



**City of Fairhope  
Board of Adjustments Agenda  
5:00 PM  
Council Chambers  
February 17, 2025**

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
  - January 23, 2025
3. Consideration of Agenda Items

**A. BOA 24.11** Public hearing to consider the request of the Owner, Jason LaSource, for a 15' front setback variance, a variance for an accessory structure 10.5' forward of rear building line 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**

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](http://www.fairhopeal.gov)

*Printed on recycled paper*

The Board of Adjustments met Thursday, January 23, 2025, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

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

Absent: Anil Vira

Vice-Chair Slagle called the meeting to order at 5:00 PM.

**Approval of Minutes**

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

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

Aye: Cathy Slagle, Ryan Baker, Frank Lamia, Donna Cook and Bryan Flowers

Nay: None.

**BOA 24.11** Public hearing to consider the request of the Owner, Jason LaSource, for a 15' front setback variance, a variance for an accessory structure 10.5' forward of rear building line 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**

Mike Jeffries, Development Services Manager, stated that the Planning Department received an email from the Applicant requesting that this item be tabled until the February meeting.

**Motion:**

Ryan Baker made a motion to table BOA 24.11 at the request of the applicant.

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

Aye: Cathy Slagle, Ryan Baker, Frank Lamia, Donna Cook and Bryan Flowers

Nay: None.

**BOA 24.19** Public hearing to consider the request of the Applicant, S.E. Civil, LLC, on behalf of the Owner, Protestant Episcopal Church in the Diocese of the Central Gulf Coast, for a Use Not Provided For – to allow for alterations to an existing church on property zoned R-4 Low Density Multi-Family Residential District. The property is located at 860 N. Section Street and is approximately 9.58 acres. **PPIN#: 1090**

Mr. Baker stated that he needs to recuse himself from this project.

Hunter Simmons, Planning Director, introduced this request. Mr. Simmons shared the reason this case is on the agenda and an explanation for Use Not Provided For. Mr. Simmons continued that there is no road connecting to Colonial Acres and no drainage review. There will be a more thorough review during the building permit request.

Michelle Melton, City Planner, presented the request of the Applicant, S.E. Civil, LLC, on behalf of the Owner, Protestant Episcopal Church in the Diocese of the Central Gulf Coast, for a Use Not Provided For – to allow for alterations to an existing church on property zoned R-4 Low Density Multi-Family Residential District. Ms. Melton shared the aerial and zoning maps.

**Recommendation:**

Staff recommends approval of BOA 24.19.

Larry Smith, S.E. Civil, reiterated that there is no intent to connect to Colonial Acres and underground detention will occur through additional pervious areas on the property. The tree removal will go through the City Horticulturist. Mr. Smith addressed all comments received from the public.

Vice-Chair Slagle opened the public hearing at 5:15pm. Having no one present to speak, the public hearing was closed at 5:15pm.

Cathy Slagle asked about the timing for phases 2 and 3. Reverend Freeman stated that they are currently raising money for construction over the next 12-18 months.

Mr. Simmons explained that the church owns two lots in the Colonial Acres subdivision that are listed in the covenants and that the City does not enforce the covenants. Mr. Smith stated that the project will not affect those lots.

**Motion:**

Bryan Flowers made a motion to approve BOA 24.19.

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

Aye: Cathy Slagle, Ryan Baker, Frank Lamia, Donna Cook and Bryan Flowers

Nay: None.

**BOA 25.01** Public hearing to consider the request of the Owner, Jack Maulding, for a Special Exception - Use Not Provided For – to allow for indoor car sales on property zoned M-1 Light Industrial District. The property is located at 365 Commercial Park Drive. The property is approximately 0.38 acres. **PPIN#: 63899**

Michelle Melton, City Planner, presented the request of the Owner, Jack Maulding, for a Special Exception - Use Not Provided For – to allow for indoor car sales on property zoned M-1 Light Industrial District. Ms. Melton shared the aerial and zoning maps.

**Recommendation:**

Staff recommends approval of BOA 25.01.

Jack Maulding, 365 Commercial Park Drive, stated that his business will be all indoor sales of between 10-18 luxury exotic cars.

