



**City of Fairhope
Board of Adjustments Agenda
5:00 PM
Council Chambers
June 16, 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
 - May 19, 2025
3. Consideration of Agenda Items

A. BOA 25.05 Public hearing to consider the request of the Owners, Robert and Melanie Roberts, for a 20.7' front setback variance and a 3.4' side setback variance on property zoned R-2 Medium Density Single-Family Residential District. The property is located at 657 N. Mobile Street. The property is approximately 0.48 acres. **PPIN#: 62470**

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

Printed on recycled paper

The Board of Adjustments met Monday, May 19, 2025, 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; Ryan Baker; Donna Cook; Bryan Flowers; Hunter Simmons, Planning and Zoning Director; Mike Jeffries, Development Services Manager and Cindy Beaudreau, Planning Clerk.

Absent: Frank Lamia

Chairman Vira called the meeting to order at 5:01 PM.

Approval of Minutes

Ryan Baker made a motion to approve the minutes from the April 21, 2025, meeting.

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

Aye: Anil Vira, Cathy Slagle, Ryan Baker, Donna Cook and Bryan Flowers

Nay: None.

BOA 25.07 Public hearing to consider the request of the Applicant, Jade Consulting, LLC, on behalf of the Owner, HJ Properties LLC, for a Special Exception to operate a bar and entertainment venue on property zoned M-1, Light Industrial District. The property is approximately .38 acres and is located at 363 Commercial Park Drive. **PPIN #: 10731**

Hunter Simmons, Planning and Zoning Director, presented the request of the Applicant, Jade Consulting, LLC, on behalf of the Owner, HJ Properties LLC, for a Special Exception to operate a bar and entertainment venue on property zoned M-1, Light Industrial District. Mr. Simmons shared the aerial and zoning maps. The bar and entertainment use is an accessory use to the proposed allowed indoor recreation facility.

Staff recommends approval of BOA 25.07 with the following conditions:

1. Signage shall conform to the Sign Ordinance.
2. Any additional parking spaces beyond 19 spaces shall be permeable.
3. Correct seat count to 51 not 47 in all plans to be submitted.
4. Outdoor patios shall have physical barriers defining the assembly space.

Paul Marcinko, Jade Consulting, thanked staff for their help in narrowing the focus.

Chairman Vira opened the public hearing at 5:13pm, with no one present to speak, the public hearing was closed at 5:13pm.

Cathy Slagle asked what the hours would be. Avery Reed, Owner, is proposing 7am-10pm and expects to have approximately 25 people at all times and 150 members.

Donna Cook asked how many employees they would have along with what types of events they expect to host. Mr. Reed replied that there will be four employees, and they expect to host corporate functions.

Bryan Flowers asked if there would be a traditional bar. Mr. Reed stated that it would be a traditional bar serving beer and wine.

Cathy Slagle asked about the cost of membership. Mr. Reed stated that the cost of membership has not been established but that there will be an initiation fee along with a membership fee.

Ryan Baker asked if this project would need to go through the Industrial Board. Hunter Simmons stated no.

Motion:

Cathy Slagle made a motion to approve BOA 25.07, with staff recommendations.

Ryan Baker seconded the motion and the motion carried with the following vote.

Aye: Anil Vira, Cathy Slagle, Ryan Baker, Donna Cook and Bryan Flowers

Nay: None.

Old/New Business

None

Adjournment

Cathy Slagle made a motion to adjourn.

The motion carried unanimously with the following vote:

Aye: Anil Vira, Cathy Slagle, Ryan Baker, Donna Cook and Bryan Flowers

Nay: None.

Adjourned at 5:17p.m.

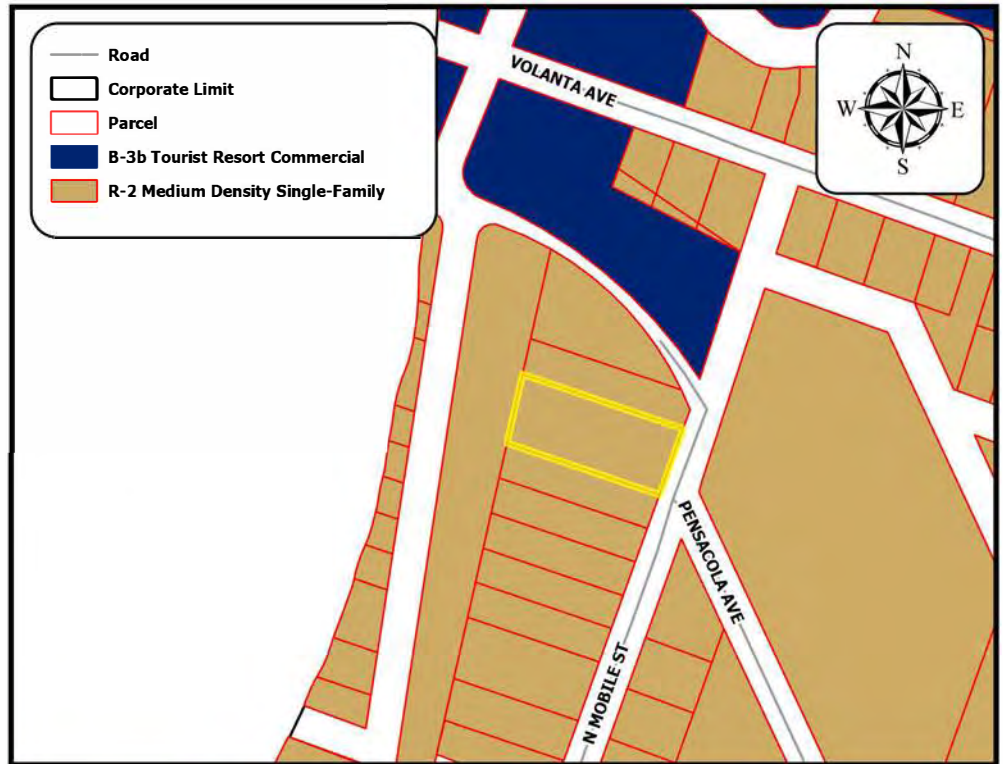
Anil Vira, Chairman

Cindy Beaudreau, Secretary

City of Fairhope Board of Adjustments June 16, 2025



BOA 25.05 - 657 N Mobile Street



Project Name:

657 N Mobile Street

Site Data:

0.48 acres

Project Type:

Various setback variances

Jurisdiction:

Fairhope Planning Jurisdiction

Zoning District:

R-2 Medium Density Single-Family
Residential District

PPIN Number:

62470

General Location:

West of the intersection of Pensacola
Avenue and North Mobile Street

Surveyor of Record:

N/A

Engineer of Record:

N/A

Owner / Developer:

Robert, Melanie Roberts

School District:

Fairhope Elementary School
Fairhope Middle and High Schools

Recommendation:

Denial

Prepared by:

Hunter Simmons



APPLICATION FOR BOARD OF ADJUSTMENTS

Application Type: Administrative Appeal Special Exception Variance

Property Owner / Leaseholder Information

Name: Robert A. Roberts and Melanie W. Roberts Phone Number: 225-405-1390
 Street Address: 657 N. Mobile Street
 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.

Robert A. Roberts
 Property Owner/Leaseholder Printed Name

Robert A. Roberts
 Signature

March 3, 2025
 Date

 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 lot is zoned as R2 but does not meet the required minimum width and is non-conforming. It's also classified as "Waterfront Improved" by the Baldwin County Tax Assessor.

How do the above indicated characteristics preclude reasonable use of your land? The house is currently under construction and is approximately 80% complete. It was determined that the previous contractor built the house within the West setback and the South setback. The house is approximately in the same spot as the previous house and is in-line with the other houses to the North and South; therefore, it is not impacting the other houses (see attached pictures).

What type of variance are you requesting (be as specific as possible)? We're humbly requesting to leave the house where it is, which means; we're requesting a variance of 20.7 feet to the West and 3.4 feet to the South.

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.

Robert A. Roberts
Property Owner/Leaseholder Printed Name

Robert A. Roberts
Signature

March 3, 2025
Date

Fairhope Single Tax Corp. (If Applicable)

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.

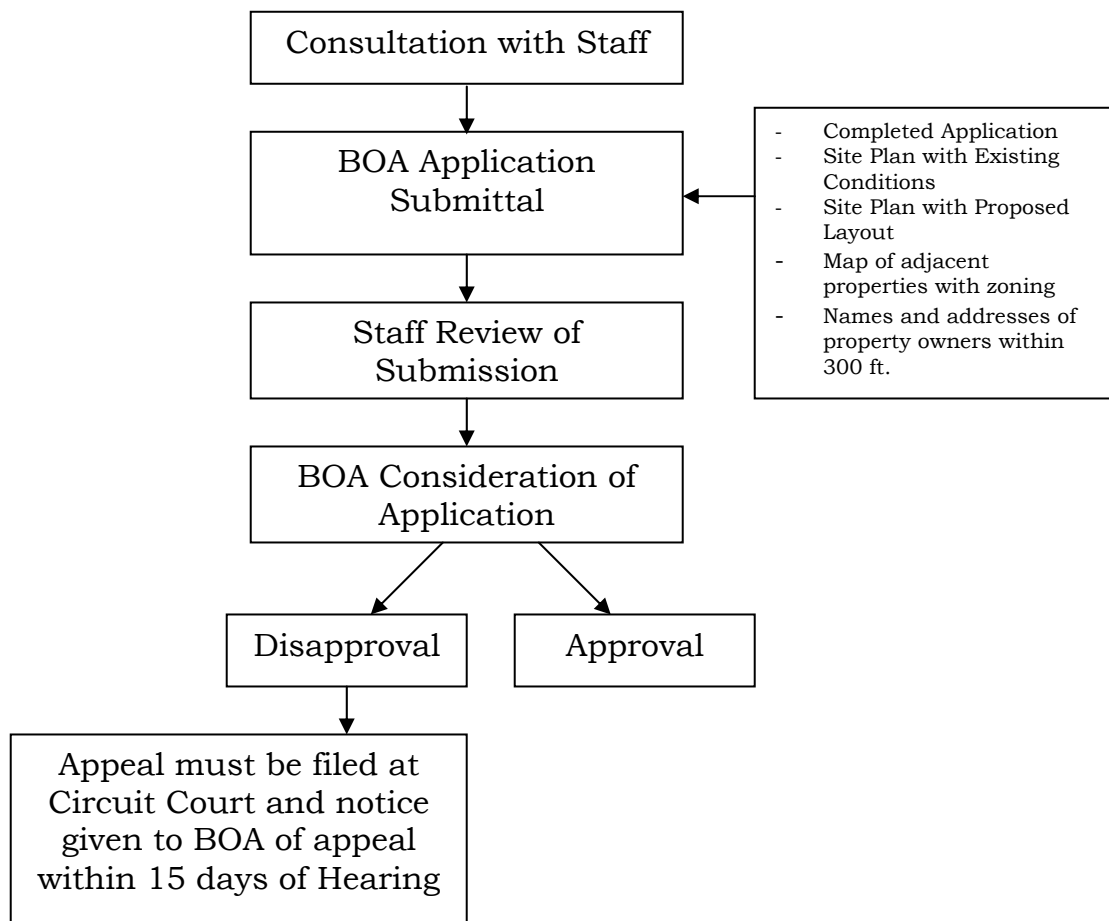
Approval of the request requires 4 of the 5 members of the BOA to vote in favor. A simple majority does not pass.

