alabama, do hereby certify the foregoing to be a true plat or map of a survey performed by me or under my supervision, containing the acreage and being situate as both shown and stated herein. I further certify that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Surveying in the State of Alabama, to the best of my knowledge, information, and belief.

SCALE

$$1'' = 60'$$


**GRID NORTH*

DAVID LOWERY SURVEYING, L.L.C.

NEW RESIDENCE FOR:

LOT 6 OF CRAWFORD SUBDIVISION AS SHOWN ON SLIDE 2156-F AS
RECORDED IN THE OFFICE OF THE JUDGE OF PROBATE FOR BALDWIN
COUNTY, AL



ALL CONTRACTORS, SUBCONTRACTORS AND THEIR REPRESENTATIVES ON THE PROJECT SHALL AT ALL TIMES PRIOR AND DURING THE COURSE OF THE ACTIVITY BE RESPONSIBLE FOR THE SAFETY OF THEIR EMPLOYEES AND OTHERS AND IN THE EVENT OF ANY EMERGENCY, SHALL BE RESPONSIBLE FOR THEIR EMPLOYEES. THE CONTRACTOR SHALL ASCERTAIN THAT THE CONDITIONS UNDER WHICH THEY WILL BE REQUESTED TO ACCOMPLISH THEIR WORK ARE SAFE AND MEET ALL REGULATIONS OF THE OCCUPATIONAL SAFETY AND HAZARD ACT OR OTHER GOVERNING REGULATIONS. THE BEGINNING OF WORK BY A CONTRACTOR OR SUBCONTRACTOR SHALL INDICATE SATISFACTION CONCERNING SAFETY AND COMPLIANCE WITH ALL APPLICABLE REGULATIONS. THE CONTRACTOR OR SUBCONTRACTOR SHALL INDICATE THE ACTIONS AND/OR DEVICES NECESSARY TO RENDER THE JOB-SITE SAFE. IF THE WORK OF OTHER PARTIES IS, UPON INSPECTION, FOUND AT ANY TIME TO BE UNSAFE, THE CONTRACTOR OR SUBCONTRACTOR SHALL IMMEDIATELY STOP ALL WORK UNTIL THE UNSAFE CONDITIONS ARE CORRECTED BY THE CONTRACTOR OR SUBCONTRACTOR. THE BEGINNING OF WORK SHALL INDICATE ACKNOWLEDGEMENT AND ACCEPTANCE OF THESE REQUIREMENTS.

THEFORE, THE USE OF THESE DRAWINGS BY THE OWNER OR ANY CONTRACTORS, SUBCONTRACTORS, BUILDER, TRADESMAN OR WORKMAN SHALL CONSTITUTE A HOLD HARMLESS AGREEMENT BETWEEN THE DRAWINGS USER AND THE ARCHITECT. THE USER SHALL IN FACT AGREE TO HOLD THE ARCHITECT HARMLESS FOR ANY RESPONSIBILITY IN REGARD TO THE CONSTRUCTION MEANS, METHODS, TECHNIQUES, SEQUENCES OR PROCEDURES AND FOR ANY SAFETY PRECAUTIONS OR PROGRAMS IN CONNECTION WITH THE WORK. FURTHER THE ARCHITECT SHALL BE HELD HARMLESS FOR ANY RESPONSIBILITY IN REGARD TO ANY COSTS OR PROBLEMS ARISING FROM THE NEGLIGENCE OF THE CONTRACTOR, SUBCONTRACTOR, BUILDER, TRADESMAN OR WORKMAN OR FOR THEIR FAILURE TO COMPLY WITH AND ADHERE TO THESE PLANS AND SPECIFICATIONS.

THE USE OF THESE PLANS TO OBTAIN A BUILDING PERMIT SHALL CONSTITUTE THE ACCEPTANCE AND APPROVAL OF ALL REQUIREMENTS CONTAINED THEREIN.



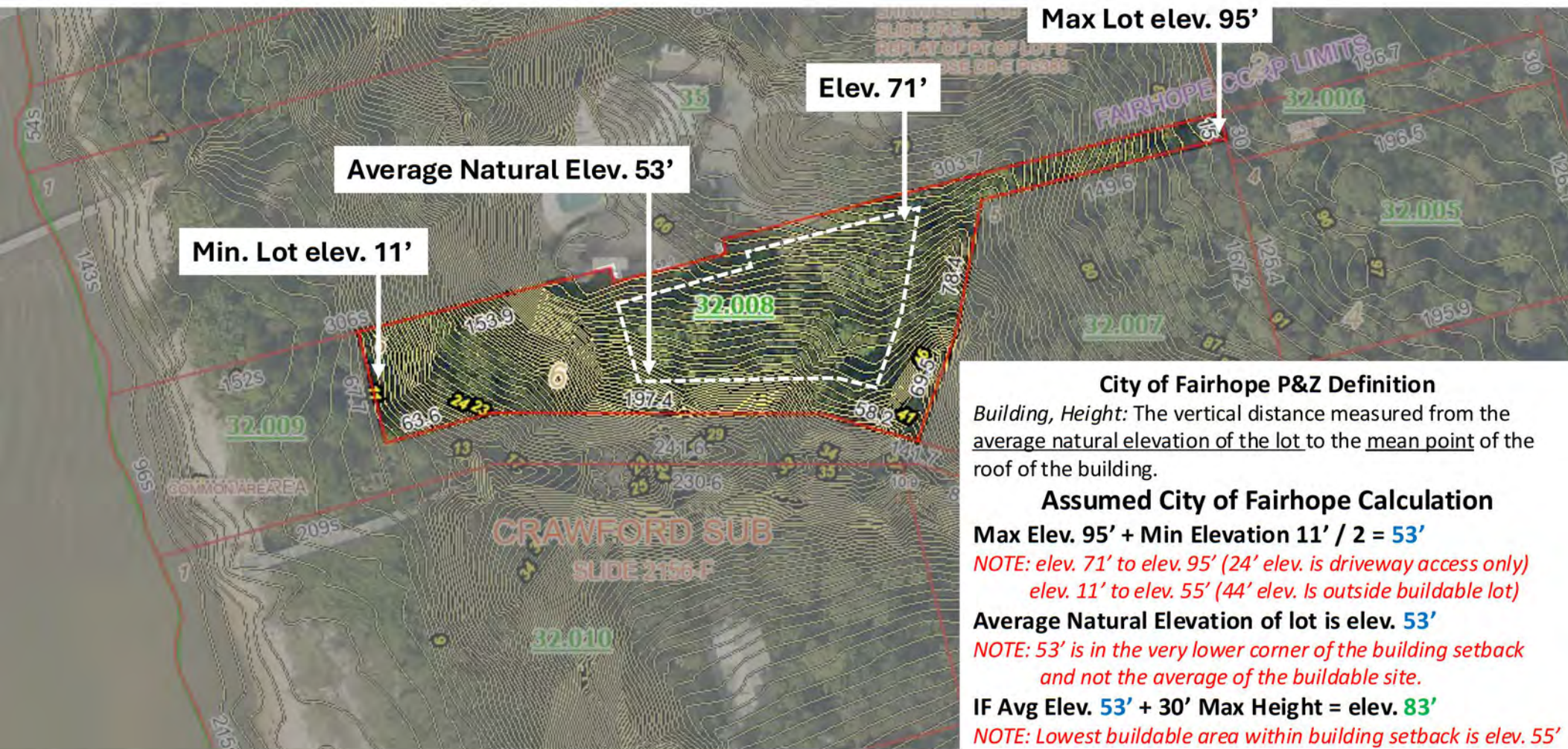
WEST ELEVATION SCALE 1/4" = 1'-0"



SOUTH ELEVATION SCALE 1/4" = 1'-0"



SITE PLAN & BUILDING HEIGHT CALCULATIONS

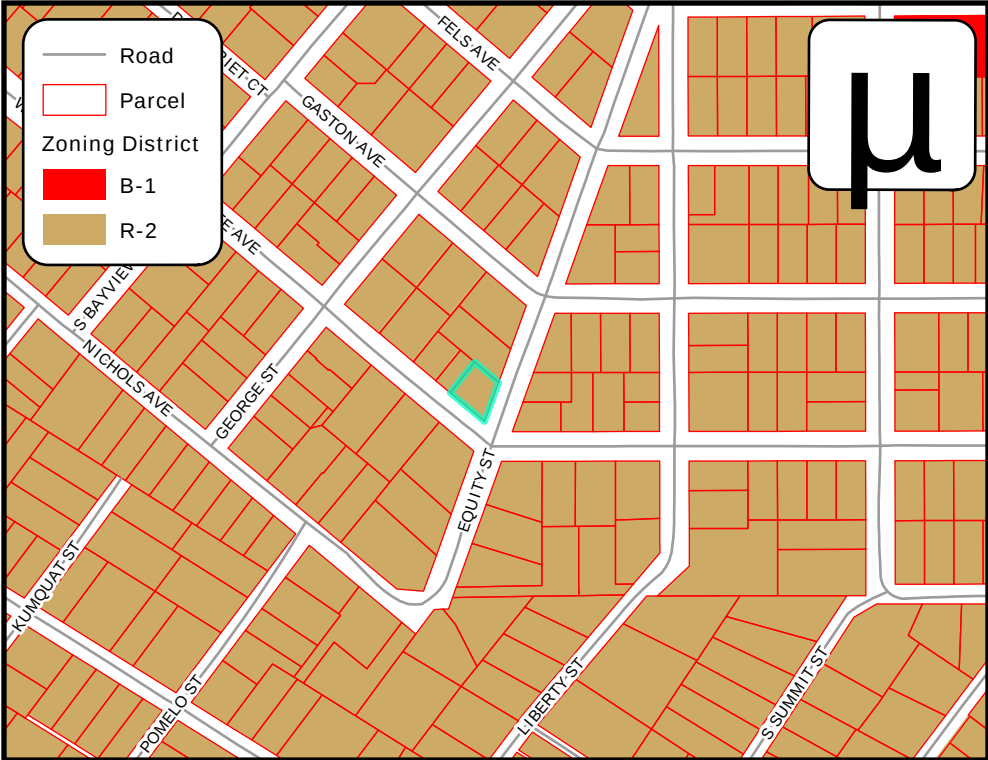
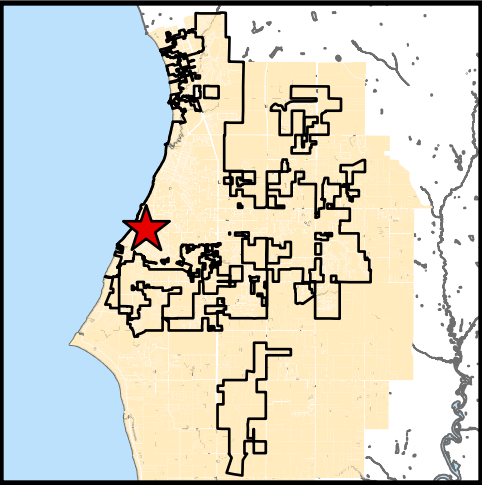


DeLAPP Residence 23335 Main St. Fairhope, AL 36532

City of Fairhope
Board of Adjustments
November 18, 2024



BOA 24.16 - 258 Equity Street



<u>Project Name:</u>
258 Equity Street
<u>Site Data:</u>
0.18 acres
<u>Project Type:</u>
23' Front, 25' Rear and 5' Side Street Setback Variance
<u>Jurisdiction:</u>
Fairhope Planning Jurisdiction
<u>Zoning District:</u>
R-2
<u>PPIN Number:</u>
14343
<u>General Location:</u>
Northwest corner of the intersection of White Avenue and Equity Street
<u>Surveyor of Record:</u>
N/A
<u>Engineer of Record:</u>
N/A
<u>Owner / Developer:</u>
FST and Bell, Zachary
<u>School District:</u>
Fairhope Elementary School Fairhope Middle and High Schools
<u>Recommendation:</u>
Denial of 2 and approval of 1
<u>Prepared by:</u>
Mike Jeffries





APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: ☐ Administrative Appeal ☐ Special Exception ☒ Variance

Property Owner / Leaseholder Information

Name: Zac Bell Phone Number: 3345689044
 Street Address: 258 Equi. H Street
 City: Fairhope State: AL Zip: 36552

Applicant / Agent Information

If different from above.