Vice-Chair Slagle opened the public hearing at 5:22pm.

Ross Givens, address not provided, leases office on the right and is in support of this request.

Clint Martin, address not provided, owns the property to the south and has no objections. Mr. Martin asked if the car sales could revert to outdoor sales later. Mr. Simmons stated that request would have to come back to the Board of Adjustments.

The public hearing was closed at 5:24pm.

Ryan Baker asked if the Industrial Board needed to approve this request. Mr. Simmons stated that he would check before a building permit was issued.

**Motion:**

Frank Lamia made a motion to approve BOA 25.01.

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

Aye: Cathy Slagle, Ryan Baker, Frank Lamia, Donna Cook and Bryan Flowers

Nay: None.

**BOA 25.02** Public hearing to consider the request of the Applicant, Kadre Engineering, on behalf of the Owner, Corte, Cave/Mitchell 1 LLC for a Special Exception – Use Not Provided For - to allow for 13 additional “in car dining” parking spots on property zoned B-2 General Business District. The property is located on the northwest corner of Highway 181 and Highway 104, Lot 7. The property is approximately 0.99 acres. **PPIN#: 626312**

Mike Jeffries, Development Services Manager, presented the request of the Applicant, Kadre Engineering, on behalf of the Owner, Corte, Cave/Mitchell 1 LLC for a Special Exception – Use Not Provided For - to allow for 13 additional “in car dining” parking spots on property zoned B-2 General Business District. Mr. Jeffries shared the aerial and zoning maps.

Mr. Simmons explained the minimum and maximum parking requirements.

Discussion included:

- how parking was determined at Sonic
- parking spaces being used as another point of sale option
- in car dining spots considered an extension of the dining room
- number of patrons being about to be fed inside
- number of staff

- cross parking agreement with Publix
- landscaping ratio
- possibility of other customers using the in-dining parking spots
- outdoor seating would allow additional parking spots

The Applicant requested that this item be tabled indefinitely until they could meet with staff.

**Motion:**

Ryan Baker made a motion to table BOA 25.02 indefinitely.

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

Aye: Cathy Slagle, Ryan Baker, Frank Lamia, Donna Cook and Bryan Flowers

Nay: None.

**BOA 25.03** Public hearing to consider the request of the Applicant, Sweet Home Chiropractic, on behalf of the Owner, Tim Hogan for a Special Exception - Use Not Provided For – to allow for a professional medical office on property zoned B-2 – General Business District. The property is located at 68 N Bancroft. The property is approximately 0.20 acres. **PPIN#: 64923**

Mike Jeffries, Development Services Manager, presented the request of the Applicant, Sweet Home Chiropractic, on behalf of the Owner, Tim Hogan for a Special Exception - Use Not Provided For – to allow for a professional medical office on property zoned B-2 – General Business District. Mr. Jeffries shared the aerial and zoning maps.

**Recommendation:**

Staff recommends approval of BOA 25.03.

Tim Hogan stated that he was unaware that he needed a business license.

Vice-Chair Slagle opened the public hearing at 6:22pm. Having no one present to speak, the public hearing was closed at 6:22pm.

**Motion:**

Frank Lamia made a motion to approve BOA 25.03.

Bryan Flowers seconded the motion and the motion carried with the following vote:

Aye: Cathy Slagle, Ryan Baker, Frank Lamia, Donna Cook and Bryan Flowers

Nay: None.

**BOA 25.04** Public hearing to consider the request of the Applicant, Dewberry, on behalf of the Owner, Brian Metcalf, for a Special Exception – Use on Appeal - to operate a restaurant on property zoned B-1, Local Shopping District. The property is approximately 2.06 acres and is located to the east of the terminus at Sweetwater Circle. **PPINS #: 243332, 281752, 281750, 57219**

Michelle Melton, City Planner, presented the request of the Applicant, Dewberry, on behalf of the Owner, Brian Metcalf, for a Special Exception – Use on Appeal - to operate a restaurant on property zoned B-1, Local Shopping District. Ms. Melton shared the aerial and zoning maps.

