



Vestavia Hills
Board of Zoning Adjustment Agenda
August 17, 2023
6:00 PM

1. Roll Call
2. Approval Of Minutes
3. BZA-23-17 **Sanford Hardy** is requesting a **Side Setback Variance** for the property located at **3422 River Mist Circle**. The purpose of this request is to reduce the side setback to 13' in lieu of the required 15', to build a detached storage building. The property is owned by Sanford Hardy and is zoned **Vestavia Hills R-2**.
4. Time Of Adjournment

CITY OF VESTAVIA HILLS
BOARD OF ZONING ADJUSTMENT
MINUTES

July 20, 2023

The Board of Zoning Adjustment of the City of Vestavia Hills met in regular session on this date at 6:00 PM. The roll was called with the following:

MEMBERS PRESENT:

Rick Rice, Chairman
Michael Fliegel, Alt
Loring Jones, III
Stephen Greer
Thomas Parchman
Tony Renta

MEMBERS ABSENT:

Ryan Rummage, Alt

OTHER OFFICIALS PRESENT:

Jack Wakefield, Planner/GIS

APPROVAL OF MINUTES

The minutes of June 15, 2023 were presented for approval.

MOTION Motion to dispense with the reading of the minutes of June 15, 2023 was made by Mr. Jones and 2nd was by Mr. Fliegel. Motion as carried on a voice vote as follows:

Mr. Fleigel – yes	Mr. Parchman – yes
Mr. Jones – yes	Mr. Renta – yes
Mr. Greer – yes	Chairman Rice – yes
Motion carried.	

VARIANCE FOR LOCATION OF FENCE

BZA-23-11 Kim Parker is requesting a **Variance for Location of Fence in the Front Setback** for the property located at **1121 Winward Lane**. The purpose of this request is to build a decorative fence in the front setback. The property is owned by Kim Parker and is zoned **Vestavia Hills R-9**.

Mr. Wakefield explained the scope of the project. There being no one present for the case, Mr. Wakefield asked to move the case to the end of the docket.

Following the delay:

Mr. Wakefield explained that because we heard the case last week, we will vote on it regardless if the applicant is here.

Mr. Wakefield stated that this case was previously postponed due to lack of hardship.

Chairman Rice stated that there was no new information presented and Mr. Jones stated he saw no hardship.

Chairman Rice opened the floor for a public hearing. There being no one present in regard to the request, Mr. Rice closed the public hearing and opened the floor for a motion.

Motion to APPROVE a variance for location of a fence in the front setback, for the property located at 1121 Winward Lane was made by Mr. Jones and 2nd was by Mr. Fliegel. Motion was carried on a roll call vote as follows:

Mr. Fleigel – no	Mr. Parchman – no
Mr. Jones – no	Mr. Renta – no
Mr. Greer – no	Chairman Rice – no
Motion carried.	

MULTIPLE VARIANCES

BZA-23-13 Phillip Young is requesting a **Rear Setback Variance, Side Setback Variance, Lot Area Variance, & Lot Width Variance**, for the property located at **404 Fernwood Drive**. The purpose of this request is to reduce the Rear Setback to 5' in lieu of the required 15' & to reduce the Side Setback to 5' in lieu of the required 15' & to reduce the Lot Area to 11,227 sq ft in lieu of the required 15,000 sq ft & to reduce the Lot Width to 75' in lieu of the required 100', to renovate existing shed. The property is owned by Phillip Young and is zoned **Vestavia Hills R-3**.

Mr. Wakefield explained the scope of the project.

Phillip Young was present for the case and stated that moving the shed is not feasible due to the septic tank in the rear. He trying to use the same location as the existing fence.

Mr. Fliegel asked if this was a complete rebuild.

Mr. Young stated that they are amending the concrete blocks on the base of the structure but most is remaining outside of a renovation.

Chairman Rice asked about the location of the power lines.

Mr. Young stated that the shed has about a 7-8 of clearance from the power lines.

Mr. Renta asked if there was a recorded easement for that power line.

Mr. Wakefield pulled up multiple plat drawings and stated there is not one.

Mr. Renta stated that he was concerned that the power company may have an unrecorded easement on the property and that could put this permanent structure at risk.