Notarized letter from property owner is required if an agent is used for representation.

Name: _____ Phone Number: _____
 Street Address: _____
 City: _____ State: _____ Zip: _____

Site Plan with Existing Conditions Attached: YES NO
 Site Plan with Proposed Conditions Attached: YES NO
 Variance Request Information Complete: YES NO
 Names and Address of all Real Property Owners
 within 300 Feet of Above Described Property Attached: YES NO

Applications for Administrative Appeal or Special Exception:

Please attach as a separate sheet(s) information regarding the administrative decision made or information regarding the use seeking approval. Please feel free to be as specific or as general as you wish in your description. This information will be provided to the Board before the actual meeting date. It is to your benefit to explain as much as possible your position or proposal.

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. *If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

Zac Bell
 Property Owner/Leaseholder Printed Name

10/3/24
 Date

Signature

Ruben Davidson, III
 Fairhope Single Tax Corp. (If Applicable)

FSTC Secretary



VARIANCE REQUEST INFORMATION

What characteristics of the property prevent / preclude its development?:

- | | | |
|---|------------------------------------|--|
| ☐ Too Narrow | ☐ Elevation | ☐ Soil |
| ☒ Too Small | ☐ Slope | ☐ Subsurface |
| ☐ Too Shallow | ☐ Shape | ☐ Other (specify) |

Describe the indicated conditions: setbacks make it impossible to build a home at all

How do the above indicated characteristics preclude reasonable use of your land?
falls under 37% , reasonable distance from road

What type of variance are you requesting (be as specific as possible)?
need setback moved to place house 10 more ft on front, 6 more ft on side

Hardship (taken from Code of Alabama 1975 Section 11-52-80):

"To authorize upon appeal in specific cases such variance from the terms of the (zoning) ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provision of the (zoning) ordinance will result in unnecessary hardship and so that the spirit of the (zoning) ordinance shall be observed and substantial justice done."

BOA Fee Calculation:

	Residential	Commercial
Filing Fee:	\$100	\$500
Publication:	\$20	\$20
TOTAL:	\$	

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. *If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

Zac Bell
Property Owner/Leaseholder Printed Name

Date

10/3/74

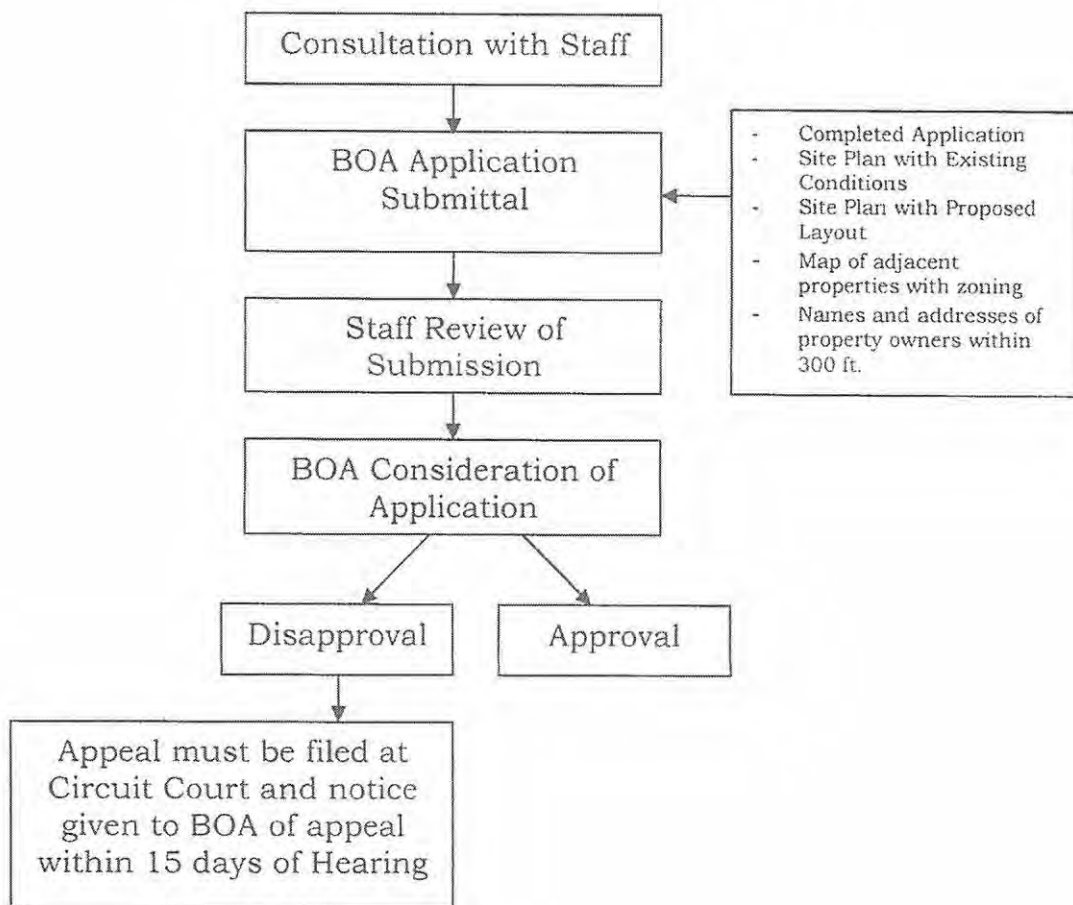
Signature

Reuben Davidson, III
Fairhope Single Tax Corp. (If Applicable)

Reuben Davidson, III
FSTC Secretary



BOARD OF ADJUSTMENTS (BOA) FLOW CHART



CITY OF FAIRHOPE

P.O. Box 429
Fairhope, AL 36533
(251) 928-8003



BOARD OF ADJUSTMENTS & APPEALS APPLICATION



BOARD OF ADJUSTMENTS (BOA) APPLICATION

Authority: The City of Fairhope is authorized under the Code of Alabama, 1975 to create and establish a Board of Adjustment whose duties are quasi-judicial.

Public Notice: All BOA applications are required by State Law to give notice in both the newspaper and to all real property owners with 300 feet of the proposed change. The cost of this notice is paid by the applicant. All notice charges are paid at the time of application submission.

The BOA must conduct public hearings in conjunction with all applications. At the time of the BOA meeting all interested persons will be given the opportunity to speak either pro or con for the proposal.

BOA Functions: The BOA performs several functions: 1) hear and decides appeals from a decision made by an administrative official of the City of Fairhope; 2) hear and decide on granting special exceptions as permitted in the Zoning Ordinance, and; 3) authorize on appeal in specific cases variances to the regulations established in the Zoning Ordinance.

Decision and Voting: The BOA is a 5 member Board. The Board will conduct a public hearing and consider the request of the applicant. The Board has three (3) options: 1) approve the request; 2) deny the request; table the request.

Approval of the request requires 4 of the 5 members of the BOA to vote in favor. A simple majority does not pass.

BOA Application Submission: The BOA application must be complete. An application is not considered complete unless all required documents are provided at the time of submission. An incomplete application may not be accepted by staff.

Deadlines: The City of Fairhope wishes to expedite the BOA process in the best and most effective manner possible. To that end, it is important that deadline times and dates are adhered to by the applicant (refer to the attached schedule for dates and times)

Summary of Request:

Applicant, Apex Contracting Services LLC, on behalf of the owner, FST and Bell, Zachary, is requesting a 23' front setback variance, a 25' rear setback variance and a 5' side setback variance on property at 258 Equity Street. The property is zoned R-2 – Medium Density Single-Family Residential District.

Comments:

The lot does not conform to the current day R-2 dimensions because the lot is less than 10,500 sf (approximately 7,400 sf) and the lot is slightly irregular in shape. The lot does not have the depth most lots do creating a very small buildable area. Once the setbacks are applied an approximate 18'x38' buildable area is left. A house currently exists and is non-conforming. See below.

Table 3-2: Dimension Table - Lots and Principle Structure

Dimension District or use	Min. Lot Area/ Allowed Units Per Acre (UPA)	Min. Lot Width	Setbacks				Max. total lot coverage by all structures	Max. height
			Front	Rear	Side	Street side		
R/A	3 acres/ -	198'	75'	75'	25'	50'	none	30'
R-1	15,000 s.f./ -	100'	40'	35'	10' ^b	20'	40%	30' =
R-1a	40,000 s.f./ -	120'	30'	30'	10' ^b	20'	25%	35'
R-1b	30,000 s.f./ -	100'	30'	30'	10' ^b	20'	25%	35'
R-1c	20,000 s.f./ -	80'	30'	30'	10' ^b	20'	25%	35'
R-2	10,500 s.f./ -	75'	30'	35'	10' ^b	20'	25%	30'

a. Structure may exceed the building height provided the lot width is increased by 10 feet for each additional foot in height.

b. Where a driveway is in the side, and extends past the front of the principle structure, the side setback shall be 15'. Driveways shall not be within 3 feet of the side lot line. The area between the side lot line and driveway shall be vegetated and remain pervious.