**Recommendation:**

Staff recommends approval of BOA 25.04, with the following condition:

1. City Council approves ZC 24.10 which includes a restaurant as an allowed use.

Cathy Barnette, Dewberry, stated that the request is for a private restaurant with limited hours, they added wetlands to the site, will have a 30' buffer, are protecting 35% of the property and the common area will be used for access. There will be a robust buffer to allow for lighting that is respectful to the neighbors, and they are adding more trees than required.

Vice-Chair Slagle opened the public hearing at 6:35pm.

Rob Littleton is in support of the project.

The public hearing was closed at 6:36pm.

**Motion:**

Frank Lamia made a motion to approve BOA 25.04, with staff recommendation.

Bryan Flowers seconded the motion and the motion carried with the following vote:

Aye: Cathy Slagle, Ryan Baker, Frank Lamia, Donna Cook and Bryan Flowers

Nay: None.

**Old/New Business**

None

**Adjournment**

Ryan Baker made a motion to adjourn.

The motion carried unanimously with the following vote:

Aye: Cathy Slagle, Ryan Baker, Frank Lamia, Donna Cook and Bryan Flowers

Nay: None.

Adjourned at 6:38p.m.

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Anil Vira, Chairman

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Cindy Beaudreau, Secretary

# City of Fairhope Board of Adjustments February 17, 2025



## BOA 24.11 - 50 Fels Avenue



**Project Name:**

50 Fels Avenue

**Site Data:**

0.22 acres

**Project Type:**

Various requests for variances

**Jurisdiction:**

Fairhope Planning Jurisdiction

**Zoning District:**

R-2 Medium Density Single-Family  
Residential District

**PPIN Number:**

14503

**General Location:**

South of the intersection of Freedom  
and Fels

**Surveyor of Record:**

N/A

**Engineer of Record:**

N/A

**Owner / Developer:**

Jason LaSource

**School District:**

Fairhope Elementary School  
Fairhope Middle and High Schools

**Recommendation:**

Approved w/ Conditions

**Prepared by:**

Name

## **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.

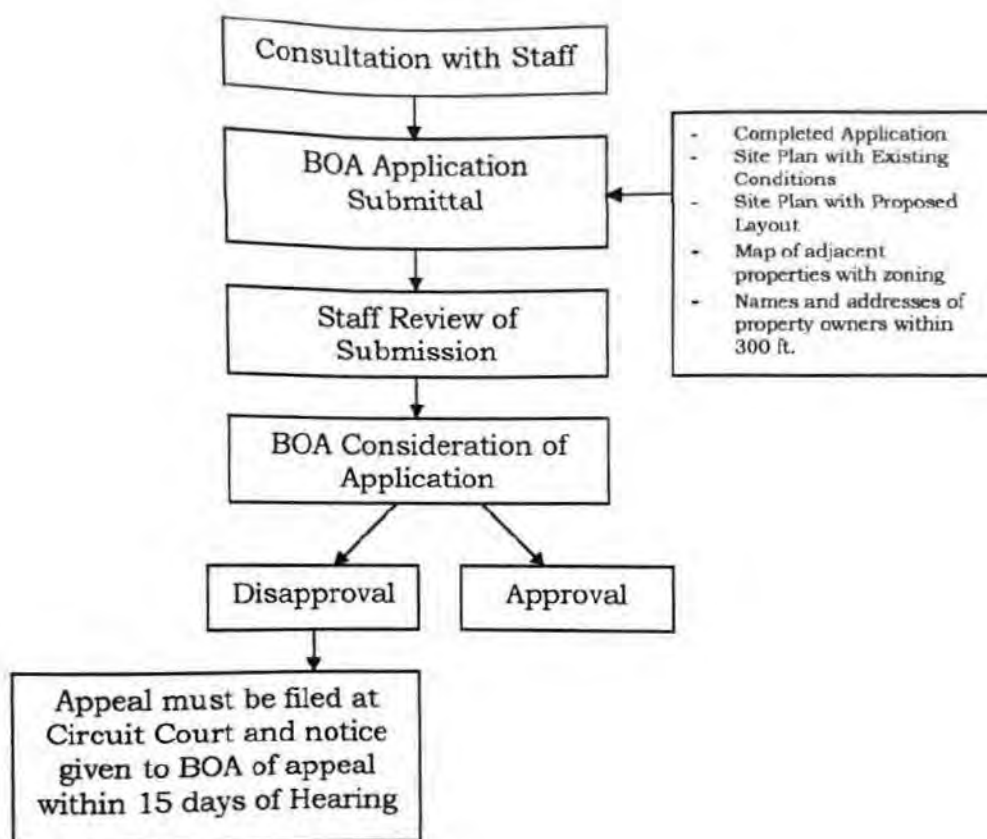
Approval of the request requires 4 of the 5 members of the BOA to vote in favor. A simple majority does not pass.