He asked that we make a motion for the Building Department look that possibility of an unrecorded easement as it relates to the power lines.

Chairman Rice opened the floor for a public hearing. There being no one present in regard to the request, Mr. Rice closed the public hearing and opened the floor for a motion.

MOTION Motion to APPROVE a 10' Rear Setback Variance to Reduce the Setback to 5' in Lieu of the Required 15' & 10' Side Setback Variance to Reduce the Setback to 5' in Lieu of the Required 15' & 3,773 sq ft Lot Area Variance to Reduce the Lot Area to 11,227 sq ft in Lieu of the Required 15,000 sq ft & 15' Lot Width Variance to Reduce the Lot Width to 75' in Lieu of the Required 100'. *Condition that Building Department review plans to confirm this is not in an unrecorded rear easement & recording of new resurvey*, for the property located at 404 Fernwood Drive was made by Mr. Renta and 2nd was by Mr. Jones. Motion was carried on a roll call vote as follows:

Mr. Fleigel – yes	Mr. Parchman – yes
Mr. Jones – yes	Mr. Renta – yes
Mr. Greer – yes	Chairman Rice – yes
Motion carried.	

FRONT SETBACK VARIANCE

BZA-23-14 **Zach Anderson** is requesting a **Front Setback Variance** for the property located at **3313 Willis Drive**. The purpose of this request is to

reduce the front setback to 20' in lieu of the required 35', to build a detached carport. The property is owned by Zach Anderson and is zoned **Vestavia Hills R-2**.

Mr. Wakefield explained the scope of the project.

Zach Anderson was present for the case and stated that the request is for a new carport addition and that the septic tank in rear and odd-shaped lot forces the building into the front setback.

Chairman Rice asked if the applicant would identify the septic tank on the map on the screen. Which Mr. Anderson did.

Mr. Fleigel asked if this was an open-air carport.

Mr. Anderson stated it was.

Chairman Rice opened the floor for a public hearing. There being no one present in regard to the request, Mr. Rice closed the public hearing and opened the floor for a motion.

MOTION Motion to APPROVE a 15' Front Setback Variance to reduce the setback to 20' in lieu of the required 35', for the property located at 3133 Willis Drive was made by Mr. Jones and 2nd was by Mr. Parchman. Motion was carried on a roll call vote as follows:

Mr. Fleigel – yes	Mr. Parchman – yes
Mr. Jones – yes	Mr. Renta – yes
Mr. Greer – yes	Chairman Rice – yes
Motion carried.	

FRONT SETBACK VARIANCE

BZA-23-14 **Joe and Kayla Meadow** are requesting a **Front Setback Variance** for the property located at **3317 Cherry Tree Lane** . The purpose of this request is to reduce the front setback to 45' in lieu of the required 60', to build a new house. The property is owned by Joe Meadows and is zoned **Vestavia Hills R-1**.

Mr. Wakefield explained the scope of the project.

Wade Lowry was present for the case and explained the area where the new house was going to be.

Mr. Lowry stated that the hardship is the very bad topography in the rear, along with the drainage piping. It forces the house to be pushed closer to the road, but around the same location as the existing house.

Mr. Fleigel stated that this seems like the only place on the lot to put a house.

Chairman Rice opened the floor for a public hearing.

Larry Pate, 3321 Cherry Tree Lane, asked if this would affect his property in anyway.

Mr. Lowry stated that this project would just be a new home and will not disturb the vegetation separating the properties.

Richard McCollum, 3343 Rosemary Lane, wanted clarification on what the development would do to the southern side of the property and would there be anything done related to the creek.

Mr. Lowry said they are very limited on the site and that they can only disturb and build so close to the creek and floodway.

There being no one else present in regard to the request, Mr. Rice closed the public hearing and opened the floor for a motion.

MOTION Motion to APPROVE a 15' Front Setback Variance to reduce the setback to 45' in lieu of the required 60', for the property located at 3317 Cherry Tree Lane was made by Mr. Jones and 2nd was by Mr. Parchman. Motion was carried on a roll call vote as follows:

Mr. Fleigel – yes	Mr. Parchman – yes
Mr. Jones – yes	Mr. Renta – yes
Mr. Greer – yes	Chairman Rice – yes
Motion carried.	