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





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

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 Robert A. Roberts, (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.

Robert A. Roberts
Signature of Applicant or Authorized Agent

March 5, 20205
Date of Application

Summary of Request:

Applicants, Robert and Melanie Roberts, are requesting a 20.7' front setback variance and a 3.4' side setback variance on property at 657 N Mobile Street. The property is zoned R-2 – Medium Density Single-Family Residential District and it is a waterfront lot.

Comments:

The Applicant’s variance narrative (Exhibit A) chronicles an approximately 2.5-year effort to construct a new home, including complaints of a Contractor who is no longer involved with the project. In summary, an un-signed survey dated January 7, 2025 (Exhibit B) revealed that the house was not built in the proper location and prompted this Application that was originally submitted on March 3, 2025. Figure 1 illustrates where the building is currently built. Figure 2 is a recent aerial photo (6/9/2025) with an approximation of the setbacks and property lines. Each variance request will be described and evaluated separately.

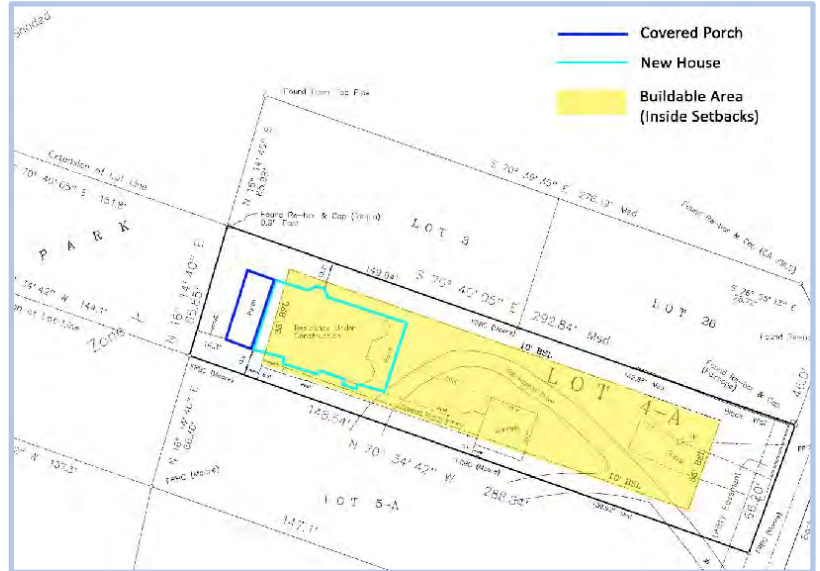


Figure 1: Survey of Current Conditions

20.7' Front Setback Variance:

Per the supplied survey, the existing building is 14.3 feet from the front property line. The front setback is 35 feet. Therefore, the variance request is for the difference 20.7'. The Applicant has not proposed any alterations to the building currently. If granted, the variance would result in a 14.3' front setback.



Figure 2: Photo taken on June 9, 2025 showing current conditions and approximation of the setback and property line.



Figure 3: Approximation of property line and location of park.

3.4' Side Setback Variance:

The applicant is also seeking a side setback variance of 3.4 feet. As shown in Figure 4, the building (blue line) falls within the buildable area (shaded yellow). A side setback variance is not needed for the primary structure. There is also a "Proposed Covered Walkway" circled in red on Figure 4. Figure 5 is a current aerial with the framework of the proposed covered walkway. According to the survey the proposed walkway is, at most, encroaching 3.4' into the side setback.

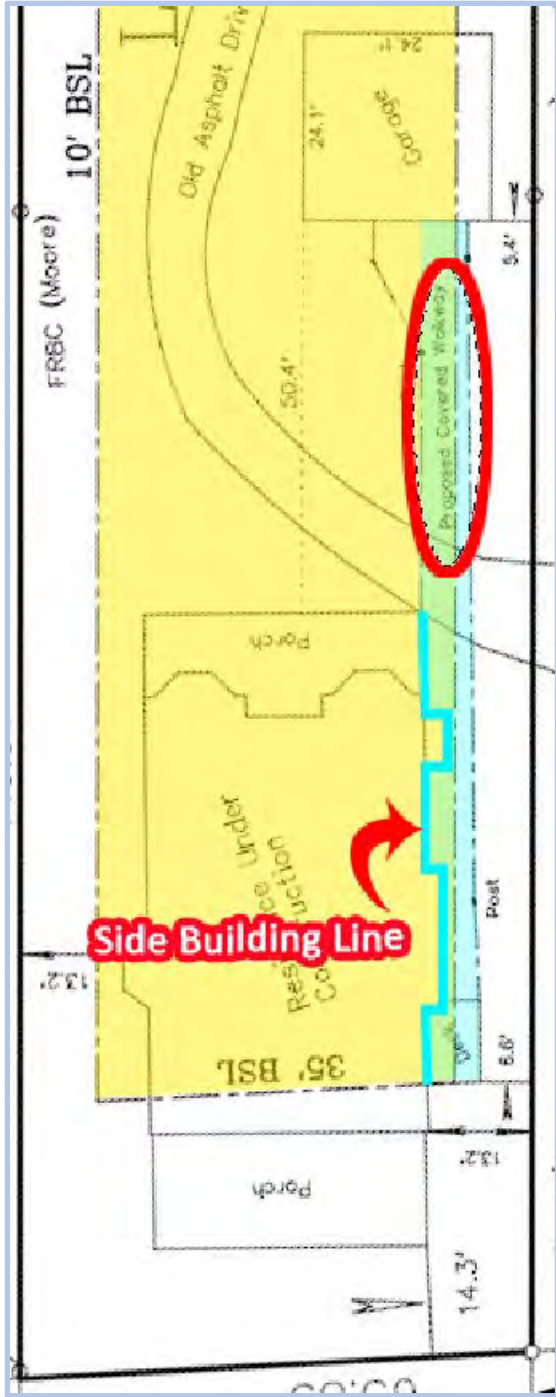


Figure 4: Recent survey with side setbacks and location of proposed covered walkway.



Figure 5: Current aerial with framework for covered walkway. Approximate location of setbacks and property line are overlaid for reference.

Analysis:

Article II, Section C.e.(1) establishes the review criteria for a Variance as follows:

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

1. The lot is non-conforming due to the width. Standard R-2 lots are a minimum of 75' in width and a minimum area of 10,500 square feet. The Subject lot is 66' wide and approximately 19,200 square feet in area. There is approximately 9,200 square feet of area inside the buildable area.
2. The Owner of Lot 4-A also owns Lot 4-B, which is an unbuildable lot. The two lots are separated by both an unopened right-of-way and parkland.
3. While there is a bluff nearby, the upper area of the bluff –the area where the house is built is relatively flat – and not extraordinarily or exceptionally prohibitive to build upon.

(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.

1. When the Palesano Place Re-plat was recorded in 2021, which created the Subject Property, setbacks were established in cooperation with the Palesano's, who still own the adjacent lot to the south. Careful consideration was given to ensure there is sufficient buildable area on the Subject Property.
2. For approximately a year – mid-2023 to mid-2024 – there was little to no construction activity on-site. Based on discussions with the Applicant and the provided narrative, it is clear that – at minimum – there were significant challenges with a former contractor who no longer holds a license in Alabama. While those complaints will be heard in Court, and Staff is sensitive to those challenges, both our Zoning Ordinance and former court rulings offer clear guidance. Personal financial hardship is insufficient justification to establish an 'unnecessary hardship' and, thus, is not reason to grant a variance.

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

1. In Staff's opinion, there is little reason to conclude the request for these variances are peculiar to the particular piece of property in question.

(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.

1. The Applicant stated the new house is in the same location as the old house that was demolished (Exhibit C). Article VII, Section B.3 of the Zoning Ordinance provides the following guidance on "Non-conforming Structures":

A non-conforming structure, which is not intentionally damaged, destroyed, or removed, may be restored within one year from the date of the event. If the structure is not re-constructed in one year all restorations and improvements shall be in compliance with applicable ordinances. The burden of proof of date of damage or destruction shall be on the person proposing the restoration.

The older home was intentionally demolished; therefore, all new construction shall comply with applicable ordinances.

2. The Applicant also states the current location of the home is “in-line” with other houses to the north and south. Staff does not have accurate survey information to justify the exactness of this statement, but we did review adjacent properties. Figure 6 shows the approximate front building lines overlain on the aerial provided by the Applicant (Exhibit D).

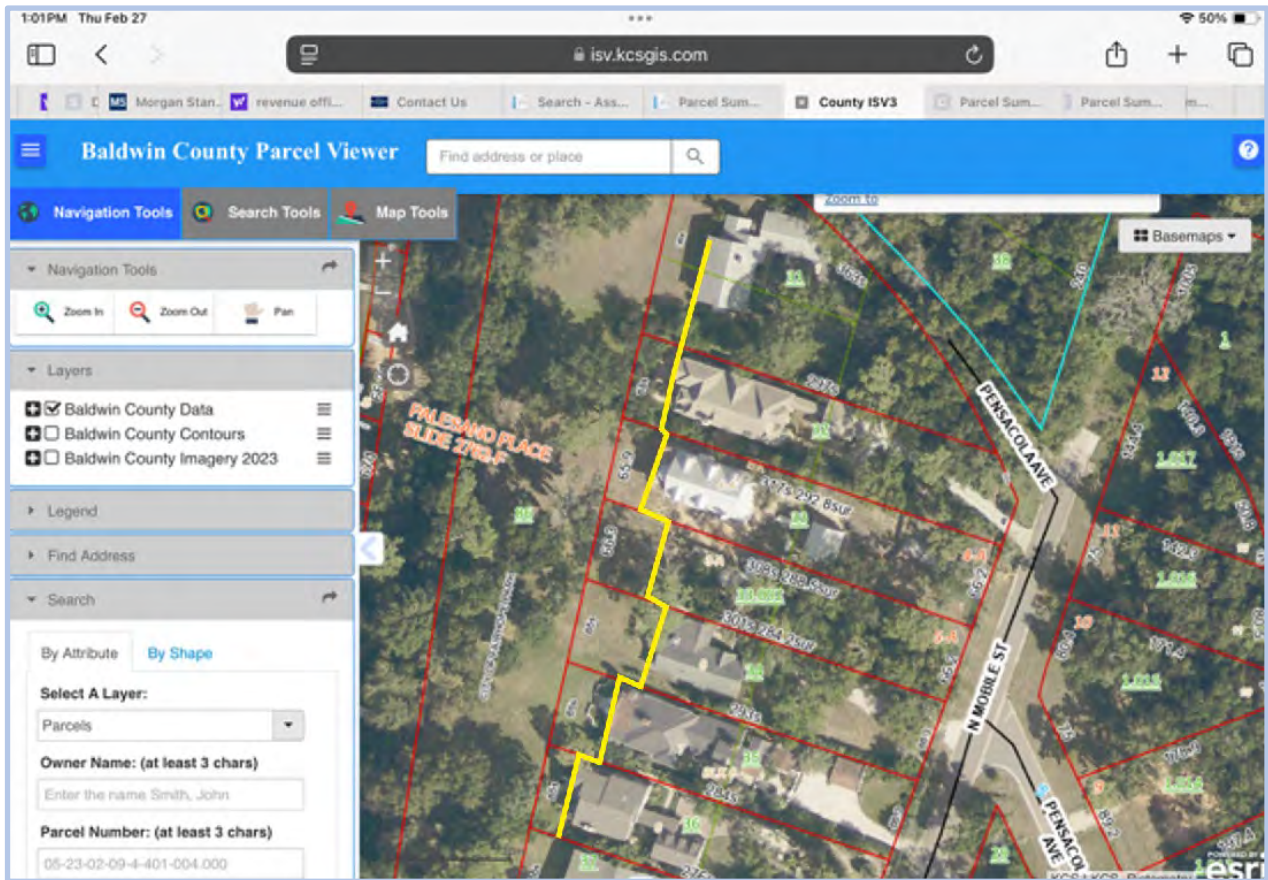


Figure 6: Baldwin County Parcel Viewer Screenshot of adjacent properties with approximate front building lines highlighted in yellow.

