

Fairhope Board of Adjustment Minutes

July 20, 2026 – 5:00 PM

ADMINISTRATIVE

The Board of Adjustment met on Tuesday, July 20, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present:

X	Anil Vira, Chairman	X	Ryan Baker
X	Frank Lamia, Vice Chairman	X	Donna Cook
X	Andrew Belcher		Cathy Slagle
X	Janine Saykes, Secretary		

Staff: Hunter Simmons, Planning and Zoning Director; Michelle Melton-Null, City Planner; Chris Williams, City Attorney; and Janine Saykes, Planning Clerk

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

APPROVAL OF MINUTES

- Approval of the Minutes – May 18, 2026

Ryan Baker made a motion to approve minutes from the May 18, 2026, meeting.

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

AYE: Anil Vira, Frank Lamia, Andrew Belcher, Donna Cook, and Ryan Baker

NAY: None

ABSTAIN: None

OLD BUSINESS

None

NEW BUSINESS

- A. BOA 26.07** Public hearing to consider the request of the Owner, Virginia Oglesby Littlepage for a 15-foot Front Yard Setback Variance on property zoned R-2, Medium Density Single-Family District. The property is located south of Dogwood Avenue on the west side of Wisteria Street and is 0.14± acres. **PPIN#: 364724**

Michelle Melton-Null, City Planner, presented the above request made by the Applicant. Ms. Melton-Null shared the aerial and zoning maps. There have been no other Board of Adjustment applications associated with this site. Ms. Melton-Null shared photos of the property and the existing conditions of the natural drainage way. Ms. Melton-Null stated that Richard Johnson, P.E., City Engineer, conducted a site visit on the property and provided a letter supporting the request, adding a 25-foot drainage easement. Mr. Johnson specified that no structures, fill, grade

modifications, piping, or other land disturbances that impede or obstruct the natural flow of drainage shall be permitted within the easement.

Staff recommends conditional Approval of BOA 26.07 – Lot 76 of Fairfield Heights for a 15-foot Front Yard Setback Variance with the following conditions:

1. Applicant shall supply a legal description for the 25' drainage easement provided by a licensed surveyor in the State of Alabama;
2. The recorded drainage easement shall include the following language, verbatim: "A nonexclusive drainage easement as shown on the attached exhibit for the collection and conveyance of stormwater runoff across the burdened property. No structures, fill, grade modifications, piping, or other land disturbances that impede or obstruct the natural flow of drainage shall be permitted within the easement. Landscaping, hardscaping, fences, bridges, and similar improvements are permitted provided they are designed, constructed, and maintained so as not to restrict or interfere with the free flow of stormwater"; and
3. Variance and drainage easement shall be recorded together within 365 days of a decision in Baldwin County Probate Court prior to application of any City of Fairhope permits.

Chairman Vira asked the Applicant if she would like to speak. Virginia Littlepage – 53 De Ferriet Ct., stated that she would like the Variance granted without additional conditions requiring drainage mitigation beyond any requirements otherwise imposed through the normal building or permitting process. Ms. Littlepage stated the water flows violently in the back and would like a pipe to be allowed in the back. Ms. Littlepage stated, if there are stipulations with the Variance, her hands are tied.

Chairman Vira asked Ryan Baker what his thoughts were about the pipe. Mr. Baker stated that the Applicant needs to hire a Civil Engineer to design what is needed for the drainage. The City Engineer was not hired to design a solution. There was extensive discussion between the BOA members, Ms. Littlepage, and Staff regarding drainage, an easement, engineering, and how to address the drainage issue. Hunter Simmons stated that we are here only to discuss a Variance; we are not engineers. Mr. Simmons stated that hiring an engineer was suggested to the Applicant before asking for a Variance, but she chose to move forward with the Variance request.

Chairman Vira opened the public hearing at 5:24pm.

Tracy Peters – 410 Wisteria St., stated she is south of the subject lot. Mrs. Peters stated they fenced off the drainage problem area in their yard. Mrs. Peters stated that the Applicant contacted her regarding combining efforts to fix the problem. Mrs. Peters stated they do not want to spend money on it. Mrs. Peters also stated they are in support of building if it is done right.

Brian and Mimi Snyder – 407 Wisteria St., stated they are across the street from the subject property. Mr. Snyder stated that he is for the Variance but he has a problem with the pipe being installed in the back. Mr. Snyder stated if there is a pipe installed along with the Variance being granted it is equivalent to having your cake and eating it too. The pipe would negate the reason for the Variance. Mr. Snyder stated he does not know if a 24-inch pipe would be efficient or cause a problem downstream. Mr. Snyder stated another neighbor filled in the gully and had to put in a 48-inch drainage pipe and had to raise their land up. Mimi Snyder stated she has lived on Wisteria St. for 35 years and she does not think this pipe will work.

The public hearing was closed at 5:30pm.

Donna Cook made a motion to approve BOA 26.07 for a 15-foot Front Yard Setback Variance with Staff recommendations.

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

AYE: Anil Vira, Frank Lamia, Andrew Belcher, Donna Cook, and Ryan Baker

NAY: None

ABSTAIN: None

- B. BOA 26.08** Public hearing to consider the request of the Owners, Frances McGowin, and Cary Bathrick, for an Administrative Appeal to allow an Accessory Structure on property zoned R-3, High Density Single-Family District. The property is located at 13 Echo Lane and is 0.29± acres.
PPIN#: 74444

Hunter Simmons, Planning and Zoning Director, presented the above request made by the Applicants. Mr. Simmons shared the aerial and zoning maps. Mr. Simmons explained the duties and powers of the Board of Adjustment when hearing and deciding on an Administrative Appeal where it is alleged there is an error in any order, requirement, decision, or determination, made by the Director of Planning and Zoning, or other administrative official.

