

Fairhope Board of Adjustment Minutes

February 23, 2026 – 5:00 PM

ADMINISTRATIVE

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

Present:

X	Anil Vira, Chairman	X	Cathy Slagle
X	Frank Lamia, Vice Chairman	X	Donna Cook
X	Hunter Simmons, Secretary(interim)	X	Ryan Baker
	Bryan Flowers		David Martin

Staff: Hunter Simmons, Planning and Zoning Director; Payton Rogers, Planning and Zoning Manager, and Janine Saykes Code Enforcement

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

APPROVAL OF MINUTES

- Approval of the Minutes – January 22, 2026

Frank Lamia made a motion to approve minutes from the January 22, 2026, meeting.

Ryan Baker seconded the motion and the motion carried unanimously with the following vote:

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

NAY: None

ABSTAIN: None

OLD BUSINESS

None

NEW BUSINESS

- A. BOA 26.01** Public hearing to consider the request of the Owner, Karen Rice, for a 15-foot Front Yard Setback Variance on property zoned R-1, Low Density Single-Family Residential District. The property is located at 11 Greenbrier Lane and is 0.38± acres. **PPIN#: 113535**

Payton Rogers, Planning and Zoning Manager, presented the above request made by the Applicant. Mr. Rogers shared the aerial and zoning maps.

Staff recommends Denial of BOA 26.01 – 210 Greenbrier Lane request for a 15-foot Front Yard Setback Variance.

Chairman Vira asked the Applicant if she would like to speak.

The Applicant, Karen Rice, 219 Saddle Lake Drive, Alabaster, Alabama, shared additional materials with the members. She stated that on the maps she distributed, with the curve of the cul-de-sac, her house would be even with the next-door neighbor, with the 15-foot Variance.

Ryan Baker asked why the Applicant is asking for twenty-five (25) feet when thirty (30) feet would work. The Applicant was told she would need a wider driveway. The HOA doesn't allow a front facing garage. She also prefers to build a one-story house.

Cathy Slagle asked when the Applicant purchased the lot. The Applicant said in June last year. Ms. Slagle asked if she knew of the gully. She replied yes. Ms. Slagle asked if the wall of the gully is secure and the Applicant responded, yes as far as she knows. Ms. Slagle asked if it fills up with water. The Applicant stated it does not.

Hunter Simmons, Planning and Zoning Director, stated the gully is a concern.

Anil Vira asked if building closer to the cul-de-sac would help with the gully problem? Mr. Simmons stated that we are not approving a Site Plan within this Variance. Mr. Vira asked if the Board could add stipulations regarding the closeness to the gully. Mr. Simmons stated we would need to see results of soil and geotech testing to determine how far away you need to be from the gully. Mr. Simmons stated we are not spending money on tests until we have a Variance. The Applicant said she has not spent money on Engineers. She would like to be approved for the Variance first.

Frank Lamia asked if the Applicant tried to get a different footprint that fits within the Setback and doesn't interfere with the gully. The Applicant said the placement of this plan should be within the setback.

Mr. Vira asked if the Applicant pushed the house back would she need a Variance. Mr. Rogers said the house would be pushed into the gully. A smaller floor plan would be necessary to adhere to the forty (40) foot required Setback.

Mr. Lamia asked again if the Applicant could find another footprint that would fit the required Setback. The Applicant said she has been looking and has not found a one story to fit.

Mr. Simmons asked if there are size requirements in the neighborhood. The Applicant said a one-story minimum is 2200 square feet, and a two-story minimum is 1200 square feet on the first floor.

Chairman Vira opened the public hearing at 5:22.

Jerald Harshberger, 9 Greenbriar Lane, Fairhope, AL 36532: Mr. Harshberger stated his lot is directly north of the lot being discussed. There are significant restrictions within our Homeowners and Covenants, and garages are not allowed to be seen from the street. That would bring the driveway closer to my property. There are trees there that have been growing for thirty (30) years and are now encroaching on the property line where her driveway would need to be. Secondly, the gully is partly on his property. Fifteen years ago, Mr. Harshberger planted ground cover to preserve the soil. There are water oaks leaning into the gully, and some have already fallen in. Putting a house this size will encroach on the sensitive gully edge and you will lose trees.

The gully will get bigger and if it extends to his property, it exposes another issue. He is disappointed that the lot was sold.

Leroy Sloan, 20 Greenbrier Lane, Fairhope, AL 36532: Mr. Sloan stated his concern is the house being built may not fit into the neighborhood. It is Mr. Sloan's opinion that de-treeing the lot will lose three (3) to five (5) feet of the gully. The gully is much wider, deeper, and more severe than it looks in the diagram. Mr. Sloan's suggestion would be to build a bridge across the gully and build on the backside of the lot or fill in the gully.

Mr. Vira asked if you could fill in the gully. Mr. Simmons stated it is very unlikely and we would need studies done to find out.

Mr. Vira stated that this would also affect adjoining properties.

Mr. Simmons stated before anything else could be discussed, we would need an Engineer to look at the property and that would be expensive.

Mr. Baker asked if the city has regulations to require a drainage study, and specific Ordinances to prevent anyone from filling in a gully. Mr. Simmons said no, but they are working on a Steep Slope Ordinance. The gullies are determined by FEMA and have federal guidelines.

Chairman Vira asks if anyone else from the public would like to speak.