Article VII, Section D.3 – “Non-Conforming Lots” provides the following that may be of some relief.

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.

Essentially, the Applicant may choose to average the existing front setback of the two adjacent lots and their front building line “may be the same as the average front building line(s) of the adjacent lot(s)”. Currently, the lot to the south is undeveloped, but the setback is 35’. We do not have accurate information for the lot to the north but estimate the front building line somewhere near 20 feet. The average front building line of the adjacent lots is 27.5 feet ($20+35/2=27.5$). Also important to note is the following requirement, “In no case, shall the front building line be more than 5’ less than the minimum setback required for the district”. Thirty-five feet is the minimum setback required. Therefore, theoretically, Staff could administratively approve a front building line of 30’. A survey would be needed to confirm adjacent front building line(s).

3. Relief if granted, should not cause substantial detriment to the public good. Staff did receive concerns from neighboring property owners, especially regarding sight lines and obstructed views. While challenging to determine, Figure 7 attempts to illustrate the obstructed sight lines by the existing house in the current location vs. within the setbacks. The difference is the obstructed view. “Substantial detriment” can be somewhat subjective. From whose viewpoint should we evaluate? Staff acknowledges there are partial views blocked by the current location of the home but does not feel this concern alone is enough to either deny, nor support, the requested variances. Figure 7 is a view facing south. Figure 8 is a view looking north.



Figure 7



Figure 8

4. The proposed covered walkway lies within the side setback. While the framing exists, it remains uncovered. Open air structures, such as arbors, have been allowed in the past. If agreeable to the Board, Staff could support leaving the existing framing uncovered.

Recommendation:

In conclusion, Staff is sympathetic to the Roberts. However, evaluating the requests, Staff feels the current conditions are self-created hardships, even though they may be caused by an agent or agents. Being clear that financial difficulties are not reasons for a variance, Staff does not feel there is an “unnecessary hardship” that specifically relates to the land rather than personal circumstances.

Staff recommends **Denial** of BOA 25.05

Narrative summary:

In April 2021, Melanie and Bob Roberts purchased the property at 657 N. Mobile St. from Rick and Cari Palesano in Palesano Place Subdivision (formerly Volanta Subdivision). We sold our house of 12 years in Fairhope to partially finance building a new residence. For the last 3 years, we've rented a house at 16480 County Road 3 from Brady and Rob Berglin.

In 2022, we let a bid for construction of our new home. We selected Carter Hill Construction (CHC) from Baton Rouge, LA. CHC had just finished Melanie's brother's house in Baton Rouge and had family ties in Fairhope. CHC also submitted a lump sum bid and agreed to a lump sum contract, which I felt would protect us from any overages. It turned out to be the perfect contract vehicle for CHC to steal hundreds of thousands of dollars. CHC signed the American Institute of Architects (AIA) contract in November 2022, work began shortly thereafter.

I've included the Complaint filed November 20, 2024, in the Circuit Court of Baldwin County chronicling the Fraud, Bad Faith, and Misrepresentation by CHC. I've met with City of Fairhope officials, members of the Fairhope Police Department, members of the District Attorney's office, and the Federal Bureau of Investigation (FBI) to get help in this case.

In short, once the project was abandoned by CHC, Melanie and I began picking up the pieces. We started by "re-paying" subcontractors and supply vendors for work and material we'd already paid for. We replaced all siding, all brick, the roof, all windows, the plumbing, and poured missing fireplace hearths. This coupled with buying new code compliant windows and exterior doors, low bids on paint, exterior millwork, interior trim, etc., plus the \$250,000 stolen by CHC, has amounted to approximately \$750,000 or a 187% increase in additional cost, excluding additional construction loan interest.

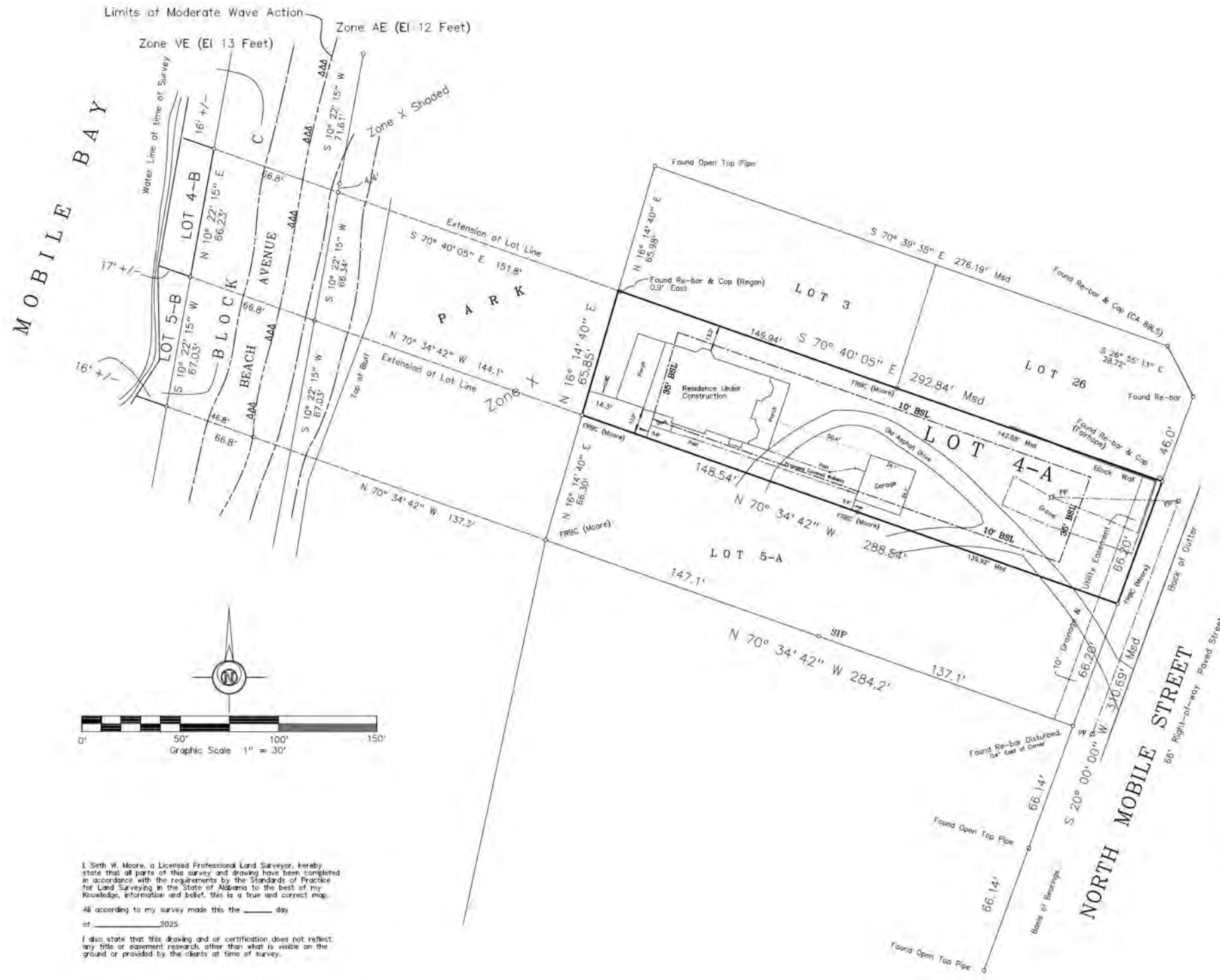
In October 2024, we were granted a 9-month extension on the construction loan, but with a rate hike of 3.75%...almost double. We're currently paying on average, \$13,000 per month in interest. In 2024 alone, we paid \$100,000 in interest that we shouldn't have had to pay.

Also in October 2024, Robert Brown, graciously agreed to help finish the house. We determined that the house is built in the wrong location. A new survey revealed that the edge of the side deck/stairs are 3.4 feet into the South setback and the front (bayside) of the house is 20.7 feet into the West setback or 14.3 feet from the west property line. The Lot is zoned as R2 but does not meet the Minimum Width Requirement of 75 ft and is therefore, a non-conforming lot. The Land Use is also classified as "Waterfront Improved" by the Baldwin County Tax Assessor's Office. This is the reason we're humbly requesting a variance.

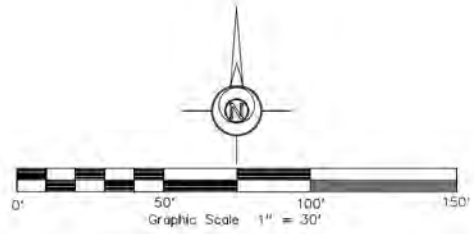
This house and what we paid for the property, has already greatly increased the value of the neighbors' houses and land. I've included aerial pictures of the placement of the original house and my house. As you will see, my house is approximately in the same location as the original house and in-line with the other houses to the north and south.

We've spent everything we have and borrowed additional money from my place of employment and friends to keep the project going. God has brought us to our knees. We have no pride. We need your help. Without the Board's help, without a variance, we'll have to walk away from the house and because Alabama is a deficiency state, we will be most certainly facing bankruptcy.

We're not out of towners...we've lived in Fairhope for 16 years. Melanie and I raised our 2 daughters here and we hope they raise their families here as well. We chose not to downsize but to build a house meant for grandchildren, for family Christmases, for Thanksgivings, and summer vacations. We're not extravagant people. We're two people who decided to take a leap of faith and build their dream home. We've been met with fraud, crushing financial trials and a crucible of humiliation. But, by keeping sincere and steadfast hearts, and fear of the Lord, we hope for joy and mercy.