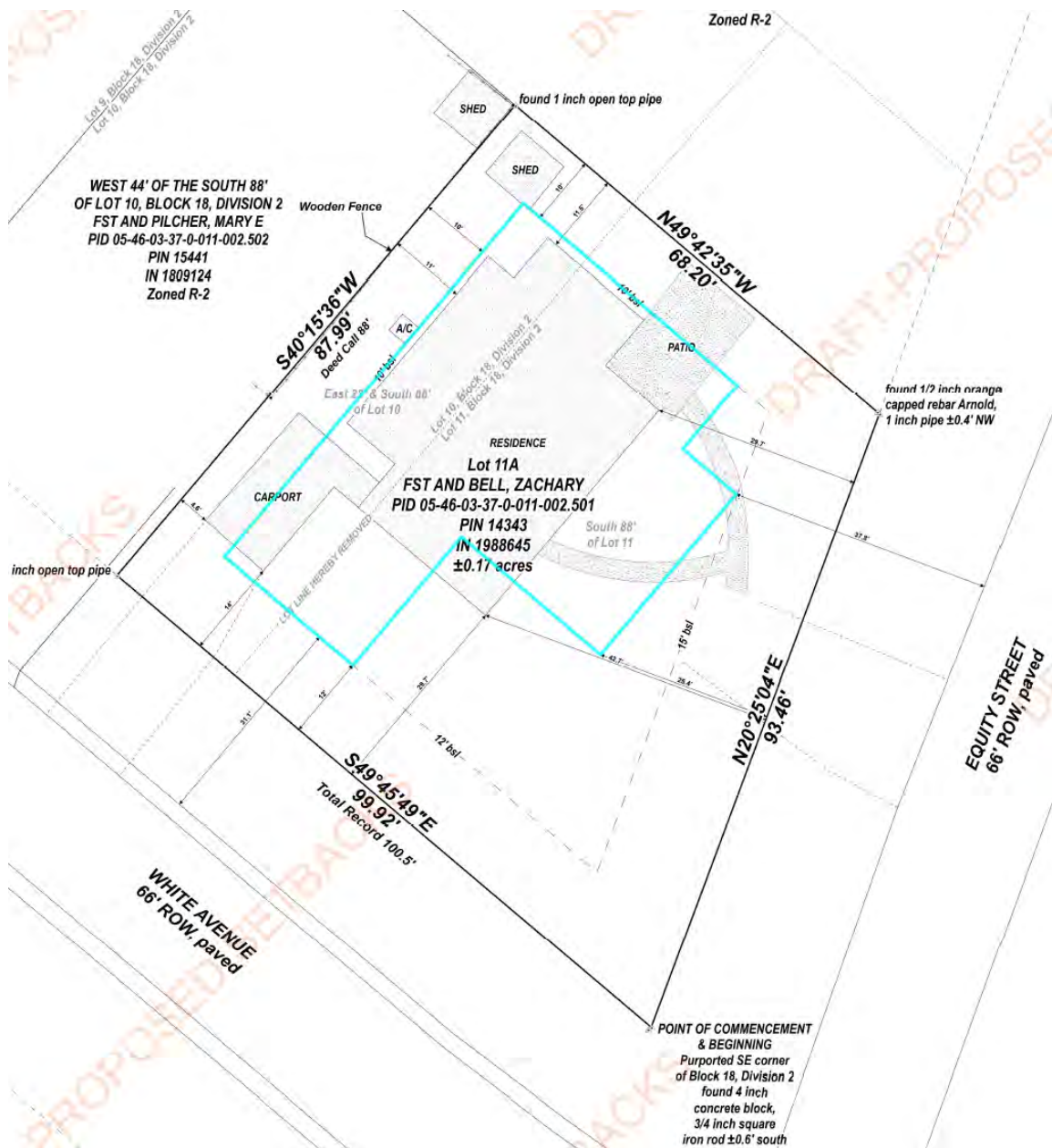
It is the intent of the Applicant to completely tear down the principle structure and rebuild. New structures shall conform to the current Zoning Ordinance unless there is a case for a variance based on the following criteria listed in Section C(e)(1).

e. *Criteria –*

- (1) An application for a variance shall be granted only on the concurring vote of four Board members finding that:
 - (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
 - (b) The application of the ordinance to this particular piece of property would create an unnecessary hardship. Personal financial hardship is not a justification for a variance.
 - (c) Such conditions are peculiar to the particular piece of property involved; and,
 - (d) Relief, if granted, would not cause substantial detriment to the public good and impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

Article VII, Section D(3) reads the following regarding front setbacks for non-conforming lots:

3. The minimum front setback required for the district (and, on corner lots, the street side setback) shall not apply to any lot where the average front building line(s) of the adjacent lot(s), is less than the minimum setback required for the district. In such cases, the front building line may be the same as the average front building lines(s) of the adjacent lot(s). In no case, shall the front building line be more than 5' less than the minimum setback required for the district.



The above site plan illustrates the proposed home in the blue outline, existing home in the shaded gray, and proposed setback lines.

Analysis and Recommendation:

Variance Criteria

(a) There are extraordinary and exceptional conditions pertaining to the piece of property in question because of its size, shape, or topography.

Response: The City acknowledges the lot is substandard and shallow.

(b) The application of the ordinance to this piece of property would create an unnecessary hardship. Personal financial hardship is not a justification for a variance.

Response: The application of the Zoning Ordinance **does** create an unnecessary hardship.

(c) Such conditions are peculiar to the piece of property involved; and

Response: A few neighboring properties share approximately the same shape and size but the majority have a greater depth.

(d) Relief, if granted, would not cause substantial detriment to the public good and impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

Response: Relief will not cause substantial detriment to the public good.

When a variance is granted by the Zoning Board of Adjustment it has the following effect:

Article II.C.3.g.

Effect of Variance - Any variance granted according to this section, and which is not challenged on appeal shall run with the land provided that:

- (1) The variance is acted upon according to the application and subject to any conditions of approval within 365 days of the granting of the variance or final decision of appeal, whichever is later; and
- (2) The variance is recorded with the Judge of Probate.

Although staff would support a minimal variance the applicant is requesting more than what can be supported.

Recommendation:

Staff recommends Denial of the Front Setback variance.

Staff recommends Denial of the Rear Setback variance.

Staff recommends Approval of the Side Street Setback variance.

Narrative and Explanation
258 Equity Street
Fairhope, AL 36532

- Current setbacks do not allow for any house
- Distance from the property line and the road setback combined meet the standard the city has set
- Home is under the 37% threshold allowed by the city
- Home placement is not affecting an neighbors, utility, or city activity



LESSEE'S CERTIFICATE OF ACCEPTANCE
STATE OF ALABAMA
COUNTY OF BALDWIN

I, Zachary Bell, do hereby certify that we are the Lessee of the within plotted and described lands and that I have caused the same to be surveyed and as indicated herein, for the uses and purposes herein set forth and do hereby acknowledge and adopt the same under design and title herein indicated, and grant all easements, and dedicate all streets, to the public or as private uses as noted on this plot.

Zachary Bell _____ Date _____

NOTARY PUBLIC
STATE OF ALABAMA
COUNTY OF BALDWIN

I, _____, a Notary Public, in and for said State and County, do hereby certify that the above name signed to the within LESSEE'S ACCEPTANCE and who is known to me, that they voluntarily executed said ACCEPTANCE on this date.

Given under my hand and seal this _____ day of _____, 2024.

Notary Public _____
My Commission Expires _____

OWNER'S CERTIFICATE OF ACCEPTANCE
STATE OF ALABAMA
COUNTY OF ALABAMA
CITY OF FAIRHOPE

We, Fairhope Single Tax Corporation, do hereby certify that we are the owners of the within plotted and described lands and that I, _____, whose name as SECRETARY do hereby acknowledge and adopt the same under design and title herein indicated, and grant all easements, and dedicate all streets, alleys, walls, parks, and other open spaces to the public or as private uses as noted, together with such restrictions and covenants noted below as attached in a separate legal document.

Dated this _____ day of _____, 2024.

FAIRHOPE SINGLE TAX CORPORATION

PRESIDENT _____ SECRETARY _____

NOTARY PUBLIC
STATE OF ALABAMA
COUNTY OF BALDWIN

I, _____, a Notary Public, in and for said State and County, do hereby certify that the President and Secretary of FAIRHOPE SINGLE TAX CORPORATION, an Alabama Corporation, as signed to the within OWNER'S ACCEPTANCE and who are known to me, that they voluntarily executed said ACCEPTANCE on this date, that being informed of the contents of this certificate, that they as such officers and with full authority executed the same voluntarily for and as an act of said corporation.

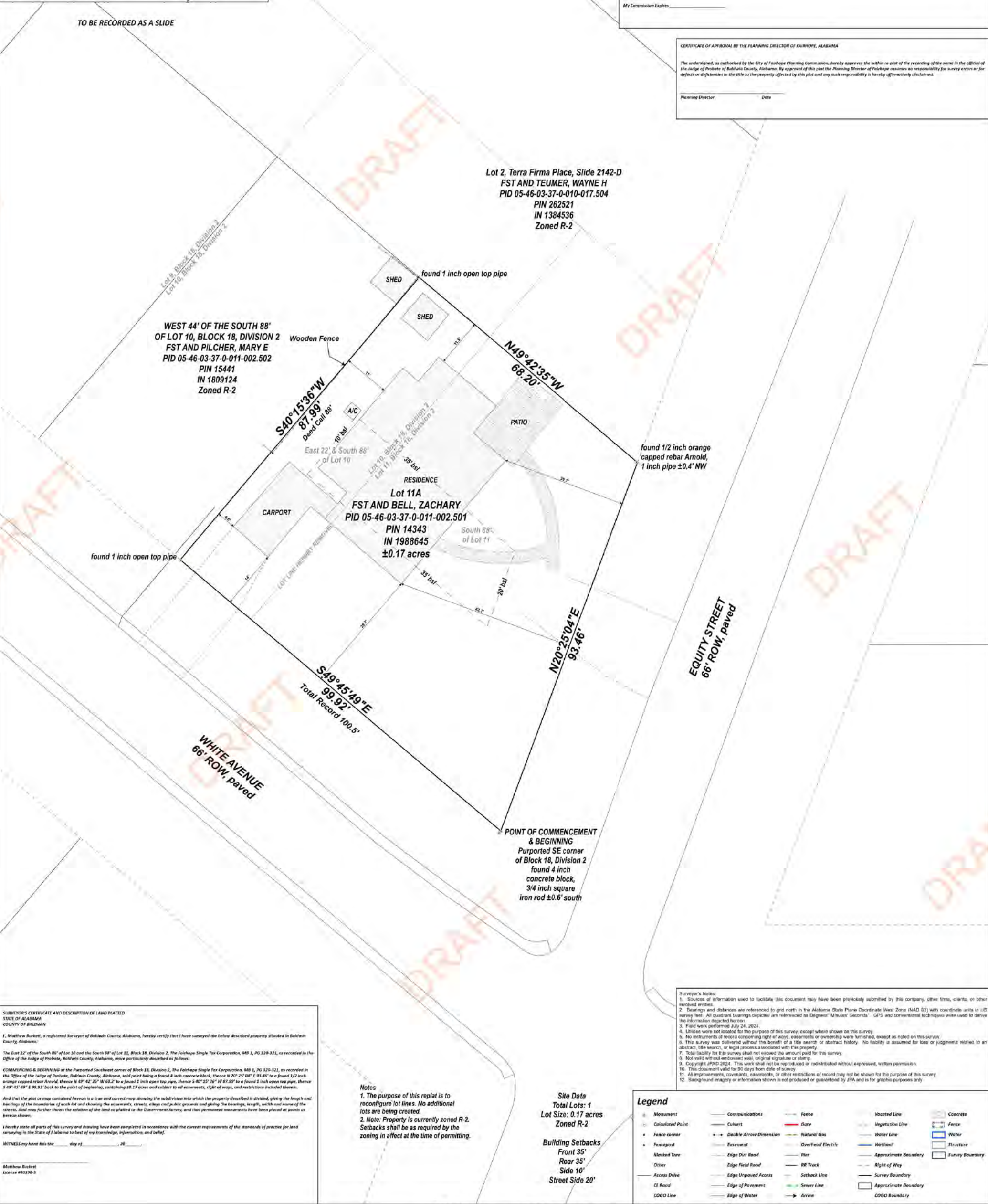
Given under my hand and seal this 15th day of _____, 2024.

Notary Public _____
My Commission Expires _____

CERTIFICATE OF APPROVAL BY THE PLANNING DIRECTOR OF FAIRHOPE, ALABAMA

The undersigned, as authorized by the City of Fairhope Planning Commission, hereby approves the within re-plot of the recording of the same in the official of the Judge of Probate of Baldwin County, Alabama. By approval of this plot the Planning Director of Fairhope assumes no responsibility for survey errors or for defects or deficiencies in the title to the property affected by this plot and any such responsibility is hereby affirmatively disclaimed.

