

The Board of Adjustments met Monday, May 20, 2024, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Cathy Slagle, Vice-Chair; Donna Cook; Ryan Baker; David Martin; Bryan Flowers; Hunter Simmons, Planning and Zoning Director; Michelle Melton, City Planner; and Cindy Beaudreau, Planning Clerk.

Absent: Anil Vira, Frank Lamia

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

Approval of Minutes

David Martin made a motion to approve the minutes from the April 15, 2024, meeting.

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

Aye: Cathy Slagle, Donna Cook, Ryan Baker, David Martin and Bryan Flowers

Nay: None.

BOA 24.03 Public hearing to consider the request of the Owner, Harold Thompson, for a 10' front setback variance. The property is located south of Mosley Road and east of Pecan Ridge Boulevard. The property is approximately 0.44 acres. **PPIN#: 270303**

Michelle Melton, City Planner, presented both cases at the same time. The cases are exactly the same except for being two different lots. The applicant is requesting a 10' front setback variance for each lot in order to build further away from a platted drainage easement. Ms. Melton reminded the Board that the subject properties' original lot configuration was three lots and in July 2019, the applicant re-platted those three lots to create two larger lots with a front setback of 35'.

Recommendation:

Staff recommends denial of Case BOA 24.03.

Ryan Baker asked for an explanation of the drainage easement on the properties. Ms. Melton explained that the easement is shown on the site plan. Mr. Simmons continued that at the rear of the properties, opposite of the street, is a drainage easement which was known during the last re-plat of the properties and was designed that way. Mr. Simmons stated that it does not meet the definition of a hardship.

Ms. Melton noted that there were two e-mails received from neighboring property owners which are included in the packet and are in attendance at the meeting.

Travis Thompson, 312 Pecan Ridge Road, spoke on behalf of Harold Thompson. Mr. Thompson explained that he would like to purchase the two properties from Mr. Thompson to build his personal home on one of the lots. Mr. Thompson stated that he can make 40' work, but that would put his house in the ditch. Mr. Thompson stated that he needs at least 5' to get out of the ditch. He stated that his main issue is the safety of the structure. The retaining pond of the subdivision is in his backyard, and it continues through the two subject properties.

David Martin asked if Mr. Thompson had considered running a pipe across the ditch in the back. Mr. Thompson replied that another property owner tried that, and the City of Fairhope denied his request. Mr. Martin asked if Mr. Thompson had spoken to the City about it. Mr. Thompson stated that he had spoken with the Planning staff. Mr. Simmons stated that a challenge with the subdivision is that it does not have a conventional drainage system with detention/retention ponds with conveyances. The conveyance system in this subdivision is an open ditch and that is why the drainage easement is so wide. There is not enough depth to install a culvert.

Ms. Slagle asked how deep the lot is. Mr. Thompson replied 110', but lot 26A starts to curve, so he only has 40' in depth and stated he does not really have due to the back of the house sitting in the drainage ditch. He continued that he has roughly 70' with the 10' setback on the north side in width. Mr. Simmons stated that there is a 25' drainage easement and the front setback is 35', so he questioned where the additional 20' is. If the lot was not completely graded out, then potentially that could be done.

Mr. Martin stated that Mr. Thompson has the right to build all the way up to the drainage easement. Mr. Thompson stated that would create a problem for the neighbors because the water would be pushed to the neighbor's yard. Mr. Simmons stated that another option may be to work with the HOA to amend the bylaws to allow for larger homes in that subdivision. Mr. Thompson stated that he needs a bigger house and just wants more off the front. Ms. Slagle stated that homes need to be built according to the size of the lot without seeking a variance.

Mr. Baker asked Mr. Thompson to confirm that he wants a larger, buildable area than what is on the lot now and not asking for a variance due to the hardship of the ditch. Mr. Thompson stated that he could fit the downstairs, but the top is the issue and continued that if he builds the 40' home, the safety of the structure could be compromised if there is a hurricane with water rushing through. Mr. Baker reiterated that Mr. Thompson does have the 40' to build. Mr. Simmons reiterated that the State law on hardships, are not about finances, building a house, footprints, or personal desires.

Vice-Chair Slagle opened the public hearing at 5:19pm.

Tim Davis, 410 N. College Street, spoke about the deep drain and the water does not want to go under the road and is concerned about where the water will go.

Mr. Simmons stated that once a building permit is received, the Building Department has a right to look at the drainage and decide what is needed.

Mr. Thompson stated that the City of Fairhope approved the drainage so it should be able to hold. Mr. Simmons stated that it will be within the 25' easement.

The public hearing was closed at 5:20pm.

Motion:

Ryan Baker made a motion to deny BOA 24.03, per staff recommendations.

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

Aye: Cathy Slagle, Donna Cook, Ryan Baker, David Martin, and Bryan Flowers

Nay: None.

BOA 24.04 Public hearing to consider the request of the Owner, Harold Thompson, for a 10' front setback variance. The property is located on the southeast corner of Mosley Road and Pecan Ridge Boulevard. The property is approximately 0.44 acres. **PPIN#: 270304**

Motion:

Ryan Baker made a motion to deny BOA 24.04, per staff recommendations.

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

Aye: Cathy Slagle, Donna Cook, Ryan Baker, David Martin, and Bryan Flowers

Nay: None.

Old/New Business

Mr. Simmons stated that there are two cases for June.

Adjournment

David Martin made a motion to adjourn.

The motion carried unanimously with the following vote:

Aye: Cathy Slagle, Donna Cook, Ryan Baker, David Martin, and Bryan Flowers

Nay: None.

Adjourned at 5:27p.m.


Anil Vira, Chairman


Cindy Beaudreau, Secretary