- SURVEYOR'S NOTES:**
- All measurements were made in accordance with U.S. Standards.
 - Description as furnished by Client.
 - There may be recorded or unrecorded Deeds, Easements, right-of-ways, or other instruments that could affect the boundaries of said properties. There was NO attempt to determine the existence, location or extent of any sub-surface features such as Septic Tanks, Underground Utilities, Foundations, etc.
 - Bearings and Distances shown herein were "Computed" from actual field traverses.
 - The Basis of Bearings for this Survey are Based on Grid North as established by C. P. S. Real Time Network N. T. K. referenced to NAD 1983, Alabama West Zone.
 - There was NO attempt made to locate any Environmental issues such as but not limited to Wetlands, Field Tanks, etc.
 - Owner Must Verify Wetlands Location if Shown on Survey with the proper authorities before any construction is to be started.
 - Refer to Recorded Deeds, Plans, Restrictive Covenants for any additional information.
 - Measurements of the Residence are exterior dimensions and are not to be used for calculating square footage of Residence.
 - Flood Zones are noted from the current FEMA maps. Limits of proposed Residence to be sited are as per client's instructions.
 - Verify any Building Setbacks and Building location with the proper authorities before any construction can begin.
 - This Plat or Map is the property of Moore Surveying, Inc. and Seth Moore. It is solely for the use of the Client named herein and may not be used by a Third Party. This Survey is valid for 30 days from the date of survey and is NOT transferable to a Third Party and may NOT be used for any other purpose without prior written consent from Moore Surveying, Inc., or Seth Moore.
 - This Survey is based upon existing measurements found on previous surveys and does not purport to represent a retracement of the Government Survey.



LEGAL DESCRIPTION:
 LOT 4-a and 4-b BEING THAT PART OF BLOCK "C" LYING DIRECTLY IN FRONT OF LOT 4-A of PALESANO PLACE AS PER ITS PLAT RECORDED ON SLIDE #2762-F IN THE JUDGE OF PROBATE'S OFFICE, BALDWIN COUNTY, ALABAMA;

I, Seth W. Moore, a Licensed Professional Land Surveyor, hereby state that all parts of this survey and drawing have been completed in accordance with the requirements by the Standards of Practice for Land Surveying in the State of Alabama to the best of my knowledge, information and belief, this is a true and correct map.
 All according to my survey made this the ____ day of _____, 2025.
 I also state that this drawing and of certification does not reflect any title or statement regarding other than what is visible on the ground or provided by the clients at time of survey.

Seth W. Moore, P.L.S.
 Ala. Reg. No. 10571

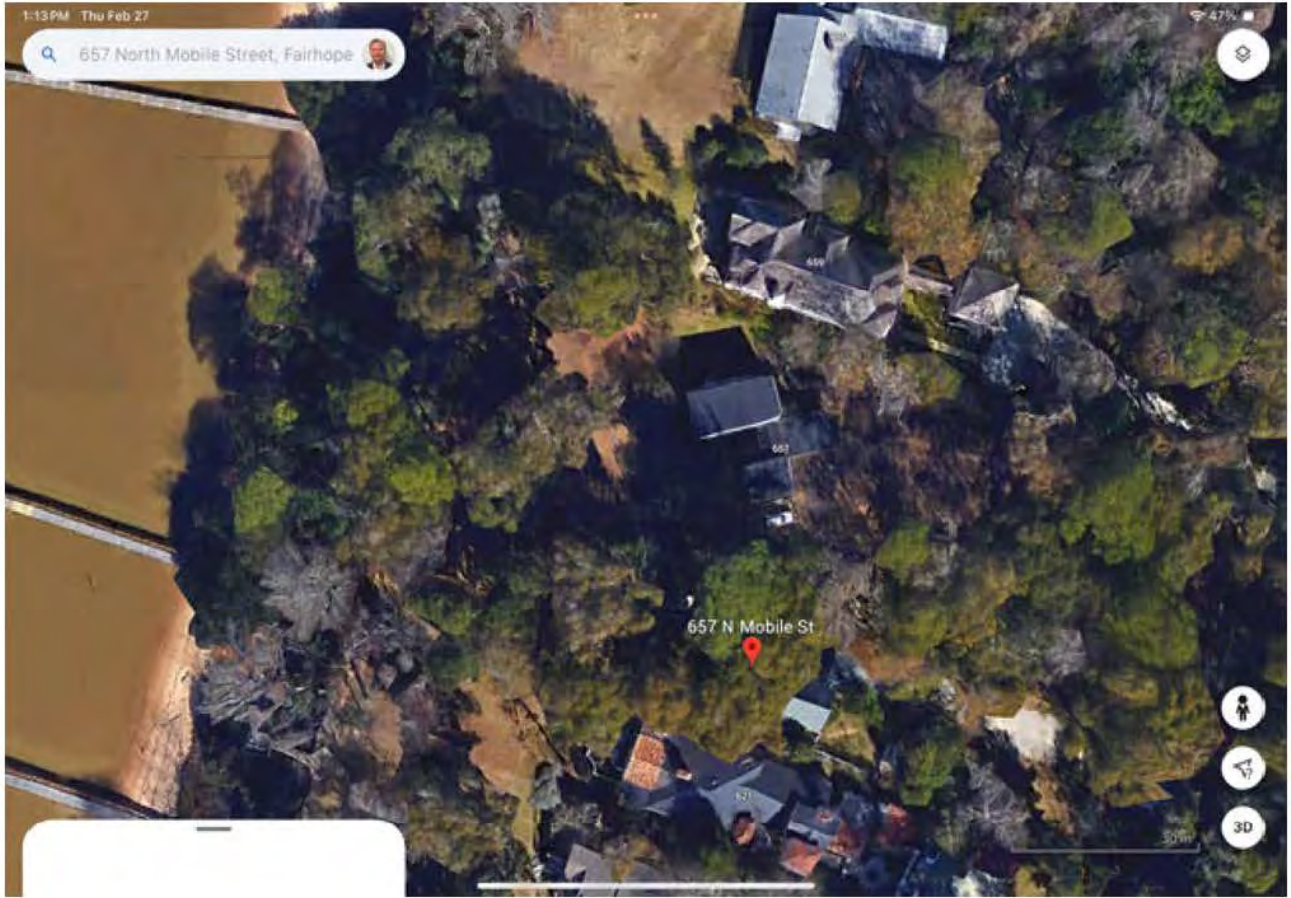
ROBERT & MELANIE ROBERTS
 657 MOBILE STREET NORTH
 FAIRHOPE, ALABAMA

MOORE SURVEYING, INC.
 PROFESSIONAL LAND SURVEYING
 555 NORTH SECTION STREET,
 FAIRHOPE, ALABAMA 36532
 PHONE (251) 928 - 6777
 Email: mooresurveying@bellsouth.net

PF = Error File CL = Centerline UG = Underground EC = Easement MS = Meters CA = Calculated FC = Fence Corner X = Station MC = Arc Length TR = Traverse SM = South Mark ELEV = Elevation FPOC = Found Re-bar & Cap FO = Found Open Top Pipe CR = Set Re-bar & Cap	JOB NO. 2025 003 DATE 1/7/2025 FIELD WORK DATE 1/03/2025 DRAWN BY SWM SCALE 1" = 30' REVISIONS
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PALESANO PLACE
 A RE-PLAT OF LOTS 4, 5, 24 AND 25, BLOCK 8, ALSO THAT PART OF BLOCK "C" LYING DIRECTLY IN FRONT OF LOT 4 and 5 BLOCK 8, VOLANTA SUBDIVISION AS PER ITS PLAT RECORDED IN MISCELLANEOUS BOOK 1, PAGE 341
 NORTH MOBILE STREET FAIRHOPE, ALABAMA

This Survey is subject to 2025 MOORE SURVEYING, INC. Copying this Survey is strictly prohibited.



1:01PM Thu Feb 27 50%

isv.kcsgis.com

Morgan Stan... revenue offi... Contact Us Search - Aas... Parcel Sum... County ISV3 Parcel Sum... Parcel Sum... m...

Baldwin County Parcel Viewer

Find address or place

Navigation Tools Search Tools Map Tools

Navigation Tools

- Zoom In
- Zoom Out
- Pan

Layers

- Baldwin County Data
- Baldwin County Contours
- Baldwin County Imagery 2023

Legend

Find Address

Search

By Attribute **By Shape**

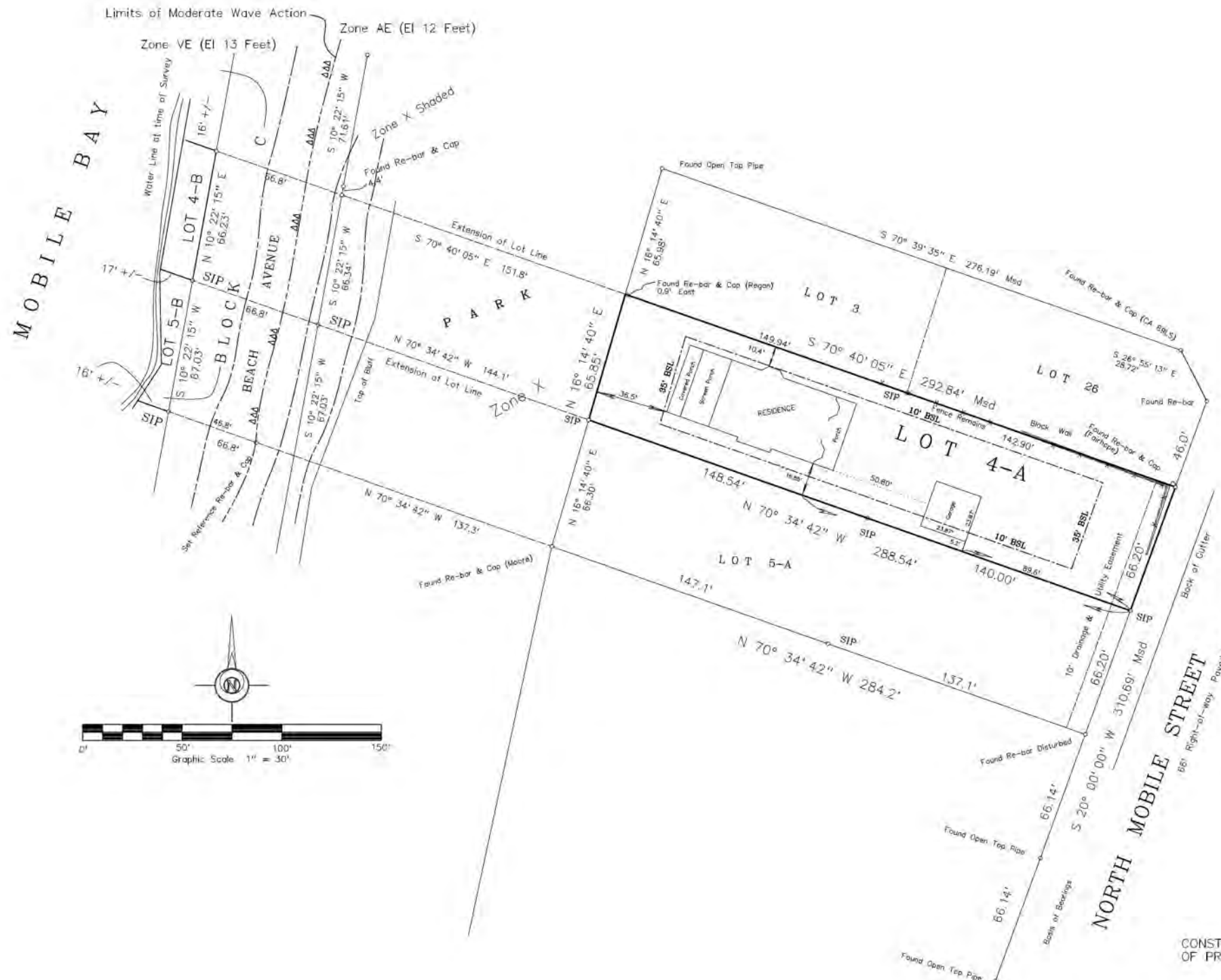
Select A Layer:

Parcels

Owner Name: (at least 3 chars)
Enter the name: Smith, John

Parcel Number: (at least 3 chars)
06-23-02-09-4-401-004-000

esri



- SURVEYOR'S NOTES:**
- All measurements were made in accordance with U.S. Standards.
 - Description as furnished by Client.
 - There may be Recorded or Unrecorded Easements, right-of-ways or other instruments that could affect the boundaries of said properties.
 - There was NO attempt to determine the existence, location or extent of any sub-surface features such as Septic Tanks, Underground Utilities, Footings, etc.
 - Bearings and Distances shown herein were "Computed" from actual field traverses.
 - The Basis of Bearings for this Survey are Based on Grid North as established by G. P. S. Real Time Network R. T. N., referenced to NAD 1983, Alabama State Zone.
 - There was NO attempt made to locate any Environmental Issues such as but not limited to Wet Lands, Plant Toxins, etc.
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 - Refer to Recorded Deeds, Plans, Restrictive Covenants for any additional information.
 - Measurements of the Residence and exterior dimensions and are not to be used for calculating square footage of Residence.
 - Flood Zones are shown from the current FEMA maps.
 - Limits of proposed Residence to be shown as per clients instructions.
 - Verify any Building Setbacks and Building location with the proper authorities before any construction can begin.
 - This Plat or Map is the property of Moore Surveying Inc. and Seth Moore, it is solely for the use of the Client named herein and may not be used by a Third Party.
 - This Survey is valid for 30 days from the date of survey and it is NOT transferable to a Third Party and may NOT be used for any other purpose without prior written consent from Moore Surveying Inc., or Seth Moore.
 - This Survey is based upon existing measurements found as herein shown and does not purport to represent a retracement of the Government Survey.

LEGAL DESCRIPTION:
 LOT 4-a and 4-B BEING THAT PART OF BLOCK "C" LYING DIRECTLY IN FRONT OF LOT 4-A OF PALESANO PLACE AS PER ITS PLAT RECORDED ON SLIDE #2762-F IN THE JUDGE OF PROBATE'S OFFICE, BALDWIN COUNTY, ALABAMA;

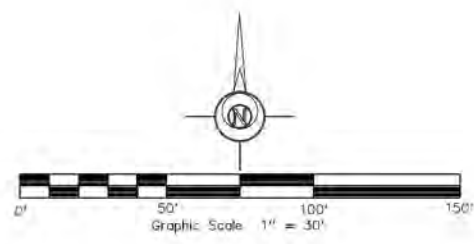
CONSTRUCTION STAKEOUT SURVEY OF PROPOSED RESIDENCE AND GARAGE.

ROBERT & MELANIE ROBERTS
 857 MOBILE AVE NORTH
 FAIRHOPE, ALABAMA

I, Seth W. Moore, a Licensed Professional Land Surveyor, hereby state that all parts of this survey and drawings have been completed in accordance with the requirements by the Standards of Practice for Land Surveying in the State of Alabama to the best of my knowledge, information and belief, this is a true and correct map.

I have reviewed this drawing and determined that the building area as shown herein can be positioned on the lot without encroaching over adjacent lines and property lines unless otherwise noted herein.

Seth W. Moore FLS 16071



05-46-03-37-0-002-033.000
 PIN: 62470
 ROBERTS, ROBERT A & ROBERTS, MELANIE
 226 WENTWORTH STREET
 FAIRHOPE AL 36532



MOORE SURVEYING, INC.
 PROFESSIONAL LAND SURVEYING
 555 NORTH SECTION STREET,
 FAIRHOPE, ALABAMA 36532
 PHONE (251) 928 - 6777
 Email mooresurveying@bellsouth.net

FL = From File	JOB NO.	2019 307 B
CL = Contour	DATE	11/17/2022
UG = Underground	FIELD WORK DATE	
FC = Fenced	DRAWN BY	SWM
MR = Measured	SCALE	1" = 30'
CD = Calculated	REVISIONS:	
FC = Fence Corner		
B = Bench		
EL = Elevation		
BL = Bench Mark		
ELV = Elevation		
FRB = Found Re-bar & Cap		
FB = Found Iron Pin		
CP = Set Re-bar & Cap		

PALESANO PLACE

A RE-PLAT OF LOTS 4, 5, 24 AND 25, BLOCK B, ALSO THAT PART OF BLOCK "C" LYING DIRECTLY IN FRONT OF LOT 4 and 5 BLOCK B, VOLANTA SUBDIVISION AS PER ITS PLAT RECORDED IN MISCELLANEOUS BOOK 1, PAGE 341
 NORTH MOBILE STREET FAIRHOPE ALABAMA

This Survey is copyright © 2022 MOORE SURVEYING, INC. Copies this Survey in any form are prohibited.

OWNER'S CERTIFICATE OF ACCEPTANCE:

STATE OF ALABAMA
COUNTY OF BALDWIN

This is to certify that, CLOVER LLC, the undersigned do hereby certify that 9650 DOVE RUN LLC is the Owner of the within platted and described lands and that We have caused the same to be surveyed and subdivided as indicated hereon, for the uses and purposes herein set forth and do hereby acknowledge and adopt the same under the design and title hereon indicated, and grant all easements and dedicate all Streets, to the public or private uses as noted on this plat.

CLOVER LLC

By: Carri Palesano 2/11/21
AS Member Date

NOTARY PUBLIC:

STATE OF ALABAMA
COUNTY OF BALDWIN

I, W. Kenneth Heard, a Notary Public, in and for said State and County, do hereby certify that the above name/s signed to the within OWNERS ACCEPTANCE and who are known to me, that they voluntarily executed said ACCEPTANCE on this date.
Given under my hand and seal this the 11th day of FEBRUARY, 2021.

W. Kenneth Heard
Notary Public - BALDWIN County, ALABAMA

My Commission Expires: 9/13/21

A DRAINAGE PLAN, BY AN ALABAMA REGISTERED ENGINEER, SHALL BE SUBMITTED AT THE TIME OF BUILDING PERMIT AND SHALL MEET OR EXCEED THE REQUIREMENTS OF THE CITY OF FAIRHOPE ORDINANCES AND ALABAMA DEPARTMENT ENVIRONMENTAL MANAGEMENT REQUIREMENTS AS PER THE 2016 HANDBOOK (ADEM) OR LATEST VERSION.

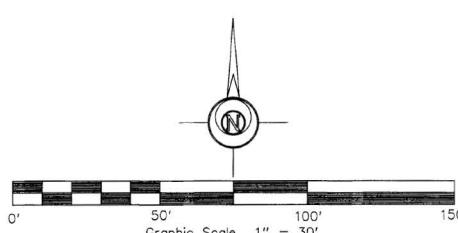
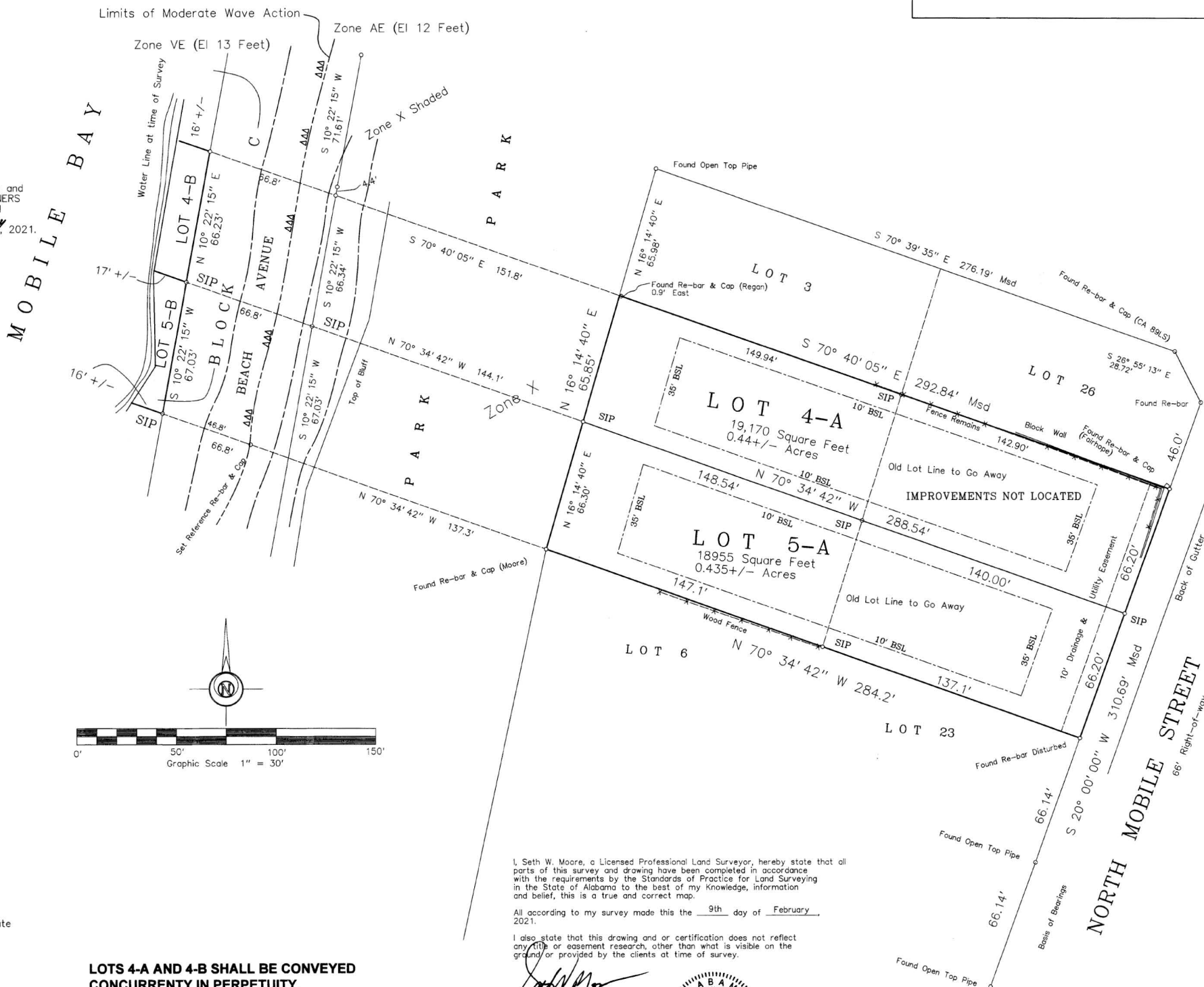
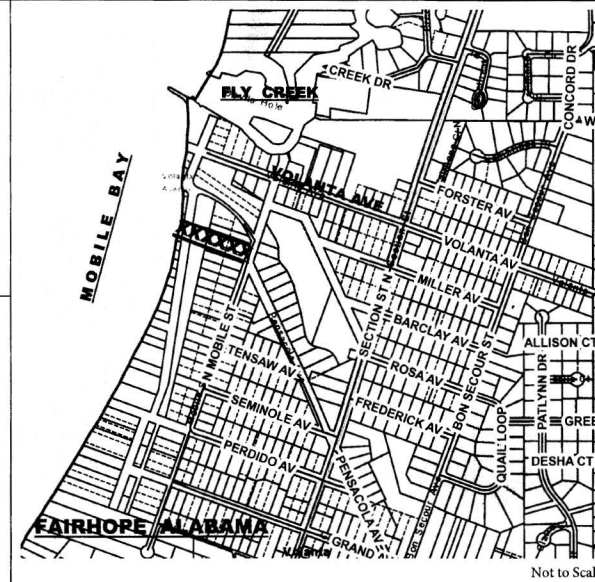
BUILDING SETBACKS ARE DETERMINED BY THE CITY OF FAIRHOPE ZONING ORDINANCE, THE PRESENT ZONING IS R-2

THE FINISH FLOOR ELEVATION IS AS SHOWN OR SHALL BE 16-INCHES HIGHER THAN THE HIGHEST ELEVATION NEXT TO THE RESIDENCE.