At 6:35 PM, Mr. Fliegel made a motion to adjourn. The meeting adjourned at 6:35 PM.

Jack Wakefield,
Planner/GIS



VESTAVIA HILLS

Board of Zoning Adjustment Planners Report

MEETING DATE

August 17, 2023

AGENDA ITEM

BZA-23-17 **Sanford Hardy** is requesting a **Side Setback Variance** for the property located at **3422 River Mist Circle**. The purpose of this request is to reduce the side setback to 13' in lieu of the required 15', to build a detached storage building. The property is owned by Sanford Hardy and is zoned **Vestavia Hills R-2**.

BACKGROUND

2' Side Setback Variance to Reduce the Setback to 13' in Lieu of the Required 15'

PLANNER'S REVIEW/RECOMMENDATION

The applicant is seeking a side setback variance to build a detached storage building. The applicant contends the topography in the rear prevents building to Code. The rear half of the property slopes down a large amount to the Cahaba River. the dimensions of the building will be 12x16'.

ATTACHMENTS

1. Application
2. Survey
3. Photos
4. Affidavit

Jack Wakefield
City Planner



BZA-23-17

Variance and Special Exception Application

Status: Active

Date Created: Jul 6, 2023

Primary Location

3422 RIVER MIST CIR
VESTAVIA HILLS, AL 35223

Owner:

Sanford Hardy
3422 River Mist circle Vestavia Hills, AL 35223

Agenda Information

Agenda Scheduling

August 2023

Applicant Information

I am filling this out as the

Owner

Billing/Responsible Party

Name

Sanford Hardy

Phone

2059078727

Address

3422 River Mist circle

City/State/Zip

Vestavia Hills, AL 35223

Email

Sanman60@bham.rr.com

Subject Property Information

Subject Property Address

3422 River Mist Circle

Legal Description of Subject Property

Lot 23, River Terrace, First Sector, map book 117, page 4 of Jefferson Co. AL probate record

REASONS FOR REQUEST

Side Setback Variance



Setback Required

15'

Setback Requested

13'

ZONING

Vestavia Hills Zoning for the subject property is

R2

PROJECT

Describe the scope of the project and/or the reason for requesting this variance.

Building a 12x16 detached storage building, to match existing architecture. The Topography dictated the placement of the building this close to the house and property line due to excessive slope down to Old Overton road and the Cahaba River on the rear half of the property. In addition the septic system limits placement as it and its field lines take up the remaining flat area immediately adjacent to the house. I am requesting a variance due to the topographically limited possible locations for this building.

HARDSHIP

Please answer the following questions regarding hardship and briefly summarize and describe those things which you feel justify the action requested in the box below. An Undue Hardship is required in order to seek a variance. List, when necessary, the specific sections of the City Code(s) which have a bearing on your request. (Use additional space on separate page if necessary).

The topography of the lot limits my location for the building, due to the severe grade on the back half of the lot. I tried to site the building to be as unobtrusive and asthetical correct as possible given the topological constraints of the lot.

Before any variance is granted, the BZA must find that ALL of the following conditions exist. Please describe each of the following details in order for the BZA to determine if these warrants the described hardship.

1. There are extraordinary and exceptional conditions, which are peculiar to the piece of property in question because of its size, shape or topography, that are not applicable to the other lands or structures in the same district. Please explain:

The lot is extremely steep to outright vertical in places on the back of the property, making sighting difficult. Also the odd shape of the lot and the placement of the house limits the location of the outbuilding to its current position.

2. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other owners of property in the District in which the property is located. Please explain:

I'm just looking to have a small workshop to house garden, and woodworking tools, and to complete small projects. I'm not looking for special privilege over my neighbors. I have discussed the building with my immediate neighbor and they are in support of my building.

3. All literal interpretations of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by others of property in the district in which the property is located. Please explain:

I have no design to gain advantage. I just want a place to put my tools, and do hobby work. I feel that due to the topography of my lot that the building is in the only logical location.