**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





### APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: ☐ Administrative Appeal ☐ Special Exception ☒ Variance

#### Property Owner / Leaseholder Information

Name: Jason LaSource Phone Number: 251-379-4822  
 Street Address: 50 Fels 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.

Jason LaSource  
 Property Owner/Leaseholder Printed Name

12/12/24  
 Date

Signature

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



## VARIANCE REQUEST INFORMATION

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

- |                                      |                                    |                                                     |
|--------------------------------------|------------------------------------|-----------------------------------------------------|
| <input type="checkbox"/> Too Narrow  | <input type="checkbox"/> Elevation | <input type="checkbox"/> Soil                       |
| <input type="checkbox"/> Too Small   | <input type="checkbox"/> Slope     | <input type="checkbox"/> Subsurface                 |
| <input type="checkbox"/> Too Shallow | <input type="checkbox"/> Shape     | <input checked="" type="checkbox"/> Other (specify) |

Describe the indicated conditions: The property has 4 trees marked as historical on the property  
The largest being a live oak that is in the middle east of the plot

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

As shown in the 2nd site plan, the existing trees prevent the owners from building 2448 sq ft footprint home.  
They would ask that the board supports their efforts to save the 4 trees in building a less than ideal home in order to do so.

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

- The request is for a 15' variance on the front (to be 15' from the front property line - even with neighbors)
- The request is to allow the garage to be 10'5" forward of the rear of the house to allow for the primary area to be set back from the live oak and the garage to give space for the rear trees of the yard

3. The request is for a 5' variance on the east side to allow for the poplar tree on the west side of the house to stay.

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       |
| <b>TOTAL: \$</b> |             |            |

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.

Jason LaSource  
 Property Owner/Leaseholder Printed Name

12/12/24  
 Date

Signature

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

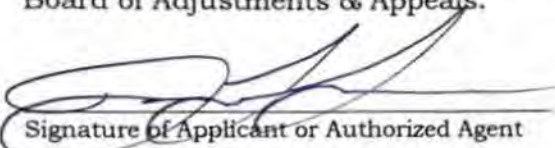


**CERTIFICATION OF PROPERTY OWNER NOTIFICATION LIST**  
As Required by the City of Fairhope

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Hearings on Board of Adjustments & Appeals applications require notification to all property owners within 300 feet of the property under consideration for the change. This list must be the most current property owners' records available from the Baldwin County Revenue Office.

By signing below, I Jason LaSource, (applicant) do hereby certify that the property owner list attached to this application was obtained from the Baldwin County Revenue Office and is a complete list of all real property owners/lessees within 300 feet of the parcel submitted for consideration by the Board of Adjustments & Appeals.

  
Signature of Applicant or Authorized Agent

12/12/24  
Date of Application

To whom it may concern:

We purchased our property at 50 Fels Avenue in 2017 with the intent to build. The house was in such poor shape that we almost did not even consider visiting the property because the pictures were so terrible. We took a chance and decided to visit the property and upon seeing the live oak, the proximity to the bay and room for a garden we made an offer to purchase the property. Our intention from the beginning was to build a coastal cottage home with a modest footprint to preserve our great outdoor space while preserving the 80+ year old live oak.