BALDWIN COUNTY, ALABAMA
HARRY D. OLIVE, JR., PROBATE JUDGE
Filed Cert. 2/22/21 2:18 PM
TOTAL 5 PAGES
J 1 Page

SLIDE 0002762-F

189240
189240



- SURVEYORS NOTES:
- All measurements were made in accordance with U.S. Standards.
 - Description as furnished by Client.
 - There may be Recorded or Unrecorded Deeds, Easements, right-of-ways, or other instruments that could affect the boundaries of said properties. There was NO attempt to determine the existence, location or extent of any Sub-surface features such as Septic Tanks, Underground Utilities, Footings, etc.
 - Bearings and Distances shown hereon were "Computed" from actual field traverses.
 - The Basis of Bearings for this Survey are Based on Grid North as established by the G.S. Read Time Network R. T. K., referenced to NAD 1983, Alabama West Zone.
 - There was NO attempt made to locate any Environmental issues such as but not limited to Wet Lands, Fuel Tanks, etc.
 - Owner Must Verify Wetlands Location if Shown on Survey with the proper authorities before any construction is to be started.
 - Refer to Recorded Deeds, Plats, Restrictive Covenants for any additional information.
 - Measurements of the Residence are exterior dimensions and are not to be used for calculating square footage of Residence.
 - Flood Zones are scaled from the current FEMA maps. Limits of proposed Residences to be staked are as per clients instructions.
 - Verify any Building Setbacks and Building location with the proper authorities before any construction can begin.
 - This Plat or Map is the property of Moore Surveying Inc. and Seth Moore. It is Solely for the use of the Client. It is Not Transferable to a Third Party and may NOT be used for any other purpose without prior written consent from Moore Surveying Inc., or Seth Moore.
 - This Survey is based upon existing monumentation found as hereon states and does not purport to represent a retracement of the Government Survey.

SITE DATA FOR A RE-PLAT OF 5 LOTS INTO 4 LOTS:

- Total Number of Lots 4,
Project Size 0.875+/- Acres
Smallest Lot 18,955+/- Square Feet
Largest Lot 19,170+/- Square Feet
- The Lots are served by
AT & T Communications (BELLSOUTH) - Telephone
City of Fairhope Water, Gas, Sewer, Power
- Property lies IN side the City of Fairhope.
- Property is Zoned R-2.
Building Setbacks
FRONT 35 Feet
REAR 35 Feet
SIDE 10 Feet
Unless Otherwise Noted Hereon.

NO NEW Streets or Utility Lines this Project at this time.
Easements are as shown hereon.

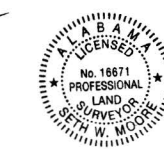
FLOOD CERTIFICATE:
I also state that I have examined the current FIA Official Flood Hazard Map, Community Number 010006, Panel Number 0642 M, (01003C0642 M) and found referenced lot above lies in Flood Zones VE, AE, X, Map Dated April 19, 2019.

LEGAL DESCRIPTION:
LOTS 4, 5, 24 AND 25, BLOCK B, ALSO THAT PART OF BLOCK "C" LYING DIRECTLY IN FRONT OF LOT 4 and 5 BLOCK B, VOLANTA SUBDIVISION AS PER ITS PLAT RECORDED IN MISCELLANEOUS BOOK 1, PAGE 341 IN THE JUDGE OF PROBATE'S OFFICE, BALDWIN COUNTY, ALABAMA;

APPROVAL OF THE CITY OF FAIRHOPE PLANNING DIRECTOR
The undersigned, as authorized by the City of Fairhope Planning Director, hereby approves the within re-plot for the recording of same in the Probate Office, Baldwin County, Alabama, on this the 22ND day of FEBRUARY, 2021
[Signature]
City of Fairhope Planning Director

**LOTS 4-A AND 4-B SHALL BE CONVEYED CONCURRENTLY IN PERPETUITY.
LOTS 5-A AND 5-B SHALL BE CONVEYED CONCURRENTLY IN PERPETUITY.**

I, Seth W. Moore, a Licensed Professional Land Surveyor, hereby state that all parts of this survey and drawing have been completed in accordance with the requirements by the Standards of Practice for Land Surveying in the State of Alabama to the best of my knowledge, information and belief, this is a true and correct map.
All according to my survey made this the 9th day of February, 2021.
I also state that this drawing and or certification does not reflect any ADI or assessment research, other than what is visible on the ground or provided by the clients at time of survey.
[Signature]
Seth W. Moore, P.L.S.
Ala. Reg. No. 19671



OWNER / DEVELOPER
05-46-03-37-0-002-033.000 & 033.001
PIN: 62470 & 62471
CLOVER L L C
621 N MOBILE ST
FAIRHOPE AL 36532



MOORE SURVEYING, INC.
PROFESSIONAL LAND SURVEYING
555 NORTH SECTION STREET,
FAIRHOPE, ALABAMA 36532
PHONE (251) 928 - 6777
Email mooresurveying@bellsouth.net

PL = Power Pole	JOB NO.	2019 307 B
CL = Centerline	DATE	12/30/2019
UL = Unsubdivided	FIELD WORK DATE	12/17-27
REC = Record	DRAWN BY	SWM
MED = Measured	SCALE	1" = 50'
CAL = Calculated	REVISIONS	2/09/2021 Subdivision Plat
FC = Fence Corner		
R = Radius		
ARC = Arc Length		
TBL = Telephone		
BM = Bench Mark		
ELEV = Elevation		
FBOC = Found Re-bar & Cap		
FP = Found Iron Pin		
SP = Set Re-bar & Cap		

PALESANO PLACE
A RE-PLAT OF LOTS 4, 5, 24 AND 25, BLOCK B, ALSO THAT PART OF BLOCK "C" LYING DIRECTLY IN FRONT OF LOT 4 and 5 BLOCK B, VOLANTA SUBDIVISION AS PER ITS PLAT RECORDED IN MISCELLANEOUS BOOK 1, PAGE 341
NORTH MOBILE STREET FAIRHOPE, ALABAMA



AlaFile E-Notice

05-CV-2024-901674.00

To: Michael C. Niemeyer
mniemeyer@handfirm.com

NOTICE OF ELECTRONIC FILING

IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

ROBERT ASHLEY ROBERTS ET AL V. CARTER HILL CONSTRUCTION, LLC ET AL
05-CV-2024-901674.00

The following complaint was FILED on 11/20/2024 9:57:25 AM

Notice Date: 11/20/2024 9:57:25 AM

BRENDA Q. GANEY
CIRCUIT COURT CLERK
BALDWIN COUNTY, ALABAMA
312 COURTHOUSE SQUARE
SUITE 10
BAY MINETTE, AL, 36507

251-937-0280
brenda.ganey@alacourt.gov

**IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA****ROBERT ASHLEY ROBERTS and
MELANIE WOODWARD ROBERTS****Plaintiffs,****v.****CARTER HILL CONSTRUCTION, LLC;
and JOSEPH CARTER HILL****Defendants.****CASE NO.:****COMPLAINT**

Plaintiffs Robert Ashley Roberts (“Bob Roberts”) and Melanie Woodward Roberts (“Melanie Roberts”) (collectively “the Roberts”) submit the following as their complaint against Defendants Carter Hill Construction, LLC and Joseph Carter Hill:

PARTIES AND JURISDICTION

1. Plaintiffs are both residents and citizens of Baldwin County, Alabama.
2. Defendant Joseph Carter Hill (“Hill”) was a licensed homebuilder under Alabama law and has subjected himself to the jurisdiction of this Court by conducting business in Baldwin County, Alabama.
3. Defendant Carter Hill Construction, LLC (“CHC”) is a foreign limited liability corporation that has subjected itself to the jurisdiction of this Court by conducting business in Baldwin County, Alabama.
4. This Court has jurisdiction over the Parties and the subject matter of this action as most of the conduct of the Defendants that is material to this action occurred in Baldwin County, Alabama, and the amount in controversy exceeds the jurisdictional minimum of this Court.

FACTUAL ALLEGATIONS

5. In April 2021, the Roberts purchased a lot located at 657 North Mobile Street in Fairhope, Alabama. The Roberts purchased this lot to build a new home.

6. In 2022, the Roberts begin planning to construct their new home by obtaining bids from homebuilders. One of the homebuilders who submitted a bid was Hill who submitted a bid through his company, CHC. In September 2022, the Roberts selected Hill and CHC as the homebuilder to construct their new home.

7. Upon information and belief, Hill and CHC were having significant liquidity problems with their homebuilding business in the months leading up to September 2022. Hill and CHC had recently sold receivables from their homebuilding business to at least two factoring companies, also known as merchant cash advance companies. Hill and CHC sold their receivables to these factoring companies because they were unable to adequately fund their ongoing homebuilding projects with available cash flow from ongoing projects or traditional lending sources. Hill and CHC concealed and failed to disclose to the Roberts that they were having liquidity issues and had sold their receivables, including the receivables that Hill and CHC were expecting to receive from the Roberts' project, to at least two factoring companies. This information would have been material to the Roberts in their decision to select Hill and CHC to construct their new home.

8. On September 13, 2022, the Roberts met with Hill to discuss cost estimates for the project, material and design selections, and other general items concerning the construction of their new home. On September 16, 2022, Hill sent an email to the Roberts with a proposed contract and draft exhibits to that contract.

9. Over the next few weeks, the Roberts, their architect, and Hill exchanged emails and revisions of the draft contract, the plans and specifications and other contract exhibits.

10. As soon as Hill was informed that he and CHC had been selected to construct the Roberts new residence, he applied for an Alabama homebuilder license. Neither Hill nor CHC had ever been licensed as a homebuilder in Alabama.