4. The requested variance will be in harmony with the purpose and intent of this Ordinance and will not be injurious to the neighborhood or to the general welfare. Please explain:

I have tried to take into account the design of the house, and it's carport. I wanted to make the building as similar in design and aesthetics as I could, so that the building would appear as though it fit with the existing architecture. I didn't want to put in a "PreFab" shed, because I feel that would be an incongruance and not fit with the architect's original vision of the house. Unfortunately the topography of the lot leaves only one place for that to happen. I do truly care that the neighborhood remains a pleasing place to its residents.

5. The special circumstances are not the intended result of the actions of the applicant (i.e., self-imposed hardship). Please explain:

Of course not. Since there was only one spot possible to place the building, due to the topography, I tried to place the building in as uncontentious position as possible. I never intended to have to request a variance,

6. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure. Please explain:

It is. I am seeking a variance only to allow me to complete the outbuilding, while still remaining in the good graces of the city and it's codes.

7. The no non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted or non-conforming use of lands, structures, or building in other

districts shall be considered grounds for the issuance of a variance.

8. That a variance will not allow the permanent establishment of a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

I have no intentions of using the building for any commercial endeavor. It's just my storage and hobby building. The topography of the lot is the reason the building is where it is, thus requiring a variance.

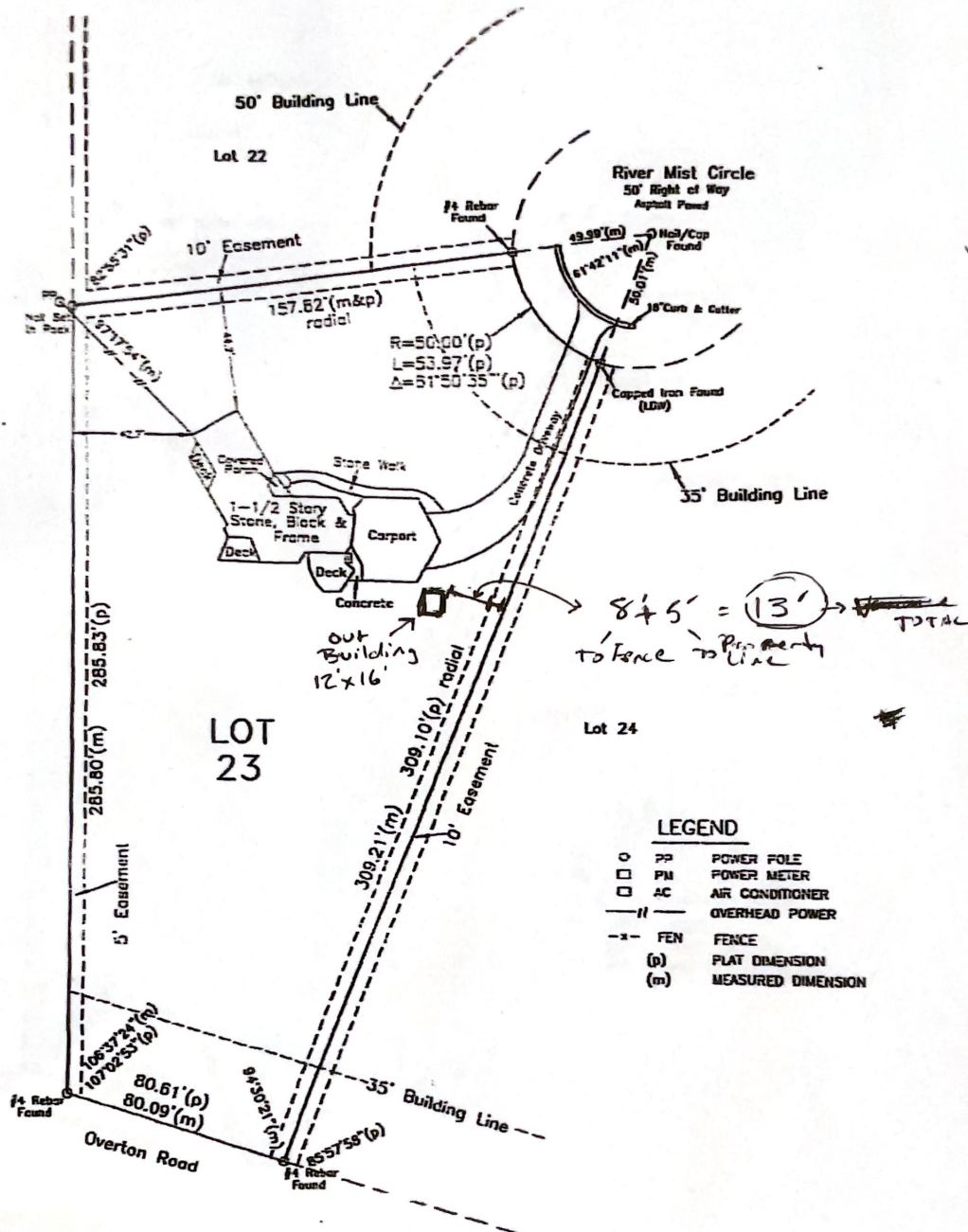
NOTE: In proving that an unnecessary hardship has been imposed on the property as a result of the strict interpretation of this Ordinance, the following conditions cannot be considered pertinent to the determination of whether or not an unnecessary hardship exists: (1) proof that a variance would increase the financial return from land; or (2) personal or economic hardship; or (3) self-imposed hardship. In other words, hardship alone is not sufficient to permit a variance. It must be an "unnecessary hardship." Mere financial loss of a kind, which might be common to all of the property owners in a district, is not an "unnecessary hardship."