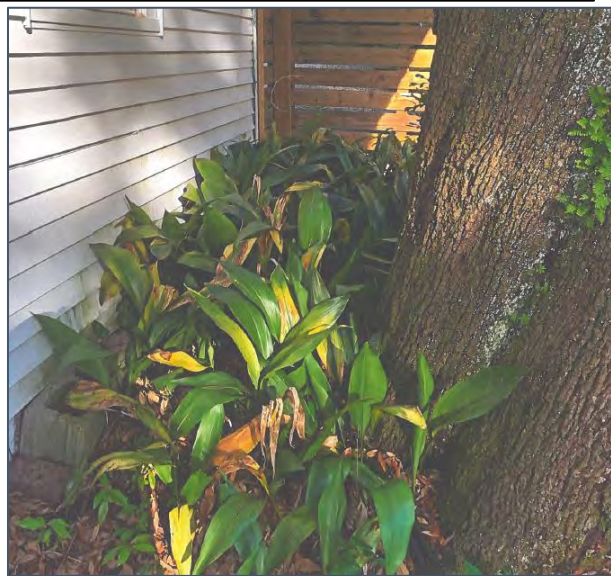
We are in an area that has a lot of foot traffic and frequently observe people stopping directly in front of our property to admire the massive live oak that hangs over the property. We did the same thing upon our initial visit to 50 Fels. It is a magnificent tree that has many more years to mature and should be preserved. Moving the house up 2-3 feet from where it currently sits and keeping our current set back on the east side (where our house sits now) would allow for that. Even with moving the house forward it will still be set back further than several other houses on our street including the 5 houses that are west of us. With the new house remaining near where the current house is on the east side it will give our neighbor to the west more privacy than if we had to center the house and move it closer to her lot. Almost all of the houses on our side of the street are offset to the left with driveways on the right. Maintaining our left offset will allow us to keep our current level of privacy while maintaining the look of our street. We enjoy teaching our daughter how to garden and having space for friends and family to enjoy in our backyard so do not want to take up our entire property with a house which we would have to do otherwise. Thank you for your time and consideration.

Sincerely,

Jason and Sarah LaSource

### **Summary of Request:**

The Applicant/Owner, Jason LaSource, is requesting three (3) variances. Requested variances are: 20 ft front setback variance so that the proposed house will be 15 ft from the property line; a variance to allow the accessory structure placed 10.5 ft forward of the rear of the primary structure; and a 5 ft side setback variance on east side of principle structure. There are four (4) heritage trees on site (referred to as “historical trees” on the submitted plans). The requested variances are to preserve the root system of an 80+ year old live oak, a magnolia, and an existing heritage poplar tree.



*Figures 1-3: Existing Conditions of house and tree.*

### Comments:

The lot nor the existing structure conform to the current day R-2 dimensions because the lot is less than 10,500 sf (approximately 9,504 sf) and less than 75' feet wide (66' wide). None of which are peculiar to the neighborhood. The existing principle structure is built 20' from the front lot line and 4-5' from the side lot line and remains a legal non-conforming structure to Staff's knowledge. *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' <sup>b</sup> | 20'         | 40%                                       | 30' <sup>a</sup> |
| R-1a                      | 40,000 s.f./-                               | 120'           | 30'      | 30'  | 10' <sup>b</sup> | 20'         | 25%                                       | 35'              |
| R-1b                      | 30,000 s.f./-                               | 100'           | 30'      | 30'  | 10' <sup>b</sup> | 20'         | 25%                                       | 35'              |
| R-1c                      | 20,000 s.f./-                               | 80'            | 30'      | 30'  | 10' <sup>b</sup> | 20'         | 25%                                       | 35'              |
| R-2                       | 10,500 s.f./-                               | 75'            | 35'      | 35'  | 10' <sup>b</sup> | 20'         | 25%                                       | 30' <sup>b</sup> |

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.

The lot was platted with its current dimensions in 1910-1911. *See below.*



It is the intent of the Applicant to completely tear down the principle and accessory 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 direct “adjacent lots” are 24 and 52 Fels Avenue with approximately 15’ and 60’ front setbacks, respectively. *See below.*



[illegible]

4 BOA 24.11 50 Fels Avenue (LaSource) – Front Setback, Accessory Structure, and Side Variances

The above site plan illustrates the proposed home with an area cut out to protect the tree and its roots. The above site plan also points out the root systems of a magnolia tree in the front and two (2) trees in the rear. The site plan has shaded areas in red and gray that indicate the estimated main roots area for the tree(s). Exact locations will be determined post demolition as part of a tree protection plan.