11. When the contract was completed and ready for execution by the parties, Bob Roberts informed Hill that he planned to sign the contract but would hold the required ten percent (10%) initial deposit until Hill and CHC obtained an Alabama Homebuilder License. Hill represented to the Roberts verbally and in writing that he was concerned with the Roberts not immediately paying the initial deposit because subcontractors and vendors from whom he claimed to have received pricing would only hold their pricing for thirty days. Upon information and belief, Hill and CHC had not obtained pricing from subcontractors and vendors on many items for the Roberts' project, and Hill was pressing the Roberts to pay the initial deposit because of the extreme liquidity problems that Hill and CHC were facing with respect to their other ongoing homebuilding projects, personal obligations, and their obligations to the factoring companies to whom they had sold their receivables. Again, Hill did not inform the Roberts of these liquidity problems, and this information would have been material to the Roberts' decision to execute a contract with CHC to construct their new home.

12. Effective October 6, 2022, the Roberts and CHC executed an AIA standard form agreement between owner and contractor. The contract was signed by Hill and Bob Roberts.

13. On November 2, 2022, the Roberts paid the initial ten percent (10%) deposit specified in the contract to CHC in the amount of \$143,198.70 via wire transfer to a bank account of CHC. Prior to the Roberts making that deposit payment to CHC, Hill represented to the Roberts

in multiple conversations both in person and on the phone that he would use those funds to make initial deposits for certain materials that would be needed for the project, such as cabinets, windows, doors, and other items more specifically described below. Hill knew at the time he made those representations that they were false and that he did not intend to utilize the initial deposit of construction funds from the Roberts to purchase materials for their project, but rather would use some or all the Roberts' deposit funds to pay other obligations that both CHC and Hill had incurred for other projects and other matters.

14. On or about December 6, 2022, Hill submitted CHC payment application #1 to the Roberts. In that application, Hill certified under his signature that the work that was described in this pay application had been completed in accordance with the contract documents, and that all amounts referenced had been paid by CHC for work described as completed in that pay application. More specifically, Hill represented under his signature this pay application that the payments that CHC had previously received from the Roberts for work that CHC had described as either completed or partially completed had been paid by the CHC for work and or materials for the Roberts' project. For example, in pay application #1, Hill represented that CHC had paid deposits for the windows to be installed in the Roberts' home in the amount of \$22,295, and that payment of this deposit represented 65% completion of the purchase and installation of windows for the project. At the time he made this representation, Hill was aware that CHC had paid no money to any window supplier for deposits and had ordered no windows for the project, and that the actual percentage of completion for this line item on these scheduled values was 0%. Hill made this representation in this payment application intentionally and with the intent to deceive the Roberts. The Roberts relied upon this intentional misrepresentation by Hill to issue a payment to CHC for

pay application #1 in reliance upon Hill's fraudulent misrepresentations about the windows for the project.

15. As another example of Hill's fraudulent misrepresentation in pay application #1, Hill represented that prior to his submission of this pay application CHC had paid a deposit to order exterior doors for the project in the amount of \$7,683. Hill was aware at the time that he made this misrepresentation that CHC had paid no money to any supplier to order or purchase exterior doors for the project. In addition, in pay application #1 Hill misrepresented to the Roberts that the exterior door item on CHC's schedule of values was 65% complete when in fact Hill was aware that this actual percentage of completion was 0%. This misrepresentation by Hill in pay application #1 was intentional and made with an intent to deceive the Roberts, and the Roberts relied upon this intentional misrepresentation by Hill when they made payment to CHC in response to pay application #1.

16. CHC submitted a total of eleven pay applications to the Roberts during the project. Hill and CHC committed at least eighty-one separate misrepresentations in the pay applications. More specifically, Hill expressly represented on at least eighty-one occasions in the pay applications that CHC had made payments for material deposits or work done on the project, when in fact no money had been paid toward those items. In addition, for those same eighty-one separate items Hill misrepresented to the Roberts a percentage of completion between 35% and 65%, but Hill knew at the time he made the representation that the actual percentage of completion was 0%. Hill selected the items about which he would misrepresent the money paid and percentage of completion strategically so that the Roberts would not detect his fraudulent scheme. Each of the items that Hill misrepresented was one that would be delivered at a later stage of the project, such as cabinets, countertops, millwork/trim carpentry, gutters/downspouts, interior doors, shutters,

garage doors, windows, exterior doors, wood flooring, porch flooring, tile materials, bath/showers, drywall, plumbing fixtures, HVAC and a generator. The Roberts relied on these intentional misrepresentations by Hill and continued to pay money to CHC in reliance upon Hill's fraudulent misrepresentations.

17. During the project there were discussions between Hill and the Roberts concerning the selection of a range in the kitchen made by a company called Lacanche. The agreement between Hill and the Roberts was that the Roberts would pay CHC, in advance, the entire purchase price of the Lacanche range, and in turn CHC would purchase the range, have it delivered, and installed it in their kitchen. The Roberts paid \$32,625 to CHC at Hill's request based upon the representation by Hill that he would use all that money to purchase the range. Hill knew at the time that he was not going to use all the money to purchase the range for the Roberts' home, and that he would misappropriate a portion of that money to pay other obligations that Hill and CHC had for projects and matters unrelated to the Roberts' project. In fact, CHC remitted only \$19,515 to the supplier for the purchase of the range and used the other \$13,050 of the funds that the Roberts had paid to CHC for obligations that Hill and/or CHC had incurred on projects and matters unrelated to the Roberts' project. The Roberts paid the entire purchase price of the range to CHC in reliance upon Hill's fraudulent misrepresentations regarding his intended use of those funds to purchase the range for the Roberts' project.

18. In addition to misrepresentations concerning specific items on CHC's schedule of items of materials and work, Hill also misrepresented on various pay applications the amount of CHC's fee to which CHC was entitled. Through the eleven pay applications that Hill submitted on behalf of CHC to the Roberts, Hill represented that the project was 63% complete at the time pay application #11 was submitted. Hill was aware that his representation to the Roberts that the

project was 63% complete and that CHC was entitled to 63% of its agreed upon fee was a false representation. Hill knew that if he had accurately represented to the Roberts through the pay applications the percentage of completion for the items that were 0% complete, CHC would have been entitled to less than the amount of fee that CHC collected from the Roberts. In addition, in all the pay applications Hill misrepresented the amount of materials sales tax that CHC had paid on materials that Hill fraudulently claimed that CHC had purchased for the Roberts' project. Hill intentionally misrepresented the amount of CHC's fee that had been earned and the amount of sales tax incurred on the Roberts' project so that he could obtain a portion of the Roberts' construction funds before he was entitled to receive these funds, and so that he could divert those funds to obligations that CHC and he had incurred for projects and matters unrelated to the Roberts' project.

19. As a result of Hill's fraudulent representations that he made individually and on behalf of CHC, the Roberts paid at least \$367,000 of their construction funds to CHC for material deposits, material purchases and/or work performed on the project that CHC had never incurred or performed. Hill and CHC were likely paid additional amounts of the Roberts' construction funds to which they were not entitled because of errors by Hill and CHC in the installation of the siding on the structure. Those amounts are to be determined. CHC was able to obtain receipt and control over this amount of the Roberts' construction funds solely due to the fraudulent misrepresentations Hill made both in connection with the initial deposit paid under the contract, the fraudulent misrepresentations that were contained in all the pay applications submitted by Hill and CHC to the Roberts, and the range for which CHC misappropriated a portion of the purchase funds.

20. Beginning in late 2022 and through the early 2024, Hill and CHC were acting as the homebuilders of record for the Roberts' project. Throughout the spring and summer of 2023, the project began to experience delays, and Bob Roberts questioned Hill about several of the items that had not yet been delivered to the project, including the windows. In June 2023, Hill represented to Bob Roberts that the windows had been ordered from a supplier in Baton Rouge called Sun Millworks and were scheduled to be completed in two weeks. After the windows did not arrive in June, July, August, or September 2024, during which time Carter Hill provided false excuses to the Roberts concerning labor issues, glass shortages and other reasons for the delay, Bob Roberts demanded that CHC have the house sprayed for mold and mildew since the house had not been dried in and had been open to the elements while the windows were not delivered and not installed. In November 2023, five windows were delivered to the jobsite, but only two windows had glass, one had half of the necessary glass, and the other two had no glass. At that time, Hill represented to Bob Roberts that the remaining windows would be delivered by December 2023. Hill subsequently represented to Bob Roberts that that delivery for the windows would be changed to January 2024. Subsequently Hill and CHC sought to have another window supplier, United Millworks, supply the remaining windows. Hill represented to the Roberts that he would obtain a refund of the \$22,295 deposit that he claimed to have paid Sun Millworks and pay that amount to United Millworks for a deposit for supplying the remaining windows. Upon information and belief, United Millworks would provide a quote for the remaining windows if CHC paid them approximately \$10,000 that CHC owed United Millworks for another project. Upon information and belief, Hill delivered a CHC check to United Millworks for approximately \$10,000 so United Millworks would go to the Roberts' project to measure and provide a quote to supply the remaining windows, but that check was a worthless instrument that was not honored by

CHC's bank. The Roberts eventually had to pay United Millworks the entire amount for supplying the remaining windows even though Hill had represented to the Roberts both verbally and in numerous pay applications that he had paid the deposit for all windows to be supplied for the project. Around January 22, 2024, Bob Roberts called Sun Millworks to inquire about the status of window delivery and was informed by a representative of Sun Millworks that the windows were not ordered until October 2023, and that CHC only ordered five windows. The Sun Millworks representative informed Bob Roberts that they never received the \$22,295 deposit that Hill had represented was paid months before by CHC for the windows, and that CHC owed Sun Millworks over \$10,000 for the five windows that had been delivered in November. Bob Roberts then called United Millworks and learned about the failure of Hill and CHC to pay a deposit to that supplier, and about the worthless CHC check Hill sent to that supplier.

21. Bob Roberts then began investigating the status of Hill and CHC's use of the Roberts' construction funds, and in January and February of 2024 Roberts learned that Hill had been misrepresenting to the Roberts the amounts that CHC had been paying to various material suppliers and subcontractors for deposits, purchase of materials and/or work on the project. Hill and CHC forced the Roberts to take over the project because Hill and CHC had effectively abandoned the project due to their inability to fund the purchase of materials and pay subcontractors. As they took over the project, the Roberts learned that Hill had made many more misrepresentations about CHC's use and misappropriation of their construction funds throughout the project.

22. In late January 2024, Bob Roberts confronted Hill and produced an initial spreadsheet showing \$102,000 as the approximate amount that Bob Roberts determined, at that time, had been misappropriated by Hill and CHC. Hill admitted that he had not paid some deposits

as represented on the pay applications, and they agreed that Hill and CHC would refund to the Roberts all the money that had been paid by the Roberts for deposits not made and for work that had not been performed as represented. The Roberts and Hill further agreed that the Roberts would take over the role of paying for materials and paying subcontractors. Hill then had a check for \$102,000 delivered to Bob Roberts in Fairhope on Friday, January 23, 2024, drawn on CHC's account with Citizens Bank in Baton Rouge. Because that check was delivered late on a Friday before he could get to his bank, Bob Roberts drove to Baton Rouge on Sunday January 5, 2024, and presented that check to cash or convert to a cashier's check as soon as the Citizens Bank branch opened on Monday January 26, 2024. Bob Roberts was informed by a representative of the bank that they could not honor the check. Bob Roberts immediately contacted Hill who said that he was waiting on a line of credit to fund and would get back to him. Upon information and belief, that statement was false, and Hill knew it was false when he made it. Throughout the week Bob Roberts attempted to negotiate the check, and finally realized that the check would not be honored. Subsequently Bob Roberts deposited the check into this personal account to see if it would clear, it was again dishonored by CHC's bank. It was only after the Roberts' lawyer delivered the statutory worthless instrument letter to Hill and CHC, Hill delivered a certified check for \$102,000 to the Roberts' lawyer to replace the worthless check he had previously delivered.