Planning Director _____ Date _____



SURVEYOR'S CERTIFICATE AND DESCRIPTION OF LAND PLATTED
STATE OF ALABAMA
COUNTY OF BALDWIN

I, Matthew Burkett, a registered Surveyor of Baldwin County, Alabama, hereby certify that I have surveyed the below described property situated in Baldwin County, Alabama:

The East 22' of the South 88' of Lot 10 and the South 88' of Lot 11, Block 18, Division 2, The Fairhope Single Tax Corporation, MB 1, PG 320-321, as recorded in the Office of the Judge of Probate, Baldwin County, Alabama, more particularly described as follows:

COMMENCING & BEGINNING at the Purported Southeast corner of Block 18, Division 2, The Fairhope Single Tax Corporation, MB 1, PG 320-321, as recorded in the Office of the Judge of Probate, Baldwin County, Alabama, said point being a found 4 inch concrete block, thence N 20° 25' 04" E 99.46' to a found 1/2 inch orange capped rebar Arnold, thence N 69° 42' 35" W 68.2' to a found 2 inch open top pipe, thence S 40° 15' 36" W 87.99' to a found 2 inch open top pipe, thence S 49° 45' 49" E 99.92' back to the point of beginning, containing ±0.17 acres and subject to all easements, right of ways, and restrictions included therein.

And that the plot or map contained herein is a true and correct map showing the subdivision into which the property described is divided, giving the length and bearings of the boundaries of each lot and showing the easements, streets, alleys and public grounds and giving the bearings, length, width and name of the streets. Said map further shows the relation of the land so platted to the Government Survey, and that permanent monuments have been placed at points as herein shown.

I hereby state all parts of this survey and drawing have been completed in accordance with the current requirements of the standards of practice for land surveying in the State of Alabama to best of my knowledge, information, and belief.

WITNESS my hand this _____ day of _____, 20____.

Matthew Burkett
License #00398-S

- Surveyor's Notes:
- Sources of information used to facilitate this document may have been previously submitted by this company, other firms, clients, or other involved entities.
 - Bearings and distances are referenced to grid north in the Alabama State Plane Coordinate West Zone (NAD 83) with coordinate units in US survey feet. All quadrant bearings depicted are referenced as Degrees-Minutes-Seconds. GPS and conventional techniques were used to derive the information depicted herein.
 - Field work performed July 24, 2024.
 - Utilities were not located for the purpose of this survey, except where shown on this survey.
 - No instruments of record concerning right of ways, easements or ownership were furnished, except as noted on this survey.
 - This survey was delivered without the benefit of a title search or abstract history. No liability is assumed for loss or judgments related to an abstract, title search, or legal process associated with this property.
 - Total liability for this survey shall not exceed the amount paid for this survey.
 - Not valid without embosser seal, original signature or stamp.
 - Copyright JPA 2024. This work shall not be reproduced or redistributed without expressed, written permission.
 - This document valid for 90 days from date of survey.
 - All improvements, covenants, easements, or other restrictions of record may not be shown for the purpose of this survey.
 - Background imagery or information shown is not produced or guaranteed by JPA and is for graphic purposes only.

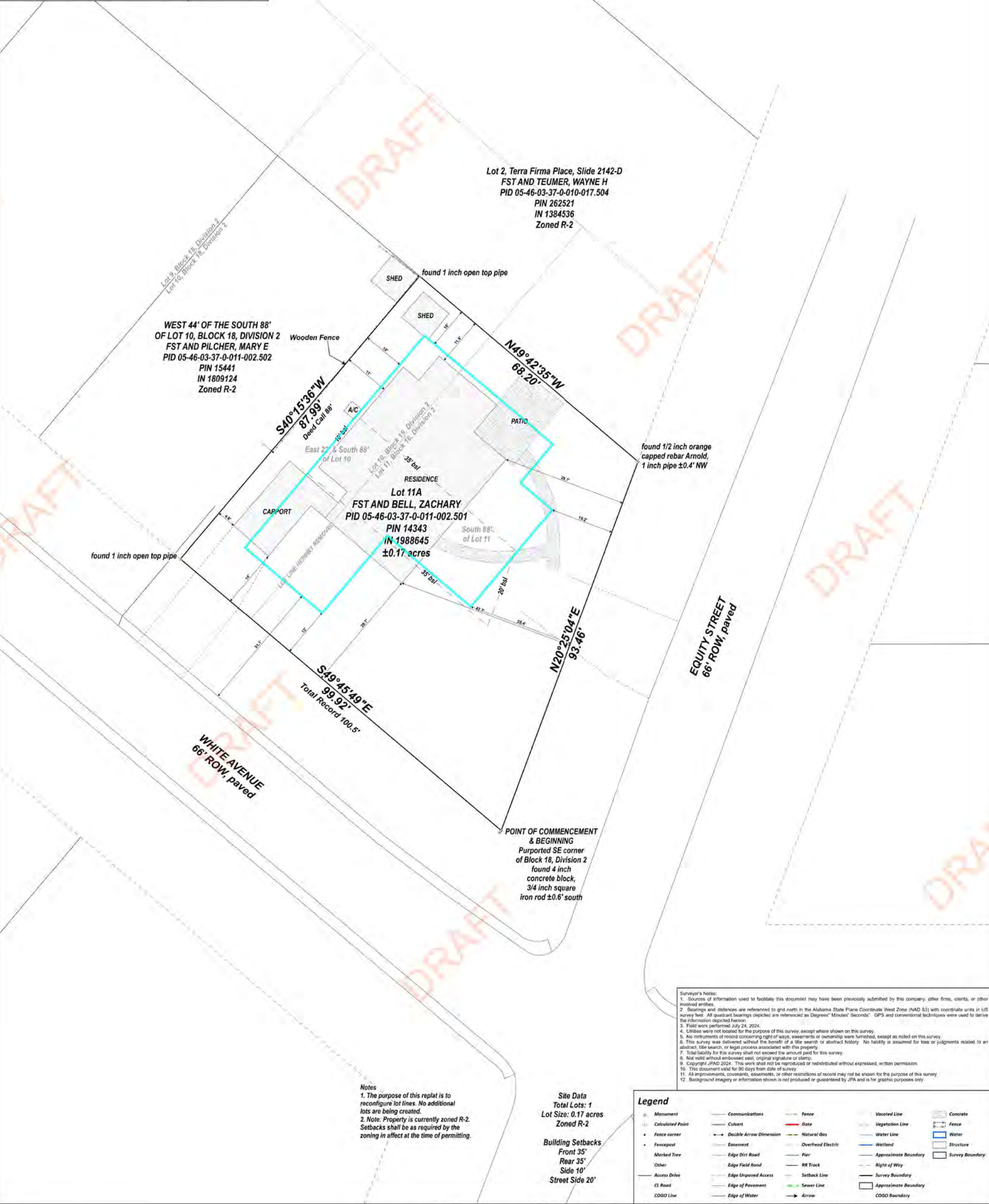
J Pierce and Associates LLC
Geospatial Consultants

16116 Old Ganey Road
Bay Minette, AL 36507
jacob@jpierceandassociates.com
matthew@jpierceandassociates.com
jpierceandassociates.com
251-508-5975

REPLAT OF THE EAST 22 FEET OF THE SOUTH 88 FEET OF LOT 10,
AND THE SOUTH 88 FEET OF LOT 11, BLOCK 18, DIVISION 2,
THE FAIRHOPE SINGLE TAX CORPORATION, MB 1 PG 320-321

Section 37 T6S R2E	JPA Project #922-2024	258 Equity St Fairhope, AL 36532
Field work: MDB/BCT Drawn: MDB Checked: MDB/JKP	Date: 8/15/2024 This document supersedes any previously dated document	

Vicinity Map



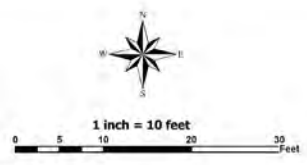
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7. Total liability for this survey shall not exceed the amount paid for this survey.
8. Not valid without embossee seal, original signature or stamp.
9. Copyright JPA 2024. This work shall not be reproduced or redistributed without expressed, written permission.
10. This document valid for 90 days from date of survey.
11. All improvements, covenants, easements, or other restrictions of record may not be shown for the purpose of this survey.
12. Background imagery or information shown is not produced or guaranteed by JPA and is for graphic purposes only.

Notes
1. The purpose of this replat is to reconfigure lot lines. No additional lots are being created.
2. Note: Property is currently zoned R-2. Setbacks shall be as required by the zoning in affect at the time of permitting.

Site Data
Total Lots: 1
Lot Size: 0.17 acres
Zoned R-2

Building Setbacks
Front 35'
Rear 35'
Side 10'
Street Side 20'

Legend			
Monument	Communications	Fence	Vacated Line
Calculated Point	Culvert	Gate	Vegetation Line
Fence corner	Double Arrow Dimension	Natural Gas	Water Line
Fencepost	Easement	Overhead Electric	Wetland
Marked Tree	Edge Dirt Road	Pier	Approximate Boundary
Other	Edge Field Road	RR Track	Right of Way
Access Drive	Edge Unpaved Access	Setback Line	Survey Boundary
CL Road	Edge of Pavement	Sewer Line	Approximate Boundary
COGO Line	Edge of Water	Arrow	COGO Boundary
			Concrete
			Fence
			Water
			Structure
			Survey Boundary



