

The Board of Adjustments met Monday, June 16, 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; Frank Lamia; Donna Cook; Hunter Simmons, Planning and Zoning Director; Mike Jeffries, Development Services Manager; Payton Rogers, Planning and Zoning Manager; Michelle Melton, City Planner and Cindy Beaudreau, Planning Clerk.

Absent: Ryan Baker

Chairman Vira called the meeting to order at 5:00 PM.

Approval of Minutes

Cathy Slagle made a motion to approve the minutes from the May 19, 2025, meeting.

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

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

Nay: None.

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**

Hunter Simmons, Planning and Zoning Director, presented 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. Mr. Simmons shared the aerial and zoning maps.

Staff recommends denial of BOA 25.05.

Brad Hicks, Attorney at Stone Crosby, spoke on behalf of the owner. Mr. Hicks shared the plat of the Volanta Subdivision, Block 8 and explained that there are other properties built outside of the setbacks and are non-conforming. Mr. Hicks listed additional property closer to the setback lines than the Roberts' house. Mr. Hicks noted that the lot line should abut the water and listed peculiarities of other properties and continued that the park functions as an extension of the houses and that the homeowners maintain the park. Mr. Hicks touched on each hardship point and shared approved permits from the Building department along with corresponding e-mails. Mr. Roberts self-reported that the house was built over the setback lines in early 2025. Mr. Hicks read 11.52.80 Code of Alabama.

Bob Roberts, 657 N. Mobile Street, Owner, reiterated that they did the right thing by self-reporting and that they had approved permits and inspections.

Cathy Slagle asked how they found the error. Mr. Roberts explained that the side setback was not correct, then reached out to the city. He then began measuring the front setbacks and asked the city for clarification.

Chairman Vira opened the public hearing at 5:53pm

Joe Thetford, Attorney, Chason & Chason, spoke on behalf of the Palesano's and Clover LLC, and shared a presentation and the properties owned by his clients. Mr. Thetford states that the Roberts' home was constructed without regard to the setbacks and agrees with the staff report. Mr. Thetford shared the replat, showing lots 4A and 4B with setbacks which are contained within the deed when the Roberts brought the property. In 2023, the city stated the house was over the setback and asked for a revised site plan. The new site plan did not show lot 4B. Mr. Thetford shared several e-mails between the surveyor and builder showing that the Roberts knew about the layout problem. Mr. Thetford reiterated that the hardship was self-inflicted, and the construction hit high gear once the conflict was reported and continued until a stop work order was issued. Mr. Thetford stated that where other houses were built have no impact on whether a variance should be granted.

Robert Brown, 15401 Scenic 98, was asked by the Roberts to work on the house after the first builder left and believes the error was made when the foundation survey was not uploaded and construction started.

Mr. Hicks stated that the survey was wrong, and Mr. Roberts did not know that this had happened.

Tyler Parr, 610 N. Mobile Street, asked where the basketball court was. Erik Cortinas, City of Fairhope Building Official, replied that the neighbor had to remove a fence, and the basketball hoop was removed years ago.

Mr. Thetford shared four additional emails against the project from Palesano, Tang, Broadus and Minto.

Joanne Broadus, 617 N. Mobile Street, stated that they bought their house which is well within the setbacks. She is active in communities with Dogwood Trail and has parties in the park. She added that the Roberts are in violation of the setbacks which block views of the bay.

The public hearing was closed at 6:28pm.

Ms. Slagle asked who owns lot 4B? Mr. Simmons shared the Palesano replat and explained that there have been approximately twenty amendments to the Zoning Ordinance and the lot at the top of the bluff does not abut the bay. Lots 4A and 4B will convey together in perpetuity. The setbacks were established to meet the goal of building at the top of the property.

Donna Cook asked if there are any changes to the building plans and stated the steps are not shown and could still go out further into the setback.

Motion:

Cathy Slagle made a motion to deny BOA 25.05.

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

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

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, Frank Lamia and Donna Cook

Nay: None.

Adjourned at 6:35p.m.

Anil K Vira
Anil Vira, Chairman

Cindy Beaudreau
Cindy Beaudreau, Secretary