Mr. Simmons stated the Applicants are seeking an Administrative Review/Appeal to two (2) Zoning Ordinance interpretations made by Planning Staff. Staff's interpretations are as follows:

1. That Article III, Section C, Table 3-3: *Dimension Table – Residential Accessory Structures*, as written, requires a 5-foot rear setback for all accessory structures and limits the maximum lot coverage by all accessory structures to a total of 25% of the required rear yard in an R-3 district; and
2. That, following the issuance of a Building Permit for a “treehouse or kids fort” based on a suboptimal—though procedurally sufficient (at the time)—set of sketch plans, Staff revoked said permit after discovering that the structure was being constructed across the Owner's property line onto City-owned property (Tatumville Gully), within a platted 15-foot utility easement, and inside the required 5-foot rear setback. The permit had been issued subject to conditions expressly prohibiting construction within any easements or required setbacks. The revocation was authorized under the building permit review procedures set forth in Article II, Section C.4.e, of the Fairhope Zoning Ordinance.

Mr. Simmons shared multiple plans provided by the Applicants, as well as a site plan with hand drawn buildings within the property lines. Mr. Simmons pointed out that the Applicants did have the “tree fort” dimensions listed on one of the drawings. Mr. Simmons stated that he believes the Appeal should focus on the 25% backyard coverage. Mr. Simmons stated the Planning Department did permit the Accessory Structure in that backyard. However, the permit stipulated that the structure could not be built in any easement or the setbacks. Mr. Simmons stated that property owners are responsible for knowing what encumbrances are on their property. It is not the responsibility of the Planning and Zoning Department.

Ryan Baker asked for clarification on what the requirements of the Appeal are. Hunter Simmons stated there are three (3) requirements to consider: did Staff make an error or omission in

permitting an accessory structure which exceeded 25% maximum lot coverage; allowing a structure within an easement; and allowing a structure in the setback.

Staff recommends Denial of BOA 26.08 – 13 Echo Lane for an Administrative Appeal to allow an Accessory Structure.

Chairman Vira asked the Applicants if they would like to speak.

Cary Bathrick and Francis McGowin - 13 Echo Ln. - Mr. Bathrick stated he went to the Building Department and asked for help with the Accessory Structure. He was told to make a drawing and if more information was needed the other departments would reach out to him. Mr. Bathrick stated he received notification that his permit was approved with conditions. Ms. McGowin stated that the drawing was not professional but the measurements of the structure, how far it was from other structures, and how far it was from the gully, are correct. Ms. McGowin stated when the structure was being inspected for roofing straps she was told that they built 7 feet over an easement and they were going to need to move the building back 7 feet. Ms. McGowin stated they decided to pay and have the structure moved 7 feet back so they would not need a Variance. After that, Payton Rogers went to look at the property and told Ms. McGowin their garage was already over the 25% maximum lot coverage. Ms. McGowin stated they never heard about the maximum coverage or setbacks and were never asked those questions. Mr. Bathrick stated that since the structure permit was approved he assumed everything was ok. Mr. Bathrick also stated that they are willing to move the structure back and find a solution. Ms. McGowin stated if they knew the setbacks, the easement, and coverage allowed, they would have put the structure in a different place.

Ryan Baker asked if they knew that they built the structure over their own property line. Mr. Bathrick stated he does now and that is why they stated they would move it back toward their garage. Frank Lamia stated even if they move the structure 7 feet back it is still in the utility easement, which is not permissible. Mr. Simmons stated that is correct and the Planning and Zoning Department does not have the authority to allow a structure in a utility easement. Mr. Lamia asked Ms. McGowin if they considered moving the structure to a different area of the yard. Ms. McGowin stated it is not possible because they have a small yard and the neighbors have a swimming pool next door. Ms. McGowin also stated that it would have to be rebuilt, they cannot move it that far. Andrew Belcher stated that from the beginning it was made clear that a structure could not be in an easement or the setbacks. Mr. Baker also stated that the property owner has a responsibility to follow the conditions on the permit.

Chairman Vira opened the public hearing at 6:34pm.

Frederick Ingraham - 9 Echo Ln., Fairhope, stated this process has been a complete failure. The garage is already at the 5-foot setback line and nothing could be built behind that. He feels that someone should have pointed that out. Mr. Ingraham stated his wife sent in photos of the structure in the gully. It shows all the erosion in the gully. In the last 23 years the erosion has been devastating. Mr. Ingraham stated this should never have been approved.

The public hearing was closed at 6:38pm.

Ryan Baker made a motion determining that Staff erred in part and provided the following administrative appeal determination:

1. Planning Staff made an error or omission in permitting the accessory structure which exceeded the 25% maximum rear lot coverage for an accessory structure. The Applicants may relocate the accessory structure to another compliant area of the rear yard.
2. Planning Staff did not make an error or omission in the setback calculation or the utility easement therefore;
 - a. The accessory structure must be moved out of the 5-foot backyard setback
 - b. The accessory structure must be moved out of the utility easement

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

AYE: Anil Vira, Frank Lamia, Andrew Belcher, Donna Cook, and Ryan Baker

NAY: None

ABSTAIN: None

ADJOURNMENT

Chairman Vira made a motion to adjourn.

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

AYE: Anil Vira, Frank Lamia, Andrew Belcher, Donna Cook, and Ryan Baker

NAY: None

ABSTAIN: None

Adjourned at 6:50 pm.



Anil Vira, Chairman


Janine Saykes, Secretary