J
P
A

J Pierce and Associates LLC

Geospatial Consultants

16116 Old Ganey Road

Bay Minette, AL 36507

jacob@jpierceandassociates.com

matthew@jpierceandassociates.com

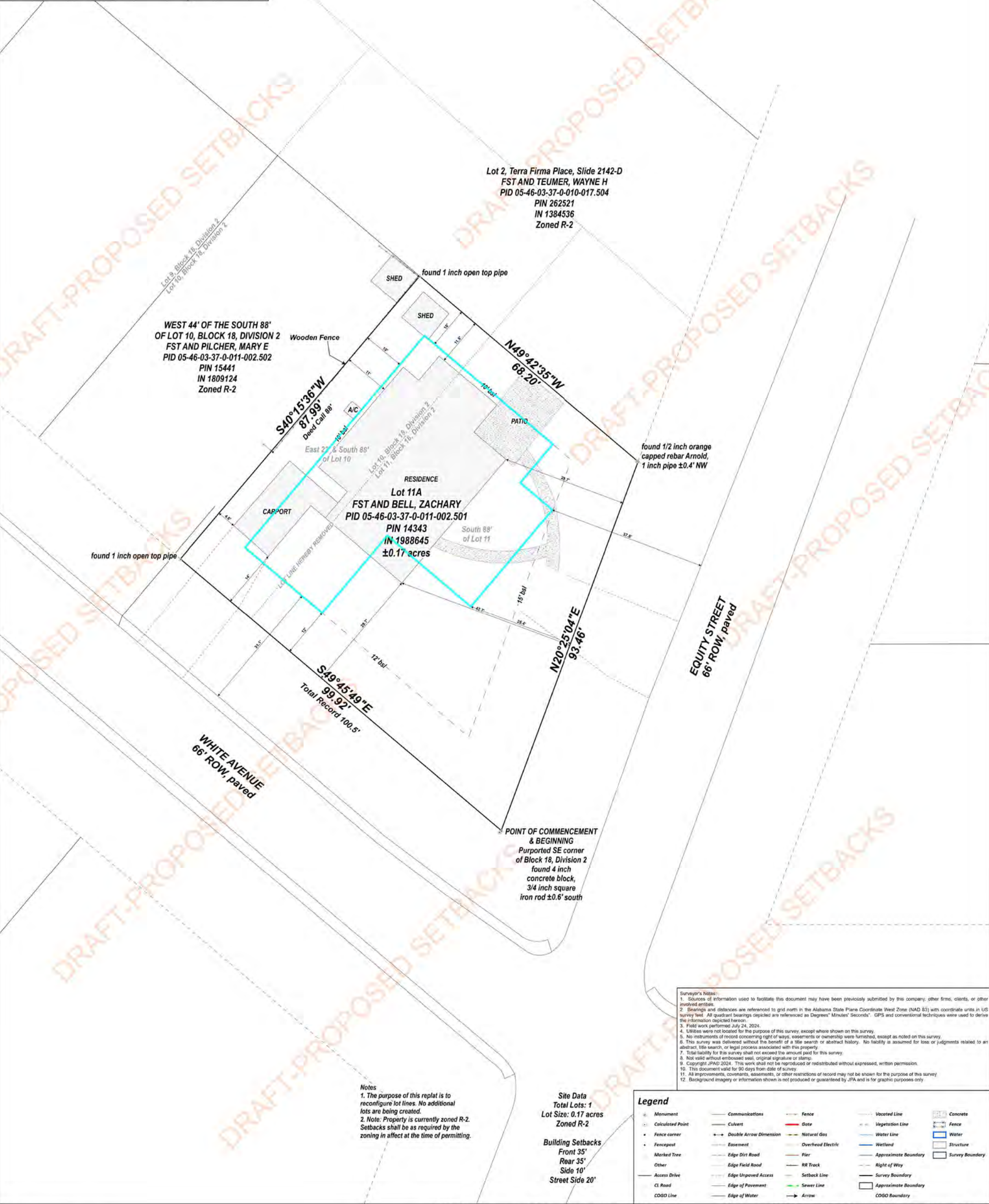
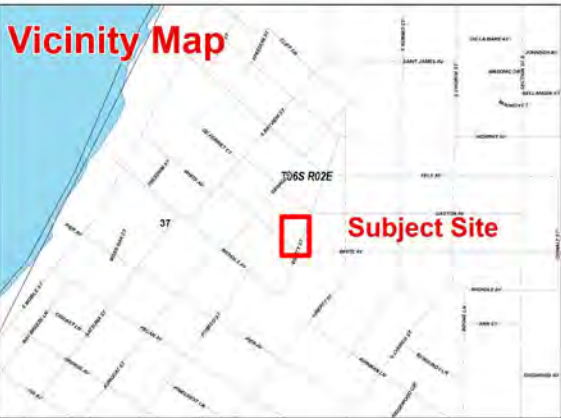
jpierceandassociates.com

251-508-5975

DRAFT COMPARISON OF EXISTING & PROPOSED HOUSE

Section 37 T6S R2E	JPA Project #922-2024	258 Equity St Fairhope, AL 36532
Field work: MDB/BCT Drawn: MDB Checked: MDB/JKP	Date: 8/19/2024 This document supersedes any previously dated document	

Vicinity Map



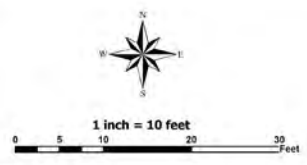
Notes
1. The purpose of this replat is to reconfigure lot lines. No additional lots are being created.
2. Note: Property is currently zoned R-2. Setbacks shall be as required by the zoning in affect at the time of permitting.

Site Data
Total Lots: 1
Lot Size: 0.17 acres
Zoned R-2

Building Setbacks
Front 35'
Rear 35'
Side 10'
Street Side 20'

Surveyor's Notes:
1. Sources of information used to facilitate this document may have been previously submitted by this company, other firms, clients, or other involved entities.
2. Bearings and distances are referenced to grid north in the Alabama State Plane Coordinate West Zone (NAD 83) with coordinate units in US survey feet. All quadrant bearings depicted are referenced as Degrees' Minutes' Seconds. GPS and conventional techniques were used to derive the information depicted herein.
3. Field work performed July 24, 2024.
4. Utilities were not located for the purpose of this survey, except where shown on this survey.
5. No instruments of record concerning right of ways, easements or ownership were furnished, except as noted on this survey.
6. This survey was delivered without the benefit of a title search or abstract history. No liability is assumed for loss or judgments related to an abstract, title search, or legal process associated with this property.
7. Total liability for this survey shall not exceed the amount paid for this survey.
8. Not valid without embossed seal, original signature or stamp.
9. Copyright JPA 2024. This work shall not be reproduced or redistributed without expressed, written permission.
10. This document valid for 90 days from date of survey.
11. All improvements, covenants, easements, or other restrictions of record may not be shown for the purpose of this survey.
12. Background imagery or information shown is not produced or guaranteed by JPA and is for graphic purposes only.

Legend			
Monument	Communications	Fence	Vacated Line
Calculated Point	Culvert	Gate	Vegetation Line
Fence corner	Double Arrow Dimension	Natural Gas	Water Line
Fencepost	Easement	Overhead Electric	Wetland
Marked Tree	Edge Dirt Road	Pier	Approximate Boundary
Other	Edge Field Road	RR Track	Right of Way
Access Drive	Edge Unpaved Access	Setback Line	Survey Boundary
Cl Road	Edge of Pavement	Sewer Line	Approximate Boundary
COGO Line	Edge of Water	Arrow	COGO Boundary
			Concrete
			Fence
			Water
			Structure
			Survey Boundary



J
P
A

J Pierce and Associates LLC

Geospatial Consultants

16116 Old Ganey Road

Bay Minette, AL 36507

jacob@jpierceandassociates.com

matthew@jpierceandassociates.com

jpierceandassociates.com

251-508-5975

DRAFT COMPARISON OF EXISTING & PROPOSED HOUSE (PROPOSED SETBACKS)		
Section 37 T6S R2E	JPA Project #922-2024	258 Equity St Fairhope, AL 36532
Field work: MDB/BCT Drawn: MDB Checked: MDB/JKP	Date: 10/21/2024 This document supersedes any previously dated document	

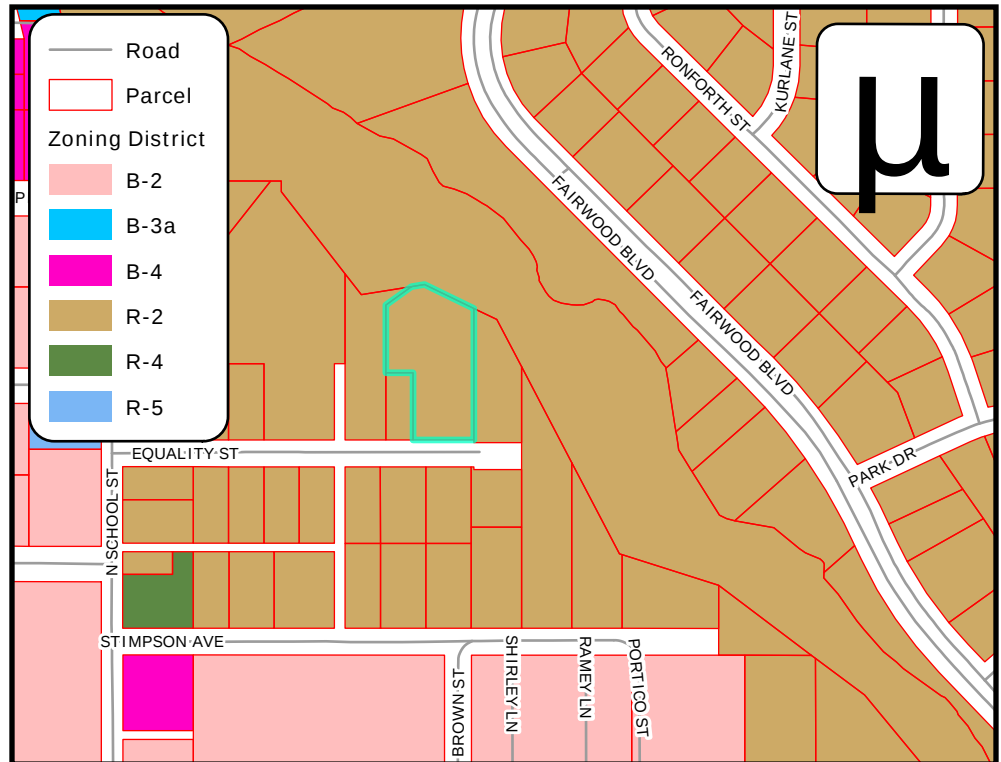
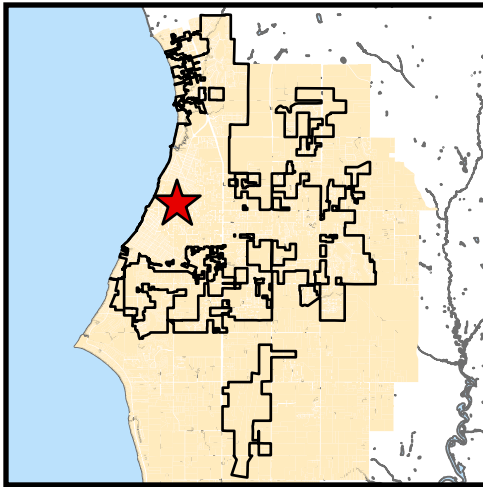
City of Fairhope

Board of Adjustments

November 18, 2024



BOA 24.17 - 519 Equality Avenue



Project Name:

519 Equality Avenue

Site Data:

1.02 acres

Project Type:

Accessory Structure Forward
of Principal Structure Variance

Jurisdiction:

Fairhope Planning Jurisdiction

Zoning District:

R-2

PPIN Number:

15475

General Location:

North side of Equality Avenue, East side
of North School Street

Surveyor of Record:

N/A

Engineer of Record:

N/A

Owner / Developer:

FST and Beckwith/The Baker Living Trust

School District:

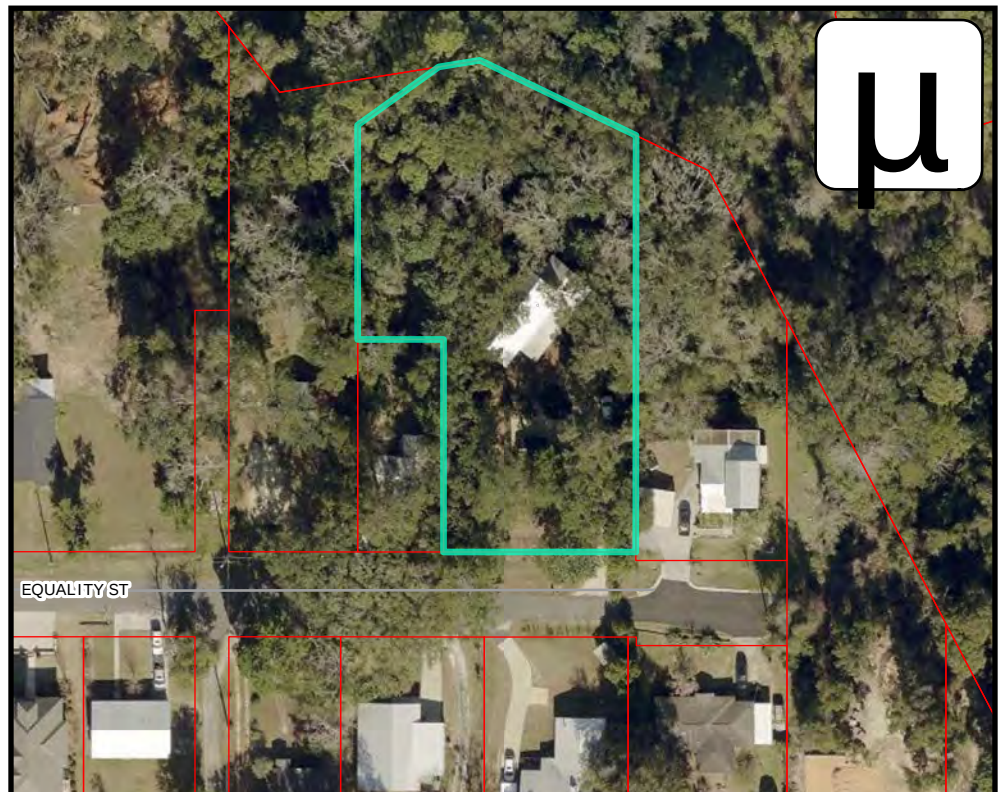
Fairhope Elementary School
Fairhope Middle and High Schools

Recommendation:

Denied

Prepared by:

Name Michelle Melton





APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: ☐ Administrative Appeal ☐ Special Exception ☒ Variance

Property Owner / Leaseholder Information

Name: DAVID BECKWITH Phone Number: 615-339-5364
 Street Address: 519 EQUALITY AVE
 City: FAIRHOPE State: AL Zip: 36532

Applicant / Agent Information

Name: _____ Phone Number: _____
 Street Address: _____
 City: _____ State: _____ Zip: _____

Site Plan with Existing Conditions Attached ☒ YES ☐ NO
 Site Plan with Proposed Conditions Attached ☒ YES ☐ NO
 Variance Request Information Complete ☒ YES ☐ NO
 Name and Address of all Real Property Owners within 300 Feet of Above Described Property Attached ☒ YES ☐ NO

Applications for Administrative Appeal or Special Exception:

Please attach as a separate sheet(s) information regarding the administrative decision made or information regarding the use seeking approval. Please feel free to be as specific or as general as you wish in your description. This information will be provided to the Board before the actual meeting date. It is to your benefit to explain as much as possible your position or proposal.

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

DAVID BECKWITH
 Property Owner/Leaseholder Printed Name

10/2/2024
 Date

Signature

Lee Turner
 Fairhope Single Tax Corp. (If Applicable)

Lee Turner, President
FSTC

rpt003

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Page 5 of 6



VARIANCE REQUEST INFORMATION

What characteristics of the property prevent / preclude its development?:

- ☒ Too Narrow ☒ Elevation ☒ Soil
☐ Too Small ☒ Slope ☒ Subsurface
☐ Too Shallow ☒ Shape ☒ Other (specify): LACK OF ACCESS

Describe the indicated conditions: LACK OF access to SIDES/REAR of property.
LACK of ability to remove vegetation due to severe elevation change/erosion.

How do the above indicated characteristics preclude reasonable use of your land?
Because of lack of access and potential damage to
"City property", specifically, city stormwater gully.

What type of variance are you requesting (be as specific as possible)?
HARDSHIP, due to Elevation changes, LACK of access,
irregular lot size, backyard instability given proximity
to waterway.

Hardship (taken from Code of Alabama 1975 Section 11-52-80):

To authorize upon appeal in specific cases such variance from the terms of the zoning ordinance as will not be contrary to the public interest; where, owing to special conditions, a literal enforcement of the provision of the zoning ordinance will result in unnecessary hardship; and so that the spirit of the zoning ordinance shall be observed and substantial justice done.

BOA Fee Calculation:

	Residential	Commercial
Filing Fee	\$100	\$500
Publication	\$20	\$20

TOTAL: \$

I certify that I am the property owner/leaseholder of the above described property and hereby submit this application to the City for review. If property is owned by Fairhope Single Tax Corp. an authorized Single Tax representative shall sign this application.

DAVID BECKWITH

Property Owner/Leaseholder Printed Name

10/2/2024

Date

Signature

Fairhope Single Tax Corp. (If Applicable)

Lee Turner, President
FSTC

5/1/24

10/2/24, 8:19 AM

CITY OF FAIRHOPE

P.O. Box 429
Fairhope, AL 36533
(251) 928-8003

**BOARD OF ADJUSTMENTS & APPEALS
APPLICATION**



BOARD OF ADJUSTMENTS (BOA) APPLICATION

Authority: The City of Fairhope is authorized under the Code of Alabama, 1975 to create and establish a Board of Adjustment whose duties are quasi-judicial.

Public Notice: All BOA applications are required by State Law to give notice in both the newspaper and to all real property owners with 300 feet of the proposed change. The cost of this notice is paid by the applicant. All notice charges are paid at the time of application submission.

The BOA must conduct public hearings in conjunction with all applications. At the time of the BOA meeting all interested persons will be given the opportunity to speak either pro or con for the proposal.

BOA Functions: The BOA performs several functions: 1) hear and decides appeals from a decision made by an administrative official of the City of Fairhope; 2) hear and decide on granting special exceptions as permitted in the Zoning Ordinance, and; 3) authorize on appeal in specific cases variances to the regulations established in the Zoning Ordinance.

Decision and Voting: The BOA is a 5 member Board. The Board will conduct a public hearing and consider the request of the applicant. The Board has three (3) options: 1) approve the request; 2) deny the request; table the request.

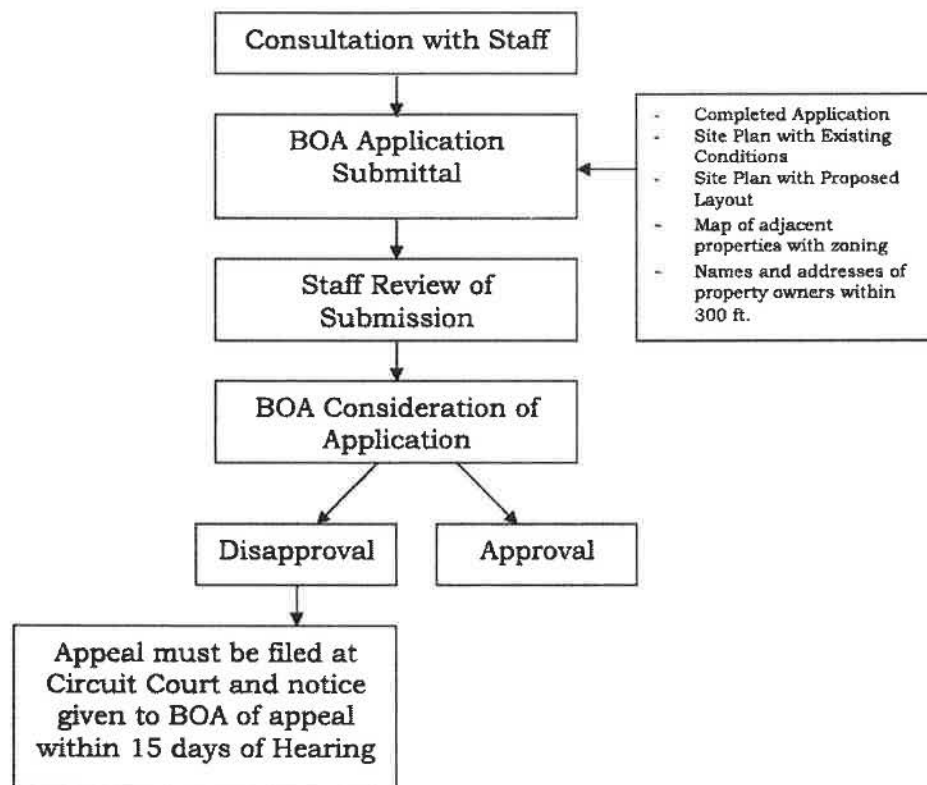
Approval of the request requires 4 of the 5 members of the BOA to vote in favor. A simple majority does not pass.

BOA Application Submission: The BOA application must be complete. An application is not considered complete unless all required documents are provided at the time of submission. An incomplete application may not be accepted by staff.

Deadlines: The City of Fairhope wishes to expedite the BOA process in the best and most effective manner possible. To that end, it is important that deadline times and dates are adhered to by the applicant (refer to the attached schedule for dates and times)



BOARD OF ADJUSTMENTS (BOA) FLOW CHART



Summary of Request:

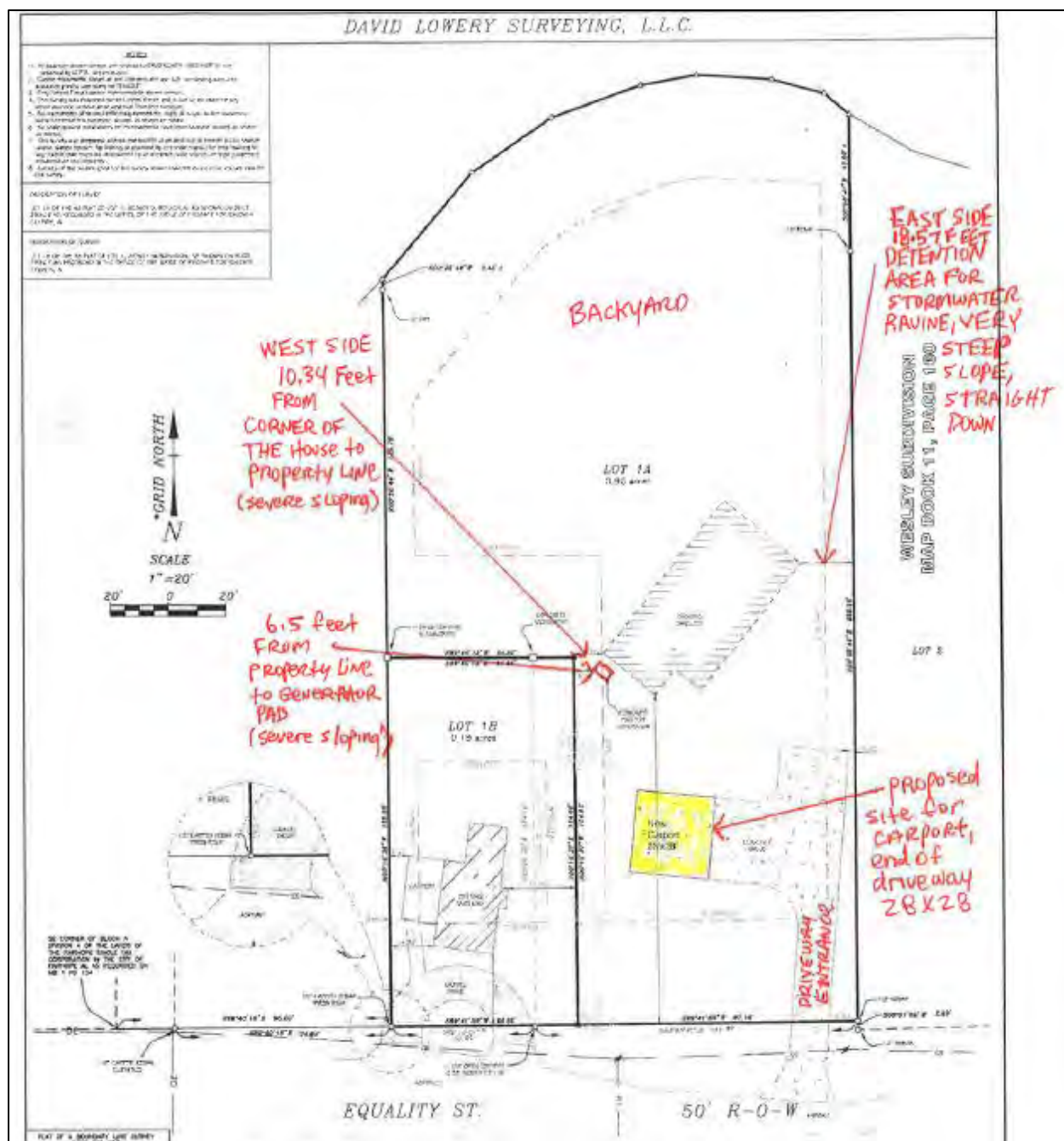
The Applicant, David Beckwith, is requesting a special exception for an accessory structure to be placed forward of the principle structure at 519 Equality Street. The accessory structure is a proposed 28x28ft carport with storage. The lot is zoned R-2 and is 0.96 acres. The lot is outside of the CBD and backs up to a city owned gully (Bayou Charbon). Applicant contends that there is very little to no access to the side and backyards. Applicant's narrative states that there is 18.57 feet between the house and property line on the east side and that area is extremely steep. The narrative further states that on the west side there is 10.34 feet from the corner of the house to the property line and that there is a concrete pad for a generator 6.5 ft from the sloping property line. Thus, the only place for an accessory structure is in front of the principle structure due to the steep slopes and limited areas to the sides and rear of the existing house.