David Tacon 415 Fairwood Blvd., Fairhope, AL 36532: Mr. Tacon has a piece of property on Ashley Drive which is on this same gully. He supports Miss Rice's application. There are multiple homes built on Fairwood Drive that are on a gully and have no problems. Mr. Tacon stated that a Variance on the gully has been approved before.

The Applicant asked why removing trees close to the gully would make the gully bigger. Mr. Sloan answered because of the erosion. Mr. Baker also stated the roots are holding the soil in place. The Applicant stated she would remove as few trees as possible.

Chairman Vira closed the public hearing at 5:35.

Mr. Vira asked Board members if there was any further discussion.

Donna Cook asked what the Setbacks are next door. Mr. Rogers stated the property should be compliant with the standard 40-foot front yard Setback.

Mr. Vira asked about a nearby property that had a Variance approved. Mr. Rogers said it is lot 1 of Greenbriar, which is southeast to the subject lot. It is on 95 Blue Island Avenue and it was approved for a 15-foot front yard Setback Variance.

Mr. Baker stated he did not understand why Staff cannot recommend approval. Mr. Simmons stated the closeness to gully is the concern.

Mr. Baker said the gully is creating a new drainage easement which creates property loss. Isn't it technically a hardship based on topography? Mr. Simmons stated if the plan had more room

away from the edge of the gully, we would be more supportive. A different plan would work, so it is not a hardship.

Mr. Baker asked for clarification regarding sliding the house forward, creating separation from the gully. Mr. Simmons replied that we can't say how close you can be to the gully without a geotech study.

Mr. Lamia asked if this is looked at during the building permit process. Mr. Simmons said yes, it is. A new topographical survey would also need done. Mr. Lamia stated the gully might not be where the photo shows it is.

Mr. Vira asked how far away we need to be from the gully. Mr. Simmons and Mr. Rogers both stated they don't have the expertise to answer that question.

Mr. Rogers said the Board could recommend approval on condition that an Engineer would certify a safety standard. But we need a geotech report for that answer.

Mr. Vira asks if the Board can table this. Mr. Simmons says yes and you can ask the Applicant to have reports done to see how close you can get to the gully.

Mr. Vira and Mr. Lamia discussed the cost of surveys and geotech reports, and Mr. Baker estimated the cost to be a few thousand dollars. Mr. Vira asked if the Applicant would need this for the building process. Mr. Simmons said yes.

Mr. Baker asked if Fairhope has any Ordinances that require a topography or geotechnical studies. Mr. Simmons said yes, when warranted.

Mr. Simmons stated that without additional reports, we can't answer questions regarding closeness to the gully, and that is why we must recommend denial. This is a critical piece of information that we need before providing an answer. Mr. Baker agreed.

Ms. Slagle asked if the Variance is denied, can the Applicant find a footprint that would fit in the 40-foot Setback and come back. Mr. Baker said that if the Variance is denied, the Applicant can't return for a year. There was a long discussion on what time frame was allowed. Mr. Rogers said he will check on resubmission.

Ms. Cook asked if you could ask for seven (7) feet administratively. Mr. Simmons stated only to save trees.

Mr. Rogers said limitations on resubmission from Article II, Section C states that *an application for the same parcel of land shall not be submitted within 365 days of final decision of the Board. Any application may be withdrawn without prejudice prior to the opening of the hearing by the Board. A request to withdraw an application shall be submitted to the Director in writing.*

Mr. Rogers said if the Variance is denied, the Applicant cannot return with another request for 365 days. And for the record, if you choose to table it, please provide a specific number of months to come back, and provide an end date for us.

The Applicant said if she could be approved for a 15-foot Variance she will change her floor plan.

The Applicant asked if the main reason for the meeting is the Variance or is it everything. Mr. Rogers stated it is the 15-foot front yard Variance, but it will affect your floor plan. The Applicant said she will work on the floor plan.

Mr. Lamia asked if her plan could change to stay within the 40-foot front yard Setback. The Applicant said no, she doesn't think so.

Mr. Simmons stated that we can't grant a Variance just to have a one-story home.

Mr. Rogers asked the Applicant if her surveyor performed this survey. The Applicant stated that it was an old survey. Patrick, an Engineer, Architect placed the house and was going to build on the lot. Mr. Rogers stated we don't know where the topography came from.

The Applicant understands that you can't grant a Variance without having more information.

Ryan Baker made a motion to Table BOA 26.01 for up to six (6) months with Staff recommendations.

1. Provision of a topographical survey illustrating current topography as well as the top of bank for the existing gully on site; and
2. Provision of geo-technical reporting for the subject site detailing an appropriate distance (if any) from the top of bluff that a proposed dwelling would need to be located.

Anil Vira seconded the motion and the motion carried unanimously with the following vote:

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

NAY: None

ABSTAIN: None

ADJOURNMENT

Ryan Baker made a motion to adjourn.

The motion carried unanimously with the following vote:

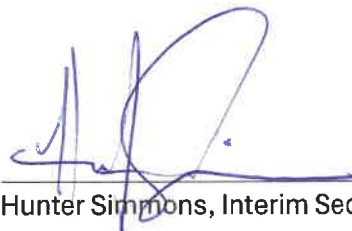
AYE: Anil Vira, Donna Cook, Frank Lamia, Ryan Baker and Cathy Slagle.

NAY: None

ABSTAIN: None

Adjourned at 6:06 p.m.


Anil Vira, Chairman


Hunter Simmons, Interim Secretary