Applicant has consulted with Chris Francis Tree Service (“Francis”) whereas Francis “verified the tree is healthy” regarding the live oak. The updated site plan was developed with the assistance of Chris Francis. It was stated that the more shaded area kept uncovered the more beneficial it is to the trees.

Staff recommendation is confined to the current Zoning Ordinance. The Tree Ordinance does not apply to single family residences per 20.5-4(1). The Planning and Zoning Director may grant a 7’ administrative setback variance to protect and/or preserve an existing Heritage Tree. See *Article IV, Section G*.

Although some of the requested deviations from the required setbacks may be minimal, new builds must conform to current setbacks unless the BOA deems otherwise. In that vein, there have been variances granted based on trees in the past, most of which were prior to the adoption of the Tree Ordinance in 2011 (Ord. No. 1444).

The following is a previous case.

BOA 13.01 105 Fels Avenue: Granted 30’ rear setback variance (5’ rear setback) to preserve a 60” heritage live oak. Minutes mention Applicant cutting out buildable area to preserve the tree. In the case above, Staff supported the administrative variance, but was limited to the 7’. The Board granted an additional variance based on the merits of the case, including the fact that the lot was only 45’ wide.

**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 a Heritage Tree is worth saving in various sections of local code.

***(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 not** create an unnecessary hardship.

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

Response: A heritage live oak meets the tree preservation criteria of Article IV, Section G, which is unique to this 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 not cause substantial detriment to the public good because tree variances have been granted in the past to protect heritage trees.

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.

Staff supports any efforts to save the Heritage Trees and feel variances should be granted conditioned on a specific plan that is designed to work around the tree as much as possible. The revised two-story house plan has been designed to protect the heritage live oak, its root system, and its largest limbs as submitted with the plan. The revised plan also aims to preserve three (3) other heritage trees on site. Two (2) arborists have offered support of the updated house plans.

A 5 ft administrative setback variance is supported for the east side setback to preserve the heritage poplar tree on the west side and to allow for better protection of the live oak's root system.