Figures 1 and 2 are the Baldwin County and City of Fairhope maps (left to right, respectively).

Table 3-3: Dimension Table - Residential Accessory Structures

Dimension District or use	Setbacks				Max. total lot coverage by accessory structure	Max. height	Min. structure separation from principle structure	Min. separation between structures
	Front	Rear	Side	Street side				
R/A	Behind front building line of principle structure	15'	15'	50'	30% of required rear yard	30'	50' for agriculture structures; 10 feet for all other accessory structures	5'
R-3 PGH*	Behind rear building line of principle structure	none required	same as principle structure	same as principle structure	25% of required rear yard*	20' but no taller than the principle structure	5'	5'
All other residential districts	Behind rear building line of principle structure	5'	5'	no nearer than principle structure	25% of required rear yard	30' but no taller than the principle structure	10'	5'



History of Property:

April 4, 1983: Slide 994-A is recorded showing two (2) lots backing up to Bayou Charbon. Lot 1 on said slide has an existing residence. See *Figure 3*.

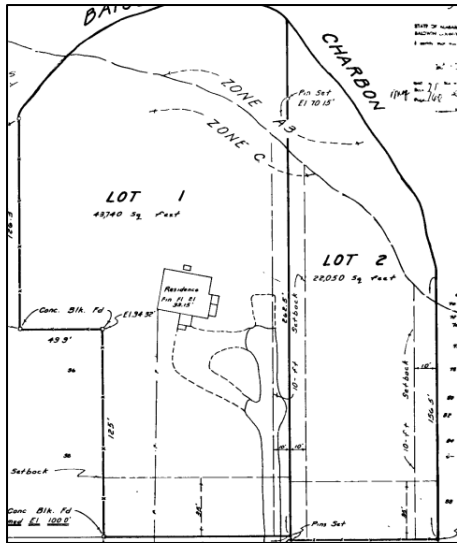


Figure 3: Slide 994-A.

2007: Existing residence built.

February 26, 2024: Re-plat done with existing structure. See Figure 4.

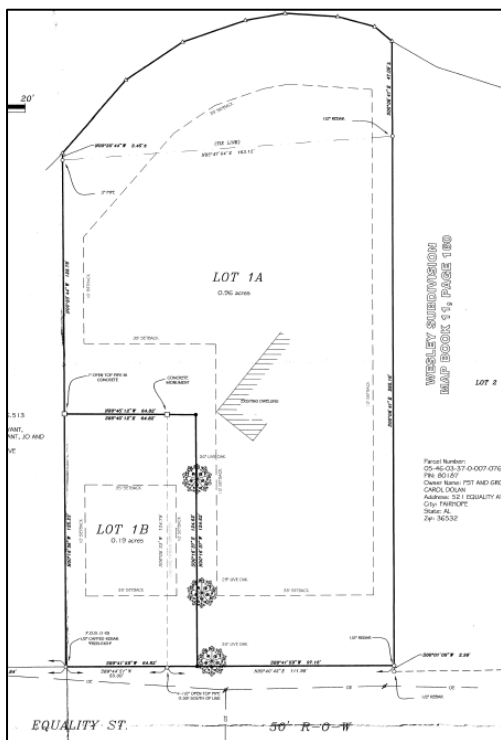


Figure 4: February 2024 Re-plat.

Spring 2024: Applicant purchases the property “as is”.

May 9, 2024: Staff does site visit with Applicant and states in person and via email that a BOA application will be necessary if Applicant desires to put a carport in front of principle structure. Emails in packet.

July 30, 2024: Stop Work Order issued because work exceeds that of the permit. Included in packet with Citizenserve comments below. *Also see Figure 5.*

Comments:

- A site visit was performed and a Stop Work Order issued on 7/30/24; no further work to be performed until SWO released by the Building Department
- Interior work has exceeded the scope of work described in the permit application- work being done beyond kitchen area (see attached photos)
- Kitchen renovation that was part of the permit has not had any inspections of new in wall plumbing and electrical and all walls have been closed with new drywall installed
- New slab poured in front of the house without any permit and was not included in the scope of work for the original permit. It has not been reviewed and approved by Planning and Zoning for placement and the footings and slab pour were not inspected prior to placement of concrete.
- Provide full schedule of values or contract of all work to be performed for the entire project.
- Site issues will be addressed under the submitted Land Disturbance permit. The property borders an adjacent gully with an AE flood zone and immediately requires commercial grade Erosion and Sediment Control measures to be installed before any work may resume at the property.

July 31, 2024: Plans uploaded in Citizenserve.

August 2, 2024: Stop Work Order released.



Figure 5.

September 26, 2024: Generator installed on concrete pad on west side of house.

October 3, 2024: BOA application received.

Comments:

Staff does not support the exception to Table 3-3 for this case. Applicant was made aware of the allowable dimensions and placements of accessory structures in May 2024.

Applicant, in the BOA application, asks for a variance for the accessory structure based on the size, shape, slope, and elevation of the subject lot. All of which Applicant was aware of at time of purchase and prior to applying for any permit. The lot backs up to a gully. Most of the lots on that side of Equality back up to the gully/flood zone and none of which have applied nor been granted a BOA exception or variance. Self-created “hardships” are not hardships in a variance case in the State of Alabama. *Ex parte Chapman*, 485 So. 2d. 1161, 1163 (Ala.1986). The issue is the location of the existing house not the property itself. The re-plat earlier this year made accessing the rear more challenging from the west side and the installation of the generator at the end of September made it impossible from the west side.

Since a request for a variance was mentioned in the application and in correspondence variance criteria is analyzed below. However, a more appropriate request would be a special exception to Table 3-3 for the accessory structure.

Analysis and Recommendation: Variance Criteria

(a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography.

Response: Exceptional or extraordinary conditions **do not** exist.

(b) The application of the ordinance to this particular piece of property would create an unnecessary hardship. Personal financial hardship is not a justification for a variance.

Response: The application of the Zoning Ordinance or the approved subdivision and re-plat **do not** create an unnecessary hardship.

(c) Such conditions are peculiar to the particular piece of property involved; and

Response: Conditions are not peculiar to the particular piece of property.

(d) Relief, if granted, would not cause substantial detriment to the public good and impair the purpose and intent of this ordinance; provided however, that no variance may be granted for a use of land or building or structure that is prohibited by this ordinance.

Response: Relief will cause substantial detriment to the public good as the property does not meet the criteria in which a variance can be granted.

When a variance is granted by the Zoning Board of Adjustment it has the following effect:

Article II.C.3.g.

Effect of Variance - Any variance granted according to this section and which is not challenged on appeal shall run with the land provided that:

- (1) The variance is acted upon according to the application and subject to any conditions of approval within 365 days of the granting of the variance or final decision of appeal, whichever is later; and
- (2) The variance is recorded with the Judge of Probate.

Recommendation:

Staff recommends ***Denial*** of case BOA 24.17.

October 3, 2024

Board of Adjustments & Appeals:

My name is David Beckwith, and my wife and I own the property located at 519 Equality Ave in Fairhope.

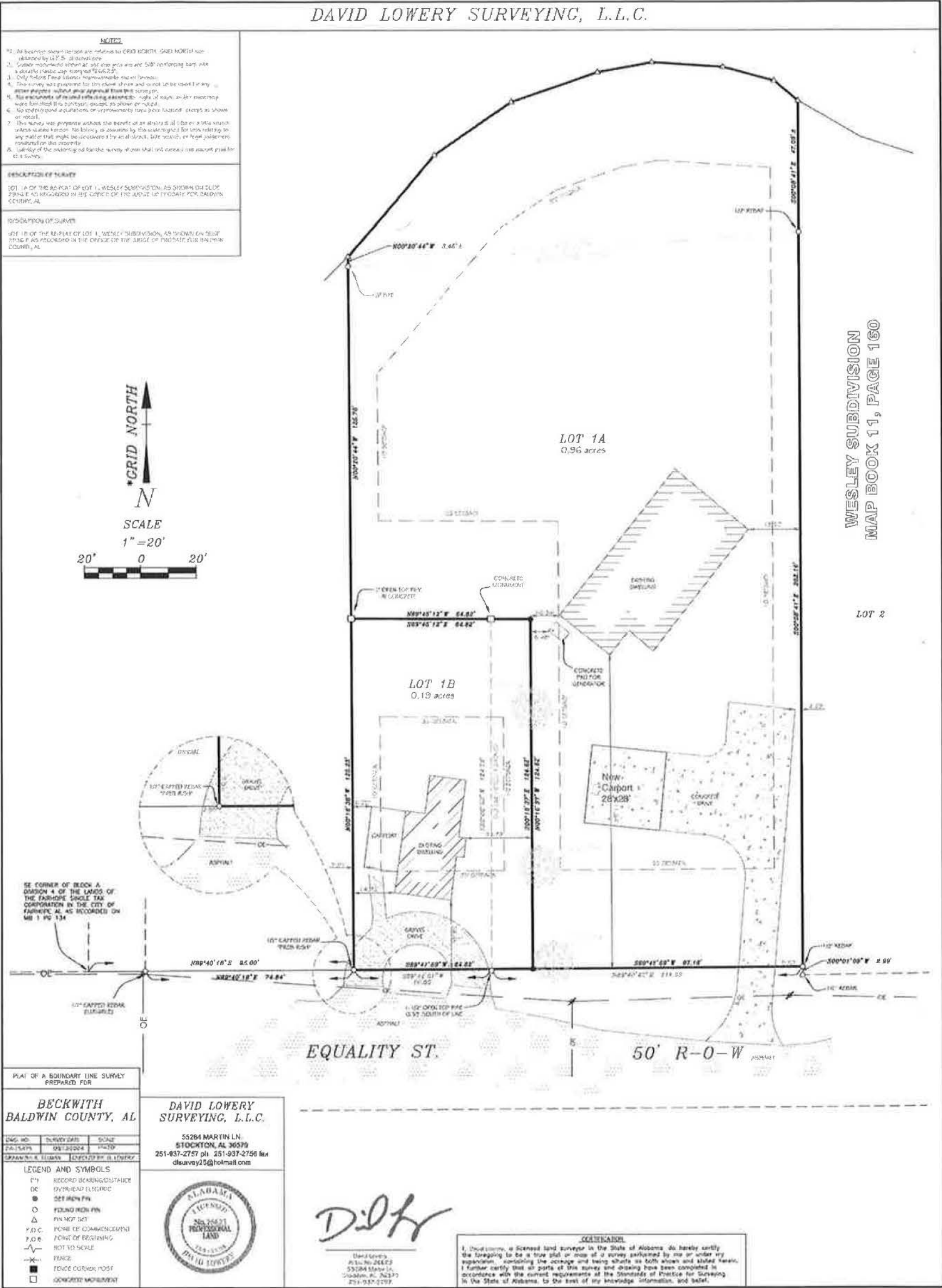
I come to you asking for a variance to build a carport (to code, open air, with storage similar to the picture provided) at the end of our driveway as shown on our site plan/survey provided. The reasons for this "Hardship" are as follows:

1. Our Backyard is adjacent to a city stormwater gully; the ground is unstable given the proximity to the waterway. We would have to remove trees/vegetation that are critical from preventing erosion and which could cause damage to city property, specifically the stormwater gully.
2. There is lack of access from the West side of the house. There is only 6.5 feet between the property line and the generator pad and 10.34 feet between the house itself and the property line. There is also severe sloping on the West Side of the house from the backyard to the front/side yard.
3. There is lack of access from the East side of the house. There is 18.57 feet from the house to the property line, but there is a very steep sloped, almost straight down ravine that is a detention area for stormwater.

I would also like to note that the proposed site for the new structure is setback a good distance from the street and we are planting Japanese Yew privacy hedge along our property line at the street. We truly have no way to access our back yard by car. Therefore, we ask you to recognize and understand our "Hardship" and grant us permission to move our proposed carport to this alternate location which is accessible and safe for our family. Thank you for your time and attention to this matter. Sincerely,
David Beckwith


David Beckwith

10/3/2024
Date



UNMARKED SURVEY/SITE PLAN







STOP WORK ORDER



Building Official Zoning Enforcement Officer

Date July 30, 2024

The premises located at 519 Equality

have been inspected and work in progress is

ORDERED STOPPED

for the following reasons:

- ☒ NO PERMIT OBTAINED *(work exceeded what is allowed under permit)*
- ☐ VIOLATION OF ZONING ORDINANCE, Sec.: _____
- ☐ VIOLATION OF _____ CODE, Sec.: _____
- ☐ INADEQUATE SAFETY PROVISIONS
- ☐ VIOLATIONS OF CITY ORDINANCE _____

OTHER

Work performed far exceed what was
stated on permit - no work to proceed

DO NOT REMOVE THIS NOTICE - DO NOT RESUME WORK
until Stop Order has been cleared by signature of official below:

Contact City of Fairhope Planning and Building Department at (251) 990-0153 with any questions regarding this notice.

Date of Release

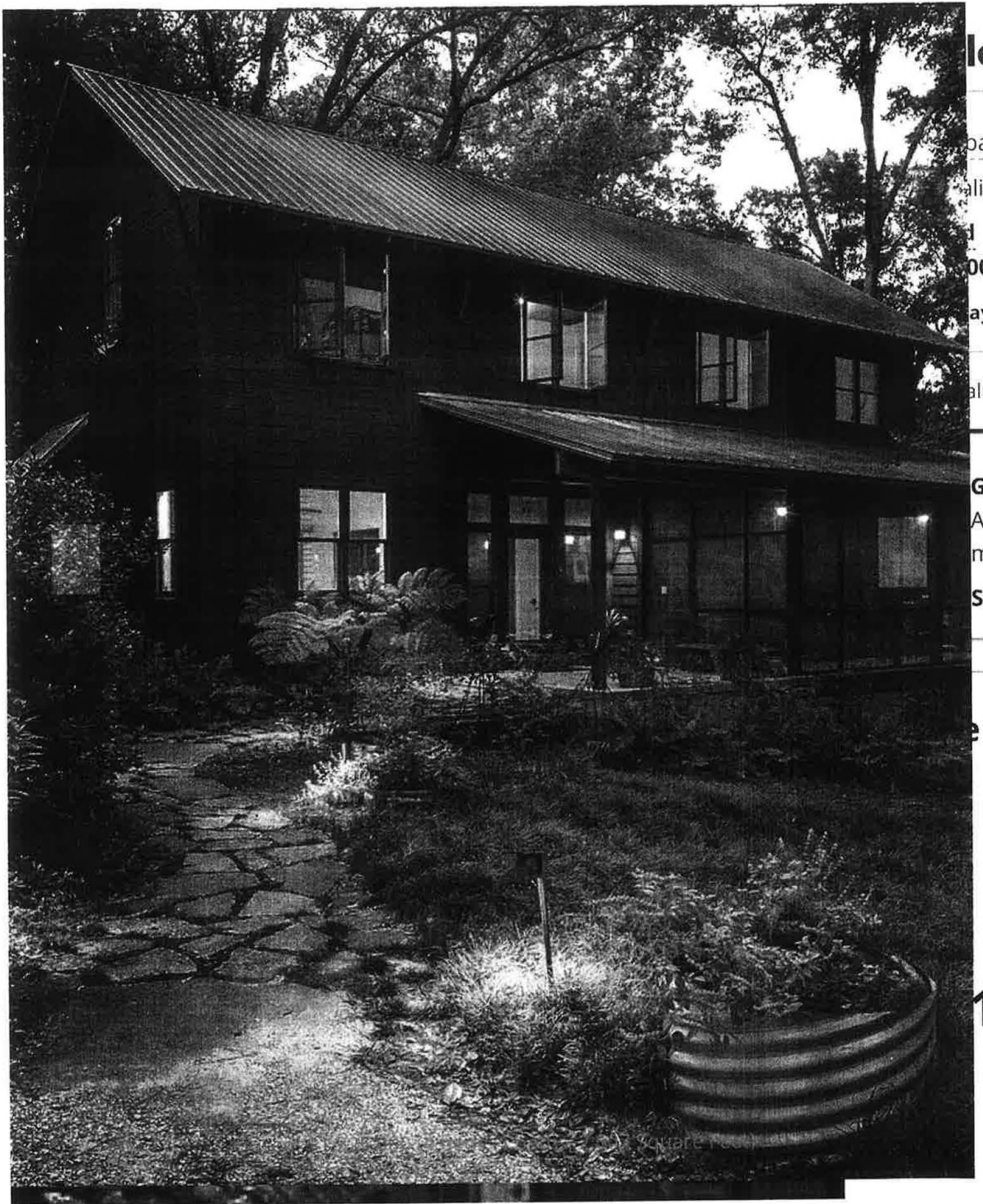
Signature of Releasing Official

"HOUSE PHOTO" 519 EQUALITY AVE

Photos

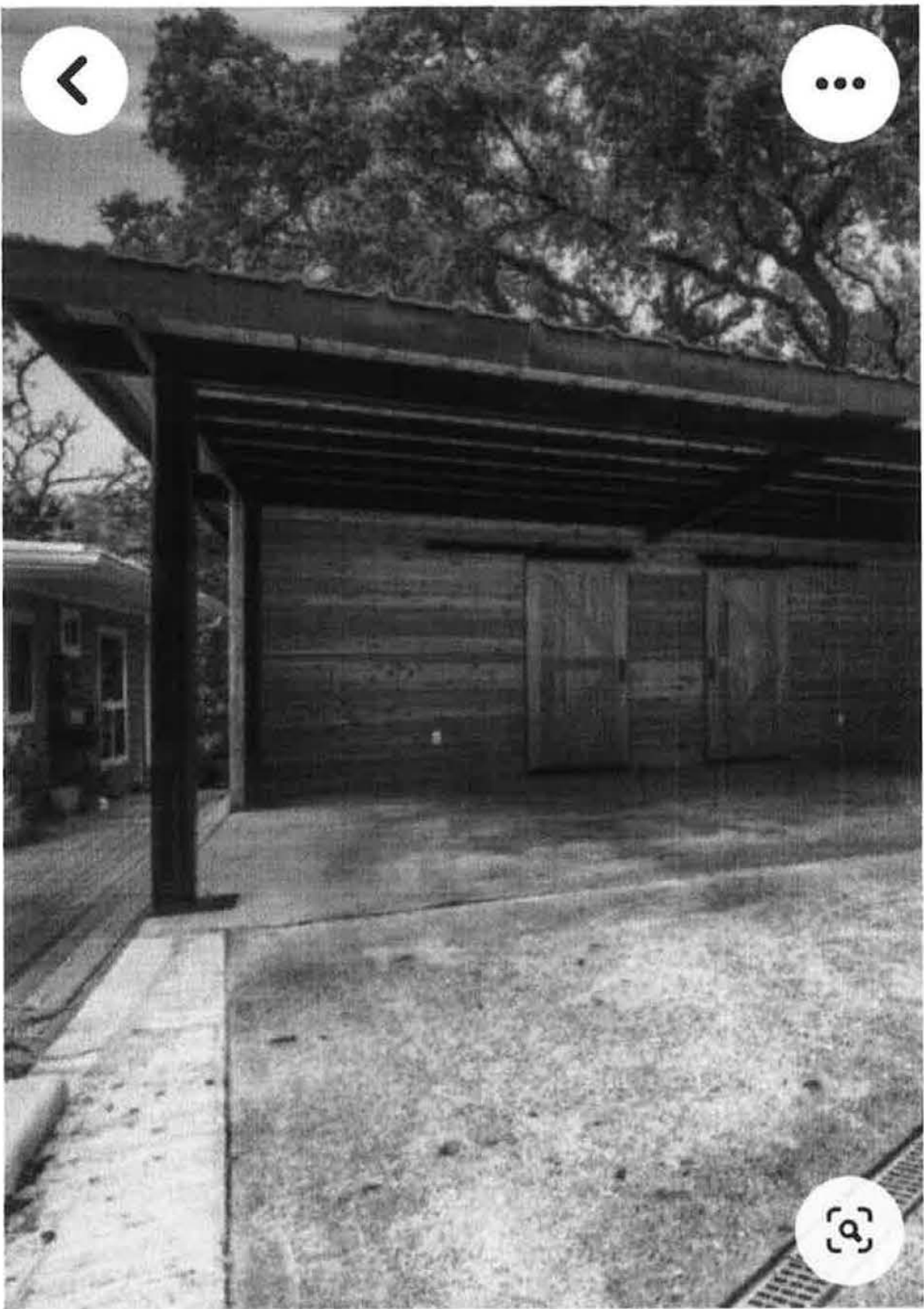
Save Home

Share



EXAMPLE OF CARPORT WITH STORAGE

6:10



Read it

Save



AA

🔒 pinterest.com



ARIEL VIEW OF THE PROPERTY