OWNER AFFIDAVIT

I do hereby declare the above statements are true and that I, the owner, and/or my duly appointed representative will be at the scheduled hearing. Simultaneously with the submittal of this application, I am hereby submitting a notarized affidavit signed by the owner of the property in the attachments section of this application. NOTE: Applications cannot be processed without the notarized owners affidavit. Owners authorization may be found on our main page.

Owner Signature

Sanford Mayo Hardy
07/06/2023



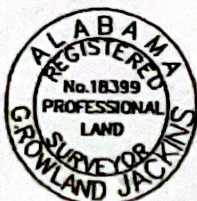
STATE OF ALABAMA
JEFFERSON COUNTY

I, Rowland Jackins, a Registered Land Surveyor in the State of Alabama, hereby certify that all parts of this survey and drawing have been completed in accordance with the current requirements of the Standards of Practice for Land Surveying in the State of Alabama to the best of my knowledge, information and belief for the following described property:

Lot 23, according to the plot of River Terrace First Sector, as recorded in Map Book 117, Page 4, in the Probate Office of Jefferson County, Alabama; office of Jefferson County, Alabama

I further state that there are no rights of ways, easements or joint driveways over or across said land visible on the surface except as shown, that there are no electric or telephone wires (excluding those which serve the premises only) or structures or supports thereof, including poles, anchor or guy wires on or over said property except as shown, that there are no encroachments except as shown; that the improvements are located as shown above. No underground utilities were located.

According to my field survey of October 4, 2017;



Rowland Jackins, PLS, Alabama Reg.No.18399
Jackins, Butler & Adams, Inc.
3430 Independence Drive, Suite 30
Birmingham, Alabama 35209
(205) 870-3390

Scale: 1 inch = 40 feet File: S-1517/17-A













City of Vestavia Hills
Office of the City Clerk

OWNER AFFIDAVIT (This form must be notarized):

I do hereby declare that the following statements are correct concerning the subject property located at: 3422 River Mist Circle, Vestavia Hills, Alabama and that statements submitted in my application are true and that I am: (please check all that apply).

☒ the Property Owner and representing myself in said request.

☐ the Property Owner, but I am authorizing a Representing Agent by the name of: _____ to represent me in the following request:

And am requesting: (please check)

- ☐ Rezoning Request
- ☐ Preliminary Plat Approval
- ☐ Final Plat Approval
- ☐ Conditional Use Approval

- ☒ Request for Variance
- ☐ Special Exception
- ☐ Design Review Approval

Signed:

[Signature]
Owner Signature/Date

STATE OF ALABAMA

COUNTY OF Jefferson

Given under my hand and seal
this 6th day of July, 2023

[Signature]
Notary Public

My commission expires 5th day of July, 2027.