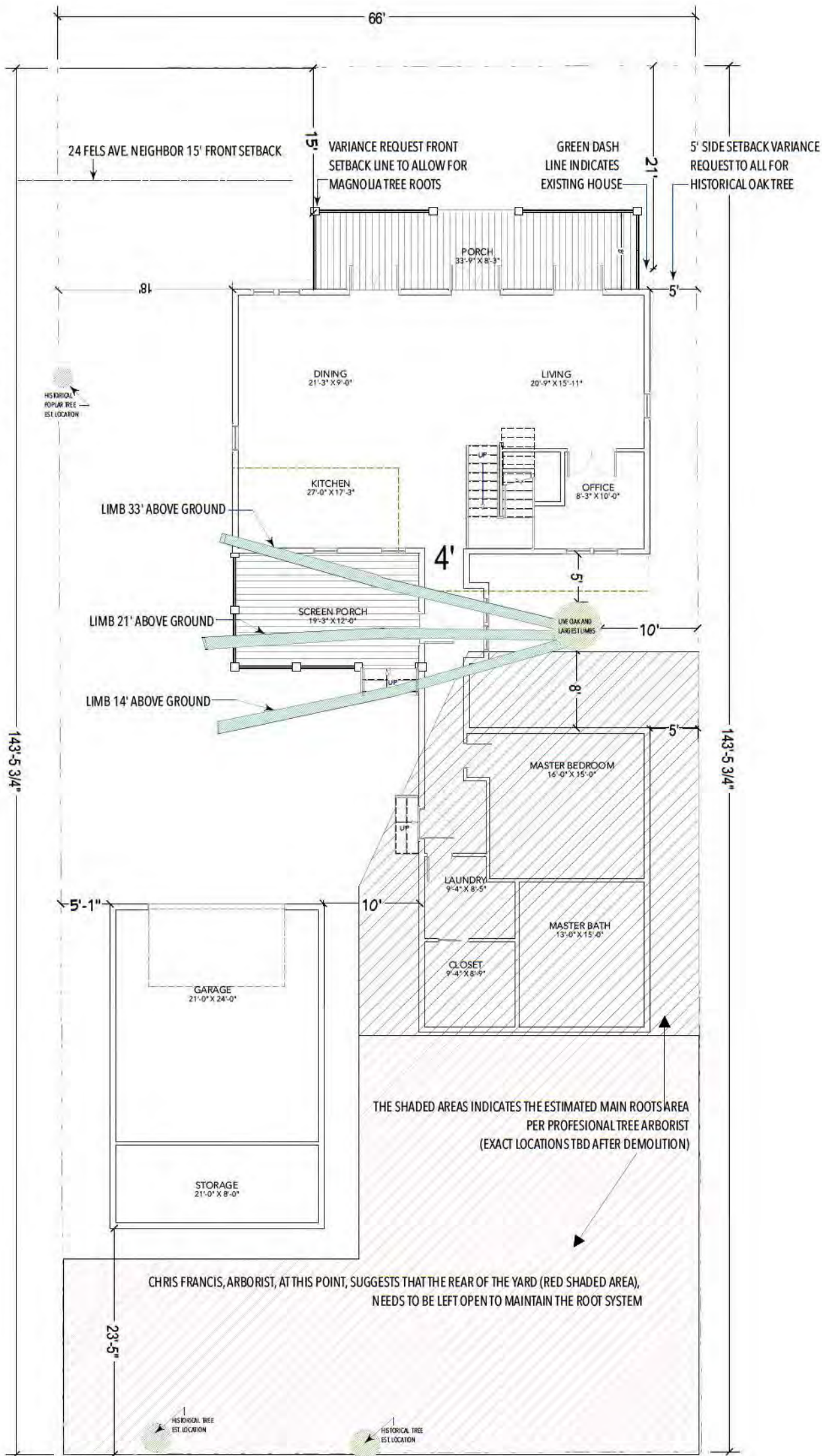
Staff met with Applicant and Chris Francis on October 30, 2024, to discuss alternative plans. A different size or dimension of the primary and/or accessory structure or no accessory structure at all may be a viable alternative to the variance requests. Nonetheless, Applicant has made efforts to preserve the heritage trees on site when he did not have to, and the updated plans are supported by professional arborists.

### **Recommendation:**

The following recommendations are specific to the site plan contained herein. If the proposed house is not built within the required time limit from this BOA meeting or is ever torn down, then

these recommendations are null and void and shall not be applicable to any other site plan(s) for 50 Fels Avenue.

- 1) Based on the Zoning Ordinance the Planning & Zoning Director supports the 5 ft (east) side setback to protect the existing heritage poplar on the west side and the live oak's roots.
- 2) Staff recommends ***Denial*** of a 20' front setback variance request of the primary structure. But staff could support a 12' front setback variance. Using the current plan this would require the removal of the 8' front porch.
- 3) Staff supports a 10.5' setback variance for the accessory structure to be located forward of the rear building line in case BOA 24.11. However, it may be the pleasure of the BOA to decide otherwise. As stated, an alternative is to not have the accessory structure.
- 4) A tree-protection plan done by a licensed arborist shall be approved as part of the land disturbance and building permit applications.



PROPOSED LAYOUT  
AND PLACEMENT

LASOURCE  
RESIDENCE

CHRISTINA STANKOSKI  
COASTAL CLASSICS  
1000 N. BEACH BLVD. - SUITE 100 - FORT LAUDERDALE, FL 33304

DATE:

12/4/24

SCALE:

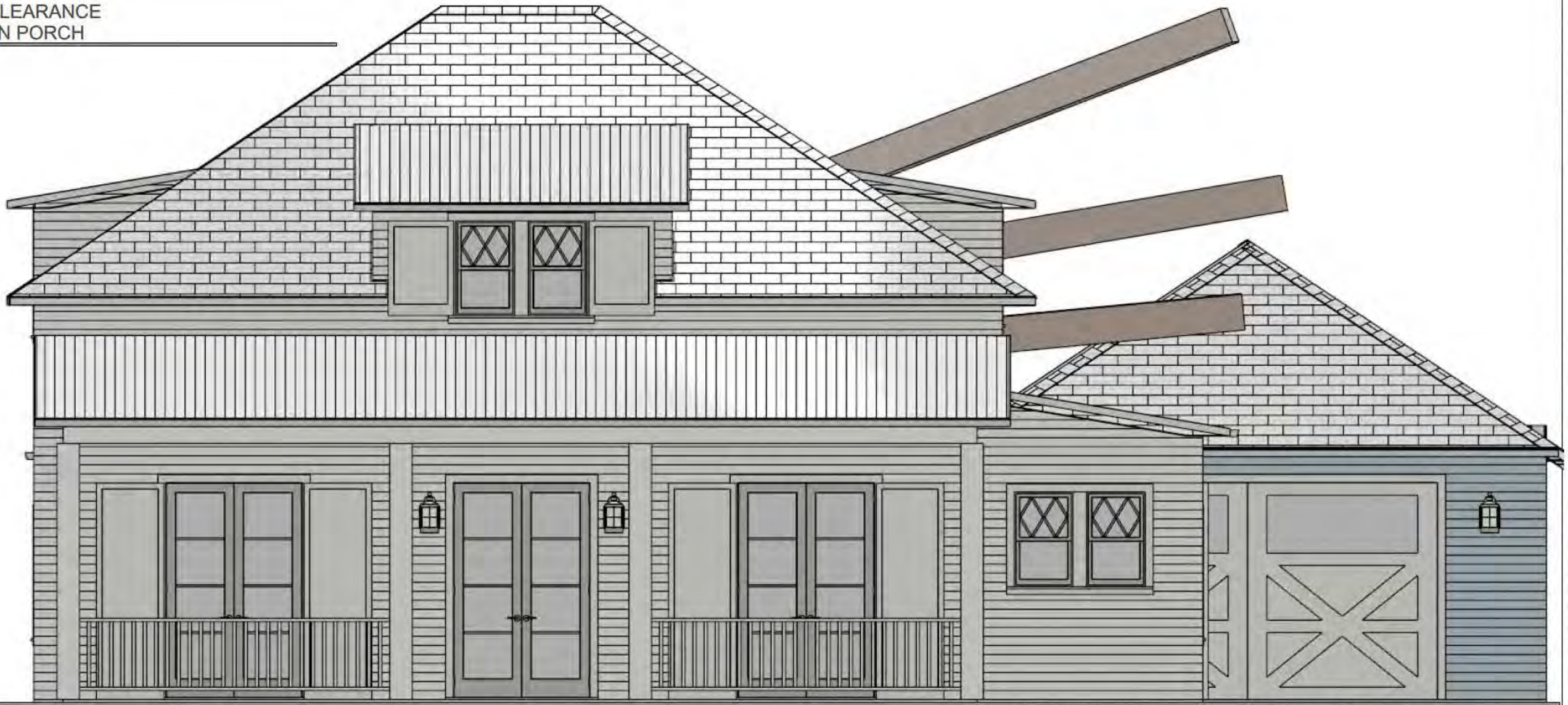
SHEET:

2



CONCEPTIONAL RENDERING:  
WEST ELEVATION OF LIMB CLEARANCE  
OVER HALLWAY AND SCREEN PORCH

1/4" = 1' SCALE



FRONT ELEVATION WITH TREE LIMBS IN THE REAR

1 / 2" = 1' SCALE

TREE LIMB PLACEMENT IS AN ESTIMATE AND IS TO BE  
VERIFIED WITH A SURVEYOR AND / OR ARBORIST.

FRONT ELEVATION  
WEST RENDERING

LASOURCE  
RESIDENCE

CHRISTINA STANKOSKI  
COASTAL CLASSICS  
Landscape Architecture & Design



DATE:

12/4/24

SCALE:

SHEET:

4



1/6" = 1' SCALE



CHRISTINA STANKOSKI  
COASTAL CLASSICS  
DESIGN • ARCHITECTURE • INTERIORS

LASOURCE  
RESIDENCE

SITE PLAN W/O TREES

DATE:

12/4/24

SCALE:

SHEET:

S-4