23. Unbeknownst to the Roberts, throughout the time that Hill and CHC were submitting fraudulent pay applications to the Roberts, Hill and CHC were involved in a liquidity crisis that produced lawsuits against Hill and CHC filed by factoring companies and lenders seeking to collect on loans and factoring agreements under which Hill and CHC were in default. Throughout the latter half of 2022 and early 2023, Hill and CHC continued to borrow money from factoring companies and other lenders, and continued to default on those obligations to the point

where Hill and CHC were sued in at least six separate arbitrations and court cases. Hill never informed the Roberts that both he and CHC were experiencing a severe liquidity crisis and more importantly, that he and CHC were using the Roberts construction funds to pay financial obligations of Hill and CHC to satisfy their obligations to the factoring companies and for other obligations that were unrelated to the Roberts project.

24. Upon information and belief, Hill and CHC engaged in the scheme of selling the receivables of CHC from its homebuilding business to at least five different factoring companies beginning as early as July 2022 and extending through December 2022. In this scheme, Hill and CHC granted those factoring companies a security interest in those receivables, which would include the construction funds being paid by the Roberts to CHC in reliance upon Hill's representations about the progress and percentage of completion of their project. Hill never disclosed to the Roberts that he had already sold to the factoring companies a security interest in construction funds from the Roberts. This information would have been material to the Roberts' decisions to select Hill and CHC to construct their residence, and their subsequent decisions to make payments to CHC based upon Hill's representations contained in the pay applications Hill was submitting on behalf of CHC. During their supervision of the project, Hill and CHC continued to conceal their scheme of selling their receivables for the Roberts' project to more factoring companies, and granting those factoring companies a security interest in the Roberts' construction funds that were being paid to CHC. This information would have also been material to the Roberts' decision to continue to make payments to CHC based upon Hill's representations contained in the pay applications Hill was submitting on behalf of CHC.

25. Hill and CHC submitted the fraudulent pay applications to the Roberts and misrepresented their intent to use all the purchase funds for the range to purchase the range,

because they needed immediate cash to pay factoring companies and other creditors of Hill and CHC. Hill and CHC knew that the Roberts would rely on these representations and that if they truthfully represented the status of the material purchases and work completed on the project, they would have received much less of the Roberts' construction funds, if any.

26. As a result of the fraudulent conduct of Hill and CHC as described above, the Roberts incurred damages in the form of payments they had to make to suppliers and subcontractors for materials that Hill and CHC never ordered or purchased and/or work that was never performed on the project. In effect, the Roberts paid for these items twice because they had paid a portion of their construction funds to CHC based upon Hill's misrepresentation that CHC had paid deposits for or had purchased materials for the project, and then had to pay the suppliers and subcontractors for the materials and work after Hill and CHC effectively abandoned the project leaving the Roberts to complete it.

27. In addition to the scheme to defraud the Roberts that was planned and implemented by Hill and CHC, Hill and CHC were responsible for several errors and omissions during the construction of the Roberts' residence before Hill and CHC affectively abandoned the project due to their financial inability to perform their obligations under the construction contract. The following is a list of the errors and omissions that the Roberts have discovered to date, and for which Hill and CHC are responsible:

- a. The windows selected, ordered, and furnished to the job by Hill and CHC do not meet the city building code or the Gold Fortification requirements of the construction contract.
- b. Hill and CHC installed the siding installed improperly, and the Roberts have had to incur significant expenses in paying subcontractors to correct the installation errors.

- c. Hill and CHC failed to properly pour the foundational supports for the fireplace hearths, causing the Roberts to incur expenses correcting this error.
- d. Hill and CHC installed the back porch ceiling approximately two feet too low, resulting in additional work to address that error.
- e. Hill and CHC installed the plumbing pipes under the floors incorrectly, resulting in significant additional work to remove, repair and replace much of the installed plumbing piped and attachments.
- f. Hill and CHC installed more electrical junction boxes and fixtures than the plans specified, resulting in additional work and expense to remove those junction boxes and fixtures that interfered with installation of other work.

28. As a result of these construction errors and omissions by Hill and CHC, the Roberts have incurred, and will continue to incur, significant monetary costs to correct the defective work performed or supervised by Hill and CHC.

29. As a result of Hill and CHC's abandonment of their obligation to construct the Roberts' project in accordance with the contract, the Roberts have incurred and will continue to incur cost to complete the project that will exceed the contract amount.

COUNT I

30. The Roberts adopt and incorporate herein all of the allegations contained in the previous paragraphs as if fully set forth herein.

31. Hill and CHC communicated numerous verbal and written false representations to the Roberts concerning Hill and CHC's use of the Roberts' construction funds obtained through pay applications submitted by Hill on behalf of CHC. The false representations occurred during the discussions leading up to the execution of the construction contract, and after the project

commenced. Hill and CHC were aware that these representations were false when communicated to the Roberts by Hill. The Roberts relied upon these false representations by paying their construction funds to CHC. Hill and CHC facilitated a scheme wherein they knew that they were falsely obtaining construction funds from the Roberts, and then using those construction funds for obligations of both Hill and CHC that were unrelated to the Roberts project.

32. As a result of the fraudulent misrepresentations of Hill and CHC as described above, the Roberts incurred damages in the form of payments they had to make to suppliers and subcontractors for materials that Hill and CHC never ordered or purchased and/or work that was never performed on the project, despite the fact that the Roberts had paid CHC in reliance on the misrepresentations that these payments had been made.

33. As a result of the fraudulent misrepresentations by Hill and CHC as described above, the Roberts have suffered mental anguish and emotional anxiety associated with the construction of their new home and the financial hardship caused by the misappropriation of their construction funds.

WHEREFORE, the Roberts demand judgment against Hill and CHC for compensatory damages and punitive damages in an amount to be determined by the Court.

COUNT II

34. The Roberts adopt and incorporate herein all of the allegations contained in the previous paragraphs as if fully set forth herein.

35. Hill and CHC fraudulently concealed from the Roberts the severe liquidity crisis that Hill and CHC were experiencing in the months leading up to and at the time that the construction contract with the Roberts was executed, and during the time that Hill and CHC were performing and supervising the construction of the Roberts' residence. More specifically, Hill and

CHC fraudulently concealed from the Roberts the fact that Hill and CHC sold their receivables to at least five factoring companies, and that through these agreements Hill and CHC had effectively sold Hill and CHC's right to apply all of the Roberts' construction funds to materials and work for their project. This information would have been material to the Roberts' decision to select Hill and CHC to construct their residence, and to enter into the construction contract with CHC. Hill and CHC concealed this information from the Roberts because they knew that the Roberts would not select them to construct the residence, and would not enter the construction contract, had Hill and CHC disclosed this information. In addition, The Roberts would not have paid a significant portion of their construction funds to Hill and CHC if they had been made aware of this scheme.

36. As a result of the fraudulent concealments by Hill and CHC as described above, the Roberts have suffered mental anguish and emotional anxiety associated with the construction of their new home and the financial hardship caused by the misappropriation of their construction funds.

WHEREFORE, the Roberts demand judgment against Hill and CHC for compensatory damages and punitive damages in an amount to be determined by the Court.

COUNT III
BREACH OF CONTRACT

37. The Roberts adopt and incorporate herein all of the allegations contained in the previous paragraphs as if fully set forth herein.

38. The actions of Hill and CHC in submitting fraudulent pay applications as described above constituted a breach of CHC's contract with the Roberts.

39. The construction errors and omissions by Hill and CHC as described above constitute a breach of CHC's performance obligations under CHC's contract with the Roberts.

40. As a result of the breaches of the contract by Hill and CHC as described above, the Roberts incurred damages in the form of payments they had to make to suppliers and subcontractors for materials that Hill and CHC never ordered or purchased and/or work that was never performed on the project, and the Roberts have incurred, and will continue to incur, significant monetary costs to correct the defective work performed or supervised by Hill and CHC.

WHEREFORE, the Roberts demand judgment against Hill and CHC for compensatory damages in an amount to be determined by the Court.

COUNT IV
NEGLIGENCE

41. The Roberts adopt and incorporate herein all of the allegations contained in the previous paragraphs as if fully set forth herein.

42. The actions, errors, and omissions of Hill and CHC as described above constitute negligence in their performance of the construction and supervision of the Roberts project.

43. As a result of the negligence of Hill and CHC as described above, the Roberts incurred damages in the form of payments they had to make to suppliers and subcontractors for materials that Hill and CHC never ordered or purchased and/or work that was never performed on the project, and the Roberts have incurred, and will continue to incur, significant monetary costs to correct the defective work performed or supervised by Hill and CHC.

44. As a result of the negligence of Hill and CHC as described above, the Roberts have suffered mental anguish and emotional anxiety associated with the construction of their new home and the financial hardship caused by the misappropriation of their construction funds.

WHEREFORE, the Roberts demand judgment against Hill and CHC for compensatory damages in an amount to be determined by the Court.

COUNT V
WANTONNESS

45. The Roberts adopt and incorporate herein all of the allegations contained in the previous paragraphs as if fully set forth herein.

46. The actions, errors and omissions of Hill and CHC as described above constitute wantonness in their performance of the construction and supervision of the Roberts project.

47. As a result of the wantonness of Hill and CHC as described above, the Roberts incurred damages in the form of payments they had to make to suppliers and subcontractors for materials that Hill and CHC never ordered or purchased and/or work that was never performed on the project, and the Roberts have incurred, and will continue to incur, significant monetary costs to correct the defective work performed or supervised by Hill and CHC.

48. As a result of the wantonness of Hill and CHC as described above, the Roberts have suffered mental anguish and emotional anxiety associated with the construction of their new home and the financial hardship caused by the misappropriation of their construction funds.

WHEREFORE, the Roberts demand judgment against Hill and CHC for compensatory damages and punitive damages in an amount to be determined by the Court.

Respectfully submitted,

/s/ Michael C. Niemeyer

MICHAEL C. NIEMEYER (NIE004)

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/s/ Michael C. Niemeyer

OF COUNSEL

From: [Gail Tart](#)
To: [planning](#)
Subject: Variance Request: Roberts/657 North Mobile Street
Date: Wednesday, May 28, 2025 12:51:16 PM

Dear Members of the Board of Adjustments,

I am writing as a concerned resident regarding the application for a setback variance at 657 North Mobile Street which is on the City Council June 16 agenda; unfortunately, I will be out of town and will not have the opportunity to engage in the process.

As an adjacent neighbor to the property, I respectfully request clarification on the necessity and justification for a 20.7 front setback as well as a 3.4' side set variance. The current zoning setbacks are established to ensure uniformity, overall neighborhood integrity, property values and sight lines.

Gail Tart
659 North Mobile Street

Sent from my iPad